MEETING DATE: 12/06/10

AGENDA ITEM: A Joint City Council/Redevelopment Agency Public Hearing to Consider a Disposition and Development Agreement with Exceptional Children's Foundation for Property Located on Machado Road

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Heritage Park
Kayne Eras School
Machado Road
Jefferson Boulevard
Sepulveda Boulevard
Studio Drive-In Remnant

SUMMARY REPORT PURSUANT TO
SECTION 33433
OF THE
CALIFORNIA COMMUNITY REDEVELOPMENT LAW
ON A
DISPOSITION AND DEVELOPMENT AGREEMENT
BY AND BETWEEN THE
CULVER CITY REDEVELOPMENT AGENCY
AND
EXCEPTIONAL CHILDREN'S FOUNDATION

The following Summary Report has been prepared pursuant to California Health and Safety Code Section 33433 (Section 33433). This report sets forth certain details of the proposed Disposition and Development Agreement (Agreement) between the Exceptional Children's Foundation, a nonprofit 501(c)(3) corporation (ECF), and the Culver City Redevelopment Agency (Agency).

The Agency assembled the 11-acre "Studio Drive-In Site", between 1990 and 1993, with the goal of attracting new development that was compatible with the surrounding land uses. In 1998, a nine-acre parcel was conveyed to Braemar Urban Ventures Limited Partnership, The Lee Group, Inc., and Educational Resources and Services Center (ERAS) for the development of a residential project and a nonprofit institutional educational use. In addition, to improve the traffic circulation in the area, the Agency constructed Machado Road on a 1.5-acre piece of the Studio Drive-In Site. This left a 16,168 square foot remnant parcel located on the southeast corner of Machado Road and Sepulveda Boulevard (Remnant Parcel) that was maintained under Agency ownership.

The Studio Drive-In Site was developed with the 57-unit Classics at Heritage Park (CHP) residential project and the ERAS School (School). The School was subsequently transferred into ECF ownership. At this time, the Agency is proposing to sell the Remnant Parcel to ECF for the construction of a surface parking lot to serve the School's automobile and bus parking needs (Project).

This Summary Report is based upon information contained within the Agreement; and is organized into the following seven sections:

I. **Salient Points of the Agreement:** This section summarizes the major responsibilities imposed on ECF and the Agency by the Agreement.

II. **Cost of the Agreement to the Agency:** This section details the total cost to the Agency associated with implementing the Agreement.

III. **Estimated Value of the Interests to be Conveyed Determined at the Highest Use Permitted under the Redevelopment Plan:** This section estimates the value of the interests to be conveyed determined at the highest use permitted under the Redevelopment Plan for the Overland-Jefferson Redevelopment Project Area No. 2 (Redevelopment Plan).

IV. **Estimated Reuse Value of the Interests to be Conveyed:** This section summarizes the valuation estimate for the Remnant Parcel based on the required scope of development, and the other conditions and covenants required by the Agreement.

V. **Consideration Received and Comparison with the Established Value:** This section describes the compensation to be received by the Agency, and explains any difference between the compensation to be received and the established value of the Remnant Parcel.

VI. **Blight Elimination:** This section describes the existing blighting conditions on the Remnant Parcel, and explains how the Agreement will assist in alleviating the blighting influence.

VII. **Conformance with the AB1290 Implementation Plan:** This section describes how the Agreement achieves goals identified in the Agency's adopted AB1290 Implementation Plan.

This report and the Agreement are to be made available for public inspection prior to the approval of the Agreement.

I. SALIENT POINTS OF THE AGREEMENT

A. ECF Responsibilities

The Agreement requires ECF to accept the following responsibilities:

1. ECF cannot assign or transfer any part of the Agreement without the prior written approval of the Agency.

2. ECF must purchase the Remnant Parcel from the Agency for $220,000.

3. ECF must accept conveyance of the Remnant Parcel in an "As Is" condition. This includes soils, ground water conditions and hazardous substances.

4. It is ECF's responsibility to ensure that the Remnant Parcel's zoning, and any applicable City of Culver City (City) land use requirements will permit the construction of the proposed Project.

5. ECF must complete the following activities prior to the close of escrow for the Remnant Parcel:

   a. Acquire and pay for an ALTA extended coverage insurance policy;

   b. Prepare and submit a construction cost budget and schedule for the Project; and

   c. Obtain a construction contract and performance and payments bonds from the general contractor engaged to construct the Project; and

   d. Submit evidence of financing demonstrating that cash has been secured to fund 100% of the Project's construction costs.

6. ECF must enter into an amended Declaration of Restrictions and Reciprocal Easement Agreement (REA) with The Classics at Heritage Park, a California limited partnership company, The Classics at Heritage Park Homeowner's Association, and ERAS. The amendments to the REA are:

   a. All references to ERAS are replaced with ECF;

   b. The neighborhood streets within the CHP property are privatized;

   c. Parking prohibitions are imposed on the CHP property; and

   d. The City and the CHP residents may establish a parking permit district for the portions of the CHP property that are not open to the public. ECF must pay any City fees associated with establishing the district up to $250.

7. ECF must maintain the following insurance coverages:

   a. All Risk Policies equal to 100% of the Project's replacement costs;

   b. Commercial general liability insurance in an aggregate amount of not less than $2 million, products and completed operations aggregate of $2 million, and $2 million per occurrence;

   c. Automobile insurance with coverage of at least $2 million per occurrence; and

d. Workers' Compensation Insurance in accordance with the applicable State of California law.

8. ECF must fund 100% of the costs associated with constructing the Project.

9. ECF must comply with all applicable Federal, State of California, and local laws, including without limitation, payment of prevailing wages as required under State of California Labor Code Section 1720.

10. ECF must construct the Project in conformance with the Scope of Development and Schedule of Performance attachments to the Agreement. Specific requirements include the following:

   a. As practical, ECF must construct the Project in conformance with environmentally sustainable building practices recognized by U.S. Green Building Standards.

   b. All improvements on the Remnant Parcel must comply with the City's Municipal Code.

   c. ECF must accept responsibility for all necessary utilities connections, installations and/or relocations:

      i. All proposed and existing franchised utilities in the public sidewalk or plaza areas must be located below grade.

      ii. Electrical transformer vaults must be installed in a subterranean location.

   d. ECF must install and maintain curbs, gutters, sidewalks, street lights and street trees. Street trees must be irrigated with private water service from the Project.

   e. Fencing must be a consistent color with the Project's design, and shall contain a pedestrian passageway, signs and lighting as required by the City.

   f. Two public trash receptacles must be provided along the Remnant Parcel's frontage.

11. ECF must prepare a Management Plan that describes the proposed parking operations, and control of pedestrian parking between the Remnant Parcel and the School.

12. On an ongoing basis, ECF must maintain the Project, and keep the Remnant Parcel free of any debris or waste materials.

B. Agency Responsibilities

The Agreement requires the Agency to complete the following activities:

1. The Agency must sell the Remnant Parcel to ECF.

2. The Agency must pay any ad valorem taxes and assessments imposed on the Remnant Parcel until the property is conveyed to ECF.

3. The Agency must approve or disapprove the ECF architectural submissions in accordance with the timelines established in the Agreement:

4. The Agency has the option to purchase the Remnant Parcel for $1 if development is planned that includes the property. The Agency also has a right of first refusal if another entity wishes to purchase the Remnant Parcel. The basic conditions are:

    a. The Agency must replace all the ECF parking spaces within the new development; and

    b. The option terminates when the land use controls imposed by the Redevelopment Plan expire.

II. COST OF THE AGREEMENT TO THE AGENCY

The Remnant Parcel was acquired by the Agency as part of the Studio Drive-In Site assemblage. The assemblage costs consisted of real property acquisition; fixtures and equipment acquisition; and relocation costs. These costs totaled approximately $25.70 per square foot of land area. When this is applied to the 16,168 square foot Remnant Parcel, the assemblage costs total approximately $415,400.

The Agency financed the assemblage costs with bond proceeds. The interest costs associated with the bonds are estimated at $235,700.[1]

The Agency previously funded all the costs associated with the Remnant Parcel. The implementation of the Agreement will provide the Agency with $220,000 in land sales proceeds to offset these previously incurred costs.

[1] This represents 36.2% of the total costs. This is the same ratio as was applied to the balance of the Studio Drive-In Site.

The net Agency costs are estimated as follows:

Agency Costs	
Remnant Parcel Assemblage Costs	$415,400
Bond Interest Costs	235,700
Total Agency Costs	$651,100
Less: ECF Purchase Payment	($220,000)
Net Agency Cost	$431,100

III. ESTIMATED VALUE OF THE INTERESTS TO BE CONVEYED DETERMINED AT THE HIGHEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN:

Section 33433 requires the Agency to identify the value of the interests being conveyed at the highest use allowed by the requirements imposed by the Redevelopment Plan. The valuation must be based on the assumption that the Remnant Parcel is vacant and that near-term development is required; but the valuation does not take into consideration any extraordinary restrictions and/or benefits that will result from Agency actions.

The Remnant Parcel is currently subject to CG and R1 zoning, and is designated as Commercial General Corridor in the General Plan. Based on the zoning and the General Plan designation, the Remnant Parcel can be developed with small to medium sized commercial uses.

In April 2009, Lea Associates Property Economics prepared an appraisal for the Remnant Parcel. The appraisal set the highest and best use value at $100 per square foot of land area. This equates to approximately $161,700 when applied to the 16,168 square foot Remnant Parcel.

IV. ESTIMATED REUSE VALUE OF THE INTERESTS TO BE CONVEYED:

The Agreement requires ECF to construct a surface parking lot on the Remnant Parcel. This parking lot will not generate any revenue, and thus the Project cannot support any conventional debt and/or equity contribution.

The Project Budget included in the Agreement estimates the total construction costs at $260,000. Since no private debt or equity contribution can be supported, the resulting fair reuse value for the Remnant Parcel is negative $260,000.

V. CONSIDERATION RECEIVED AND COMPARISON WITH THE ESTABLISHED VALUE:

The Agreement imposes extraordinary use controls on the Remnant Parcel that reduce the value of the Remnant Parcel from $161,700 at the highest and best use, to a fair reuse value of negative $260,000. Comparatively, the Agreement requires ECF to purchase the Remnant Parcel for $220,000. Since the purchase price that must be paid by ECF for the Remnant Parcel is higher than the established fair reuse value, it can be concluded that the consideration required by the Agreement provides the Agency with fair compensation for the interests being conveyed.

VI. BLIGHT ELIMINATION:

The Redevelopment Plan goals include the elimination of incompatible land uses located within the area, and the return of the land to productive use through a coordinated program of new construction, rehabilitation and supportive public improvements. One way that the development of the Studio Drive-In Site accomplished these goals was to require a portion of the property to be developed with a low intensity private nonprofit educational use. The development of the Remnant Parcel with parking to serve the School furthers this goal by enhancing the compatibility between the CHP residential development and the School.

VII. CONFORMANCE WITH THE AB1290 IMPLEMENTATION PLAN:

The development of the Studio Drive-In Site was contemplated by the Implementation Plan adopted by the Agency on December 5, 1994. The proposed construction of parking on the Remnant Parcel represents the final phase of the development process.

City of Culver City
Official Courtesy Notification

Public Hearing: Consideration of a Disposition and Development Agreement

The City Council and the Agency Board are pleased to invite your participation in the following public hearing:

Consideration of a Disposition and Development Agreement for the Sale of Property Located on Machado Road to Exceptional Children's Foundation

The City Council and Agency Board will conduct a public hearing on December 6th to consider the sale of land located on the corner of Machado Rd. and Sepulveda Blvd. to Exceptional Children's Foundation for the purpose of developing an additional school parking lot. All members of the public are invited to attend.

WHO: Staff Contact – Christopher Evans, Redevelopment Project Manager, 310.253.5744 or Christopher.evans@culvercity.org.

WHAT: Consideration of Disposition and Development Agreement for the sale of property to Exceptional Children's Foundation.

WHERE: City Hall - Mike Balkman Council Chambers,
9770 Culver Boulevard, Culver City, CA 90232

WHEN: Monday, December 6, 2010 – 7:00 PM

WHY: To receive public comment and input on the on the proposed development agreement and land sale.

More Info: Visit the Culver City Website at www.culvercity.org or send your questions or comments to the City at redevelopment@culvercity.org. City Council/Agency meetings can be viewed live on Channel 35 by most Time-Warner subscribers. To view the Council meetings on line please visit www.culvercity.org/agendas. The staff report and attachments for this item are also available on this web page.

To add your name to the City's e-mail list to receive agenda reports and news of City issues, please call (310) 253-6000 or complete an online request at www.culvercity.org/agendas.

DISPOSITION AND DEVELOPMENT AGREEMENT

by and between

THE CULVER CITY REDEVELOPMENT AGENCY,

AGENCY,

and

EXCEPTIONAL CHILDREN'S FOUNDATION,

DEVELOPER

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DISPOSITION AND DEVELOPMENT AGREEMENT

This Disposition and Development Agreement (the "Agreement") is entered into by and between THE CULVER CITY REDEVELOPMENT AGENCY, a public n body corporate and politic (the "Agency"), and EXCEPTIONAL CHILDREN'S FOUNDATION, a California non profit 501(c) (3) corporation (the "Developer"). This Agreement is dated, for reference purposes, as of the date the Agency executes this Agreement. The Agency and the Developer agree as follows:

I. [§ 100] SUBJECT OF AGREEMENT

[§ 101] Purpose of the Agreement

The purpose of this Agreement is to effectuate the Redevelopment Plan for the Culver City Redevelopment Project (the "Redevelopment Plan") by providing for the disposition and development of the hereinafter defined Site with a high quality 16,168 square foot above grade surface parking lot providing a minimum of twenty (20) tandem parking spaces to benefit Developer and the school located on the School Site and eliminate the current parking incursion in the Classics at Heritage Park ("CHP") neighborhood (the "Project"). The development of the Site pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state, and local laws and requirements.

[§ 101A] Definitions

For purposes of this Agreement, the following capitalized terms shall have the following meanings:

"Affiliate" shall mean (1) any Person directly or indirectly controlling, controlled by, or under common control with another Person; (2) any Person owning or controlling ten percent (10%) or more of the outstanding voting securities of such other Person; or (3) if that other Person is an officer, director, member or partner, of any company for which such Person acts in any such capacity. The term "control" as used in the immediately preceding sentence, shall mean the power to direct the management or the power to control election of the board of directors. It shall be a presumption that control with respect to a corporation or limited liability company is the right to exercise or control, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the controlled corporation or limited liability company, and, with respect to any individual, partnership, trust, other entity or association, control is the possession, indirectly or directly, of the power to direct or cause the direction of the management or policies of the controlled entity.

"Agency Executive Director" shall mean the Executive Director of the Culver City Redevelopment Agency or designee.

“Amendment to REA” shall mean an instrument substantially in the form attached hereto as Attachment No. 11, which is hereby incorporated herein by this reference, to be recorded against the School Site and the CHP Parcel upon the Closing.

“Agreement Affecting Real Property” shall mean an agreement substantially in the form attached to this Agreement as Attachment No. 9 and incorporated herein by this reference, to be recorded against the School Site upon the Closing.

“Assignment of Agreements” shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 10.

“CHP Parcel” shall mean that certain real property located in the City of Culver City as described in the legal description attached hereto as Attachment No. 13 attached hereto and incorporated herein by this reference.

“City” shall mean the City of Culver City, California.

“Closing” or “Close of Escrow” shall mean the point in time when all conditions precedent to the Closing as set forth this Agreement, including, but not limited to Section 219 have been satisfied.

“Closing Date” shall mean the date on which the Closing is scheduled to take place, as provided in the Schedule of Performance.

“Completion” shall mean the point in time when all of the following shall have occurred: (1) issuance of a permanent certificate of occupancy by the City for all of the Improvements; (2) recordation of a Notice of Completion by Developer or its contractor for all of the Improvements; (3) certification by the project architect that construction of all of the Improvements (with the exception of minor “punch list” items) has been completed in a good and workmanlike manner and substantially in accordance with the Agency and City approved plans and specifications; and (4) any mechanic’s liens that have been recorded or stop notices that have been delivered for any of the Improvements have been paid, settled or otherwise extinguished, discharged, released, waived, bonded or insured against.

“Construction Loan” shall mean a construction loan for the development of the Improvements secured by the Construction Loan Deed of Trust, to be made to Developer at the time of the Closing.

“Construction Lender” shall mean the maker of the Construction Loan.

“Construction Loan Deed of Trust” shall mean the deed of trust securing the Construction Loan.

“Development Costs” shall mean the total cost of acquiring and developing the Site and constructing the Improvements thereon, as required by this Agreement and as set forth in the Project Budget.

"Good Faith Deposit" or "Deposit" shall mean as set forth in Section 513 of this Agreement.

"Environmental Indemnity" shall mean an instrument substantially in the form attached to this Agreement as Attachment No. 6 and incorporated herein by this reference.

"Escrow Agent" shall mean First American Title Company or another escrow agent mutually acceptable to Agency and Developer.

"Hazardous Substances" shall have the meaning set forth in Section 213.

"HOA" shall mean the Classics at Heritage Park Homeowner's Association, a California non-profit mutual benefit corporation.

"Improvements" shall mean the 16,168 square foot above grade parking lot to be developed by Developer, consisting of twenty (20) tandem parking spaces, all as described in the Scope of Development, and all buildings, structures, fixtures, fences, excavation, parking areas, walkways, drives, landscape areas, underground installations and other improvements of whatsoever character constructed on, around, under or over the Site by Developer.

"Legal Description" shall mean the legal description of the Site attached to this Agreement as Attachment No. 2 which is hereby incorporated herein by this reference.

"Official Records" shall mean the Official Records of the Los Angeles County Recorder's Office.

"Option to Purchase Agreement" shall mean an instrument substantially in the form attached hereto as Attachment No. 12, which is hereby incorporated herein by this reference, a memorandum of which shall be recorded against the Site at the Closing.

"Permanent Lender" shall mean the maker of the Permanent Loan.

"Permanent Loan" shall mean any loan or combination of loans that provide long-term financing to repay or refinance a portion of the Construction Loan.

"Permanent Loan Deed of Trust" shall mean the deed(s) of trust and any related security instruments filed in the Official Records against the Site to secure the Permanent Loan, which shall be subordinate to the Agency's option to repurchase the Site pursuant to the Option to Purchase Agreement.

"Person" shall mean an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company or other entity, domestic or foreign.

"Project" shall mean the financing, planning, construction, development and use of the Improvements in accordance with this Agreement, including, but not limited to, the Scope of Development.

"Project Budget" shall mean the project budget attached to this Agreement as Attachment No. 8 which is hereby incorporated herein by this reference, as it may be updated from time to time as described herein.

"Property" shall have the same meaning as "Site" set forth in Section 104 of this Agreement.

"REA" shall mean that certain Declaration of Restrictions and Reciprocal Easement Agreement dated September 11, 1998 and recorded on September 11, 1998 in the Official Records as Document No. 98-1640070.

"Redevelopment Plan" shall have the meaning set forth in Section 102 of this Agreement.

"Release of Construction Covenants" shall mean the certificate to be issued by the Agency in accordance with Section 325 of this Agreement.

"Schedule of Performance" shall mean the document attached to this Agreement as Attachment No. 3 which is hereby incorporated herein by this reference.

"School Site" shall mean that certain real property owned by Developer located at 5350 Machado Road, Culver City, Ca 90230 in the City of Culver City, known as APN. 4215-033-025 and as legally described in the legal description attached hereto as Attachment No. 14 and incorporated herein by this reference.

"Scope of Development" shall mean the document attached to this Agreement as Attachment No. 4 which is hereby incorporated herein by this reference.

"Senior Lender" shall mean the maker of any Senior Loan or beneficiary of any Senior Loan deed of trust.

"Senior Loan" shall mean a Construction Loan, Permanent Loan, and any other loan to finance the Development Costs that is secured by a deed of trust.

"Site Map" shall mean the document attached to this Agreement as Attachment No. 1 which is hereby incorporated herein by this reference.

"Title Company" shall mean First American Title Insurance Company or another title insurance company acceptable to Agency.

[§ 102] The Redevelopment Plan

This Agreement is subject to the provisions of the Redevelopment Plan for the Project Area (defined below), which was approved and adopted pursuant to Ordinance No. 98-014 on November 23, 1998, and lawfully amended thereafter. The Redevelopment Plan is incorporated herein by reference and made a part hereof as though fully set forth herein. The proposed Project is consistent with the Redevelopment Plan.

Any amendments hereafter to the Redevelopment Plan (as so approved and adopted) which change the uses or development permitted on the Site as proposed in this Agreement, or otherwise change the restrictions or controls that apply to the Site, or otherwise affect the Developer's obligations or rights with respect to the Site, shall require the written consent of the Developer. Amendments to the Redevelopment Plan, applying to other property in the Culver City Redevelopment Project Area No. 2, shall not require the consent of the Developer.

[§ 103] The Redevelopment Project Area

The Culver City Redevelopment Project Area No. 2 ("Project Area") is located in the City. The exact boundaries of the Project Area are specifically and legally described in the Redevelopment Plan.

[§ 104] The Site

The "Site" includes that portion of the Project Area generally described as the irregularly shaped unimproved property on the west side of Machado Road, bounded by Jefferson Boulevard to the north and Sepulveda Boulevard to the south also known as APN 4215-001-904. The Site is illustrated and designated on the "Site Map," which is incorporated herein and attached hereto as Attachment No. l, and as more precisely described in the "Legal Description," which is incorporated herein and attached hereto as Attachment No. 2. Agency is fee owner of the Site. This Agreement sets forth the terms and conditions by which Agency will convey the Site to the Developer and the Developer will develop and use the Site.

[§ 105] Parties to the Agreement

[§ 106] Agency

The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California.

The principal office of the Agency is located at 9770 Culver City Boulevard, Culver City, California 90232-0507.

"Agency" as used in this Agreement includes the Culver City Redevelopment Agency and any assignee of or successor to its rights, powers and responsibilities.

[§ 107] Developer

Developer is a nonprofit 501(c) (3) organization. The principal office of the Developer is 8740 Washington Boulevard, Culver City, California 90232. Wherever the term "Developer" is used herein, such term shall include any permitted nominee, assignee or successor in interest as herein provided.

[§ 108] Prohibition Against Change In Ownership, Management and Control of Developer

The Developer represents and agrees that its purchase of the Site and its other undertakings pursuant to this Agreement are, and that the Site will be used, for the purpose of redevelopment of the Site and not for speculation in land holding. The Developer further recognizes that, in view of:

1. the importance of the redevelopment of the Site to the general welfare of the community;

2. the processes that have been followed by law and by the government for the purpose of making such redevelopment possible; and

3. the fact that a change in ownership or control of the Developer or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in ownership or control of the Developer or the degree thereof, is for practical purposes a transfer or disposition of the Site or part thereof owned by the Developer;

the qualifications and identity of the Developer, and its principals, are of particular concern to the community and the Agency. The Developer further recognizes that it is because of such qualifications and identity that the Agency is entering into this Agreement with the Developer. No voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein.

The Developer shall not assign all or any part of this Agreement without the prior written approval of the Agency.

Except for assignments duly approved by the Agency or permitted as provided above, the Developer represents and agrees for itself, and any successor in interest of itself, that prior to issuance by the Agency of a Release of Construction Covenants and without the prior written approval of the Agency, there shall be no significant change in the ownership of the Developer or in the relative proportions thereof, or with respect to the identity of the parties in control of the Developer or the degree thereof, by any method or means.

The Developer shall promptly notify the Agency of any and all changes whatsoever in the identity of the parties in control of the Developer or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information. Subject to the notice and cure provisions in Sections 501 through 512, below, this Agreement may be terminated by the Agency if there is any significant change (voluntary or involuntary) in membership, management or control, of the Developer (other than such changes occasioned by the death or incapacity of any individual or as approved by the Agency or permitted as provided above) prior to issuance of a Release of Construction Covenants for the Site as hereinafter provided.

The restrictions of this Section 108 shall terminate upon issuance by the Agency of a Release of Construction Covenants for the entire Site as described in Section 324.

II. [§ 200] DISPOSITION OF THE SITE

[§ 201] Sale and Purchase

In accordance with and subject to all the terms, covenants, and conditions of this Agreement, the Agency agrees to sell to the Developer and the Developer agrees to purchase the Site as shown on the Site Map (Attachment No. l) and as more precisely described in the Legal Description (Attachment No. 2).

The Developer shall pay to the Agency as the total purchase price for the Site, TWO HUNDRED AND TWENTY THOUSAND DOLLARS AND NO CENTS ($220,000.00) (the "Purchase Price") upon the Close of Escrow. The Purchase Price shall be in the form of cash, certified or cashiers check or a wire transfer to the account of the Escrow Agent. On or prior to the date set forth in the Schedule of Performance, Developer shall deliver into Escrow (defined in Section 202 below) the Deposit in the amount of $11,000 pursuant to Section 513 below. The Developer shall pay to the Agency as its total purchase price for the Site, an amount equal to the Purchase Price less the Deposit, no later than two (2) business days prior to the Close of Escrow.

[§ 202] Escrow

The Agency agrees to open an escrow ("Escrow") for conveyance of the Site with First American Title Insurance Company, located at 777 S. Figueroa, 4th Floor, Los Angeles, California 90071, or such other escrow company or escrow agent as may be acceptable to both the Agency and the Developer (the "Escrow Agent"), within the time provided in the Schedule of Performance, which is incorporated herein and attached hereto as Attachment No. 3. Sections 104-107 and 200-217 inclusive of this Agreement shall constitute the joint escrow instructions of the Agency and the Developer, and a duplicate original of this Agreement shall be delivered to the Escrow Agent upon the opening of the Escrow. The Agency and the Developer shall provide such additional Escrow instructions consistent with this Agreement as shall be necessary. The Escrow Agent hereby is empowered to act under such instructions, and upon indicating its acceptance thereof in writing, delivered to the Agency and to the Developer upon opening of the Escrow, the Escrow Agent shall carry out its duties as Escrow Agent hereunder. If there is any inconsistency between such additional instructions and this Agreement, then this Agreement shall control.

Upon delivery of the Grant Deed for the Site to the Escrow Agent by the Agency pursuant to Section 206 of this Agreement, the Escrow Agent shall record such Grant Deed in accordance with these escrow instructions, provided that the title to the Site can be vested in the Developer in accordance with the terms and provisions of this Agreement. The Escrow Agent shall buy, affix, and cancel any transfer stamps required by law. Any insurance policies governing the Site are not to be transferred.

The Developer shall pay in Escrow to the Escrow Agent the following fees, charges and costs promptly after the Escrow Agent has notified the Developer of the amount of such fees, charges and costs, at least two (2) working days, but not earlier than ten (10) days, prior to the scheduled date for the conveyance of the Site:

1. One-half of the escrow fee;

2. All fees, charges and costs related to that certain Amendment to REA; and

3. Costs associated with any premium for the ALTA extended coverage title insurance policy as well as any extended coverage or special endorsements to be paid by the Developer pursuant to Section 208 of this Agreement.

The Developer shall also deposit the Purchase Price and/or proof of payment of the Purchase Price for the Site with the Escrow Agent in accordance with the provisions of Section 207 of this Agreement.

Except for any fees, charges and costs related to that certain Amendment to the REA which shall be paid by solely by Developer, the Agency shall pay, through debit(s) against the Purchase Price, the following fees, charges and costs promptly after the Escrow Agent has notified the Agency of the amount of such fees, charges and costs, at least two (2) working days, but not earlier than ten (10) days, prior to the scheduled date for the conveyance of the Site:

1. One-half of the escrow fee;

2. Costs necessary to place the title to the Site in the condition for conveyance required by the provisions of this Agreement;

3. Cost of drawing the Grant Deed;

4. Recording fees;

5. Notary fees;

6. Any State, County, or City documentary stamps or transfer tax; and

7. Costs associated with that portion of the title insurance premium related to the CLTA owner's title insurance for the Site in the amount of the Purchase Price. Any additional premiums, extended coverage or special endorsements shall be paid by Developer.

The Agency shall timely and properly execute, acknowledge and deliver a Grant Deed in substantially the form established in Section 204 of this Agreement, conveying to the Developer title to the Site in accordance with the requirements of Section 205 of this Agreement, together with an estoppel certificate certifying that the Developer has completed all acts (except deposit of the Purchase Price and/or proof of payment of the Purchase Price), necessary to entitle the Developer to such conveyance, if such be the fact.

The Escrow Agent is authorized to:

1. Pay, and charge the Agency and the Developer, respectively, for any fees, charges and costs payable under this Section 202 of this Agreement. Before such

payments are made, the Escrow Agent shall notify the Agency and the Developer of the fees, charges and costs necessary to clear title and close the escrow.

2. Disburse funds and deliver the Grant Deed and other documents to the parties entitled thereto when the conditions of this escrow have been fulfilled by the Agency and the Developer. The Purchase Price shall not be disbursed by the Escrow Agent unless and until it has recorded the Grant Deed to the Site, and has delivered to the Developer a title insurance policy insuring title and conforming to the requirements of Section 208 of this Agreement.

3. Cause the Agreement Affecting Real Property, Amendment to REA, Memorandum of Option to Purchase and any other documents which the parties may mutually direct, to be recorded in the Official Records of the County Recorder of Los Angeles County, and obtain conformed copies thereof for distribution to Agency and Developer in accordance with the terms and provisions of the escrow instructions portion of this Agreement (Sections 104-107 and 200-217).

All funds received in this escrow shall be deposited by the Escrow Agent in a general escrow account with any state or national bank doing business in the State of California and reasonably approved by the Developer and the Agency, and may be combined in such with other escrow funds of the Escrow Agent.

If this escrow is not in condition to close with respect to the Site on or before the time for conveyance established in Section 203 of this Agreement, either party who then shall have fully performed the acts to be performed before the conveyance of title may, in writing, demand the return of its money, papers, or documents from the Escrow Agent. No demand for return shall be recognized until ten (10) days after the Escrow Agent (or the party making such demand) shall have mailed copies of such demand to the other party or parties at the address of its principal place of business. Objections, if any, shall be raised by written notice to the Escrow Agent and to the other party within the 10-day period, in which event the Escrow Agent is authorized to hold all money, papers, and documents with respect to the Site until instructed by a mutual agreement of the parties or, upon failure thereof, by a court of competent jurisdiction. If no such demands are made, the escrow shall be closed as soon as possible.

If objections are raised as above provided for, the Escrow Agent shall not be obligated to return any such money, papers, or documents except upon the written instructions of both the Agency and the Developer, or until the party entitled thereto has been determined by a final decision of a court of competent jurisdiction. If no such objections are made within said 10-day period, the Escrow Agent shall immediately return the demanded money, papers, or documents.

Any amendment to the escrow instructions shall be in writing and signed by both the Agency and the Developer. At the time of any amendment the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment.

All communications from the Escrow Agent to the Agency or the Developer shall be directed to the addresses and in the manner established in Section 601 of this Agreement for notices, demands, and communications between the Agency and the Developer.

The parties understand they may be required to execute additional standard form escrow instructions required by the Escrow Agent ("General Instructions"). In the event of a conflict between this Agreement and any such General Instructions, this Agreement shall control. The parties agree, however, that they will refuse to sign General Instructions which (1) purport to relieve the Escrow Agent of liability for negligence or intentional wrong-doing; (2) excuse the Escrow Agent from strict compliance with each and all of the provisions of this document and the General Instructions; or (3) purport to authorize the Escrow Agent to follow the instructions or directive of any person not a direct signatory party (or designee of such signatory party) to this Agreement. Any amendment to the escrow instructions shall be in writing and signed by both the Agency and the Developer. At the time of any amendment the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment.

The liability of the Escrow Agent under this Agreement is limited to performance of the obligations imposed upon it under Sections 104 to 107 and Sections 200 to 217, inclusive, of this Agreement.

[§ 203] Conveyance of Title and Delivery of Possession

Subject to any mutually agreed upon extension of time, conveyance to the Developer of title to the Site in accordance with the provisions of Section 205 of this Agreement shall be completed on or prior to the date specified in the Schedule of Performance (Attachment No. 3) or such later date mutually agreed to in writing by the Agency and the Developer and communicated in writing to the Escrow Agent.

Except as otherwise provided herein, possession of the Site shall be delivered to the Developer concurrently with the conveyance of title. The Developer shall accept title and possession to the Site on the dates established in this Section 203.

[§ 204] Form of Deed

The Agency shall convey to the Developer title to the Site in the condition provided in Section 205 of this Agreement by “Grant Deed” substantially conforming in form and substance to Attachment No. 5, attached hereto and incorporated herein by this reference. The Grant Deed to the Site shall contain covenants necessary or desirable to carry out this Agreement.

[§ 205] Condition of Title

The Agency shall convey to the Developer fee simple merchantable title to the Site, free and clear of all liens, encumbrances, assessments, easements, leases and taxes; except those which are set forth in this Agreement and included in the Grant Deed and/or Memorandum of Option to Purchase, including, but not limited to the Agency’s Power of Termination, and those which are otherwise consistent with this Agreement and which are acceptable to the Developer. Title to the Site shall be subject to the exclusion therefrom (to the extent now or hereafter validly excepted and reserved by the parties named in deeds, leases and other documents of record) of all oil, gas, hydrocarbon substances and minerals of every kind and character lying more than 500 feet below the surface, together with the right to drill into, through, and to use and occupy all parts of the Site lying more than 500 feet below the surface thereof for any and all purposes incidental to the exploration for and production of oil, gas, hydrocarbon substances or minerals from the Site, but without, however, any right to use or disturb either the surface of the Site or any portion thereof within 500 feet of the surface for any purpose or purposes whatsoever.

[§ 206] Time For and Place For Delivery of Deed

Subject to any mutually agreed upon extension of time, the Agency shall deposit the Grant Deed for the Site with the Escrow Agent on or before the date established for the conveyance of the Site in the Schedule of Performance (Attachment No. 3).

[§ 207] Payment of the Purchase Price and Recordation of the Deed

Subject to the satisfaction of the conditions precedent set forth in Section 219 below, the Escrow Agent shall deliver the Purchase Price to the Agency immediately following the delivery to the Developer of a title insurance policy insuring title in conformity with Section 208 of this Agreement and the filing of the Grant Deed for recordation among the land records in the Office of the County Recorder for Los Angeles County.

[§ 208] Title Insurance

Concurrently with recordation of the Grant Deed, First American Title Company or another title insurance company satisfactory to the Agency and the Developer ("Title Co.") shall provide and deliver to the Developer an ALTA extended coverage title insurance policy issued by Title Co., insuring that title to the Site is vested in the Developer in the condition required by Section 205 of this Agreement. The Title Co. shall provide the insurance policy and the title insurance policy shall be in the amount of the Purchase Price of the Site or in such greater amount as the Developer may specify as hereinafter provided.

Concurrently with the issuance of the title policy for the Site, the Title Co. shall, if requested by the Developer, provide the Developer with an endorsement to insure the amount of the Developer's estimated construction costs of the improvements to be constructed thereon or on the Site.

Agency shall only pay for a CLTA owner's title insurance policy in the amount of the Purchase Price. The Developer shall pay for all additional premiums including those the ALTA extended coverage and/or special endorsements which it requests.

[§ 209] Taxes and Assessments

Ad valorem taxes and assessments, if any, on the Site, and taxes upon this Agreement or any rights hereunder, levied, assessed or imposed for any period, commencing after conveyance of title or possession of the Site to the Developer, shall be borne by the Developer. Ad valorem taxes and assessments levied, assessed or imposed for any period prior to conveyance of title to the Site to the Developer shall be paid by the Agency.

[§ 210] Occupants of the Site

Agency agrees that title to the Site shall be conveyed free of any possession or right of possession except that of the Developer, unless waived by the Developer in writing.

[§ 211] Redevelopment of Site; Agency Option to Acquire Site

Developer hereby covenants and agrees for itself, its successors, its assigns and every successor in interest to the Site or any part thereof that Developer, its successors, its assigns and every successor in interest to the Site or any part thereof consent to the redevelopment of the Site or any portion thereof in connection with any future development planned near the Site so long as the Developer Parking Spaces (defined below) are incorporated anywhere within such development. Developer hereby covenants and agrees for itself, its successors, its assigns and every successor in interest to the Site or any part thereof that Developer, its successors, its assigns and every successor in interest to the Site or any part thereof shall execute and deliver such instruments and documents, and shall take such actions, as are required by the Agency, in order to effectuate the provisions and intent of this Section 211, including, but not limited to executing that certain Option To Purchase Agreement (discussed below).

Agency and Developer shall enter into an option agreement substantially conforming in form and substance to that certain Option to Purchase Agreement attached hereto as Attachment No. 12, and incorporated herein, and memoranda thereof, as a condition precedent to the Close of Escrow. The Option to Purchase Agreement shall grant to Agency an option to purchase the Site and all Improvements thereon for One Dollar ($1.00). The option to Purchase Agreement shall also grant Agency a right of first refusal to purchase the Site and all Improvements thereon for the purchase price set forth in the Option to Purchase Agreement. Agency shall have the right to exercise its option to acquire the Site and all Improvements thereon pursuant to the Option to Purchase Agreement any time any future development is planned near the Site and incorporation of the Site is contemplated as a component of such new development, so long as the Developer Parking Spaces (defined below) are incorporated anywhere within such development. Developer hereby acknowledges and agrees that the Agency option and right of first refusal granted in that certain Option to Purchase Agreement shall be senior and superior to any rights of any and all lenders and holders of any mortgage, deed of trust or other security instrument, option, encumbrance or lien that has been created or attached to the Site or any portion thereof whether by voluntary act of Developer or otherwise.

The term “Developer Parking Spaces” used herein shall mean a minimum of twenty (20) tandem parking spaces contemplated to be developed on the Site in accordance with this Agreement, the Grant Deed and the Scope of Development.

[§ 211A] Land Use Requirements

a. It is the responsibility of the Developer, without cost to Agency, to ensure that zoning of the Site and all applicable City land use requirements will be, at the Close of Escrow, such as to permit development of the Site and construction of the Improvements and the use, operation and maintenance of such Improvements in accordance with the provisions of this Agreement. It shall be a condition of the Close of Escrow that Developer obtain all entitlements, approvals and permits necessary for the construction of the Improvements. Nothing contained herein shall be deemed to entitle Developer to any City permit or other City approval necessary for the development of the Site, or waive any applicable City requirements relating thereto. This Agreement does not (i) grant any land use entitlement to Developer, (ii) supersede, nullify or amend any condition which may be imposed by the City in connection with approval of the development described herein, (iii) guarantee to Developer or any other party any profits from the development of the Site, or (iv) amend any City laws, codes or rules. This Agreement is not a "Development Agreement" as provided in Section 65864 et seq. of the California Government Code. Developer shall comply with all applicable conditions of approval required by the City.

b. To the extent permitted by law, Developer shall defend the Agency and City, and their respective agents, contractors, officers and employees harmless from liability from any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the approval of any and all entitlements or permits arising from the Project by the City and/or the Agency. Developer further agrees that such indemnification and hold harmless shall include all defense-related fees and costs associated with the defense of the City and the Agency by counsel selected by the City and the Agency. This indemnification shall not terminate upon the termination of this Agreement or the Close of Escrow but shall survive all applicable causes of action.

[§ 212] "As Is" Transaction; Waiver

Developer acknowledges that it is purchasing the Site in reliance solely on: (1) Developer's inspection of the Site and all personal property and improvements being sold in connection with the Site; and (2) the opinions and advice of consultants and attorneys engaged by the Developer concerning the Site.

DEVELOPER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT AGENCY IS SELLING AND DEVELOPER IS PURCHASING THE SITE ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT DEVELOPER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM AGENCY, ITS INDIVIDUAL MEMBERS, AGENTS, ATTORNEYS OR BROKERS AS TO ANY MATTERS CONCERNING THE SITE, INCLUDING WITHOUT LIMITATION: (a) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater; (b) the existence, quality, nature, adequacy and physical condition of utilities serving the Site; (c) the development potential of the Site, and the Site's use, merchantability, or fitness, or the suitability, value or adequacy of the Site for any particular purpose; (d) the zoning or other legal status of the Site or any other public or private restrictions on use of the Site; (e) the compliance of the Site with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity; (f) the presence of "Hazardous Substances" (as defined in Section 213, below) on, under or about the Site or the adjoining or neighboring property; (g) the quality of any labor and materials used in any improvements; and (h) the condition of title to the Site. As a condition precedent to the Closing, Developer shall execute and deliver to the Agency the Environmental Indemnity attached hereto as Attachment No. 6.

Developer hereby waives any contingency regarding the soil (or groundwater) condition of the Site (including improvements), or any part of the Site, or the presence of any Hazardous Substances or its suitability for the purposes for which the Site is to be put pursuant to this Agreement. The Developer therefore explicitly acknowledges that following acquisition and also following any development of the Site it will assume and bear all future liability for any necessary mitigation measures for Hazardous Substances and any residual Hazardous Substances that may remain, and will hold the Agency harmless therefrom.

If the condition of the Site is not in all respects entirely suitable for the use or uses contemplated by this Agreement, then it is the sole responsibility and obligation of Developer to place the Site in all respects in a condition entirely suitable for the development thereof, solely at Developer's expense.

[§ 213] Hazardous Substances[213.1] Hazardous Substances Defined

"Hazardous Substance," as used in this Agreement means any substance, material or waste which is or becomes regulated by the United States government, the State of California, or any local or other governmental authority, including, without limitation, any material, substance or waste which is (i) defined as a "hazardous waste," "acutely hazardous waste," "restricted hazardous waste," or "extremely hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code; (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code; (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code; (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code; (v) petroleum; (vi) asbestos; (vii) a polychlorinated biphenyl; (viii) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Code of Regulations, Chapter 20; (ix) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317); (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act (42 U.S.C. Section 6903); (xi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601); or (xii) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any governmental requirements is defined as "hazardous" or is harmful to the environment or capable of posing a risk of injury to public health and safety. "Hazardous Substances" do not include materials customarily used in the construction, development, operation or maintenance of real estate, provided such substances are used in accordance with all laws.

[§ 214] Developer's Warranty

Developer hereby represents the following to the Agency, for the purpose of inducing the Agency to enter into this Agreement and to consummate the transactions contemplated hereby, all of which shall be true as of the Closing:

1. Developer has the legal power, right and authority to enter into this Agreement a and the instruments and documents referenced herein to which Developer is a party (which have been executed by Developer), to consummate the transactions

contemplated hereby, to take any steps or actions contemplated hereby, and to perform its obligations hereunder.

2. All requisite action has been taken by Developer and all requisite consents have been obtained in connection with the entering into this Agreement and the instruments and documents referenced herein to which Developer is a party (which have been executed by Developer), and the consummation of the transaction contemplated hereby comply with all applicable laws, statutes, ordinances, rules and governmental regulations.

3. This Agreement is duly executed by Developer, and all agreements, instruments and documents to be executed by Developer pursuant to this Agreement shall, at such time as they are required to be executed hereunder, be duly executed by Developer, and each such agreement heretofore or concurrently executed by Developer is valid and legally binding upon Developer and enforceable in accordance with its terms and the execution and delivery thereof shall not, with due notice or the passage of time, constitute a default under or violate the terms of any indenture, agreement or other instrument to which Developer is a party.

4. There is no pending litigation or, to Developer's best knowledge, threatened litigation which would prevent Developer from performing its duties and obligations hereunder.

5. Developer is not the subject of a bankruptcy proceeding.

[§ 215] Environmental Indemnity

Effective upon the Close of Escrow, Developer agrees to indemnify, defend and hold harmless Agency and City and their respective members, officers, agents, employees, contractors and consultants, in accordance with the Environmental Indemnity, which is incorporated herein and attached hereto as Attachment No. 6.

[§ 216] Developer's Waiver; Release

Developer shall assume the risk that adverse matters, including, but not limited to, construction defects and adverse physical and environmental conditions, may not have been revealed by Developer's investigation, and Developer hereby waives, relinquishes and releases Agency and City (and their respective board members, officers, directors, employees, and agents) from and against any and all claims, demands, causes of action (including causes of action in tort), losses, damages, liabilities, costs and expenses (including attorneys' fees) of any and every kind or character, known or unknown, which Developer might have asserted or alleged against Agency or City (and their respective board members, officers, directors, employees, and agents) at any time by reason of or arising out of any latent or patent construction defects or physical conditions, violation of any applicable laws, and any and all other acts, omissions, events, circumstances, or matters regarding the Site.

Developer, on behalf of themselves and any and all successors and assigns, hereby fully and finally waives, releases and discharges the Agency, the City, and their respective members, officers, employees, agents, contractors and consultants, from any and all present and future claims, demands, suits, legal and administrative proceedings, and from all liability for damages, losses, costs, liabilities, fees and expenses (including, without limitation, attorneys' fees) arising out of or in any way connected with the Agency's or Developer's use, maintenance, ownership or operation of the Site, any Hazardous Substances on the Site, or the existence of Hazardous Substances contamination in any state on the Site, however the Hazardous Substances came to be placed there, known or unknown, except that arising out of the gross negligence or willful misconduct of the Agency or its employees, officers or agents. The parties agree that, with respect to the release of claims as set forth above, all rights under Section 1542 of the California Civil Code and any similar law of any state or territory of the United States are expressly waived. Developer acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

To the extent of the release set forth in this Section 216, Developer hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

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Developer's Initials

[§ 217] Developer Site Access during Due Diligence Period

Within the time established therefore in the Schedule of Performance, the Developer may, at its own expense, and in consultation with the Agency, employ a qualified soils engineer, geologist, and/or environmental consultant for the purpose of investigating the soil and water condition of the Site, and the suitability of the Site, for development thereon by the Developer in accordance with this Agreement. A copy of the written report of the soils engineer, geologist, and/or environmental consultant shall be furnished to the Agency. The Developer agrees to defend and hold the Agency, the City, and their officers, employees, contractors and agents, harmless for any and all claims, liability and damages arising out of any work or activity of the Developer, its agents, contractors or its employees permitted pursuant to this Section 217, except to the extent caused by the sole negligence or willful misconduct of Agency or City or their respective officers, employees, contractors and agents.

In the event Developer finds the Site unsatisfactory for any reason during its due diligence period, Developer shall notify Agency and Escrow Agent, in writing, prior to expiration of the due diligence period. Developer's failure to notify Agency of its decision to terminate escrow will be deemed to be Developer's approval of the Site and decision to proceed to the Close of Escrow. If Developer elects to terminate the escrow, then Developer and Agency shall thereafter have no obligation to each other (except as otherwise set forth herein), Developer will, subject to any restrictions set forth in such reports and/or studies, deliver to Agency a copy of all reports and studies commissioned or prepared by Developer and Developer shall be entitled to the return of any funds deposited into escrow. In the event of a cancellation of escrow, Developer and Agency shall each pay one-half of any escrow cancellation fees.

[§ 218] Submission of Evidence of Financing

Within the times established in the Schedule of Performance (Attachment No. 3), Developer shall submit to Agency's Executive Director or designee evidence satisfactory to Agency's Executive Director or designee that Developer has obtained the financing necessary for the acquisition and development of the Site in accordance with this Agreement. Such evidence of financing and any and all loan agreements and/or agreements to which Developer is a part entered into in connection with the financing of the acquisition and/or development of the Site, shall be subject to the reasonable approval of Agency's Executive Director.

Developer's submission of evidence of financing shall consist of the following:

1. A copy of the contract between the Developer and the general contractor for the construction of the improvements on the Site, certified by the Developer to be a true and correct copy thereof, and any performance and payment bonds related thereto ("Bonds").

2. Documentary evidence satisfactory to the Agency of sources of capital, in the form of readily available cash, sufficient to demonstrate that the Developer has adequate funds committed to cover all Development Costs set forth in the Agency approved Project Budget, including, but not limited to copies of the Developer's bank statement accompanied by a letter from a bank executive verifying the availability of the amounts set forth in such bank statements, and any other document requested by the Agency Executive Director or designee, each certified by Developer to be true and correct copies thereof, pursuant to Section 222 below.

The Agency Executive Director or designee shall approve or disapprove each such submission of evidence of financing within the times established in the Schedule of Performance. Such approval shall not be unreasonably withheld, conditioned or delayed. Failure of the Agency to approve or disapprove any such evidence of financing within such time shall be deemed an approval. If the Agency shall disapprove any such evidence of financing, the Agency shall do so by written notice to the Developer stating the reasons for such disapproval.

[§ 219] Conditions Precedent to Close of Escrow

a. The Close of Escrow and the obligations of the Agency and Developer are subject to the satisfaction prior to the Close of Escrow (unless otherwise provided), of the following conditions, and the obligations of the parties with respect to such conditions are as follows:

1. <u>Title Insurance Policies.</u> Title Company shall be committed to issue the Title Insurance Policy, as provided in this Agreement.

2. <u>Final Working Drawings</u>. Developer shall have previously submitted final working drawings and Agency has approved those drawings.

3. Project Budget. Developer has delivered to the Agency a final project budget or any revisions to the final Project Budget attached to this Agreement as Attachment No. 8 and incorporated herein by this reference, demonstrating to the satisfaction of the Agency the availability of sufficient funds to pay all Development Costs.

4. Construction Contract. Developer has delivered a general construction contract between the Developer and a licensed general contractor, covering all construction required by this Agreement, in an amount that is consistent with the Project Budget.

5. Construction Schedule. Developer has delivered to the Agency a construction schedule showing a detailed trade-by-trade breakdown of the estimated periods of commencement and completion of construction and complete fixturization of the Site, demonstrating that construction will be completed within the time provided in the Schedule of Performance.

6. Evidence of Financing. The Agency Executive Director or designee shall have approved evidence of financing as set forth in Section 218 above, and all documents required to be executed in connection with such financing shall have been duly executed, acknowledged and delivered.

7. Insurance. Developer has submitted to the Agency evidence of the Insurance Policies set forth in Section 310.

8. Permits. Developer has delivered a list of all permits required for the Site and construction of the Improvements, demonstrating that all approvals have been obtained and that all conditions for the issuance of all necessary permits have been satisfied (with the exception of payment of fees, which payment is provided for in the approved Project Budget) and Developer has submitted evidence reasonably satisfactory to the Agency's Executive Director that all permits will be available for issuance consistent with the applicable times set forth in the Schedule of Performance (Attachment No. 3) and the requirements of this Agreement.

9. Developer Formation Documents. Developer has delivered documentation relating to the corporate, partnership, limited liability or other similar status, as the case may be, of Developer (and if Developer is a limited partnership, its general partners, and if Developer is a limited liability company, its members), including, without limitation and as applicable: limited partnership agreement and any amendments; articles of incorporation; State of California Limited Liability Company Articles of Incorporation (LLC-1), Statement of Information and Operating Agreement (including any amendments); copies of all resolutions or other necessary actions taken by such entity to authorize the execution of this Agreement and related documents; a certificate of status issued by the California Secretary of State; and a copy of any Fictitious Business Name

Statement, if any, as published and filed with the Clerk of Los Angeles County.

10. Documents. Agency and Developer have executed and delivered into Escrow the Grant Deed conveying title to the Site to the Developer, the Environmental Indemnity, and Assignment of Agreements, Option to Purchase Agreement and the Memorandum of Option, in recordable form, to be recorded against the Site.

11. HOA Consent to Amend REA. The HOA shall have executed and delivered to Agency, a binding commitment, first approved in writing by the Agency Executive Director or designee, wherein the HOA agrees to amend the REA as contemplated herein and as set forth in that certain Amendment to REA attached hereto as Attachment No. 11.

12. Amendment to the REA. Developer and the HOA shall have executed, in recordable form and deposited into Escrow, the Amendment to REA, substantially conforming in form and substance to Attachment No. 11, to be recorded against the CHP Parcel and the School Site at the Closing.

13. Agreement Affecting Real Property (School Site). Developer shall have executed and delivered into Escrow in recordable form, the Agreement Affecting Real Property substantially conforming in form and substance to Attachment No. 9, to be recorded against the School Site at the Close of Escrow.

14. Management Plan. Developer shall have delivered to Agency that certain Agency approved Management Plan pursuant to Section 406 of this Agreement.

15. Representations, Warranties and Covenants

(1) Developer shall have duly performed each and every pre-closing obligation to be performed by Developer pursuant to this Agreement and Developer's representations, warranties and covenants set forth in this Agreement shall be true and correct as of the date of the Close of Escrow.

(2) Agency shall have duly performed each and every pre-closing obligation to be performed by Agency pursuant to this Agreement and Agency's representations, warranties and covenants set forth in this Agreement shall be true and correct as of the date of the Close of Escrow.

16. Deliveries.

(1) Developer shall have paid the Deposit to the Agency, deposited into Escrow the Purchase Price, if any, and delivered the items to be delivered by Developer, when and as required in this Agreement.

(2) Agency shall have delivered the items to be delivered by Agency, when and as required by this Agreement.

17. Closing Certificate. Agency has submitted to Escrow a certificate stating that all conditions precedent to Close of Escrow have been satisfied or waived.

18. Closing Cost Statement. Escrow Agent has delivered a closing statement of costs.

19. Supplementary Escrow Instructions. Agency has prepared such Supplemental Escrow Instructions as may be needed.

20. No Defaults. Developer shall not be in default of any of its obligations under this Agreement.

[§ 220] Failure of Conditions to Close Escrow

a. Subject to any rights provided in this Agreement, including notices of default and the opportunity to timely cure any default, in the event any of the conditions precedent to the Close of Escrow are not timely satisfied or waived, for a reason other than the default of Agency, the following shall apply:

1. The Agency shall have the right to terminate this Agreement and the Escrow;

2. Subject to Section 513 of this Agreement, Escrow Agent is hereby instructed to promptly return to Developer and Agency all funds, if any, and documents deposited by the respective parties into Escrow which are held by Escrow Agent on the date of the termination; provided, however, the amount of funds to be returned to the entitled party shall be reduced by the cancellation charges, if any, required to be paid by such party under paragraph b. below; and

3. Neither party shall have any further rights or obligations pursuant to this Agreement except as otherwise provided in this Agreement.

b. Cancellation Fees and Expenses. In the event this Escrow terminates because of the non-satisfaction of any condition for a reason other than the default of Agency or Developer under this Agreement, the cancellation charges, if any, required to be paid by and to Escrow

Agent and the Title Co. shall be borne by Developer and all other charges shall be borne by the party incurring same. In the event either party terminates this Agreement pursuant to any provision of this Agreement, the cancellation charges, if any, required to be paid by and to Escrow Agent and the Title Co. shall be borne by the party who has terminated this Agreement, and all other charges shall be borne by the party incurring same.

[§ 221] Recordation of Documents

Agency and Developer, respectively, agree to perform all acts necessary to recordation and delivery of such documents in sufficient time for escrow to be closed in accordance with the foregoing provisions.

b. The following documents shall be recorded in the following order against the Site ("Recorded Documents"):

ORDER OF RECORDATION	**DOCUMENT NAME**
1.	Grant Deed
2.	Memorandum of Option to Purchase Agreement

b. The following documents shall be recorded in the following order against the School Site ("Recorded Documents"):

ORDER OF RECORDATION	**DOCUMENT NAME**
1.	Amendment to REA
2.	Agreement Affecting Real Property (ECF School)

c. On the Closing, the Amendment to REA shall also be recorded against the CHP Parcel.

d. All documents to be recorded shall be recorded in the Office of the Los Angeles County Registrar-Recorder/County Clerk ("County Recorder").

[§ 222] Financing

[§ 222.1] Method of Financing.

The current estimate of Project costs are enumerated in the Project Budget, which is attached to this Agreement as Attachment No. 8. The respective sources of funds to pay the Development costs are also set forth in the Project Budget. Prior to the Close of Escrow, Developer shall make such revisions to the Project Budget, if any, as necessary to reflect the then-current estimate of all costs and any adjustments to the respective amounts of the sources of funds to pay such costs, and submit such revised Project Budget to the Agency Executive Director or designee for approval. The Agency Executive Director or designee shall not approve any revised Project Budget unless such Project Budget demonstrates sufficient funds to pay all anticipated Development Costs. It shall be the responsibility of the Developer to obtain all funds needed to pay all Development Costs and to pay any cost overruns. Developer shall deliver to Agency evidence of financing within the times set forth in Schedule of Performance.

[§ 222.2] <u>Funding Sources</u>

[§ 222.2.1] Sources of Funds

Developer hereby represents and warrants that Developer currently has funds available and committed, in the form of cash, necessary to pay all Development Costs set forth in the Agency approved Project Budget. Prior to the Close of Escrow, Developer shall provide to the Agency Executive Director or designee verifiable evidence, as determined by the Agency Executive Director or designee in there sole and absolute discretion, that Developer has access, possession and control of funds, in the form of cash, to pay all Development Costs set forth in the Agency approved Project Budget pursuant to Section 218 herein.

[§ 223] <u>Project Budget</u>

The Parties anticipate that all Development Costs shall be as set forth in the Project Budget attached hereto as Attachment No. 8. Any change order in excess of Fifty Thousand Dollars ($50,000) or any amendment to the total Project Budget in any amount (each a "Revision") shall require the approval of the Agency Executive Director or designee in addition to any approval required by any Senior Lender. Except as provided in the immediately preceding sentence, the Agency Executive Director or designee shall not unreasonably withhold approval of any requested Revision for which a Senior Lender's approval, if applicable, is not required under the terms of Senior Loan documents or which has been approved by a Senior Lender if, within five (5) working days after receipt of the request, the Agency receives such explanation or back-up information as was received and relied upon by the Senior Lender in connection with its approval of the Revision, and if the following conditions are satisfied:

a. to the extent the Revision is limited to a reallocation of budgeted funds among Project Budget line items without any increase in the total Project Budget, (i) the funds in the line item(s) to be reduced remain sufficient for Completion of the Project, and (ii) the requested increase in one or more line item(s) is to be used to pay approved Development Costs; and

b. to the extent the Revision involves an increase in the total Project Budget, (i) additional funds in an amount equal to the increase in the total Project Budget will be provided by Developer or the Senior Lender, and (ii) the requested increase in the Project Budget is to be used to pay approved Development Costs.

Upon approval of any Revision, the Project Budget shall be replaced by the approved revised Project Budget.

III. [§ 300] DEVELOPMENT OF THE SITE

[§ 301] Responsibilities of Developer

[§ 302] Scope of Development

The Site and Improvements on the Site shall be developed in accordance with and within the limitations established in the Scope of Development incorporated herein and attached hereto as Attachment No. 4. In addition, Developer shall develop the Site where practical in accord with environmentally sustainable building practices. Environmentally sustainable building practices include, but are not limited to, reducing storm water run-off by utilizing permeable concrete or concrete poured to funnel run-off to a leaching field or catch basin for filtration; walkways and curbing being made of recycled and/or low albedo materials; solar power and/or motion sensor activated lighting; and, landscaping designed with low-water, drought tolerant plants and all other practices recognized by the U.S. Green Building Standards. Developer shall be required to demonstrate consideration of such environmentally sustainable building practices during the review of the 100% construction drawings.

[§ 303] Schematic Level Drawings

The Developer shall prepare and submit Schematic Level Drawings and related documents for the development of the Site to the Agency for review and written approval within the time established in the Schedule of Performance (Attachment No. 3). Schematic Level Drawings shall include a site plan and floor plans, elevations and sections, showing the Improvements as they are to be developed and constructed on the Site.

The Site shall be developed as established in the Schematic Level Drawings and related documents except as changes may be mutually agreed upon between the Developer and the Agency. Any such changes shall be within the limitations of the Scope of Development (Attachment No. 4).

[§ 304] Landscaping and Grading Plans

The Developer shall prepare and submit to the Agency for its approval preliminary and final landscaping and preliminary and finish grading plans for the Site. Those plans shall be prepared and submitted within the times established in the Schedule of Performance (Attachment No. 3). The landscaping plans shall include a lighting program which highlights the design of components of the development including but not limited to building facades, architectural detail, landscaping and sculpture.

The landscaping plans shall be prepared by a licensed landscape architect and the grading plans shall be prepared by a licensed civil engineer. Such landscape architect and/or civil engineer may be the same firm as the Developer's architect. Within the time established in the

Schedule of Performance, the Developer shall submit to the Agency for approval the name and qualifications of its architect, landscape architect, and civil engineer.

[§ 305] Construction Drawings and Related Documents for the Site

The Developer shall prepare and submit construction drawings and related documents (collectively called the "Drawings") for the development pertaining to the Site to the Agency for review (including but not limited to architectural review), and written approval within the times established in the Schedule of Performance (Attachment No. 3). Such construction drawings and related documents shall be submitted in three stages: Design Development Drawings, 50% Construction Drawings, and Final Construction Drawings. Final Construction Drawings are hereby defined as those in sufficient detail to obtain a building permit.

Approval of progressively more detailed drawings and specifications will be promptly granted by the Agency if developed as a logical evolution of drawings or specifications theretofore approved. Any items so submitted and approved by the Agency shall not be subject to subsequent disapproval.

During the preparation of all drawings and plans the Agency and the Developer shall hold regular progress meetings to coordinate the preparation of, submission to, and review of construction plans and related documents by the Agency. The Agency and the Developer shall communicate and consult informally as frequently as is necessary to insure that the formal submittal of any documents to the Agency can receive prompt and speedy consideration.

If any revisions or corrections of plans or Drawings approved by the Agency shall be required by any government official, agency, department or bureau having jurisdiction over the development of the Site, the Developer and the Agency shall reasonably cooperate in efforts to incorporate the revisions or corrections into the plans or Drawings or develop a mutually acceptable alternative.

[§ 306] Agency Approval of Plans, Drawings, and Related Documents

Subject to the terms of this Agreement, the Agency shall have the right of review (including without limitation architectural review) of all plans and submissions, including any proposed changes therein. The Agency shall approve or disapprove the plans, drawings and related documents referred to in Section 303, 304 and 305 of this Agreement within the times established in the Schedule of Performance (Attachment No. 3). Failure by the Agency to either approve or disapprove within the times established in the Schedule of Performance shall be deemed an approval. Any disapproval shall state in writing the reasons for disapproval and the changes which the Agency requests to be made. Such reasons and such changes must be consistent with the Scope of Development (Attachment No. 4) and any items previously approved or deemed approved hereunder. The Developer, upon receipt of a disapproval based upon powers reserved by the Agency hereunder, shall revise the plans, drawings and related documents, and shall resubmit to the Agency as soon as possible after receipt of the notice of disapproval.

If the Developer desires to make any substantial change in the Final Construction Drawings after their approval, such proposed change shall be submitted to the Agency for approval. If the Final Construction Drawings, as modified by the proposed change, conform to the requirements of Section 305 of this Agreement and the Scope of Development, the proposed change shall be approved and the Developer shall be notified in writing within twenty (20) business days after submission.

[§ 307] Cost of Construction

a. The cost of developing the Site and constructing all Improvements thereon shall be the sole financial responsibility of the Developer. The estimated Development Costs for the Project are set forth in the Project Budget (Attachment No. 8), which shall be subject to change from time-to-time as provided in Section 223.

b. The Developer has proposed, and the Agency has approved, the Project Budget appended to this Agreement as Attachment No. 8. Developer acknowledges that the Agency is relying on Developer's experience and expertise in establishing the Development Costs for the Project and Developer represents that the Project Budget is based on the best, good faith estimate of the Developer of the costs that are likely to be incurred for the Project.

[§ 308] Schedule of Performance

a. Each party to this Agreement shall perform the obligations to be performed by such party pursuant to this Agreement within the respective times provided in the Schedule of Performance, subject to the extensions of time set forth in Section 604 of this Agreement, and if no such time is provided, within a reasonable time. The Schedule of Performance shall be subject to amendment from time to time upon the mutual written agreement of Agency and Developer; Agency's Executive Director may, on behalf of Agency and without referring such matter to the governing body of Agency, extend all pending deadlines in the Schedule of Performance by up to 90 days, but shall not exercise such an administrative extension more than twice.

b. After the Closing, the Developer shall promptly begin and thereafter diligently prosecute to completion the construction of the Improvements as provided in the Scope of Development. The Developer shall begin and complete all construction and development within the times specified in the Schedule of Performance or within such reasonable extensions of said dates as may be granted by the Agency.

c. Until Completion, the Developer shall submit to the Agency a written report of the progress of construction every month. The report shall be in such form and detail as may be reasonably required by the Agency and shall include a reasonable number of construction photographs (if requested) taken since the last report submitted by the Developer. From time to time, at the request of the Agency's staff, Developer (and, as requested by the Agency's staff) Developer's key representative and key representatives of consultants/contractors/subcontractors) shall meet with the Agency's staff for progress meetings.

[§ 309] Indemnification During Construction; Bodily Injury and Property Damage Insurance

a. Developer's Indemnity. To the maximum extent permitted by law, Developer agrees to and shall defend, indemnify and hold harmless Agency, the City, and their respective boards, officers, officials, employees, contractors, agents and representatives (the "Indemnitees"), with counsel reasonably acceptable to Agency and/or City, from and against all claims, liability, loss, damage, costs and expenses (including reasonable attorneys' fees, court and litigation costs and fees of expert witnesses) arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or the property of any person resulting or arising from or in any way connected with the following, provided Developer shall not be responsible (and such indemnity shall not apply to) to the extent of any gross negligence or willful misconduct of the Indemnitees:

1. The existence, release, presence or disposal on, in, under, about or adjacent to the Site of any Hazardous Substances, except to the extent it is due to the gross negligence or willful misconduct of the Indemnitees;

2. The development, construction, marketing, use or operation of the Site by Developer, its officers, contractors, subcontractors, agents, employees or other persons acting on Developer's behalf [collectively Indemnifying Parties];

3. The displacement or relocation of any person from the Site as the result of the development of the Site by the Indemnifying Parties;

4. Any Plans or designs for Improvements prepared by or on behalf of Developer or any of the Indemnifying Parties including, without limitation, any errors or omissions with respect to such plans or designs;
5. Any loss or damage to Agency resulting from any inaccuracy in or breach of any representation or warranty of Developer, or resulting from any breach or default by Developer under this Agreement; and

6. Any and all actions, claims, damages, injuries, challenges and/or costs or liabilities arising from the approval of any and all entitlements or permits for the Improvements by the City or the Agency.

The foregoing indemnity shall continue to remain in effect after Completion and the issuance of a Release of Construction Covenants.

[§ 310] Insurance Policies.

a. Commencing upon the Closing, and at all times prior to the issuance of the Release of Construction Covenants (except in the case of liability insurance which shall be maintained until the 60th anniversary of the date the Grant Deed is recorded in the Official Records (60th Anniversary of Grant Deed"), Developer shall maintain in effect and deliver to

Agency duplicate originals or appropriate certificates of the following insurance policies [collectively Insurance Policies]:

(1) All-Risk Policies: Developer shall maintain or cause to be maintained coverage of the type now known as builder's completed value risk insurance, as delineated on an All Risk Builder's Risk 100% Value Non-Reporting Form. Such insurance shall insure against direct physical loss or damage by fire, lightning, wind, storm, explosion, collapse, underground hazards, flood, vandalism, malicious mischief, glass breakage and such other causes as are covered by such form of insurance. Such policy shall include (1) an endorsement for broad form property damage, breach of warranty, demolition costs and debris removal, (2) a "Replacement Cost Endorsement" in amount sufficient to prevent Developer from becoming a co-insurer under the terms of the policy, but in any event in an amount not less than 100% of the then full replacement cost, to be determined at least once annually and subject to reasonable approval by Agency, and (3) an endorsement to include coverage for budgeted soft costs. The replacement cost coverage shall be for work performed and equipment, supplies and materials furnished to the Site or any adjoining sidewalks, streets and passageways, or to any bonded warehouse for storage pending incorporation into the work, without deduction for physical depreciation and with a deductible not exceeding $25,000 per occurrence (except that earthquake coverage, if obtained, shall carry a deductible not to exceed 25% of the policy amount, or such other deductible amount as Agency may reasonably determine is acceptable, in light of the cost of the premium for such insurance);

(2) Liability Insurance: Developer shall maintain or cause to be maintained general liability insurance, to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever on or about the Site and the business of Developer on the Site, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of Developer, or any person acting for Developer, or under its respective control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person occurring on or about the Site, or in connection with the operation thereof, caused directly or indirectly by or from acts or activities of Developer or its tenants, or any person acting for Developer, or under its control or direction. Such property damage and personal injury insurance shall also provide for and protect Agency against incurring any legal cost in defending claims for alleged loss. Such personal injury and property damage insurance shall be maintained in full force and effect until the 60th Anniversary of the Grant Deed (as defined in Subsection 310 a. above), in the following amounts: commercial general liability in a general aggregate amount of not less than $2,000,000, $2,000,000 Products and Completed Operations Aggregate, and $2,000,000 Each Occurrence. Developer shall deliver to Agency a Certificate of Insurance evidencing such insurance coverage prior to the occurrence of the Closing. Developer agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which Developer may be held responsible for indemnifications hereunder or the payment of damages to persons or property resulting from Developer's activities, activities of its tenants or the activities of any other person or persons for which Developer is otherwise responsible.

(3) Automobile Insurance: Developer shall maintain or cause to be maintained automobile insurance, maintained in full force and effect in an amount of not less than $2,000,000 per accident.

(4) Workers' Compensation Insurance: Developer shall maintain or cause to be maintained workers' compensation insurance issued by a responsible carrier authorized under the laws of the State of California to insure employers against liability for compensation under the workers' compensation laws now in force in California, or any laws hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Developer in connection with the Site and shall cover liability within statutory limits for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or on behalf of any person incurring or suffering injury or death in connection with the Site or the operation thereof by Developer. Notwithstanding the foregoing, Developer may, in compliance with the laws of the State of California and in lieu of maintaining such insurance, self-insure for workers' compensation in which event Lessee shall deliver to Agency evidence that such self-insurance has been approved by the appropriate State authorities.

b. All policies or certificates of insurance shall provide that such policies shall not be canceled, reduced in coverage or limited in any manner without at least ten (10) days prior written notice to Agency. All fire and liability insurance policies (not automobile and Workers' Compensation) may name the Agency and Developer as insureds, additional insureds, and/or loss payable parties as their interests may appear.

c. The Insurance Policies shall name as additional insureds the following:

> "The City of Culver City, the Culver City Redevelopment Agency, and their respective officers, officials, employees, contractors, agents and attorneys."

d. Developer agrees to timely pay all premiums for such insurance and, at its sole cost and expense, to comply and secure compliance with all insurance requirements necessary for the maintenance of such insurance. Developer agrees to submit binders or certificates evidencing such insurance to Agency prior to the Closing. Within thirty (30) days, if practicable, but in any event prior to expiration of any such policy, copies of renewal policies, or certificates evidencing the existence thereof, shall be submitted to Agency. All insurance herein provided for under this Section shall be provided by insurers licensed to do business in the State of California and rated A-VII or better. To the extent the Developer maintains increased or additional insurance in excess of the minimum coverage requirements prescribed by paragraphs a.(2) and a.(3) of this Section 310, Developer shall ensure that the additional insureds specified in paragraph 3. of this Section 310 derive the benefit of such increased or additional insurance coverage.

e. If Developer fails or refuses to procure or maintain insurance as required by this Agreement, Agency shall have the right, but not the obligation, at Agency's election, and upon ten (10) days prior notice to Developer, to procure and maintain such insurance. The premiums paid by Agency shall be treated as a loan, due from Developer, to be paid on the first day of the month following the date on which the premiums were paid. Agency shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s).

[§ 311] Antidiscrimination During Construction

The Developer for itself and its successors and assigns agrees that in the construction of the Improvements on the Site provided for in this Agreement, the Developer will not discriminate against any employee or applicant for employment because of sex, sexual orientation, marital status, race, color, creed, religion, national origin, or ancestry.

[§ 312] Local, State, and Federal Laws

a. Developer hereby agrees to carry out development, construction (as defined by applicable law) and operation of any improvements on the Site, including, without limitation, any and all public works (as defined by applicable law), in conformity with all applicable Federal and State labor laws, including, without limitation, the payment of State prevailing wages.

b. Developer hereby expressly acknowledges and agrees that neither City nor Agency has ever previously affirmatively represented to Developer or its contractor(s) for the Improvements in writing or otherwise, in a call for bids or otherwise, that the work to be covered by the bid or contract is not a "public work," as defined in Section 1720 of the Labor Code. Developer hereby agrees that Developer shall have the obligation to provide any and all disclosures, representations, statements, rebidding, and/or identifications which may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Developer hereby agrees that Developer shall have the obligation to provide and maintain any and all bonds to secure the payment to contractors (including the payment of wages to workers performing any public work) which may be required by the Civil Code, Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Developer hereby agrees that Developer shall have the obligation, at Developer's sole cost, risk and expense, to obligate any party as may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Developer shall indemnify, protect, defend and hold harmless the Agency, City and their respective officers, employees, contractors and agents, with counsel reasonably acceptable to Agency and City, from and against any and all loss, liability, damage, claim, cost, expense, and/or "increased costs" (including labor costs, penalties, reasonable attorneys fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development, construction (as defined by applicable law) and/or operation of the Improvements, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (1) the noncompliance by Developer of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay state prevailing wages); (2) the implementation of Sections 1726 and 1781 of the Labor Code, as the same may be enacted, adopted or amended from time to time, or any other similar law; (3) failure by Developer to provide any required disclosure, representation, statement, rebidding and/or identification which may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law; (4) failure by Developer to provide and maintain any and all bonds to secure the payment to contractors (including the payment of wages to workers performing any public work) which may be required by the Civil Code, Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law; and/or (5) failure by Developer to obligate any party as may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law.

c. It is agreed by the parties that, in connection with the development, construction (as defined by applicable law) and operation of the Improvements, including, without limitation, any public work (as defined by applicable law), Developer shall bear all risks of payment or non payment of state prevailing wages and/or the implementation of Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, and/or any other provision of law. "Increased costs" as used in this Section shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time.

d. The foregoing indemnity shall survive termination of this Agreement and shall continue after issuance of the Release of Construction Covenants.

[§ 313] City and Other Governmental Agency Permits

Before commencement of construction or development of any buildings, structures or other work of improvement upon any portion of the Site, the Developer shall, at its own expense, secure or cause to be secured, any and all permits which may be required by the City or any other governmental agency affected by such construction, development or work. The Agency shall provide all reasonable assistance to the Developer in securing these permits; provided, however, that Developer understands and Agrees that any Agency approvals shall not constitute or guarantee approvals required by the City or any other governmental agency.

[§ 314] Rights of Access

Representatives of the Agency and the City shall have the reasonable right of access to the Site without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements. Such representatives of the Agency or the City shall be those who are so identified in writing by the Executive Director of the Agency (or his designee).

[§ 315] Responsibilities of the Agency

The Agency shall not be responsible for performing any of the work specified in the Scope of Development (Attachment No. 4).

[§ 316] Taxes, Assessments, Encumbrances and Liens

The Developer shall pay when due all real estate taxes and assessments assessed and levied on or against the Site and each portion thereof, including the Site subsequent to the conveyance of title or possession thereto. The Developer shall not place, or allow to be placed, on the Site or any portion thereof, any mortgage, trust deed, encumbrance or lien not authorized by this Agreement. The Developer shall remove, or shall have removed, any levy or attachment made on the Site (or any portion thereof), except those created by work of the Agency, or shall assure the satisfaction thereof within a reasonable time but in any event prior to a sale thereunder. Developer shall refrain from appealing, challenging or contesting in any manner the validity or amount of any tax assessment, encumbrance or lien on the Site; provided, however, that such prohibition shall not apply to an appeal, challenge or contesting of the erroneous initial assessment for property tax purposes of the Site in the fiscal year of the completion of the Project to be constructed pursuant to this Agreement, and further provided that in the absence of transfer of ownership or new construction Developer shall not be prohibited from appealing, challenging or contesting any increases in assessment of the Site for property tax purposes over and above the current 2% per annum permitted amount.

The covenants of the Developer set forth in this Section 316 relating to the placement of any unauthorized mortgage, trust deed, encumbrance, or lien, shall remain in effect only until a Release of Construction Covenants of construction has been recorded with respect to the Site or the portion thereof upon which any unauthorized mortgage, trust deed, encumbrance or lien might be placed.

[§ 317] Prohibition Against Transfer

Prior to the recordation by the Agency of a Release of Construction Covenants (referred to in Section 325 of this Agreement), the Developer shall not, except as permitted by this Agreement, assign or attempt to assign this Agreement or any right herein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Site or the improvements thereon (collectively, “Transfer”), without prior written approval of the Agency. This prohibition shall not apply to the Site (or portion thereof) subsequent to the recordation of the Release of Construction Covenants with respect thereto; provided, however, that any Transfer occurring upon or after the Agency’s issuance of a Release of Construction Covenants shall not release (i) the Developer from any Obligations under the Environmental Indemnity (Attachment No. 6) that arose prior to the date of the Transfer and/or (ii) Developer’s obligations to construct the Improvements in accordance with the Scope of Development (Attachment No. 4), including latent or patent defects, for a period of ten (10) years from the issuance of the Release of Construction Covenants.

This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Site, nor shall it prohibit granting any security interests expressly described in this Agreement for financing the acquisition and development of the Site.

Except as permitted by this Agreement, in the event that the Developer does assign this Agreement or any of the rights herein, or does sell, transfer, convey or assign the Site (or portion thereof), or the buildings or structures thereon, prior to the issuance of the Release of Construction Covenants pertaining thereto, the Agency shall be entitled to increase the Purchase Price paid by the Developer for the Site by the amount that the consideration payable for such sale, transfer, conveyance or assignment of the Site (or portion thereof) is in excess of the Purchase Price paid by the Developer for the Site, plus the cost of improvements and development theretofore made to the Site. The consideration payable for such sale, transfer, conveyance or assignment to the extent it is in excess of the amount so authorized, shall belong and be paid to the Agency and until so paid the Agency shall have a lien on the Site and any part involved for such amount. Any such lien shall be subordinate and subject to mortgages, deeds of trust, or other security instruments executed for the sole purpose of obtaining funds to purchase and develop the Site (or portion thereof) as authorized herein.

In the absence of specific written agreement by the Agency, no such sale, transfer, conveyance or assignment of this Agreement or the Site (or any portion thereof), or approval by the Agency of any such sale, transfer, conveyance or assignment, shall be deemed to relieve the Developer or any other party from any obligations under this Agreement.

[§ 318] Security Financing; Rights of Holders

[§ 319] No Encumbrances Except Mortgages, Deeds of Trust, Conveyances and Leases-Back or Other Conveyance for Financing for Development

Notwithstanding Section 316, after conveyance of title to the Site to the Developer, mortgages, deeds of trust, conveyances and leases-back, or any other form of conveyance required for any reasonable method of financing are permitted before the recordation of the Release of Construction Covenants (referred to in Section 325 of this Agreement), but only for the purpose of securing loans of funds to be used for financing construction of the Improvements on the Site, and any other expenditures necessary and appropriate to develop the Site under this Agreement. The Developer shall notify the Agency in advance of any mortgage, deed of trust, conveyance and lease-back, or other form of conveyance for financing if the Developer proposes to enter into the same before the recordation of the Release of Construction Covenants. The Developer shall not enter into any such conveyance for financing without the prior written approval of the Agency, which Agency approval shall not be unreasonably withheld. Any such lender approved pursuant to this Section 319 shall not require, as part of such Lender documents, approval and/or consent rights in connection with the Agency's exercise of its option and right of first refusal set forth in that certain Option to Purchase Agreement. In any event, the Developer shall promptly notify the Agency of any mortgage, deed of trust, conveyance and lease-back, or other financing, conveyance, encumbrance or lien that has been created or attached to the Site (or portion thereof) prior to the issuance of a Release of Construction Covenants and completion of the construction of the Improvements thereon whether by voluntary act of the Developer or otherwise.

The words "mortgage" and "deed of trust" as used herein include all other appropriate modes of financing real estate acquisition, construction, and land development.

[§ 320] Holder Not Obligated to Construct Improvements

The holder of any mortgage, deed of trust or other security interest authorized by this Agreement shall in no way be obligated by the provisions of this Agreement to construct or complete the Improvements or to guarantee such construction or completion; nor shall any covenants or any other provision in the Grant Deed for the Site be so construed as to so obligate such holder. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Site to any uses, or to construct any improvements thereon, other than those uses or Improvements provided for or authorized by this Agreement.

[§ 321] Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure

Whenever the Agency shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer in completion of construction of the Improvements, the Agency shall at the same time deliver to each holder of record of any mortgage, deed of trust or other security interest authorized by this Agreement a copy of such notice or demand. Each such holder shall (insofar as the rights of the Agency are concerned) have the right at its option within ninety (90) days after the receipt of the notice, to cure or remedy, or commence to cure or remedy, any such default and to add the cost thereof to the security interest debt and the lien of its security interest. If such default shall be a default which can only be remedied or cured by such holder upon obtaining possession, such holder shall seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall remedy or cure such default within ninety (90) days after obtaining possession; provided that in the case of a default which cannot with diligence be remedied or cured, or the remedy or cure of which cannot be commenced within such 90-day period, such holder shall have such additional time as reasonably necessary to remedy or cure such default with diligence and continuity, but in any event no longer than one hundred and eighty days (180) days from obtaining possession; and provided further that such holder shall not be required to remedy or cure any non-curable default of the Developer. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the improvements (beyond the extent necessary to conserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations to the Agency by written agreement satisfactory to the Agency. The holder in that event must agree to complete, in the manner provided in this Agreement, the improvements to which the lien or title of such holder related, and submit evidence satisfactory to the Agency that it has the qualifications and/or financial responsibility necessary to perform such obligations. Any such holder properly completing such improvements shall be entitled, upon written request made to the Agency, to a Release of Construction Covenants from the Agency.

[§ 322] Failure of Holder to Complete Improvements

In any case where, six months after the Agency has delivered to such holder a notice of default by the Developer in completion of construction of improvements under this Agreement, the holder of any mortgage, deed of trust or other security interest creating a lien or encumbrance upon the Site (or portion thereof) has not exercised the option to construct, or if it has exercised the option but has not proceeded diligently with construction, the Agency may purchase the mortgage, deed of trust or other security interest by payment to the holder of the amount of the unpaid debt, plus any accrued and unpaid interest and other charges properly payable under the mortgage, deed of trust or other security interest. If the ownership of the Site (or portion thereof) has vested in the holder, the Agency, if it so desires, shall be entitled to a conveyance from the holder to the Agency upon payment to the holder of an amount equal to the sum of the following:

a. The unpaid mortgage, deed of trust or other security interest debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings).

b. All expenses with respect to foreclosure.

c. The net expense, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent ownership or management of the Site (or portion thereof), such as insurance premiums and real estate taxes.

d. The cost of any improvements made by such holder.

e. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the Agency.

[§ 323] Right of Agency to Cure Mortgage, Deed of Trust, or Other Security Interest Default

In the event of a default or breach by the Developer of a mortgage, deed of trust or other security interest with respect to the Site (or any portion thereof) prior to the issuance of a Release of Construction Covenants therefor by the Agency, and the holder has not exercised its option to complete the development, the Agency may cure the default prior to completion of any foreclosure. In such event, the Agency shall be entitled to reimbursement from the Developer of all costs and expenses incurred by the Agency in curing the default. The Agency shall also be entitled to a lien upon the Site (or portion thereof) to the extent of such costs and disbursements. Any such lien shall be subordinate and subject to mortgages, deeds of trust, or other security instruments executed for the sole purpose of obtaining funds to purchase and develop the Site (or portion thereof) as authorized herein.

[§ 324] Right of the Agency to Satisfy Other Liens on the Property After Title Passes

Prior to the recordation of the Release of Construction Covenants (referred to in Section 325 of this Agreement), and after the Developer has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on the Site (or portion thereof), the Agency shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require the Developer to pay or make provisions for the payment of any tax, assessment, lien or charge so long as the Developer in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the Site (or any portion thereof) to forfeiture or sale.

[§ 325] Release of Construction Covenants

a. Promptly after Completion of the Improvements constituting the Project in its entirety, as generally and specifically required by this Agreement and in particular the Scope of Development and the Plans approved by the Agency, the Agency shall furnish Developer with a Release of Construction Covenants in form and content approved by the Agency upon written request therefor by Developer. The Agency shall not unreasonably withhold such Release of Construction Covenants and such Release of Construction Covenants shall be issued so long as Developer has constructed and developed the Site in accordance with this Agreement and the Plans approved by the Agency pursuant hereto. Such Release of Construction Covenants shall be, and shall so state, conclusive determination of satisfactory completion of all of the construction required by this Agreement.

b. The Release of Construction Covenants shall be in such form as to permit it to be recorded in the Recorder's Office of Los Angeles County. A Release of Construction Covenants for construction of less than the completed Improvements constituting the Project in its entirety and the development of the entire Site shall not be recorded.

c. If the Agency refuses or fails to furnish a Release of Construction Covenants for the Site after written request from Developer, the Agency shall, within thirty (30) days of the written request, provide Developer with a written statement of the reasons the Agency refused or failed to furnish a Release of Construction Covenants. The statement shall also contain the Agency's opinion of the action Developer must take to obtain a Release of Construction Covenants. If the reason for such refusal is confined to the immediate availability of specific items or materials for landscaping, and/or minor items, the Agency will issue its Release of Construction Covenants upon the posting of a bond by Developer with the Agency in an amount representing the fair value of the work not yet completed. If the Agency shall have failed to provide such written statement within said 30-day period, Developer shall be deemed to have received the Release of Construction Covenants.

d. Such Release of Construction Covenants shall not constitute evidence of compliance with, or satisfaction of any obligation of Developer to any lender, or any insurer of a mortgage securing money loaned to finance the Improvements, nor any part thereof. Such Release of Construction Covenants is not a notice of completion as referred to in Section 3093 of the California Civil Code.

IV. [§ 400] USE OF THE SITE

[§ 401] Uses

The Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Site or any part thereof, that during construction and thereafter the Developer, its successors and assignees shall devote the Site to the uses specified in the Redevelopment Plan, the Scope of Development, and the Grant Deed.

[§ 402] Maintenance of the Site

The Developer shall maintain the improvements on the Site and shall keep the Site free from any accumulation of debris or waste materials pursuant to the Grant Deed. The Developer shall also maintain the landscaping required to be planted under the Scope of Development in a healthy condition.

[§ 403] Obligation to Refrain from Discrimination

The Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Site or any part thereof, there shall be no discrimination against or segregation of any person, or group of persons, on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Site.

[§ 404] Form of Nondiscrimination and Nonsegregation Clauses

Developer shall refrain from restricting the rental, sale or lease of the Site on the basis of race, color, religion, ancestry, national origin, sex, or marital status of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

1. In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

   Notwithstanding the paragraph, with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall also apply to the above paragraph.

2. In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

Notwithstanding the above paragraph, with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the above paragraph.

3. In contracts entered into by the Agency relating to the sale, transfer, or leasing of land or any interest therein acquired by the Agency within any survey area of redevelopment project the foregoing provisions in substantially the forms set forth shall be included and the contracts shall further provide that the foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the instrument.

[§ 405] Effect and Duration of Covenants

The covenants established in this Agreement shall run with the land and, without regard to technical classification and designation, be binding for the benefit and in favor of the Agency, its successors and assigns, and the City for such periods as set forth herein. The non-discrimination covenants set forth in Section 404 shall remain in effect in perpetuity. Those certain covenants also contained in the Grant Deed, Agreement Affecting Real Property, Option to Purchase Agreement, Environmental Indemnity and Amendment to REA shall remain in effect for the periods specified therein.

[§ 406] Management Plan

On or prior to the Close of Escrow, Developer shall provide to the Agency Executive Director or designee for review and approval, a Management Plan for the management and operation of the surface parking lot to be constructed and developed on the Site. Such Management Plan shall include, but not be limited to, details regarding the control of pedestrian traffic to and from the Site to the School Site, details regarding the operation of the surface parking located on the Site, and any other items which may be required by the Agency Executive Director or designee.

V. [§ 500] DEFAULTS, REMEDIES AND TERMINATION

[§ 501] Defaults – General

a. Subject to Force Majeure Delay, as such term is defined in this Agreement, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. The party who fails or delays must immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

b. The non-defaulting party shall give written notice of default to the party in default, specifying the default complained of by the non-defaulting party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by either party in asserting any of its rights and remedies 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.

c. If a monetary event of default occurs, prior to exercising any remedies hereunder, the non-defaulting party shall give the party in default written notice of such default. The party in default shall have a period of ten (10) business days after such notice is given within which to cure the default prior to exercise of remedies by the injured party.

d. If a non-monetary event of default occurs, prior to exercising any remedies hereunder, the non-defaulting party shall give the party in default notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the party in default shall have such period to effect a cure prior to exercise of remedies by the non-defaulting party. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and the party in default (i) initiates corrective action within said thirty (30) day period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then the party in default shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the non-defaulting party, but in no event shall such period exceed ninety (90) days from the date such notice is received or deemed received. In no event shall the non-defaulting Party be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default.

[§ 502] Legal Actions

[§ 503] Institution of Legal Actions

In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Los Angeles, State of California, in any other appropriate court of that county, or in the Federal District Court in the Southern District of California.

[§ 504] Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

[§ 505] Acceptance of Service of Process

In the event that any legal action is commenced by the Developer against the Agency, service of process on the Agency shall be made by personal service upon the Executive Director or Chair of the Agency, or in such other manner as may be provided by law.

In the event that any legal action is commenced by the Agency against the Developer, service of process on the Developer shall be made by personal service upon a member of Developer and shall be valid whether made within or without the State of California, or in such manner as may be provided by law.

[§ 506] Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

[§ 507] Damages

Subject to the notice and cure periods set forth herein, if either party defaults with regard to any of the provisions of this Agreement, the defaulting party shall be liable to the non-defaulting party for any damages caused by such default, and the nondefaulting party may, after such notice and opportunity to cure (but not before) commence an action for damages against the defaulting party with respect to such default.

[§ 508] Specific Performance

Subject to the notice and cure periods set forth herein, if either party defaults with regard to any of the provisions of this Agreement, the nondefaulting party, at its option, may , after such notice and opportunity to cure(but not before, unless necessary to prevent immediate harm) commence an action for specific performance of the terms of this Agreement pertaining to such default.

[§ 509] Remedies and Rights of Termination

[§ 510] Termination by Developer

a. Prior to the Close of Escrow and subject to the notice and cure provisions of Section 501, Developer shall have the right to terminate this Agreement by providing written notice to the Agency in the event that:

(1) Agency fails to deliver title to the Site when and as required by this Agreement as the result of any cause beyond the control of or without the fault of the Agency without the fault of Developer; or

(2) Agency, despite being in the position to do so, fails to deliver title to the Site when and as required by this Agreement; or

(3) Developer determines on or before the date that is forty (40) days after the execution of this Agreement that the soils or water condition of the Site is not suitable for development of the Site in accordance with this Agreement, then this Agreement, at the option of Developer, shall be terminated with respect to the Site, by written notice thereof to the Agency, and neither the Agency nor the Developer shall have any further rights against or liability to the other under this Agreement except that the Agency shall promptly refund the Deposit to Developer.

[§ 511] Termination by Agency

a. <u>Termination Prior to Close of Escrow</u>. Subject to the notice and cure rights provided in Section 501, in addition to the other rights and remedies set forth in this Agreement, the Agency shall have the right to terminate this Agreement as to the entirety of the Project by providing written notice to Developer, in the event of a default by Developer or failure of any condition precedent to the Close of Escrow, including but not limited to the following:

(1) Developer fails to submit to the Agency any submission of evidence of financing commitments referred to in Section 218 of this Agreement with respect to the Site, within the time established therefor in the Schedule of Performance (Attachment No. 3); or

(2) Developer (or any successor in interest) assigns or attempts to assign this Agreement or any right herein, or in the Site or any portion thereof in violation of this Agreement; or

(3) there is substantial change in the ownership of the Developer, or with respect to the identity of the parties in control of the Developer, or the degree thereof contrary to the provisions of Sections 107 and 108 hereof; or

(4) the Developer shall fail to satisfy any of the conditions precedent to the conveyance of the Site in accordance with Section 219 of this Agreement; or

(5) the Developer shall otherwise fail to timely pay or reimburse the Agency for any costs or expenses incurred by the Agency with respect to the Site which are to be borne by the Developer under this Agreement; or

(6) the Developer does not deliver to the Agency any submission of plans, drawings, and related documents as required by this Agreement by the date respectively provided in this Agreement therefor; or

(7) the Developer does not pay the Purchase Price and take title to the Site under a tender of conveyance by the Agency pursuant to this Agreement.

b. Termination After Close of Escrow. Subject to the notice and cure rights provided in Section 501, and subject to the rights of any Agency approved lender pursuant to Section 319, in addition to the other rights and remedies set forth in this Agreement, after the Close of Escrow but before the issuance of the Release of Construction Covenants for the Project, the Agency shall have the right to terminate this Agreement as to the entirety of the Project by providing written notice to Developer, in the event any of the following defaults shall occur:

(1) Developer is in default under the Agreement Affecting Real Property or Amendment to REA; or

(2) Developer fails to commence construction of the Improvements for the Project as required by this Agreement for a period of ninety (90) days after written notice from the Agency, provided that the Developer shall not have obtained an extension or postponement to which the Developer may be entitled pursuant to Section 308 hereof or there has not been a Force Majeure Event; or

(3) Developer abandons or substantially suspends construction of the Improvements for a period of ninety (90) days after written notice has been given by the Agency to the Developer, provided the Developer has not obtained an extension or postponement to which the Developer may be entitled to pursuant to Section 308 hereof; or

(4) Developer assigns or attempts to assign this Agreement, or any rights herein, or transfer, or suffer any involuntary transfer of the Site, or any part thereof, in violation of this Agreement, and such breach is not cured within thirty (30) days after the date of written notice thereof; or

(5) Developer otherwise materially breaches this Agreement, and such breach is not cured within the time provided in Section 500 of this Agreement.

In the event of termination under this Section, in addition to any remedies authorized herein and in law and equity, Agency shall have the right, its option, to exercise its Power of Termination and reenter and take immediate possession of the Site and any improvements thereon, in accordance with Section 512 of this Agreement.

[§ 512] Power of Termination (Cal. Health and Safety Code Sections 33437 and 33438; Civil Code Sections 885.010, et seq.)

a. Subject to the notice and cure provisions of Section 501, in the event of an uncured default by Developer after conveyance of title to the Site to Developer by the Agency and prior to the recordation of the Release of Construction Covenants for the Site, the Agency shall have the additional right, at its option, to enter and take possession of the Site (or any portion of the Site) with all improvements, and Developer agrees that Developer shall take such actions and execute such instruments necessary or proper to vest in the Agency fee title to the Site.

b. Such right to enter, possess and vest shall be subject to and be limited by and shall not defeat, render invalid or limit: (a) any bona fide mortgage, deed of trust, or other security instrument of sale and leaseback or other conveyance for financing, provided that such mortgage, deed of trust, security instrument, sale and leaseback or conveyance for financing is permitted by this Agreement; and (b) any rights or interest provided in this Agreement for the protection of the holder of such bona fide, permitted mortgages, deeds of trust or other security instruments, the lessor under such sale and leaseback, or the grantee under such other conveyance for financing.

c. The Grant Deed shall contain appropriate reference and provision to give effect to the Agency's right, as set forth in this Section under specified circumstances prior to Completion and the issuance of a Release of Construction Covenants, to enter and take possession of the Site, or any part of the Site, with all improvements, and Developer's obligation to take such actions and execute such instruments necessary or proper to vest in the Agency fee title to the Site.

d. Upon the vesting in the Agency of title to the Site, or any part of the Site, as provided in this Section 512, the Agency shall, pursuant to its responsibilities under state law, use its best efforts to resell the Site, or any part of the Site, as soon and in such manner as the Agency shall find feasible and consistent with the objectives of the Community Redevelopment Law and the Redevelopment Plan to a qualified and responsible party or parties (as determined by the Agency), who will assume the obligation of making or completing the Improvements, or such other improvements in their stead, as shall be satisfactory to the Agency and in accordance with the uses specified for the Site, or any part of the Site, in the Redevelopment Plan. Upon such resale of the Site, or any portion thereof, the proceeds shall be applied:

(1) first, to repay the outstanding balance of any Agency approved mortgage pursuant to Section 319 of this Agreement;

(2) next, to reimburse Agency on its own behalf or on behalf of the City for all costs and expenses incurred by Agency, including salaries of personnel engaged in such action, in connection with the recapture, management and

resale of the Site, or any part thereof (but less any income derived by Agency from the sale of the Site, or any part thereof, in connection with such management); all taxes, assessments and water and sewer charges with respect to the Site or any part thereof (or, in the event the Site, or any part thereof, is exempt from taxation or assessment or such charges during the period of ownership, then such taxes, assessments or charges, as would have been payable if the Site, or part thereof, were not so exempt); any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the agreed improvements or any part thereof on the Site, or any part thereof; and any amounts otherwise owing to the Agency by Developer and its successor or transferee; and

(3) third, to reimburse Developer, its successor or transferee, up to the amount equal to: the sum of the Purchase Price paid to the Agency for the Site; and the costs incurred for the development of the Site, or any part thereof, or for the construction of the agreed improvements thereon, less the Agency approved mortgage loan.

e. Any balance remaining after such reimbursements shall be retained by the Agency as its property.

f. To the extent that the right established in this Section involves a forfeiture, it must be strictly interpreted against the Agency, the party for whose benefit it is created. The rights established in this Section are to be interpreted in light of the fact that the Agency will convey the Site to the Developer for development and not for speculation.

[§ 513] Deposit

a. On or prior to the time set forth in the Schedule of Performance, Developer shall delivered to Agency a deposit in the amount of $11,000 (the "Deposit"). The Deposit shall be in the form of cash or cashiers or certified check.

b. Developer agrees that the Deposit shall provide security for the performance of Developer's obligations under this Agreement to be performed prior to the return of the Deposit to the Developer, or retained by the Agency as minimum damages, in accordance with the provisions of this Agreement.

c. Agency shall be under no obligation to pay or earn interest on the Deposit, but, if interest shall accrue or be payable on the Deposit, such interest, when received by the Agency, shall be the property of Developer and shall be promptly paid to Developer upon the return of the Deposit to Developer pursuant to this Agreement. To the extent Agency is entitled to retain the Deposit pursuant to this Agreement, any interest earned on the Deposit shall be retained by and belong to Agency as its sole property and may be disposed of by Agency as Agency sees fit.

[§ 514] Return or Retention of the Deposit

a. The Deposit (with interest, if any) shall be returned to Developer in the event that Developer is not then in default under this Agreement and: (1) this Agreement is terminated by the Developer pursuant to Section 510; or (2) the Close of Escrow occurs (in which event, Developer may elect to apply the Deposit with interest, if any, to the Purchase Price).

b. In the event that this Agreement is terminated by Agency pursuant to Section 511, the Deposit (with interest, if any) shall be retained by Agency as minimum damages and the Agency shall be entitled to such additional damages as the parties may agree, or as a court of competent jurisdiction shall determine in the event the parties cannot agree. The retention of the Deposit shall entitle and permit Agency (without any prerequisite approvals or actions) to draw on or cash the entire amount of the Deposit.

AGENCY AND DEVELOPER, BY THIS AGREEMENT, MUTUALLY AGREE THAT MINIMUM DAMAGES MAY BE PAID TO AGENCY FROM THE DEPOSIT AS A RESULT OF THE FAILURE OF DEVELOPER TO PERFORM CERTAIN ACTS AND OBLIGATIONS REQUIRED OF IT UNDER THIS AGREEMENT. AGENCY AND DEVELOPER MUTUALLY AGREE THAT $11,000 IS A REASONABLE ESTIMATE OF THE MINIMUM AMOUNT OF DAMAGES WHICH AGENCY WOULD SUFFER. ANY OF SUCH DEPOSIT RETAINED BY AGENCY SHALL THEREFORE BE AGENCY'S PROPERTY WITHOUT ANY DEDUCTION, OFFSET OR RECOUPMENT (OR ANY RIGHT TO ANY DEDUCTION, OFFSET OR RECOUPMENT) WHATSOEVER AND AGENCY SHALL BE ENTITLED TO SUCH ADDITIONAL DAMAGES AS THE PARTIES MAY AGREE OR AS A COURT OF COMPETENT JURISDICTION SHALL DETERMINE IN THE EVENT THE PARTIES CANNOT AGREE.

____________________ ____________________

Agency's Initials Developer's Initials

VI. [§ 600] GENERAL PROVISIONS

[§ 601] Notices, Demands, and Communications Between the Parties

Notices, demands and communications between the Agency and the Developer shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the Agency and the Developer, as designated in Section 106 and Section 107 respectively. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section 601. Any notice may be transmitted by electronic facsimile transmission followed by delivery of a “hard” copy as provided herein, and shall be deemed delivered upon its transmission. Any notice may be personally delivered (including by means of professional messenger service), shall be deemed received on the documented date of receipt by the recipient. Any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

[§ 602] Conflicts of Interest

No member, official or employee of the Agency shall have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is, directly or indirectly, interested.

The Developer warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

[§ 603] Nonliability of Agency Officials and Employees

No member, official, employee or consultant of the Agency shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Agency or for any amount which may become due to the Developer or to its successor, or on any obligations under the terms of this Agreement.

[§ 604] Enforced Delay: Extension of Time of Performance

In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, Acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, or challenges to entitlements within applicable statute of limitations periods, unusually severe weather, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplies, acts of the other party, acts or failure to act of the City or any other public or governmental agency or entity (other than that acts or failure to act of the Agency shall not excuse performance by the Agency) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of knowledge of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the Agency and the Developer.

[§ 605] Inspection of Books and Records

The Agency has the right at all reasonable times to inspect the books and records of the Developer pertaining to the Site as pertinent to the purposes of this Agreement for a period of fifteen (15) years from issuance of the Release of Construction Covenants.

[§ 606] Approvals

Except where this Agreement expressly provides for the approval of either party in its discretion, approvals required of the Agency or the Developer shall not be unreasonably withheld, conditioned or delayed. Without limiting the foregoing, the Agency's Executive Director shall have the authority to extend any date(s) set forth herein or refer the approval of said extensions to the Agency Board for approval.

Except as otherwise expressly provided in this Agreement, approvals required of the Agency shall be deemed granted by the written approval of the Agency's Executive Director or designee. Agency agrees to provide notice to Developer of the name of the Executive Director's designee on a timely basis, and to provide updates from time to time. Notwithstanding the foregoing, the Executive Director or designee may, in his or her sole discretion, refer to the governing body of the Agency any item requiring Agency approval; otherwise, "Agency approval" shall mean and refer to approval by the Executive Director or designee.

[§ 607] Real Estate Commissions

The Agency shall not be liable for any real estate commissions, brokerage fees or finders fees which may arise herefrom. The Developer agrees to defend and hold the Agency harmless from any claim by any broker, agent of finder retained by the Developer. Each party represents to the other party that it has not incurred any liability for the payment of any real estate commission or brokerage or finder’s fee in connection with this Agreement.

[§ 608] Working Days/Business Days

As used in this Agreement, the term “working days” and/or “business days” shall mean days other than Saturdays, Sundays, and legal holidays and closures observed by the Agency, and “days” means calendar days. If the time for performance of an obligation under this Agreement falls on other than a working day, the time for performance shall be extended to the next working day.

VII. [§ 700] SPECIAL PROVISIONS

[§ 701] Amendment to Reciprocal Easement Agreement

As a condition precedent to the Close of Escrow hereunder Developer and HOA shall execute and deliver into Escrow in recordable form, an Amendment to REA substantially conforming in form and substance to Attachment No. 11. The Amendment to REA shall provide for, among other things, the privatization of neighborhood streets located within the CHP Parcel and expressly prohibit Developer, its successors and assigns and their respective employees, agents, students and invitees from parking, for any period of time, any type of vehicle, motor vehicle or bicycle (as further described in the Amendment to REA) on the CHP Parcel or any portion thereof. Developer shall cause the Amendment to REA to be recorded against the CHP Parcel and the School Site on or prior to the Closing. Developer hereby acknowledges and agrees that Developer shall pay all costs incurred in connection with facilitating, processing, approval and recordation of the Amendment to REA as required herein, including, but not limited to, all processing fees, recording fees, City of Culver City Planning Department fees and any other fees necessary to satisfy the Developer obligations set forth in this Section 701 (the “Amendment to REA Fees”). The Agency shall not be financially responsible for any costs incurred in connection with the facilitation of the of the Amendment to REA including, but not limited to any Amendment to REA Fees.

[§ 702] Creation of Parking Permit District

Upon conveyance of the Site to Developer, the City of Culver City and the residents of The Classics at Heritage Park or such other entity legally designated by the residents of The Classics at Heritage Park ("CHP Residents"), may establish a residential parking permit district for those portions of the CHP Parcel not open to members of the public whereby parking rights on the CHP Parcel shall be limited to vehicles displaying a sticker, placard or other identification device, evidencing authority to park on the CHP Parcel. Developer hereby acknowledges and agrees that Developer shall pay all fees required by the City of Culver City incurred in connection with the CHP resident's permit parking application up to $250 ("Permit Parking Fees"). Developer shall pay the Permit Parking Fees to the City concurrently with CHP Residents filing of their permit parking application.

[§ 703] Procurement of Parking Management Services

In the event the Agency Executive Director or designee determines, in the Agency Executive Director or designee's reasonable discretion, that Developer, its employees, representatives, students and or invitees are parking vehicles, motor vehicles or bicycles (as those terms are defined in the California Vehicle Code) on the CHP Parcel in violation of the terms and provisions of that certain REA as amended by that certain Amendment to REA ("REA Violation"), no later than fourteen (14) days after the Agency Executive Director or designee sends written notice to Developer regarding the REA Violation, Developer shall be obligated to provide for and pay all costs associated with procuring and hiring on a permanent basis a parking lot management service, first approved in writing by the Agency Executive Director or designee pursuant to the Agreement Affecting Real Property and this Agreement. Such parking lot management service shall be charged with operating and managing the tandem and stacked parking located on the Site pursuant to the terms and provisions of this Agreement and the Agreement Affecting Real Property. In addition to procuring and hiring on a permanent basis a parking lot management service as required herein and in the Agreement Affecting Real Property, Developer shall reconfigure the surface parking lot located on the Site (the "School Parking Lot") pursuant to the terms and provisions of the Agreement Affecting Real Property and shall adhere to all other terms, provisions and covenants contained therein.

VIII [§ 800] ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement shall be executed in five duplicate originals each of which is deemed to be an original. This Agreement includes ________ (____) pages and thirteen (13) attachments which constitute the entire understanding and agreement of the parties.

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the Site.

None of the terms, covenants, agreements or conditions set forth in this Agreement shall be deemed to be merged with the Grant Deed conveying title to the Site and this Agreement shall continue in full force and effect with respect to the Site until after recordation of a Release of Construction Covenants for the Site.

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Agency or the Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of the Agency and the Developer. This Agreement and any provisions hereof may only be amended by mutual written agreement by the Developer and the Agency.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURES ON FOLLOWING PAGE]

IX. [§ 900] TIME FOR ACCEPTANCE OF AGREEMENT BY AGENCY; DATE OF AGREEMENT.

This Agreement, when executed by the Developer and delivered to the Agency, must be authorized, executed and delivered by the Agency within ninety (90) days after this Agreement is signed by the Developer, or this Agreement may be terminated by the Developer on written notice to the Agency. The date of this Agreement shall be the date it is signed by the Agency.

DEVELOPER

EXCEPTIONAL CHILDREN'S FOUNDATION,
a 501 (c) (3) non-profit corporation

Dated: 11/2/10

By: ______________________
Scott Bowling
President and CEO

AGENCY

CULVER CITY REDEVELOPMENT AGENCY,
a public body, corporate and politic

Date: ______________

By: ______________________
John Nachbar
Executive Director

APPROVED AS TO FORM:
KANE, BALLMER & BERKMAN

By: ______________________
Murray O. Kane
Agency General Counsel

K:\CG\CC\Exceptions Children Found\Sepulveda-Machado DDA\DDA (final)(1).doc

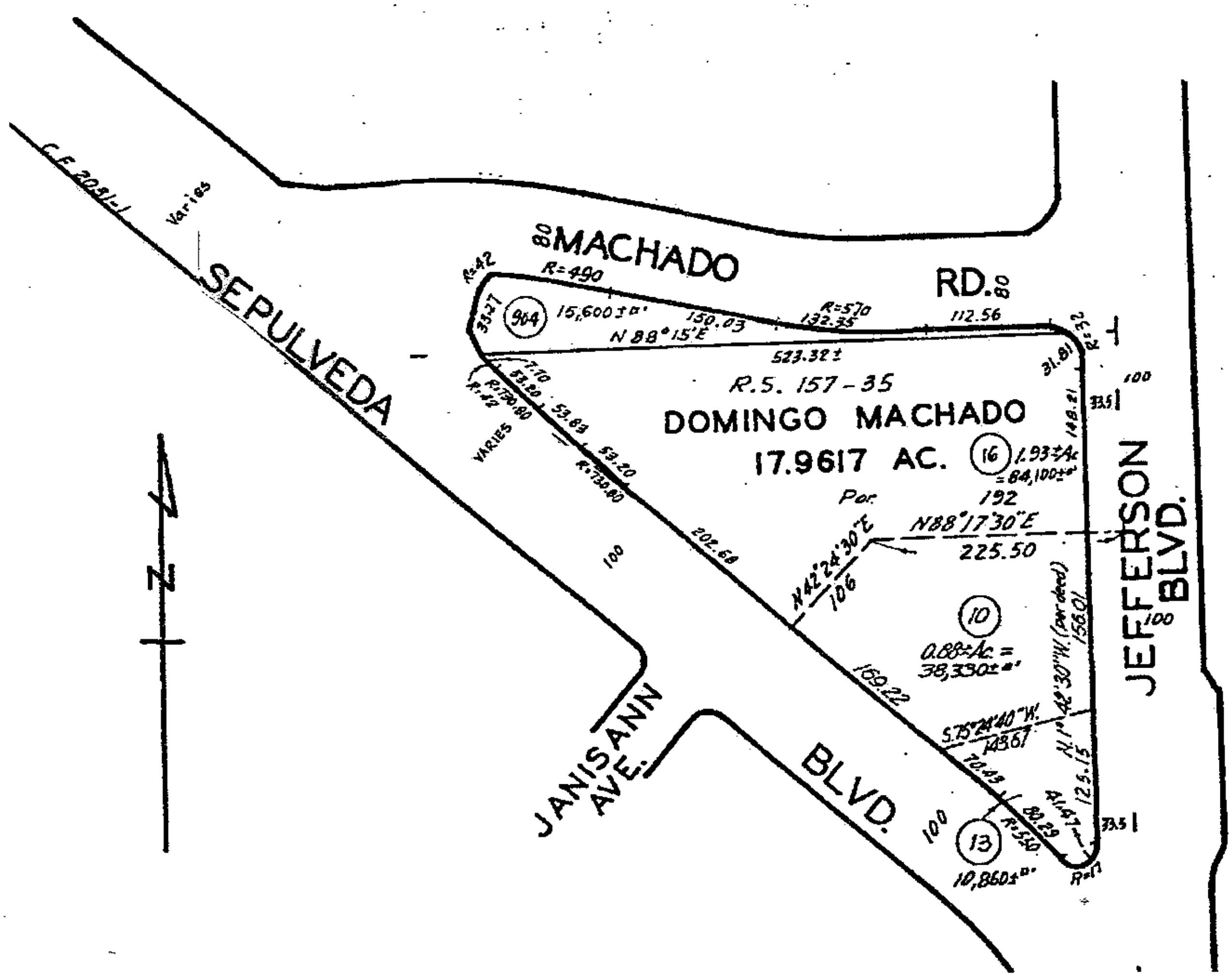

EXHIBIT III
SITE MAP
SEC MACHADO RD & SEPULVEDA BLVD
CULVER CITY, CALIFORNIA
SCALE: 1" = 160± FT.
APRIL 2009

Lea Associates
Property Economics

ATTACHMENT NO. 2

LEGAL DESCRIPTION

Real property in the City of Culver City, County of Los Angeles, State of California, described as follows:

THAT PORTION OF THE BERNARDINO MACHADO 18.090535 ACRE TRACT, IN THE RANCHO LA BALLONA, IN THE CITY OF CULVER CITY, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, ACCORDING TO MAP AND FINAL DECREE OF PARTITION IN CASE NO. 2722, DISTRICT COURT OF SAID COUNTY, AS PER MAP RECORDED IN BOOK 3 PAGES 204, ET. SEQ., OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF TRACT NO. 16283, IN SAID CITY, COUNTY AND STATE, AS PER MAP RECORDED IN BOOK 381 PAGE 45 OF MAPS, IN SAID RECORDER'S OFFICE, WITH THE WESTERLY LINE OF THE EASTERLY 25 FEET OF SAID 18.090535 ACRE TRACT;
THENCE WESTERLY ALONG SAID SOUTHERLY LINE LAND AND ITS' WESTERLY PROLONGATION TO THE NORTHEASTERLY LINE OF SEPULVEDA BOULEVARD, AS SHOWN ON TRACT NO. 29724, IN SAID CITY, COUNTY AND STATE, AS PER MAP RECORDED IN BOOK 736 PAGES 90 AND 91 OF MAPS, IN SAID RECORDERS OFFICE;
THENCE SOUTHEASTERLY ALONG SAID SEPULVEDA BOULEVARD, TO THE SOUTHERLY LINE OF SAID 18.090535 ACRE TRACT;
THENCE EASTERLY ALONG SAID LAST MENTIONED SOUTHERLY LINE TO THE WESTERLY LINE OF THE EASTERLY 25 FEET OF SAID 18.090535 ACRE TRACT;
THENCE NORTHERLY ALONG SAID WESTERLY LINE TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THE EAST 16.50 FEET THEREOF.

ALSO EXCEPT THEREFROM THAT PORTION OF SAID LAND LYING NORTHERLY OF THE CENTERLINE OF PARCEL 2-A, AS DESCRIBED IN AN EASEMENT DEED RECORDED JUNE 07, 1994 AS INSTRUMENT NO. 94-1090145 OF OFFICIAL RECORDS.

ALSO EXCEPT THEREFROM ALL OIL, GAS AND MINERAL SUBSTANCES, TOGETHER WITH THE RIGHT TO EXPLORE FOR AND EXTRACT SUCH SUBSTANCES PROVIDED THAT THE SURFACE OPENING OF ANY WELL, HOLE, SHAFT OR OTHER MEANS OF EXPLORING FOR, REACHING OR REMOVING SUCH SUBSTANCES SHALL NOT BE LOCATED WITHIN THE OVERLAND-JEFFERSON REDEVELOPMENT PROJECT NO. 2 AND SHALL NOT PENETRATE ANY PART OF OR PORTION OF SAID PROJECT AREA WITHIN 500 FEET OF THE SURFACE THEREOF, AS RESERVED BY CULVER CITY REDEVELOPMENT AGENCY, A PUBLIC BODY, CORPORATE AND POLITIC, IN AN INSTRUMENT RECORDED MARCH 11, 1993 AS INSTRUMENT NO. 93-466973 OF OFFICIAL RECORDS.

APN: 4215-001-904

ATTACHMENT NO. 3

SCHEDULE OF PERFORMANCE

1) GENERAL PROVISIONS

i.	Opening of Escrow. Opening of escrow shall occur.	Within seven (7) days of the Agency's execution of the DDA.
ii.	Submission - Architect, Landscape Architect and Civil Engineer. Developer shall submit to Agency for approval of the names and qualifications of its architect, landscape architect, and civil engineer.	Within seven (7) days of Agency execution of the DDA.
iii.	Approval - Architect, Landscape Architect and Civil Engineer. Agency shall approve or disapprove the architect, landscape architect, and civil engineer.	Within seven (7) days following receipt by the Agency.

2) ACQUISTION

i.	Submission of Deposit. Developer shall deposit into escrow the Deposit in the amount of $11,000.	Within fourteen (14) days from opening of Escrow.
ii.	Submission of Balance of Purchase Price. Developer shall deposit into escrow the balance of the Purchase Price in the amount of $ 209,000.	At least three (3) business days prior to Closing.
iii	Close of Escrow. Developer shall satisfy all conditions precedent to conveyance in accordance with Section 219.	Within forty-five (45) days after the opening of Escrow, but in any case no later than.

3) DEVELOPMENT

i.	Entitlements: Developer shall procure all required discretionary approvals for the Project ("Entitlements").	Within forty (45) days of the execution of the DDA by the Agency.
ii.	Submission – Schematic Level Drawings. Developer shall prepare and submit to Agency the Schematic Level Drawings for the Improvements on the Site.	Within thirty (30) days of execution of the DDA by the Agency.

iii.	Approval - Schematic Level Drawings. Agency shall approve or disapprove the Schematic Level Drawings for the Improvements on the Site.	Within seven (7) business days after receipt by Agency.
iv.	Submission - Preliminary Construction Drawings, and Preliminary Landscaping and Grading Plans. Developer shall prepare and submit to Agency preliminary construction drawings and preliminary landscaping and grading plans for the Improvements on the Site.	Within forty-five (45) days after Agency's approval of Schematic Level Drawings.
v.	Approval - Preliminary Construction Drawings, and Preliminary Landscaping and Grading Plans. Agency shall approve or disapprove the preliminary construction drawings and preliminary landscaping and grading plans for the Site.	Within fifteen (15) business days after receipt by Agency.
vi.	Submission - Final Construction Drawings and Landscaping and Finish Grading Plans. Developer shall prepare and submit the final construction drawings and specifications and the final landscaping and finish grading plans for the Improvements on the Site.	Within forty-five (45) days after Agency's approval of the Preliminary Construction Drawings and Preliminary Landscaping and Grading Plan.
vii.	Approval - Final Construction Drawings and Landscaping and Finish Grading Plans. Agency shall approve or disapprove the final construction drawings and specifications and the final landscaping and finish grading plans for the Improvements on the Site.	Within fifteen (15) business days after receipt by Agency.
viii.	Submission of Evidence of Financing, Developer shall submit to Agency for approval the evidence of financing in accordance with Section 218 of the DDA.	Within fifteen (15) days after Developer submits Final Construction Drawings to City Building Department for review.
ix.	Submission – Building Permit Application. Developer shall submit building permit application to the City for the Improvements on the Property.	Within seven (7) days of Agency approval of the Final Construction Drawings and Landscaping and Grading Plans.

x.	Approval of Building Permit. Developer shall obtain all required approvals for issuance of the City building permit for the Improvements on the Property.	Within thirty (30) days of submission of the building permit application.
xi.	Approval of Financing. Agency shall approve or disapprove the evidence of financing with respect to the Site, and shall so notify Developer.	Within fifteen (15) business days after receipt of such submission by Agency.
xii.	Site Mobilization. Developer shall commence Site mobilization.	Within seven (7) day after Developer's receipt of building permit for the project.
xiii.	Site Preparation. Developer shall commence Site preparation, including utility relocation.	Within seven (7) days after Developer's contractor commences site mobilization.
xiv.	Commencement of Construction/Site Excavation. Developer shall commence construction and Site excavation.	Within seven (7) day after Close of Escrow.
xv.	Completion of Construction. Developer shall complete construction of all the Improvements on the Site in accordance with the DDA.	Within nine (9) months after Close of Escrow.

NOTES:

1. Deadlines set forth in this Schedule of Performance are subject to the enforced delay provisions of Section 604 of the DDA.

2. Extensions may be approved in writing pursuant to Section 308 of the DDA.

3. Descriptions of items of performance and deadlines in this Schedule of Performance are not intended to supersede more complete descriptions in the text of the DDA; and in the event of any conflict between the text of the DDA and this Schedule, the text of the DDA shall govern.

ATTACHMENT NO. 4

SCOPE OF DEVELOPMENT

A. Developer Responsibilities

1. General

The Developer shall acquire and develop the existing approximately 16, 168 square foot unimproved property located on the west side of Machado Road, bounded by Jefferson Boulevard to the north and Sepulveda Boulevard to the south (the "Site") in order to develop an approximately high quality 16, 168 square foot above grade parking lot providing twenty (20) tandem parking spaces to benefit Developer (the "Improvements"). The Developer has submitted a set of Basic Concept/Schematic Drawings that are attached and have been utilized as the basis for this Scope of Development.

In accordance with approved plans, Developer shall provide, or cause to be provided, the Improvements. The project budget for construction of the Improvements is estimated at approximately $495,000**.**

2. Development Standard

The Site shall be rehabilitated consistent with all conditions of approval established by the City and in conformity with all applicable development standards as may be applicable to the property and the DDA. The standards may include, but not be limited to, such items as parking, setbacks, handicapped accessibility, energy standards, access and circulation, landscaping, fencing, lighting, signs, screening and architectural design. The Improvements shall be of high architectural quality, well landscaped, and effectively and aesthetically designed in accordance with the Basic Concept/Schematic Drawings incorporated herein and attached hereto as Exhibit A. The shape, scale, exterior design, and exterior finish of the Improvements must be consonant with, visually as well as physically related to, and an enhancement to the adjacent neighborhood.

The Improvements shall be constructed in accordance with all federal, state, and/or local development regulations and/or agreements.

3. Environmentally Sustainable Practices

Developer shall develop the Site where practical in accord with environmentally sustainable building practices. Environmentally sustainable building practices include, but are not limited to: reducing storm water run-off by utilizing permeable concrete or concrete poured to funnel run-off to a leaching field or catch basin for filtration; walkways and curbing being made of recycled and/or low albedo materials; solar power and/or motion sensor activated lighting; and, landscaping designed with low-water, drought tolerant plants and all other practices recognized by the U.S. Green Building Standards. The Developer shall be required to demonstrate consideration of such environmentally sustainable building practices during the review of the 100% construction drawings.

4. Required Permits/Other Approvals

The Developer shall be responsible for obtaining the approval of all permits and entitlements as required for the development of the Site.

5. 50% and 100% Construction Drawings

The Developer shall submit for approval to the Agency 50% and 100% construction drawings, as required by the Schedule of Performance, which implement the design intent of the Basic Concept/Schematic Drawings and any refinements/requirements listed in this Scope of Development.

6. Design Standards

The development, including its architectural design concepts, landscape features and off-site improvements, shall be subject to design review by the City and the Agency in accordance with adopted procedures.

a. Lighting - A lighting plan for illumination of the development shall be submitted for review and approval in conjunction with submittal of 100% construction drawings if exterior lighting is proposed.

b. Street Address – All address numbers shall be provided that are visible and legible from the public right-of-way.

7. On-site Improvements

All off-site and on-site improvements shall be designed as part of an integral site development. An on-site improvement plan shall be submitted with the 100% construction drawings. On-site improvements shall be coordinated with the off-site improvements associated with the development. On-site improvements shall include, but not be limited to:

a. Grading and Paving – All grading and paving on the Site shall comply with the City's Municipal Code.

b. Fencing - All fencing on the Site shall comply with City's Municipal Code and shall be a consistent color with the project's design, and shall contain a pedestrian passageway, signs and lighting as required by the City. The fence shall be maintained free of litter and in good repair.

c. Lights – Lighting shall be installed on the Site that shall meet current City requirements.

d. Litter Containers - Two public trash receptacles shall be provided along the Site's frontage.

e. Landscape - All landscaping shall meet the requirements of the City's Municipal Code. All street trees shall be irrigated with private water service from the development.

f. Tandem Parking Spaces - Each tandem parking space shall be appropriately marked and meet all applicable requirements set forth in the City's Municipal Code.

8. Off-site Improvements

The Developer shall design, install and maintain, or cause to be maintained, all surface off-site improvements adjacent to the Site, including curbs, gutters, sidewalks, street lights, street trees along Machado Road pursuant to City of Culver City development standards.

a Street Lights - All existing lights located directly adjacent to the Site shall be evaluated to determine if they meet current City requirements, and shall be modified or replaced if necessary.

b City Utilities (sewer, water and storm drain) - The Developer shall be responsible for the connection of on-site sewer, water and storm drain systems from the development to the City utilities located in the public right-of-way. Sewer, water and roof drain laterals shall be connected to the appropriate utility mains within the street and beneath the sidewalk. The Developer may use existing laterals if acceptable to the City, and if not, Developer shall cut and plug existing laterals at such places and in the manner required by the City, and install new laterals. The Developer shall locate all water meters and backflow preventers in locations satisfactory to the City Water Department. Backflow preventers shall be located outside of, and screened from view from, the public right-of-way.

The Developer will be required to 'kill' all unused water services adjacent to the Site and install new services where appropriate. Service kills require an engineering permit and must be shown on a public improvement plan. No structures or landscaping of any kind shall be installed within 10 feet of water facilities.

All sump drainage, if any, shall be connected to the storm drain system in the public street, or if no system exists, to the street gutters through sidewalk underdrains.

c. Franchise Public Utilities - The Developer, or franchise utility where applicable, shall be responsible for the installation or relocation of franchise utility connections including, but not limited to, gas, electric, telephone and cable, to the development and all extensions of those utilities in public streets. All proposed and existing franchised utilities, in the public sidewalk or plaza areas shall be located below grade.

Electrical transformer vaults shall be installed in a subterranean location accessible to the franchise utility from the public right-of-way where feasible. Covers to utility vaults located in the public right-of-way shall be designed as a pan which allows the lid to be infilled with the same paving materials used in the adjoining right-of-way, unless the respective utility will not permit such covers.

d Fire Hydrants - If required by the City, the Developer shall install fire hydrants at locations satisfactory to the Fire Department.

All items of improvement shall be performed in accordance with the technical specifications, standards, and practices of the City of Culver City and shall be subject to their review and approval.

Off-site improvement drawings (D sheets), including dimensional plans for all street frontages which illustrate proposed paving, street trees, lighting fixtures shall be submitted with 50% and 100% construction drawings. Such off-site plans shall be coordinated to complement and be comparable in quality to the adjoining on-site and off-site plazas, open space and sidewalk materials.

If, during construction, any improved portion of the public right-of-way is damaged or destroyed by the construction contractor, the Developer shall be responsible for the replacement or repair of those improvements.

9. Site Preparation

The Developer, at its cost and expense, shall prepare the Site and the adjacent public rights-of-way for development. Such Site preparation shall consist of the following:

a. Complete demolition and removal to the surface elevation of the adjoining ground of all existing buildings to be removed, other structures and improvements including the removal of all asphaltic concrete, concrete, bricks, lumber, pipes, equipment and other material and all debris and rubbish resulting from such demolition.

b. Complete removal of all subsurface improvements, foundations, walls, slabs, basements, tanks and abandoned utilities as necessary to construct the development.

c. Disconnection, capping and removal of utility lines, installations, facilities and related equipment necessary to construct the development.

All of items a through c inclusive shall be performed in accordance with City of Culver City requirements.

10. Removal and/or Remedy of Soil and/or Water Contamination

The Developer shall (at its own cost and expense) remove and/or otherwise remedy as provided by law and implementing rules and regulations, and as required by appropriate governmental authorities, any contaminated or hazardous soil and/or water conditions encountered during development of the Site. Such work may include without limitation the following:

a. Remove (and dispose of) and/or treat any contaminated soil and/or water as necessary to comply with applicable governmental standards and requirements.

b. Design and construct all improvements in a manner which will assure protection of occupants and all improvements from any contamination, whether in vapor or other form, and/or from the direct and indirect effects thereof.

c. Prepare a site safety plan if required by any governmental entity and submit it to such authority for approval in connection with obtaining a building permit for the construction of improvements. Such site safety plan shall assure workers and other visitors of protection from any health and safety hazards during development and construction of the improvements. Such site safety plan shall include monitoring and appropriate protective action against vapors and/or the effect thereof.

d. Obtain from the Los Angeles County and/or California Regional Water Quality Control Board and/or any other authorities required by law any permits or other approvals required in connection with the removal and/or remedy of soil and/or water contamination, in connection with the development and construction.

The Developer agrees to pay for all environmental review and documents necessary for the development of the Site. The Developer shall also be responsible for preparing any supplemental environmental documents required to carry out the DDA. The Developer agrees to cooperate with the Agency in the preparation of any such documents and shall fully comply with all mitigation measures set forth therein.

The Developer agrees that the Agency, and its consultants and agents, shall have the right (but not the obligation) to monitor the excavation and construction, to test the soils and/or water, and to take such other actions as may be reasonably necessary to assure compliance with this section.

11. Construction Fence

Developer shall install a construction fence pursuant to specifications of, and a permit from, the City Engineer. The fence shall be solid plywood with wood framing, painted a consistent color with the project's design, and shall contain a pedestrian passageway, signs and lighting as required by the City Engineer. The construction fence shall be maintained free of litter and in good repair. Alternative fencing may be provided as permitted by the City.

12. Americans with Disabilities Act (ADA)

The Developer acknowledges and agrees that it is aware of and will comply with all City polices relating to the federally-mandated Americans with Disabilities Act (ADA).

13. Fees and Assessments

The Developer shall be responsible for all fees required by the City or other public agency for the development of the Site.

14. Applicable City Codes and Ordinances

Notwithstanding the approval of the development plans by the Agency, the development must meet all requirements of the Uniform Building Code and Uniform Fire Code and all applicable City Codes and Ordinances.

ATTACHMENT NO. 5

FORM OF GRANT DEED

OFFICIAL BUSINESS
Document entitled to free
recording per Government Code
Sections 6103 and 27383

Recording Requested by and
When Recorded, Mail To:

CULVER CITY REDEVELOPMENT AGENCY
9770 Culver Boulevard
P.O. Box 507
Culver City, California 90232-0507
Attention: Asst. Executive Director

Mail Tax Statements To:

Exceptional Children's Foundation
____
____

SPACE ABOVE THIS LINE FOR RECORDING USE

EXEMPT FROM DOCUMENTARY TRANSFER TAX
PER GOVERNMENT CODE SECTIONS 6103 AND 27383

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the CULVER CITY REDEVELOPMENT AGENCY, a public body, corporate and politic, herein called "Grantor", acting to carry out the Redevelopment Plan for the ______________ Redevelopment Project, herein called "Redevelopment Plan", under the Community Redevelopment Law of the State of California, hereby grants to EXCEPTIONAL CHILDREN'S FOUNDATION, a 501 (c) (3) non-profit corporation, herein called "Grantee", the real property, hereinafter referred to as the "Property", described in the document attached hereto, labeled Exhibit A and incorporated herein by this reference.

1. Grantor accepts and reserves any existing street, proposed street, or portion of any streets or proposed street lying outside the boundaries of the Property which might otherwise pass with a conveyance of the Property.

2. Said Property is conveyed in accordance with and subject to the Redevelopment Plan for the Culver City Redevelopment Project Area No.2 which was approved and adopted on November 23, 1998, by Ordinance No. 98-014 of the City Council of the City of Culver

City, as amended, and that certain Disposition and Development Agreement (the "Agreement") entered into by and between Grantor and Grantee on ______________, both of which documents are public records on file in the offices of the City Clerk of the City of Culver City and the Secretary of Grantor, and are by reference thereto incorporated herein as though fully set forth herein. Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in the Agreement.

3. The Property is conveyed to Grantee at a purchase price of Two Hundred Twenty Thousand Dollars ($220,000) herein called "Purchase Price", determined in accordance with the uses permitted and affecting the Property. Therefore, Grantee hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property that Grantee, such successors and such assigns, shall develop, maintain, and use the Property only as follows:

   a. Devote the Property only to the development permitted and the uses specified in herein and the Redevelopment Plan. No change in the use of the Property and no new construction or exterior modification or alteration of any structure on the Property shall be permitted without the prior written approval of the Grantor.

   b. Devote the Property solely to use as a high quality 16,168 square foot above grade surface parking lot providing a minimum of twenty (20) tandem parking spaces (the "Parking Lot") to benefit Developer and the school located on that certain real property legally described in Attachment No. 14 of the Agreement (the "School") and ancillary uses within the Property which contribute to the operation of a surface parking lot and which are approved in writing by the Grantor in its sole discretion.

   c. Continuously operate, or cause to be continuously operated, as a high quality 16, 168 square foot above grade parking lot providing a minimum of twenty (20) tandem parking spaces to benefit Developer and the School and ancillary uses within the Property which contribute to the operation of a surface parking lot and which are approved in writing by the Grantor in its sole discretion. The term "continuously operate" as used herein shall mean the continuous operation of the Parking Lot which Parking Lot does not cease or suspend operation for more than ten (10) consecutive days, except with the prior written consent of the Grantor for each instance. Notwithstanding the foregoing, time periods during which closure is due to any school closure for holiday, break or vacation which is included in the school's regular calendar for that school year and is consistent with similar school closures for public schools in the Los Angeles Unified School District operating on a similar schedule as the School shall not be included in the calculation of said 10-day period. In addition, notwithstanding the foregoing, time periods following an enforced delay as described in Section 604 of the Agreement shall not be included in the calculation of said 10-day period.

   d. In the event any type of development is planned near the Property and incorporation of the Property is contemplated as a component of such new development, so long as the provision of the Developer Parking Spaces (as defined below) is incorporated anywhere within such development "Development Opportunity"), the Grantee and Grantor agree to proceed with disposition of the Property pursuant to the reserved estate of the Grantor as hereinbelow described. The term "Developer Parking Spaces" as used herein shall mean a minimum of twenty (20) tandem parking spaces contemplated to be developed on the Property in accordance with the Agreement, this Grant Deed and the Scope of Development.

e. Grantee shall maintain the improvements on the Property in substantially the same aesthetic and sound condition (or better) as the condition of the Property at the time the Grantor issued the Release of Construction Covenants to Grantee, reasonable wear and tear excepted. This standard for the quality of maintenance of the Property shall be met whether or not a specific item of maintenance is listed below. However, representative items of maintenance shall include frequent and regular inspection for graffiti or damage or deterioration or failure, and prompt repainting or repair or replacement of all damaged or deteriorated surfaces, fencing, walls, equipment, etc.; emptying of trash receptacles and removal of litter; sweeping of on-site walks and paved areas and washing-down as necessary to maintain clean surfaces; maintenance of all landscaping in a healthy and attractive condition, including trimming, fertilizing and replacing vegetation as necessary; cleaning windows on a regular basis; painting the building(s) on a regular program and prior to the deterioration of the painted surfaces; conducting a roof inspection on a regular basis and maintaining the roof in a leak-free and weather-tight condition; maintaining security devices (if any) in good working order. In the event Grantee fails to maintain the improvements in accordance with the standard for the quality of maintenance, the Grantor or its designee shall have the right but not the obligation to enter the Property upon reasonable notice to Grantee, correct any material violation, and hold Grantee, or such successors or assigns responsible for the cost thereof, and such cost, until paid, shall constitute a lien on the Property.

f. Concurrently with conveyance of the Property to Grantee, Grantee shall execute the Option to Purchase and Right of First Refusal Agreement attached to the Agreement as Attachment No. 12 and record a memorandum thereof in the Official Records of the County Recorder's Office for Los Angeles County ("Option Agreement"). Pursuant to the Option Agreement, Grantor shall retain an option to repurchase the Property and have the right to exercise a right of first refusal to purchase the Property on the terms and provisions contained therein.

g. Grantee agrees to complete the construction and development of the Improvements pursuant to the Redevelopment Plan, the Agreement, the Scope of Development (Attachment No. 4 of the Agreement) and all approved plans and specifications on or prior to the date set forth in the Schedule of Performance (Attachment No. 3 to the Agreement).

4. Grantee hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property that prior to the recordation of the Release of Construction Covenants (as defined in the Agreement) in the Official Records Grantee shall promptly notify the Grantor of any and all changes whatsoever in the identity of the parties in ownership of the Grantee or the degree thereof (other than routine changes in officers or board membership), in the status of the entity of the Grantee as a non-profit public benefit corporation, of which it or any of its officers or board members have been notified or otherwise have knowledge or information.

5. Grantee hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property that Grantee shall pay when due all real estate taxes and assessments assessed and levied on or against the Property and each portion thereof while the Property is owned by Grantee. Grantee shall remove, or shall have removed, any levy or attachment made on the Property (or any portion thereof), except those created by work of the Grantor, or shall assure the satisfaction thereof within a reasonable time but in any event prior to a sale thereunder. Nothing herein contained shall be deemed to prohibit Grantee from contesting the validity or amount of any tax assessment or lien, nor to limit the remedies available to Grantee in respect thereto.

6. Grantor reserves the right, privilege, and ability to purchase from Grantee the Property or any portion thereof in the event any future development is planned near the Property and incorporation of the Property is contemplated as a component of such new development, so long as the provision of the Developer Parking Spaces (as defined in the Agreement) is incorporated anywhere within such development and Grantor expressly does not include such right in this conveyance of the Property from the Grantor to the Grantee. Grantee accepts the Property subject to such reservation of estate, the terms, conditions, and restrictions are specifically set forth hereinbelow:

   a. Grantee hereby covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof that Grantee, its successors, its assigns and every successor in interest to the Property or any part thereof consent to the redevelopment of the Property or any portion thereof in connection with any future development planned near the Property so long as the Developer Parking Spaces are incorporated anywhere within such development. Grantee hereby covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof that Grantee, its successors, its assigns and every successor in interest to the Property or any part thereof shall execute and deliver such instruments and documents, and shall take such actions, as are required by Grantor, in order to effectuate the provisions and intent of this Section 6.

   b. Grantee hereby covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof that in exercising its option to repurchase the Property or exercise its right of first refusal, Grantor shall pay the applicable purchase price set forth in the Option Agreement as contemplated in this Section 6.

c. Except in the event of a conflict, in which case the terms of this Grant Deed shall prevail, Grantee hereby covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof to strictly adhere to the terms and provisions of that certain Option Agreement when Agency exercises its right to repurchase the Property as discussed herein.

7. Prior to the recordation of the Release of Construction Covenants (as defined in the Agreement) in the Official Records by Grantor for the Improvements to be constructed on the Property or on any part thereof:

a. Grantee shall not make any sale, transfer, conveyance or assignment of the Property or any part thereof or the buildings or structures thereon, without the prior written approval of Grantor, except as expressly permitted by the Agreement. In the event that Grantee does sell, transfer, convey or assign any part of the Property or buildings or structures thereon, prior to the recordation of a Release of Construction Covenants, in violation of this Grant Deed, Grantor shall be entitled to increase the Purchase Price paid by Grantee by the amount that the consideration payable for such sale, transfer, conveyance or assignment is in excess of the Purchase Price paid by Grantee, and the cost of the Improvements and development theretofore made to the Property in accordance with the Agreement. The consideration payable for such sale, transfer, conveyance or assignment to the extent it is in excess of the amount so authorized shall belong and be paid to Grantor and until paid Grantor shall have a lien on the Property and any part involved for such amount. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Property, nor shall it prohibit granting any security interests permitted by Section 7.b. of this Grant Deed for financing the acquisition and development of the Property. The lien created hereby shall be subordinate and subject to any such security interests.

b. Grantee hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property that Grantee shall not place or suffer to be placed on the Property any lien or encumbrance other than mortgages, deeds of trust, or any other form of conveyance permitted by the Agreement. Grantee shall notify Grantor in advance of any such conveyance for financing if Grantee proposes to enter into the same prior to recordation of a Release of Construction Covenants. Grantee hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property that Grantee is prohibited from encumbering the Property with or entering into any mortgages, deeds of trust, conveyances and leases-back, or any other form of security interest, encumbrance or lien in connection with any debt financing without prior written approval of Grantor, which approval Grantor agrees to give if any such conveyance is permitted by the Agreement. The words “mortgage” and “deed of trust” as used herein include all modes of financing.

8. Grantor's Reservation of estate in Property concerning Grantor's Right of Entry, Right of Re-entry, Right of Possession, Right of Repossession, Reserved Power of Revocation, Possibility of Reverter, and Power of Termination.

a. The Grantor shall have the right, at its option, to reenter and take possession of the Property (or portion thereof) with all buildings, personal property and improvements thereon, and to terminate and revest in the Grantor the estate theretofor conveyed to the Grantee, if after conveyance of title and prior to the recordation of the Release of Construction Covenants for the Site, the Grantee (or its successors in interest) shall:

(1) Fail to commence construction of the Improvements on the Property as required by the Agreement for a period of three (3) months after the date of receipt or deemed receipt of written notice of default from the Grantor, provided that the Grantee shall not have obtained an extension or postponement to which the Grantee may be entitled pursuant to Section 604 of the Agreement; or

(2) Abandon or substantially construction of the Improvements on the Property for a continuous period of three (3) consecutive months after the date of receipt or deemed receipt of written notice of default from the Grantor, provided that the Grantee shall not have obtained an extension or postponement to which the Grantee may be entitled to pursuant to Section 604 of the Agreement; or

(3) Fail to complete the construction of the Improvements on the Property as required by this Agreement for a period of three (3) consecutive months after the date of receipt or deemed receipt of written notice of default from the Grantor, provided that the Grantee shall not have obtained an extension or postponement to which the Grantee may be entitled pursuant to Section 604 of the Agreement; or

(4) Assign or attempt to assign the Agreement, or any rights therein, or transfer, or suffer any involuntary transfer of, the Property, or any part thereof, in violation of this Grant Deed, and such violation shall not be cured within thirty (30) days after the date of the receipt of written notice thereof by Grantor to Grantee.

b. The right to reenter, repossess, terminate and revest, and the provisions below regarding the application of proceeds, shall be subject to and be limited by and shall not defeat, render invalid, or limit:

(1) Any mortgage or deed of trust or other security interest permitted by paragraph (7)(b) of this Grant Deed; or

(2) Any rights or interests provided for the protection of the holders of such mortgages, deeds of trust, or other security interests.

c. The right to reenter, repossess, terminate and revest shall not apply to the Property, or portions thereof, for which a Release of Construction Covenants has been issued by Grantor and recorded.

(1) In the event title to the Property or any part thereof is revested in Grantor as provided in this Section 8, Grantor shall, pursuant to its responsibilities under state law, use its diligent and good faith efforts to resell the Property or such part thereof as soon and in such manner as Grantor shall find feasible and consistent with the objectives of such law, Community Redevelopment Law and of the Redevelopment Plan to a qualified party or parties (as determined by Grantor) who will assume the obligation of making or completing the Improvements or such other improvements in their stead, as shall be satisfactory to Grantor and in accordance with the uses specified for such Property or part thereof in the Redevelopment Plan. Upon such resale of the Property and satisfaction of obligations owed to the holder of any mortgage, deed of trust or other security interest authorized by the Agreement, the proceeds thereof shall be applied:

(i) First, to reimburse Grantor, on its own behalf or on behalf of the City of Culver City for all costs and expenses incurred by Grantor, including but not limited to salaries of personnel engaged in such action, in connection with the recapture, management, and resale of the Property or part thereof (but less any income derived by Grantor from the Property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges with respect to the Property or part thereof (or, in the event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by Grantor, then such taxes, assessments, or charges, as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of Grantee, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the agreed improvements or any part thereof on the Property or part thereof; and any amounts otherwise owing to Grantor by Grantee and its successor or transferee; and

(ii) Second, to reimburse Grantee, its successor or transferee, up to the amount equal to: the sum of (l) the sum of the Purchase Price paid to Grantor for the Site, and (2) the costs incurred by Grantee for the development of the Site, or part thereof, or for the construction of the agreed improvements thereon, if such costs were incurred in accordance with the Agreement and Project Budget (Attachment No. 8 to the Agreement); less (3) any gain or income withdrawn or made by Grantee from the Property (or such part thereof) or from the improvements thereon. For purposes of this paragraph the term "cost incurred" shall include direct, out-of-pocket expenses of development, but shall exclude Grantee's general field and home office overhead expenses, developer fees, and profit.

(iii) Any balance remaining after such reimbursements shall be retained by Grantor as its property. Grantor shall also be entitled to exercise all of its rights under the Assignment of Agreements (Attachment No. 10 to the Agreement).

d. Grantee, its successors, its assigns, and every successor in interest to the Property shall take such actions and execute such instruments necessary or proper to vest in Grantor fee title to the Property pursuant to this Section 8.

e. To the extent that the right established herein and in Section 512 of the Agreement involves a forfeiture, it must be strictly interpreted against the Grantor, the party for whose benefit it is created. The rights established herein and Section 512 of the Agreement are to be interpreted in light of the fact that the Grantor will convey the Property to the Grantee for continued operation of the Parking Lot benefiting Developer and the School and potential redevelopment and not for speculation in undeveloped land.

9. Grantee covenants and agrees for itself, its successors, its assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall Grantee itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land.

10. All deeds, leases or contracts made relative to the Property, improvements thereon, or any part thereof, shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

a. In deeds: "The grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

b. In leases: "The lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the leasing, subleasing, renting, transferring, use, occupancy, tenure or enjoyment of the land herein leased, nor shall lessee itself, or any person claiming under or through it, establish or permit such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the land herein leased."

c. In contracts: "There shall be no discrimination against or segregation of any person or group of persons on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the land."

11. All conditions, covenants and restrictions contained in this Grant Deed shall be covenants running with the land, and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by Grantor, its successors and assigns, and the City of Culver City and its successors and assigns, against Grantee, its successors and assigns, to or of the Property conveyed herein or any portion thereof or any interest therein, and any party in possession or occupancy of said Property or portion thereof.

12. The covenants against discrimination set forth in Sections 10 and 11 of this Grant Deed shall remain in effect in perpetuity. Unless otherwise provided, all other covenants, conditions and restrictions contained in this Grant Deed shall remain in effect until sixty (60) years after the date this Grant Deed is recorded in the Official Records of the County Recorder's Office for Los Angeles County.

13. In amplification and not in restriction of the provisions set forth hereinabove, it is intended and agreed that Grantor shall be deemed a beneficiary of the agreements and covenants provided hereinabove both for and in its own right and also for the purposes of protecting the interests of the community. All covenants without regard to technical classification or designation shall be binding for the benefit of Grantor and City, and such

covenants shall run in favor of Grantor and City for the entire period during which such covenants shall be in force and effect, without regard to whether Grantor is or remains an owner of any land or interest therein to which such covenants relate. Grantor and City shall each have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized this _______ day of ________________________________, 2010.

Grantor:

CULVER CITY REDEVELOPMENT AGENCY

Date:________________

By:_______________________________________
John Nachbar
Executive Director

[Signatures continue on the following page]

Grantee hereby accepts the Grant Deed, as written, subject to all of the matters hereinbefore set forth.

Grantee

EXCEPTIONAL CHILDREN'S FOUNDATION,
a 501 (c) (3) non-profit corporation

Dated: _______________

By: ______________________________
Scott Bowling
President and CEO

EXHIBIT A

LEGAL DESCRIPTION

REDEVELOPMENT AGENCY

ACKNOWLEDGMENT

State of California)
)
County of _______________)

On ____ before me, ___________________, a 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)

ACKNOWLEDGMENT

State of California)
)
County of _______________)

On ____ before me, ___________________, a 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)

ACKNOWLEDGMENT

State of California)
)
County of _______________)

On ____ before me, ___________________, a 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)

ATTACHMENT NO. 6

FORM OF
ENVIRONMENTAL INDEMNITY

THIS ENVIRONMENTAL INDEMNITY [Indemnity], dated as of ________________, 20_____ is made by EXCEPTIONAL CHILDREN'S FOUNDATION, a California non-profit 501 (c) (3) corporation [Developer], whose address for purposes of giving notices is 8740 Washington Boulevard, Culver City California 90232, in favor of the CULVER CITY REDEVELOPMENT AGENCY, whose address for purposes of giving notices is 9770 Culver Boulevard, Culver City, California 90232 [Agency].

WITNESSETH

WHEREAS, Developer is the owner of that certain real property in the City of Culver City, as more particularly described on Exhibit A attached hereto and made a part hereof, and the real property improvements thereon [collectively referred to as the Property];

WHEREAS, Agency and Developer entered into that certain Disposition and Development Agreement, dated as of _____________ [DDA], which provide for, among other things, the disposition of the property by the Agency to Developer and the development thereon, by Developer of a high quality 16, 168 square foot above grade parking lot providing ________ tandem parking spaces to benefit Developer, all as described in the Scope of Development to the DDA [Project];

WHEREAS, Developer has agreed to execute and deliver to the Agency this Indemnity to induce the Agency to convey the Property to Developer.

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual agreements hereinafter set forth, Developer hereby agrees with the Agency as follows:

SECTION 1. DEFINITIONS

For the purpose of this Indemnity, "Hazardous Substances" shall include, but not be limited to, substances defined as "extremely hazardous substances," "hazardous substances," "hazardous materials," "hazardous waste" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. sections 11001-11050; the Hazardous Materials Transportation Act, 49 U.S.C. sections 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901, *et seq.*; and those substances defined as "hazardous waste" in section 25117 of the California Health and Safety Code, as "infectious waste" in section 25117.5 of the California Health and Safety Code, or as "hazardous substances" in section 25316 of the California Health and Safety Code or "hazardous materials" as defined in section 353 of the California Vehicle Code; and in the regulations adopted and publications promulgated pursuant to said laws. Other capitalized terms used in this Indemnity shall have the meanings ascribed to them in the DDA with the same force and effect as if set forth in full below.

SECTION 2. COVENANTS AND INDEMNITY

The following covenants, and indemnities are hereby given and made by Developer:

2.1 Covenants.

(a) Developer covenants that it shall comply with any and all laws, regulations, and/or orders which may be promulgated, from time to time, with respect to the discharge and/or removal of Hazardous Substances, to pay immediately when due the costs of the removal of, or any other action required by law with respect to, any such Hazardous Substances, and to keep the Property free of any lien imposed pursuant to any such laws, regulations, or orders.

(b) Developer covenants that the Property will not, while Developer is the owner thereof, be used for any activities involving, directly or indirectly, the use, generation, treatment, storage, release, or disposal of any Hazardous Substances, except for de minimis quantities used at the Property in compliance with all applicable environmental laws and required in connection with the construction of apartments, as well as the routine operation and maintenance of the Property.

(c) Except as provided in subsection (b) above, Developer further agrees that Developer shall not release or dispose of any Hazardous Substances at the Property without the express written approval of the Agency and that any such release or disposal shall be effected in strict compliance with all applicable laws and all conditions, if any, established by the Agency.

(d) The Agency and the City shall have the right, but not the obligation, at any time, to conduct an environmental audit of the Property at the their expense, unless Hazardous Substances are found, then at Developer's sole cost and expense, and Developer shall cooperate in the conduct of any such environmental audit. Other than in an emergency, such audit shall be conducted only after prior notice has been given to Developer and only in the presence of a representative of Developer. Developer shall give the Agency and City and their respective agents and employees access to the Property to remove, or otherwise to mitigate against the effects of, Hazardous Substances or Developer shall perform such tasks itself; provided, however that neither City nor Agency shall be under any obligation to conduct such removal or mitigation.

(e) Developer shall not install, or permit to be installed, on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal or state regulations respecting such material, and, with respect to any such material currently present in the Property, Developer shall promptly either (i) remove or cause to be removed any material that such regulations deem hazardous and require to be removed, or (ii) otherwise comply with such federal and state regulations, at Developer's sole cost and expense. If Developer shall fail to so do within the cure period permitted under applicable law, regulation, or order, the Agency may do whatever is necessary to eliminate said substances from the premises or to otherwise comply with the applicable law, regulation, or order, and the costs thereof shall be added to the Obligations (as hereinafter defined) of Developer under this Section 2.

(f) Developer shall immediately advise the Agency in writing of any of the following: (i) any pending or threatened environmental claim against Developer or the Property or (ii) any condition or occurrence on the Property that (A) results in noncompliance by Developer with any applicable environmental law, (B) could reasonably be anticipated to cause the Property to be subject to any restrictions on the ownership, occupancy, use or transferability of the Property under any environmental law, or (C) could reasonably be anticipated to form the basis of an environmental claim against the Property or Developer.

2.2 Indemnity. Developer shall indemnify, protect, and hold the Agency, the City and their respective directors, officers, employees, and agents harmless from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements, or expenses (including, without limitation, attorneys' and experts' fees and disbursements) of any kind or of any nature whatsoever (collectively, the Obligations) which may at any time be imposed upon, incurred by or asserted or awarded against the Agency, the City and/or their respective directors, officers, employees, and agents and arising from or out of:

(a) The presence of any Hazardous Substances on, in, under, or affecting all or any portion of the Property or any surrounding areas (including Hazardous Substances known or anticipated to be present), except to the extent such Hazardous Substances were caused by the Agency or its agents;

(b) The breach of any covenant made by Developer in Section 2.1 hereof; or

(c) The enforcement by the Agency of any of the provisions of this Section 2.2 or the assertion by Developer of any defense to its obligations hereunder.

2.3 Notwithstanding any other provision herein, or as otherwise allowed by law, the Agency, the City and/or their respective directors, officers, employees, and agents may recover directly from Developer or from any other party who may be responsible for:

(a) any damages, costs and expenses incurred by the Agency, the City and/or their respective directors, officers, employees, and agents as a result of fraud or any criminal act or acts of Developer or any partner, member, shareholder, officer, director or employee of Developer, or of any general or limited partner of Developer;

(b) any damages, costs and expenses incurred by the Agency, the City and/or their respective directors, officers, employees, and agents as a result of any misappropriation of funds provided for the construction of the Project, as described in the DDA, rents and revenues from the operation of the Project, any funds on deposit in a replacement reserve or operating reserve account or security deposits held by Developer with respect to the Property, or proceeds of insurance policies or condemnation proceeds;

(c) any damages, costs and expenses incurred by the Agency, the City and/or their respective directors, officers, employees, and agents as a result of the negligence of such person or entity, involving, directly or indirectly, the use, generation, treatment, storage, release, or disposal of any Hazardous Substances by the person or entity responsible therefor; and/or

(d) all court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions.

SECTION 3. DEVELOPER'S UNCONDITIONAL OBLIGATIONS

3.1 Unconditional Obligations. Developer hereby agrees that the Obligations will be paid and performed strictly in accordance with the terms of this Indemnity, regardless of any law, regulation, or order now or hereafter in effect in any jurisdiction affecting the DDA or any other instrument or document executed or delivered in connection therewith or affecting any of the rights of the Agency and/or City with respect thereto. The obligations of Developer hereunder shall be absolute and unconditional irrespective of:

(a) The validity, regularity, or enforceability of the DDA or any other instrument or document executed or delivered in connection therewith;

(b) Any alteration, amendment, modification, release, termination, or cancellation of any of the DDA or any other instrument or document executed or delivered in connection therewith or any change in the time, manner, or place of payment of, or in any other term in respect of, all or any of the obligations of Developer contained in the DDA or in any other instrument or document executed or delivered in connection therewith;

(c) Any waiver of, or consent to any departure from, any provision contained in the DDA or any other instrument or document executed or delivered in connection therewith;

(d) Any exculpatory provision in the DDA or in or any other instrument or document executed or delivered in connection therewith limiting the Agency's recourse to the Property, or to any other security, or limiting the Agency's rights to a deficiency judgment against Developer;

(e) The insolvency or bankruptcy of Developer or of any indemnitor or guarantor under any other indemnity or guarantee given in respect of the DDA; or

(f) Any exchange, addition, subordination, or release of, or nonperfection of any lien on or security interest in the Property, Developer's obligation under the DDA, or any release, amendment, waiver of, or consent to any departure from any provision of, any other Developer guarantee given in respect of the DDA;

(g) Any other circumstance that might otherwise constitute a defense available to, or a discharge of, Developer, or any other indemnitor or guarantor with respect to the DDA or any other instrument or document executed or delivered in connection therewith or any or all of the Obligations.

3.2 Continuation. This Indemnity (a) is a continuing indemnity and shall remain in full force and effect until the satisfaction in full of all of the Obligations; (notwithstanding the performance in full of the DDA) and (b) shall continue to be effective or shall be reinstated, as the case may be, if at any time any payment of any of the Obligations is rescinded or must otherwise be returned by the Agency upon the insolvency, bankruptcy, or reorganization of Developer or otherwise, all as though such payment had not been made.

3.3 Termination. Notwithstanding the payment (and performance) in full of all of the Obligations and the payment (or performance) in full of all of Developer's obligations under the DDA and any other instrument or document executed or delivered in connection therewith, or Developer's sale of the Property, this Indemnity shall not terminate if any of the following shall have occurred:

(a) the City and/or Agency is made liable in respect of any of the Obligations as a result of participating in the management or control of, taking possession of (whether personally, by agent or by appointment of a receiver), or taking title to the Property or any portion thereof, whether by termination of the DDA, foreclosure, deed in lieu of foreclosure, sale under power of sale or otherwise; or

(b) There has been a change, between the date hereof and the date on which all of the Obligations are paid and performed in full, in any Hazardous Substances laws, the effect of which may be to make the Agency or City liable in respect of any of the Obligations, notwithstanding the fact that no event, circumstance, or condition of the nature described in paragraph (a) above ever occurred.

SECTION 4. WAIVER

Developer hereby waives the following:

(a) Promptness and diligence;

(b) Notice of acceptance and notice of the incurrence of any obligation by Developer;

(c) Notice of any action taken by the Agency, Developer, or any other interested party under the DDA or under any other agreement or instrument relating thereto;

(d) All other notices, demands, and protests, and all other formalities of every kind, in connection with the enforcement of the Obligations, the omission of or delay in which, but for the provisions of this Section 4, might constitute grounds for relieving Developer of its Obligations hereunder;

(e) The right to a trial by jury with respect to any dispute arising under, or relating to, this Indemnity;

(f) Any requirement that the Agency protect, secure, perfect, or insure any security interest or lien in or on any property subject thereto;

(g) Any requirement that the Agency exhaust any right or take any action against Developer or any other person or collateral; and

(h) Any defense that may arise by reason of:

(i) The incapacity, lack of authority, death or disability of, or revocation hereof by, any person or persons;

(ii) The failure of the Agency to file or enforce any claim against the estate (in probate, bankruptcy, or any other proceedings) of any person or persons; or

(iii) Any defense based upon an election of remedies by the Agency, including, without limitation, an election to proceed by nonjudicial foreclosure or which destroys or otherwise impairs the subrogation rights of Developer or any other right of Developer to proceed against any party.

SECTION 5. NOTICES

Any notice, demand, statement, request, or consent made hereunder shall be in writing and shall be personally served, mailed by first-class registered mail, return receipt requested, to the address set forth in the first paragraph of this Indemnity.

Any notice that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt; and any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

SECTION 6. MISCELLANEOUS

6.1 Developer shall make any payment required to be made hereunder in lawful money of the United States of America, and in same day funds, to the Agency at its address specified in the first paragraph hereof.

6.2 No amendment of any provision of this Indemnity shall be effective unless it is in writing and signed by Developer and the Agency, and no waiver of any provision of this Indemnity, and no consent to any departure by Developer from any provision of this Indemnity, shall be effective unless it is in writing and signed by the Agency, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

6.3 No failure on the part of the Agency or City to exercise, and no delay in exercising, any right hereunder or under the DDA or any other instrument or document executed or delivered in connection therewith shall operate as a waiver thereof, nor shall any single or partial exercise of any right preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of the Agency provided herein and in the DDA and any other instrument or document executed or delivered in connection therewith are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law. The rights of the Agency under the DDA and any other instrument or document executed or delivered in connection therewith against any party thereto are not conditional or contingent on any attempt by the Agency to exercise any of its rights under the DDA and any other instrument or document executed or delivered in connection therewith against such party or against any other person or collateral.

6.4 Any provision of this Indemnity that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining portions hereof and without affecting the validity or enforceability of such provision in any other jurisdiction.

6.5 This Indemnity shall (a) be binding upon Developer, and Developer's successors and assigns; and (b) inure, together with all rights and remedies of the Agency, the City and their respective directors, officers, employees, and agents hereunder, to the benefit of the Agency, the City and their respective directors, officers, employees, and agents any successors to the Agency's interest in the Property, any other person who acquires any portion of the Property at a foreclosure sale or otherwise through the exercise of the Agency's rights and remedies under the DDA and any other instrument or document executed or delivered in connection therewith, any successors to any such person, and all directors, officers, employees, and agents of all of the aforementioned parties. Without limiting the generality of clause (b) of the immediately preceding sentence, the Agency may, subject to, and in accordance with, the provisions of the DDA and applicable documents and instruments executed in connection therewith, assign or otherwise transfer all or any portion of its rights and obligations under the DDA and any other instrument or document executed or delivered in connection therewith, to any other person, and such other person shall thereupon become vested with all of the rights and obligations in respect thereof that were granted to the Agency herein or otherwise. None of the rights or obligations of Developer hereunder may be assigned or otherwise transferred without the prior written consent of the Agency.

6.6 Developer hereby (a) irrevocably submits to the jurisdiction of any California or federal court sitting, in each instance, in Los Angeles County in any action or proceeding arising out of or relating to this Indemnity, (b) waives any defense based on doctrines of venue or forum non convenient or similar rules or doctrines, and (c) irrevocably agrees that all claims in respect of any such action or proceeding may be heard and determined in such California or federal court. Developer irrevocably consents to the service of any and all process which may be required or permitted in any such action or proceeding to the address specified in the first paragraph of this Indemnity, above. Developer agrees that a final judgment in any such action or proceeding shall be inclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

6.7 The title of this document and the captions used herein are inserted only as a matter of convenience and for reference and shall in no way define, limit, or describe the scope or the intent of this Indemnity or any of the provisions hereof.

6.8 This Indemnity shall be governed by, and construed and interpreted in accordance with, the laws of the State of California applicable to contracts made and to be performed therein, except to the extent that the laws of the United States preempt the laws of the State of California.

IN WITNESS WHEREOF, Developer has duly executed this Indemnity as of the date first set forth above.

Dated: ____________________

EXCEPTIONAL CHILDREN'S FOUNDATION,
a 501 (c) (3) non-profit corporation

By: ______________________________
Scott Bowling
President and CEO

EXHIBIT “A”

LEGAL DESCRIPTION

[behind this page]

ATTACHMENT 7

RESERVED

ATTACHMENT NO. 8

Project Budget
(Exceptional Children's Foundation)

Acquisition of Property		$ 220,000
Construction Costs		
Planning & Design	$40,000	
Permits & Fees	$15,000	
Construction	$210,000	
Contingency	$10,000	
Total Construction Costs		$275,000
TOTAL PROJECT BUDGET:		**$495,000**

ATTACHMENT NO. 9

FORM OF
AGREEMENT AFFECTING REAL PROPERTY
(SCHOOL SITE)

OFFICIAL BUSINESS
Document entitled to free
recording per Government
Code Section 6103 and 27383

Recording Requested by and:
When Recorded Return to:

CULVER CITY REDEVELOPMENT AGENCY
9770 Culver Boulevard
P.O. Box 507
Culver City, California 90232-0507
Attention: Asst. Executive Director

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AGREEMENT AFFECTING REAL PROPERTY

THIS AGREEMENT AFFECTING REAL PROPERTY [Agreement] is entered into as of _________________, 20___ by and between the CULVER CITY REDEVELOPMENT AGENCY, a public body, corporate and politic [hereinafter referred to as Agency] and EXCEPTIONAL CHILDREN'S FOUNDATION, a nonprofit 501(c)(3) organization [hereinafter referred to as Developer]. Agency and Developer shall collectively be referred to herein as the "Parties."

A. Developer is the owner of that certain real property [Property] located in the City of Culver City, Los Angeles County, State of California, legally described in the "Legal Description" attached hereto and incorporated herein as Exhibit A.

B. The Property is within the Culver City Redevelopment Project Area No. 2 [Project Area] in the City of Culver City and is subject to the provisions of the "Redevelopment Plan" for the Project Area, which was approved and adopted pursuant to Ordinance No. 98-014 on November 23, 1998 by the City Council of the City, including subsequent amendments.

C. Agency, Educational Resource and Services Center, Inc., a California non-profit corporation, predecessor in interest to Owner ("Original Developer"), Braemar Urban Ventures Limited Partnership, a California limited partnership ("Braemar") and the Lee Group, Inc., ("Lee") entered into that certain Disposition and Development Agreement dated March 9, 1998

("Original DDA") which provided for, among other things, the sale and development of the Site (as defined therein) which Site includes the Property.

D. Pursuant to the Original DDA, Original Developer, The Classics At Heritage Park, a California limited partnership company ("CHP"), and The Classics at Heritage Park Homeowner's Association, a California non-profit mutual benefit corporation (the "Association") entered into that certain Declaration of Restrictions and Reciprocal Easement Agreement dated September 11, 1998 and recorded on September 11, 1998 in the Official Records of the Recorder's Office of Los Angeles County ("Official Records"), as amended by that certain Amendment to Declaration of Restrictions and Reciprocal Easement Agreement to be recorded in the Official Records concurrently herewith ("Amendment to REA") (the Amendment to REA and the REA are collectively referred to herein as the "REA").

E. The purpose of the REA is to subject the CHP Parcel (as defined in the REA) and the Property to certain protective provisions, covenants, conditions and restrictions as described therein, for the mutual benefit of the parties and of each parcel. Further, the REA provides for the establishment and maintenance of certain reciprocal easements in, to, over, under and across a portion of each of the Property and the CHP Parcel.

F. In furtherance of the Redevelopment Plan, Agency and Developer have entered into that certain Disposition and Development Agreement, dated _______________, 2010 [DDA], which is incorporated herein by this reference. The DDA provides for, among things, the disposition by Agency of certain real property as described in that legal description attached thereto as Attachment No. 2 and incorporated herein by this reference ("DDA Property") to Developer and the development thereon of a high quality 16,168 square foot above grade parking lot providing parking spaces to benefit Developer and eliminate the current parking incursion in the Classics at Heritage Park neighborhood. The DDA as used herein shall mean, refer to and include the DDA, as well as any riders, exhibits, addenda, implementation agreements, amendments, or attachments thereto (which are hereby incorporated herein by this reference). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the DDA.

G. Pursuant to the DDA, Developer has agreed to execute (along with CHP and the Association) and record against the Property that certain Amendment to REA (Attachment No. 11 to the DDA, incorporated herein by this reference) which expressly prohibits Developer, its successors and assigns and their respective employees, agents and invitees at all times from parking vehicles, motor vehicles and bikes on the CHP Parcel.

H. Developer has agreed to execute and deliver to the Agency this Agreement to induce the Agency to convey the Property to Developer.

I. This Agreement is entered into and recorded in accordance with the Redevelopment Plan and the DDA. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the DDA.

NOW, THEREFORE, AGENCY AND DEVELOPER AGREE AS FOLLOWS:

1. a. Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, as follows:

(1) Use of the Property. In addition to the permitted uses set forth in the Original DDA and any document executed and/or recorded in connection therewith, Developer, such successors and such assignees shall use the Property only for the uses specified in the Redevelopment Plan and this Agreement.

(2) Procurement of Parking Management Services. Until the Expiration of the REA (as defined in Section 3 below), Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof that in the event the Agency Executive Director or designee determines, in the Agency Executive Director or designee's reasonable discretion, that Developer, its employees, representatives, students and or invitees are parking vehicles, motor vehicles or bicycles (as those terms are defined in the California Vehicle Code) on the CHP Parcel in violation of the terms and provisions of that certain REA as amended by that certain Amendment to REA ("REA Violation") no later than fourteen (14) days after the Agency Executive Director sends written notice to Developer regarding the REA Violation, Developer shall be obligated to provide for and pay all costs associated with procuring and hiring on a permanent basis a parking lot management service, first approved in writing by the Agency Executive Director or designee. Such parking lot management service shall be charged with operating and managing the tandem and stacked parking located on the Property during all times Developer is open for business including, but not limited weekends and during summer sessions pursuant to the terms of this Agreement. In addition to procuring and hiring on a permanent basis a parking lot management service as discussed in the preceding sentence, Developer shall reconfigure the surface parking lot located on the Property (the "School Parking Lot") by performing the following:

(a) Restriping the School Parking Lot to allow for twenty (20) tandem and stacked parking spaces (the "Tandem Parking Spaces'). The dimensions of all parking stalls created shall comply with all applicable City codes, rules and ordinances; and

(b) Reconfiguration of the School Parking Lot such that school buses can be safely parked on the School Parking Lot.

All restriping and reconfiguration of the School Parking Lot located on the Property pursuant to this Section 1. a. (2) shall comply with all applicable requirements set forth in the City of Culver City's Municipal Code and all other applicable development standards set forth by agencies with jurisdiction over the Property and shall be inspected and approved by the Agency upon completion to ensure compliance herewith. Upon Agency's approval of the restriping and reconfiguration of the School Parking Lot and Developer's procurement of a parking management service as required in this Section 1.

a (2), Agency Executive Director or designee shall send Developer a written statement memorializing such approval and setting the commencement date for the continual operation and maintenance of the Tandem Parking Spaces on the Property by a parking lot management service as required herein ("Tandem Parking Commencement Date").

(3) Beginning on the Tandem Parking Commencement Date and ending upon the REA Expiration Date, Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof that Developer, its successors, its assigns and every successor in interest to the Property or any part thereof shall provide the Tandem Parking Spaces on the Property in compliance with Section 1. a (2) of this Agreement and shall contract the operation of such Tandem Parking Spaces to a parking lot management service reasonably acceptable to the Agency which parking lot management service will be charged with managing and operating the Tandem Parking Spaces on behalf of Developer. The Agency shall have the right to review and approve any such parking lot management service prior to its selection by Developer. Such approval shall not be unreasonably withheld.

b. Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, there shall be no discrimination against or segregation of any person, or group of persons, on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property. Developer, specifically and more particularly, covenants by and for itself, himself or herself, its, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the Owner or any person claiming under or through it, him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property.

Notwithstanding the preceding paragraph, the provisions relating to discrimination on the basis of familial status shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code nor be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall also apply to the preceding paragraph.

c. Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof or interest therein, there shall be no discrimination against or segregation of any person, or group of persons, on account of sex, sexual orientation, marital status, race, color, creed, religion, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property nor shall Developer, itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(1) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

Notwithstanding the preceding paragraph, the provisions relating to discrimination on the basis of familial status shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code nor be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall also apply to the preceding paragraph.

(2) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

Notwithstanding the preceding paragraph, the provisions relating to discrimination on the basis of familial status shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code nor be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall also apply to the preceding paragraph.

(3) In contracts: "There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land."

d. Developer, its successors and assigns, shall maintain the improvements on the Property and shall maintain the School Parking Lot located on the Property in the same aesthetic and sound condition (or better) as the condition of the Property at the time this Agreement is recorded in the Official Records, reasonable wear and tear excepted. This standard for the quality of maintenance of the Property shall be met whether or not a specific item of maintenance is listed below. However, representative items of maintenance shall include frequent and regular inspection for graffiti or damage or deterioration or failure, and immediate repainting or repair or replacement of all surfaces, fencing, walls, equipment, etc., as necessary; emptying of trash receptacles and removal of litter; sweeping of public sidewalks adjacent to the Property, on-site walks and paved areas and washing-down as necessary to maintain clean surfaces; maintenance of all landscaping in a healthy and attractive condition, including trimming, fertilizing and replacing vegetation as necessary; cleaning windows on a regular basis; painting the buildings on a regular program and prior to the deterioration of the painted surfaces; conducting a roof inspection on a regular basis and maintaining the roof in a leak-free and weather-tight condition; maintaining security devices in good working order.

If the Agency gives written notice to Developer that the maintenance or condition of the Property, including the School Parking Lot, or any portion thereof or any other improvements thereon does not comply with this Agreement, Developer shall correct, remedy or cure the deficiency within thirty (30) days following the date of such notice, unless the notice states that the deficiency is an urgent matter relating to public health and safety, in which case, Developer shall cure such deficiency within forty-eight (48) hours following the date of the notice. In the event Developer fails to cure any such deficiencies within the applicable period described above, the Agency shall have, in addition to any other rights and remedies hereunder, the right to maintain the Property, including the School Parking Lot, or any portion thereof or any other improvements thereon or to contract for the correction of any deficiencies, and Developer shall be responsible for payment of all such costs actually and reasonably incurred by the Agency and such payment shall constitute a lien on the Property until paid by the Developer pursuant to California Civil Code Section 2881.

2. In accordance with California Civil Code Section 1461 *et seq.,* all conditions, covenants and restrictions contained in this Agreement shall be covenants running with the land. The parties acknowledge and agree that the conditions, covenants and restrictions directly benefit the Property and benefit property the Agency and/or City owns or will own (including, without limitation, underlying interests in streets) within the Project Area and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by Agency, City and their respective successors and assigns and any property the Agency and/or City owns or will own (including, without limitation, underlying interests in streets) within the Project Area, against Developer, its successors and assigns, to or of the Property or any portion thereof or any interest therein, and any party in possession or occupancy of said Property or portion thereof. Agency and the City shall be deemed the beneficiaries of the covenants, conditions and restrictions of this Agreement both for and in their own rights and for the purposes of protecting the interests of the community. The covenants, conditions, and restrictions shall run in favor of the Agency and the City, without regard to whether the Agency or City has been, remains, or is an owner of any land or interest therein in the Property or the Project Area. Except as provided in the preceding sentences and in applicable law (as now exists or as hereinafter may be amended), the covenants, conditions and restrictions contained herein shall not be enforceable by any third party.

3. The non-discrimination covenants, conditions and restrictions contained in Sections 1.b. and 1.c. of this Agreement shall remain in effect in perpetuity. Every other covenant, condition and restriction contained in this Agreement shall remain in effect until the expiration of the term of the REA including any extensions, modifications and amendments thereto (the "Expiration of the REA").

4. Prior to exercising any remedies hereunder, Agency (or City as applicable) shall give Developer notice of such default. Except as otherwise set forth herein, if a non-monetary default is reasonably capable of being cured within thirty (30) days, Developer shall have such period to effect a cure prior to exercise of remedies by Agency (or City, as applicable). If the non-monetary default is such that it is not reasonably capable of being cured within thirty (30) days, and Developer (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then Developer shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Agency (or City, as applicable); provided, however, in no event shall Agency (or City, as applicable) be precluded from exercising remedies if Agency's security in the Property becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) days after the first notice of default is given. Monetary defaults shall be cured within ten (10) days.

5. If a violation of any of the covenants or provisions of this Agreement remains uncured after the respective time period set forth in Section 4, above, Agency, City and their respective successors and assigns, without regard to whether Agency, City or their respective

successors and assigns is an owner of any land or interest therein to which these covenants relate, may institute and prosecute any proceedings at law or in equity to abate, prevent or enjoin any such violation or attempted violation or to compel specific performance by Developer of its obligations hereunder. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time.

6. This Agreement in no way modifies or amends the Original DDA or any document or instrument executed in connection therewith and as such the Original DDA or any document or instrument executed in connection therewith remain in full force and effect, enforceable in accordance with their respective terms.

7. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. The signature pages of one or more counterpart copies may be removed from such counterpart copies and all attached to the same copy of this Agreement, which, with all attached signature pages, shall be deemed to be an original agreement.

[remainder of page intentionally left blank]

[signatures on following page]

IN WITNESS WHEREOF, the Agency and the Developer have signed this Agreement as of the dates set opposite their signatures.

CULVER CITY REDEVELOPMENT AGENCY

Date: ____________

By:______________________
John Nachbar
Executive Director

APPROVED AS TO FORM:

KANE, BALLMER & BERKMAN
Agency General Counsel

By:____________________________
Murray O. Kane

[remainder of page intentionally left blank]

[signatures on following page]

"DEVELOPER"

EXCEPTIONAL CHILDREN'S FOUNDATION, a 501 (c) (3) non-profit corporation

By: ______________________________
Scott Bowling
President and CEO

STATE OF CALIFORNIA

COUNTY OF ____________________________

On ______________________ before me, ______________________________, a 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)

STATE OF CALIFORNIA

COUNTY OF ____________________________

On ______________________ before me, ______________________________, a 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)

STATE OF CALIFORNIA

COUNTY OF ____________________________

On ______________________ before me, ______________________________, a 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 A

LEGAL DESCRIPTION OF PROPERTY

[behind this page]

ATTACHMENT NO. 10

FORM OF
ASSIGNMENT OF AGREEMENTS

FOR VALUE RECEIVED, the undersigned, EXCEPTIONAL CHILDREN'S FOUNDATION, a nonprofit 501(c)(3) organization [Developer], pursuant to that certain Disposition and Development Agreement dated __________________, 2010 [DDA], assigns to the CULVER CITY REDEVELOPMENT AGENCY, a public body corporate and politic [Agency], subject to any pledge or assignment required by any Senior Lender, all of its right, title and interest, but not its obligations, in and to the following as of __________________, 20___ [Effective Date]:

1. All architectural, design, engineering and development agreements, and any and all amendments, modifications, supplements, addenda and general conditions thereto [collectively, Architectural Agreements];

2. All plans and specifications, shop drawings, working drawings, amendments, modifications, changes, supplements, general conditions and addenda thereto [collectively Plans and Specifications], heretofore or hereafter into or prepared by any architect, engineer or other person or entity [collectively Architect], for or on behalf of Developer in connection with the construction of the Improvements. The Plans and Specifications, as of the date hereof, are those which Developer has heretofore, or will hereafter deliver to Agency. The Architectural Agreements include, but are not limited to, the architectural contract between Developer and ______________________ dated ____________________, as amended; and

3. All governmental permits, approvals and entitlements [collectively Entitlements] relating to the construction, development and operation of the Project (as defined in the DDA) heretofore or hereafter granted by the City of Culver City or any other governmental authority having jurisdiction over the Property (as defined in the DDA).

This ASSIGNMENT OF AGREEMENTS [Assignment] constitutes a present and absolute assignment to Agency as the Effective Date, subordinate to the rights of ____________ the Construction Lender, provided, however, Agency confers upon Developer the right to enforce the terms of the Architectural Agreements and Developer's rights to the Plans and Specifications and the Entitlements so long as no default has occurred and is continuing under the DDA. Upon the occurrence of a default under the DDA, Agency may, in its sole discretion, give notice to Architect of its intent to enforce the rights of Developer under the Architectural Agreements and of its rights to the Plans and Specifications and the Entitlements and may initiate or participate in any legal proceedings respecting the enforcement of said rights. Developer acknowledges that by accepting this Assignment, Agency does not assume any of Developer's obligations under the Architectural Agreements or with respect to the Plans and Specifications or the Entitlements.

Developer represents and warrants to Agency, as of the Effective Date, that: (a) all Architectural Agreements entered into by Developer are in full force and effect and are enforceable in accordance with their terms and no default, or event which would constitute a default after notice or the passage of time, or both, exists with respect to said Architectural Agreements; (b) all copies of the Architectural Agreements, Plans and Specifications, and Entitlements delivered to Agency are complete and correct copies; and (c) Developer has not assigned any of its rights under the Architectural Agreements or with respect to the Plans and Specifications or the Entitlements, except to the Construction Lender defined above.

Developer agrees: (a) to pay and perform all obligations of Developer under the Architectural Agreements; (b) to enforce the payment and performance of all obligations of any other person or entity under the Architectural Agreements; (c) not to modify the existing Architectural Agreements nor to enter into any future Architectural Agreements without Agency's prior written approval; and (d) not to further assign (other than assignment in connection with a loan from the Construction Lender which is senior in priority to Agency's assignment), for security or any other purposes, its rights under the Architectural Agreements or with respect to the Plans and Specifications or the Entitlements with Agency's prior written consent.

This Assignment secures performance by Developer of all obligations of Developer under the DDA. This Assignment is supplemented by the provisions of the DDA and said provisions are incorporated herein by reference.

The term "DDA" as used herein shall mean the Developer Participation Agreement dated as of _______________, 2010 between Developer and Agency, as well as any future amendments and implementation agreements between Developer and Agency which refer to this Assignment. Capitalized terms not otherwise defined herein shall have the meaning set forth in the DDA.

This Assignment shall be governed by the laws of the State of California, except to the extent that Federal laws preempt the laws of the State of California, and Developer consents to the jurisdiction of any Federal or State Court within the State of California having proper venue for the filing and maintenance of any action arising hereunder and agrees that the prevailing party in any such action shall be entitled, in addition to any other recovery, to reasonable attorneys' fees and costs.

This Assignment shall be binding upon and inure to the benefit of the heirs, legal representatives, assigns, and successors-in-interest of Developer and Agency; provided, however, this shall not be construed and is not intended to waive any restrictions on assignment, sale, transfer, mortgage, pledge, hypothecation or encumbrance by Developer contained in the DDA.

The attached Architect's Consent, Schedule 1 and Exhibit A are incorporated by reference.

[Remainder of Page Intentionally Left Blank]

[Signatures on Following Page]

EXCEPTIONAL CHILDREN'S FOUNDATION, a 501 (c) (3) non-profit corporation

By: ______________________________
Scott Bowling
President and CEO

ARCHITECT'S CONSENT

The undersigned architect [Architect] hereby consents to the foregoing Assignment to which this Architect's Consent [Consent] is part, and acknowledges that there presently exists no unpaid claims due to the Architect except as set forth on Schedule 1 attached hereto, arising out of the preparation and delivery of the Plans and Specifications to Developer and/or the performance of the Architect's obligations under the Assignment.

Architect agrees that if, at any time, Agency shall become the Developer of said Property, or, pursuant to its rights under the DDA, elects to undertake or cause the completion of construction of the Improvements on any portion of the Property, in accordance with the Plans and Specifications, and gives Architect written notice of such election; THEN, so long as Architect has received, receives or continues to receive the compensation called for under the Architectural Agreements, Agency may, at its option, use and rely on the Plans and Specifications for the purposes for which they were prepared, and Architect will continue to perform its obligations under the Architectural Agreements for the benefit and account of Agency in the same manner as if performed for the benefit or account of Developer in the absence of the Assignment.

Architect further agrees that, in the event of a breach by Developer of any of the Architectural Agreements, or any agreement entered into with Architect in connection with the Plans and Specifications, so long as Developer's interest in the Architectural Agreements and Plans and Specifications is assigned to Agency, Architect will give written notice to Agency of such breach at the address shown below.

Agency shall have thirty (30) days from the receipt of such written notice of default to remedy or cure said default. Nothing herein shall require Agency to cure said default or to undertake completion of construction of the Improvements.

Architect warrants and represents that it/he/she has no knowledge of any prior assignment(s) of any interest in either the Plans and Specifications and/or the Architectural Agreement. Except as otherwise defined herein, the terms used herein shall have the meanings given them in the Assignment.

Executed on ___________________________.

"ARCHITECT"

By: ________________________

Architect's Address:

SCHEDULE OF UNPAID CLAIMS

Schedule 1 to Assignment of Architectural Agreements dated as of _______________, 20_____ by and between EXCEPTIONAL CHILDREN'S FOUNDATION, a nonprofit 501(c)(3) organization and the CULVER CITY REDEVELOPMENT AGENCY, a public body corporate and politic.

[list unpaid claims here]

PROPERTY DESCRIPTION

Exhibit A to Assignment of Architectural Agreements dated as of _____________________, 20____ by and between EXCEPTIONAL CHILDREN'S FOUNDATION, a nonprofit 501(c)(3) organization and the CULVER CITY REDEVELOPMENT AGENCY, a public body corporate and politic.

All that certain real property located in the City of Culver City, Los Angeles, State of California, described as follows:

ATTACHMENT NO. 11

FORM OF
AMENDMENT TO DECLARATION OF RESTRICTIONS
AND RECIPROCAL EASEMENT AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

[INSERT ADDRESS]

AMENDMENT TO DECLARATION OF RESTRICTIONS
AND RECIPROCAL EASEMENT AGREEMENT

This Amendment to Declaration of Restrictions and Reciprocal Easement Agreement (the "Amendment to REA") is dated as of ___________________, 2010 by and among THE CLASSICS AT HERITAGE PARK, a California limited partnership company ("CHP"), THE CLASSICS AT HERITAGE PARK HOMEOWNER'S ASSOCIATION, a California non-profit mutual benefit corporation (the "Association"), and EXCEPTIONAL CHILDREN'S FOUNDATION, a California 501 (c)(3) non-profit corporation ("ERAS") successor in interest to Educational Resources and Services, Inc., a California non-profit corporation ("Original ERAS").

I. [§100] PURPOSE OF AMENDMENT TO REA

CHP, the Association and Original ERAS entered into that certain Declaration of Restrictions and Reciprocal Easement Agreement dated September 11, 1998 and recorded on September 11, 1998 in the Official Records of the County Recorder's Office of Los Angeles County (the "Official Records") as Document No. 98-1640070 (the "REA")against the CHP Parcel and the ERAS Parcel each defined below. The term "CHP Parcel" as used herein shall mean that certain real property described in <u>Exhibit A</u> attached hereto and incorporated herein by reference. The term "ERAS Parcel" shall mean that certain real property described in <u>Exhibit B</u> attached hereto and incorporated herein by reference. The purpose of the REA is to subject the CHP Parcel and the ERAS Parcel to certain protective provisions, covenants, conditions and restrictions as described therein, for the mutual benefit of the parties and of each parcel. Further, the REA provides for the establishment and maintenance of certain reciprocal easements in, to, over, under and across apportion of each of the ERAS Parcel and the CHP Parcel.

The purpose of this Amendment to REA is to provide for the following revisions to the REA: (1) to delete references to Educational Resources and Services, Inc., a California non-profit corporation as "ERAS" and replace such references with, Exceptional Children's Foundation, a California 501 (c)(3) non-profit corporation, successor in interest to Educational Resources and Services, Inc.; and (2) amend the REA to prohibit parking of vehicles, motor vehicle and bikes on the CHP Parcel by ERAS, its successors and assigns and their respective employees, agents and invitees.

II. [§ 200] EFFECT OF AMENDMENT TO REA

Except as expressly provided otherwise in this Amendment to REA, the REA remains in full force and effect, enforceable in accordance with its terms, without diminution or waiver of any kind of any right or remedy of CHP, the Association, ERAS and Original ERAS.

III. [§ 300] REPLACEMENT OF ORIGINAL ERAS

All references to "Educational Resources and Services, Inc., a California non-profit corporation" as "ERAS" under the REA shall be deleted in their entirety and replaced with "Exceptional Children's Foundation, a California 501 (c)(3) non-profit corporation", as the new "ERAS" under the REA.

IV. [§ 400] AMENDMENT TO REA

1. Section 1.01 a) of the REA shall be deleted in its entirety and replaced with the following:

> "a) Subject to the prohibition against parking set forth in Section 1.05 below, CHP does hereby grant to ERAS, its successors and assigns and their respective employees, agents and invitees a non-exclusive easement appurtenant to the ERAS Parcel for vehicular and pedestrian ingress and egress, over, across and through all private streets and sidewalks located on the CHP Parcel."

2. The REA is hereby amended to add the following Section 1.05:

> "1.05 <u>Prohibition Against Parking on CHP Parcel</u>. ERAS, its successors and assigns and their respective employees, agents and invitees are hereby expressly prohibited at all times from parking, for any period of time, any type of vehicle, motor vehicle or bicycle (as those terms are defined in the California Vehicle Code) on the CHP Parcel or any portion thereof."

V. [§ 500] DUPLICATE ORIGINALS

This Amendment to REA may be signed in counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, CHP, the Association, ERAS have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized on the date set forth above.

"**CHP**"

THE CLASSICS AT HERITAGE PARK, a California limited partnership company

Dated: ____________________ By:______________________________

Its:______________________________

By:______________________________

Its:______________________________

"**ASSOCIATION**"

THE CLASSICS AT HERITAGE PARK HOMEOWNER'S ASSOCIATION, a California non-profit mutual benefit corporation

Dated: ____________________ By:______________________________

Its:______________________________

By:______________________________

Its:______________________________

[signatures continue on the following page]

DATED: ______________________

"ERAS"

EXCEPTIONAL CHILDREN'S FOUNDATION,
a 501 (c) (3) non-profit corporation

By: ____________________________
Scott Bowling
President and CEO

AGENCY CONSENT TO AMENDMENT TO REA

The CULVER CITY REDEVELOPMENT AGENCY, a public body, corporate and politic (the "Agency") does hereby consent to and approve that certain AMENDMENT TO DECLARATION OF RESTRICTIONS AND RECIPROCAL EASEMENT AGREEMENT by and among The Classics At Heritage Park, a California limited partnership company ("CHP"), The Classics At Heritage Park Homeowner's Association, a California non-profit mutual benefit corporation (the "Association"), and Exceptional Children's Foundation, a California 501 (c)(3) non-profit corporation ("Eras"), successor in interest to Educational Resources and Services, Inc., a California non-profit corporation dated as of _______________ by resolution of Agency on _____________, 2010 by Resolution No. ______________________.

THE CULVER CITY REDEVELOPMENT AGENCY, a public body corporate and politic

By: ________________________________
John Nachbar
Executive Director

APPROVED AS TO FORM:

KANE, BALLMER & BERKMAN
Agency General Counsel

By:__________________________
Murray O. Kane

EXHIBIT A

CHP PARCEL
LEGAL DESCRIPTION

All that certain real property located in the City of Culver City, Los Angeles County, State of California, described as follows:

EXHIBIT B

ERAS PARCEL
LEGAL DESCRIPTION

All that certain real property located in the City of Culver City, Los Angeles County, State of California, described as follows:

State of California)
)
County of _______________)

On ____ before me, ___________________, a 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)

State of California)
)
County of _______________)

On ____ before me, ____________________, a 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)

ATTACHMENT NO. 12

FORM OF OPTION TO PURCHASE AND RIGHT OF FIRST REFUSAL

This Option to Purchase and Right of First Refusal Agreement (this “Option Agreement” or “Agreement”) is entered into as of ________________, 2010 between the CULVER CITY REDEVELOPMENT AGENCY, public body corporate and politic (“Agency”) and EXCEPTIONAL CHILDREN’S FOUNDATION, a 501 (c) (3) non-profit corporation (“Seller”).

R E C I T A L S

WHEREAS, Seller owns in fee simple that certain real property located in Culver City, California more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

WHEREAS, Seller (“Developer” therein) and Agency entered into that certain Disposition and Development Agreement dated ___________ which, among other things, provided for the acquisition of the Property (as defined below) from the Agency by Developer and the development thereon of a 16, 168 square foot above grade surface parking lot providing a minimum of _________ tandem parking spaces (the “Project”). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the DDA.

WHEREAS, Pursuant to the DDA, Agency conveyed title to the Property to Seller pursuant to that certain Grant Deed dated___________ and recorded on or near the date hereof in the Official records of the Recorder’s Office for Los Angeles County (the “DDA Grant Deed”).

WHEREAS, as consideration for Agency’s agreement to enter into the DDA, Seller has agreed to grant Agency the option and right of first refusal to purchase the Property (as defined in Section 1 below) pursuant to the terms and conditions set forth in this Agreement.

WHEREAS, Subject to the terms and conditions of this Option Agreement, Agency desires to acquire an option to purchase the Optioned Property (as defined below) and a right of first refusal with respect to the Optioned Property, and Seller desires to grant to Agency an option to purchase the Optioned Property and a right of first refusal with respect to the Optioned Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

TERMS AND CONDITIONS

1. **<u>Option; The Property</u>**. Seller hereby grants to Agency an option to purchase from Seller, upon all of the terms and conditions set forth herein, all of Seller's right, title and interest in and to the Property (the **"Option"**). The Property which is the subject of this Agreement consists of that certain approximately __________acre parcel of land located in the City of Culver City (the **"City"**), County of Los Angeles (the **"County"**), State of California more particularly described on **Exhibit "A"** and as depicted on **Exhibit "B",** together with all of Seller's right, title and interest in and to all improvements, easements, appurtenances, and other intangible property appurtenant to said land (collectively, the **"Property"**).

1 B. **<u>Right of First Refusal</u>.** In the event that Seller receives a bona fide offer to purchase the Property, which offer Seller intends to accept, Agency shall have a right of first refusal to purchase the Property (the "**Refusal Right**") on the terms and conditions set forth in this Agreement and subject to the conditions precedent to exercise of the Refusal Right specified herein. Prior to accepting any such bona fide offer to purchase the Property, Seller shall notify Agency in writing of such offer and shall include in the notice a copy of the bona fide offer discussed above, certified to be a true and correct copy by Seller ("**Seller Notice of Refusal Right**"). Seller shall not accept any such offer unless and until the Refusal Right has expired without exercise by Agency as set forth herein.

1C. **<u>As Is Condition of Property; Agreement as Joint Escrow Instructions</u>.** The Property and all existing Improvements on the Property shall be conveyed in its present "as is" condition.

The terms and conditions of this Agreement and the instructions to Chicago Title Company (the "Escrow Holder") with regard to the escrow (the "Escrow") created pursuant hereto shall constitute the joint escrow instructions of Agency and Seller to Escrow Holder as well as an agreement between Agency and Seller. In the event of any conflict between the provisions of this Agreement and Escrow Holder's general instructions, the provisions of this Agreement shall prevail.

2. **<u>Exercise of Agency's Option and Right of First Refusal</u>**

2.1 **<u>Exercise of Agency Option.</u>** Agency shall have the option to purchase the Property from Seller at any time any type of development is planned near the Site and incorporation of the Site is contemplated as a component of such new development, so long as the Developer Parking Spaces (as defined in the DDA) are incorporated anywhere within such development ("**Option**") pursuant to the terms and conditions of this Agreement. Subject to Force Majeure Delay (defined in Paragraph 2.2 below), Agency's Option to purchase the Property shall expire upon the expiration of the Redevelopment Plan including any amendments, extensions and/or modifications thereto ("**Option Expiration Date**"). To exercise the Option, Agency must, not later than the Option Expiration Date, deliver written notice to Seller or its successor assignee ("**Option Notice**"), stating that Agency elects to purchase the Property upon the terms and conditions set forth in this Agreement.

2.1A **<u>Exercise of Agency Right of First Refusal</u>.** Agency shall have the right to exercise it Refusal Right as described in Section 1A above pursuant to the terms and conditions of this Agreement. Subject to Force Majeure Delay (defined in Paragraph 2.2 below), Agency's Refusal Right shall expire upon two hundred and seventy (270) months after Agency's receipt of the Seller Notice of Refusal Right from Seller ("**Refusal Right Expiration Date**"). To exercise the Refusal Right, Agency must, not later than the Refusal Right Expiration Date, deliver written notice to Seller or its successor assignee ("**Refusal Right Notice**"), stating that Agency elects to purchase the Property upon the terms and conditions set forth in this Agreement.

2.2 **<u>Force Majeure Delay</u>.** The time frame within which Agency exercises its Option or Refusal Right under this Agreement, shall be subject to extension where Agency experiences delays due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of terrorism, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor or supplier, acts of the other party, acts or failure to act of the City of Culver City or any other public or governmental agency or entity (except that acts or failure to act of Agency shall not excuse performance of Agency), or any causes beyond the control or without the fault of the Agency. An extension of time for any such cause shall be referred to as "**<u>Force Majeure Delay</u>**." Agency shall provide Seller with notice of both the commencement and termination of such event causing the Force Majeure Delay.

2.3 **<u>Non-Exercise of Agency Option or Refusal Right</u>.** In the event that Agency does not elect to exercise the Option prior to the Option Expiration Date and Agency does not elect to exercise the Refusal Right prior to the Refusal Right Expiration Date, this Agreement shall expire and be of no further force and effect.

2.4 **<u>Opening of Escrow</u>**. Subject to Paragraph 2.2 above, Agency and Seller shall deliver to Escrow Holder a fully-executed duplicate original of this Agreement within five (5) business days after the Option Notice Date (as defined below) or the Refusal Right Notice Date (as defined below). As used in this Agreement, the term **"Option Notice Date"** shall mean the date on which Agency shall have delivered the Option Notice to Seller, provided that in no event shall the Option Notice Date be later than the Option Expiration Date. As used in this Agreement, the term **"Refusal Right Notice Date"** shall mean the date on which Agency shall have delivered the Refusal Right Notice to Seller, provided that in no event shall the Refusal Right Notice Date be later than the Refusal Right Expiration Date. When this Agreement, fully signed, is delivered to Escrow Holder, Escrow shall be deemed opened (**"Opening of Escrow"**). Escrow Holder shall immediately notify Agency and Seller, in writing, of the date of Opening of Escrow.

3. **<u>Purchase Price.</u>**

3.1 **<u>Option Purchase Price</u>.** In the event Agency exercises the Option, the purchase price for the Property shall be One ($1.00) Dollar, plus an amount equal to the transaction costs relating to the Close of Escrow discussed in Section 6.2 below (the **"Option Purchase Price").**

3.2 Right of First Refusal Purchase Price. The purchase price for the Property pursuant to the Refusal Right shall be equal to the Purchase Price paid by Developer for the Property under the DDA, plus an amount equal to the transaction costs relating to the Close of Escrow discussed in Section 6.2 below (the "**Refusal Right Purchase Price**").

4. Conditions Precedent to Agency's Performance. Agency's obligation to purchase the Property and close the Escrow in connection with Agency exercise of the Option or Refusal Right is subject to the satisfaction or waiver of all the conditions set forth below within the applicable time periods specified below (collectively, **"Agency's Conditions Precedent"**).

4.1 Approval of Title Condition; A.L.T.A. Survey.

4.1.1 Prior to the Option Expiration Date or Refusal Right Expiration Date (as applicable), upon request by Agency ("**Request**"), Seller shall obtain from Title Company and deliver to Agency a current preliminary report of title for the Property (the **"Preliminary Report"**), together with copies of all documents shown as exceptions in the Preliminary Report, within ten (10) days of Agency's Request. It shall be a condition to the Close of Escrow and a covenant of Seller that Seller shall convey fee simple merchantable title, subject to Agency approved exceptions.

4.1.2 Agency shall have until the Option Notice Date or the refusal Right Notice Date (as applicable) to approve or disapprove the title condition of the Property; provided, however, that Agency shall have not less than thirty (30) days from delivery to review the Preliminary Report and approve or disapprove the title condition of the Property. If Agency delivers the Option Notice or Refusal Right Notice (as applicable) to Seller, then, subject to Paragraphs 4.1.3 and 4.1.4, Agency shall be deemed to have unconditionally approved all matters affecting title to the Property and the contingency described in this Paragraph 4.1.2 shall be deemed conclusively and irrevocably satisfied in all respects.

4.1.3 Subject to Paragraph 7 and Paragraph 4.1.4, below, any exceptions to title disclosed by Title Company for the first time after the Option Notice Date or the Refusal Right Notice Date (as applicable) and prior to the Close of Escrow (each, an "Intervening Exception") shall be subject to Agency's written approval, and Agency shall have until the Close of Escrow within which to deliver to Escrow Holder and Seller written notice of its disapproval thereof (a "Notice of Defect"). If Seller and Escrow Holder receive any such Notice of Defect after the Option Notice Date or Refusal Right Notice Date (as applicable) and prior to the Close of Escrow, then any such Intervening Exception shall be deemed disapproved by Agency and this Agreement shall automatically terminate as if Agency elected not to exercise the Option or Refusal Right (as applicable), in accordance with Paragraph 2.3 herein; provided, however that Agency may elect to waive such deemed disapproval and take the Property subject to the applicable Intervening exception; provided, further that if such Intervening Exception was caused by Seller, Seller shall cause such Intervening Exception to be removed.

4.1.4 Notwithstanding anything to the contrary contained herein and other than any such liens and encumbrances relating to the matters described in paragraphs

7.1(a) through 7.1 (d) below, Seller agrees to pay or remove (by bonding, through the issuance of an endorsement to the Title Policy, as defined below, at Seller's sole cost, or otherwise) from title at the Close of Escrow the lien of any deed of trust, mortgage, or other security instrument, mechanic's lien or other statutory lien for labor or materials, judgment lien or tax lien (other than any such liens and encumbrances relating to the matters described in paragraphs 7.1(a) through (c), and any other liens or encumbrances (other than Agency approved exceptions) that would adversely affect the ability of Agency to resell the Property for redevelopment purposes consistent with then applicable laws.

4.2 Confirmation of Feasibility.

4.2.1 Agency shall have the period of time from either (i) Agency's determination that a development is planned near the Site and incorporation of the Site is contemplated as a component of such new development or (ii) Agency's Receipt of the Seller Notice of refusal Right (as applicable) until either (i) the Option Notice Date, or (ii) the Refusal Right Notice Date (as applicable) (the **"Feasibility Period"**) to confirm the physical condition of the Property and whether Agency can feasibly use or resell the Property in accordance with then applicable laws, taking into account the Agency approved exceptions; provided, however that Agency shall have no less than sixty (60) days to inspect the Property, including a Phase I Environmental Site Assessment ("Phase I Analysis") and, in the event that the consultant preparing the report for the Phase I Analysis recommends further environmental analysis or soils review through a Phase II Environmental Site Assessment ("Phase II Analysis"), the Feasibility Period shall be extended by the amount of time necessary for Agency's consultant to complete the report for the Phase II Analysis. If Agency delivers the Option Notice or Refusal Right Notice (as applicable) to Seller, then, subject to Paragraphs 4.2.2, 4.2.3, 4.2.4, and 4.2.5, Agency shall be deemed to have unconditionally approved all matters affecting title to the Property and the contingency described in this Paragraph 4.2.1 shall be deemed conclusively and irrevocably satisfied in all respects.

4.2.2 To assist Agency's feasibility study, upon Agency's written request during the Feasibility Period, Seller shall deliver to Agency copies of any engineering, soils or environmental studies, reports, surveys and assessments relating to the Property in Seller's possession and make available to Agency at Seller's offices during normal business hours upon reasonable advance notice, Seller's records relating to the Property for Agency's inspection (collectively, the **"Seller Property Documents"**). Seller covenants to refrain from making any intentional misrepresentations and/or omissions in any of the Seller Property Documents and to inform Agency of any missing, inconsistent, false or inaccurate statements in the Seller Property Documents of which it is or becomes aware of after the date hereof. Seller shall provide Agency with sufficient and accurate Seller Property Documents. Seller's inadvertent failure to deliver or make available to Agency any Seller Property Documents as provided above shall not constitute a breach or default by Seller hereunder.

4.2.3 Seller hereby covenants that it shall not make or cause to be made any material adverse changes to the Property, which occur after expiration of the Feasibility Period and prior to Close of Escrow, including, but not limited to, material adverse changes caused by the use of the Property, physical condition of the Property, environmental integrity of the Property, or conditions affecting Seller's title to the Property.

4.2.4 Seller hereby agrees that it has an affirmative duty to advise Agency of any material adverse changes to the Property that it is aware of or becomes aware of during Escrow and further covenants to provide written notice to Agency of such material adverse changes. This duty shall not include any duty to make any affirmative investigation at any time.

4.2.5 At reasonable times upon at least twenty-four (24) hours' written notice, Agency and its representatives, agents, contractors and subcontractors shall have the right to enter upon the Property during the Feasibility Period, at reasonable times during ordinary business hours, at Agency own cost and expense, in connection with Agency's proposed purchase of the Property to conduct the studies and inspections referred to in Paragraph 4.2.1. Agency shall use care and consideration in connection with any of its inspections. Agency shall indemnify, defend and hold Seller, its employees, board members, elected and/or appointed officials, consultants, agents and attorneys and the Property (collectively the "Indemnified Parties") harmless from any and all claims, liabilities, damages, costs and expenses (including reasonable attorneys' fees) arising out of, or resulting from the negligence of Agency's, and/or Agency's agents, contractors and/or subcontractors directly resulting from such entry or activities upon the Property.

4.3 **<u>Seller Performance</u>.** (i) Seller shall have, either prior to or concurrently with Agency's performance of its material obligations hereunder, duly performed each and every material obligation to be performed by it hereunder, (ii) Seller's representations and warranties set forth in Paragraph 9 below shall be true and correct on the date hereof and as of the Close of Escrow.

4.4 **<u>Option Notice; Refusal Right Notice.</u>** Agency shall have either elected to exercise the Option by delivering the Option Notice to Seller not later than the Option Expiration Date or Agency shall have elected to exercise the Refusal Right by delivering the Refusal Right Notice to Seller not later than the Refusal Right Expiration Date.

4.5 **<u>Hazardous Materials</u>.** As of the date of the execution of this Agreement, Seller has no knowledge of any use or condition of the Property by Seller or by any predecessor in interest of Seller which would have caused Hazardous Materials to exist in, on, under or about the Property. Seller agrees to and shall defend, indemnify and hold harmless Agency, the City of Culver City and their respective officers, agents and employees (the "Indemnified Parties") from and against all claims, liability, loss, damage, costs or expenses (including reasonable attorneys' fees and court costs) incurred by the Indemnified Parties or any third party, arising from or as a result of any Hazardous Materials which may be found on the Property, at any time, which (a) were caused to exist in, on, under or about the Property by Seller, and (b) which existed on the Property prior to the Closing Date. For purposes of this Agreement, the term "Hazardous Materials" means any substance, material or waste which is regulated as hazardous/contaminating or potentially hazardous/contaminating by the United States government, the State of California, or any local or other governmental authority, including, without limitation, any material, substance or waste which is (i) defined as a "hazardous waste," "acutely hazardous waste," "restricted hazardous waste," or "extremely hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code; (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code; (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code; (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code; (v) petroleum; (vi) asbestos; (vii) lead; (viii) a polychlorinated biphenyl; (ix) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Code of Regulations, Chapter 20; (x) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317); (xi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act (42 U.S.C. Section 6903); (xii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601); (xiii) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, with respect to which any governmental regulations or requirements provide for special handling in its use, transportation, generation, collection, storage, treatment or disposal; (xiv) any substance, product, waste, or other material of any nature whatsoever which may give rise to liability under any of the above statutes or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court; (xv) petroleum or crude oil other than petroleum and petroleum products which are contained within regularly operated motor vehicles; and (xvi) asbestos.

5. Conditions Precedent to Seller's Performance. Seller's obligation to sell the Property and close the Escrow is subject to the satisfaction or waiver of all conditions set forth below within the applicable time periods specified (collectively, **"Seller's Conditions Precedent"**):

5.1 Agency Performance. (i) Agency shall have, either prior to or concurrently with Seller's performance of its material obligations hereunder, duly performed each and every material obligation to be performed by it hereunder, and (ii) Agency's representations and warranties set forth in Paragraph 10 below shall be true and correct on the date hereof and as of the Close of Escrow.

6. Closing of Escrow.

6.1 Closing Date.

6.1.1 Subject to the satisfaction of the Agency's Conditions Precedent and the Seller's Conditions Precedent, Escrow shall close on or before 5:00 p.m. on the one hundred and eightieth (180th) day after the Option Notice Date or the Refusal Right Notice Date (as applicable) (**Closing Date")**, provided, however that Agency and Seller can mutually agree to extend the Closing Date in writing if necessary to accommodate reasonable circumstances ("**Extended Closing Date**").

6.1.2 The terms **"Close of Escrow"** and/or **"Closing"** are used in this Agreement to mean the time and date (which shall be as provided in Paragraph 6.1.1) on which the Grant Deed (as defined in Paragraph 6.3.1) is filed for recording by Escrow Holder in the Office of the Los Angeles County Recorder.

6.2 **<u>Deposits to be Made by Agency</u>**. On or before the Close of Escrow, Agency shall deliver to Escrow Holder:

6.2.1 Immediately available funds in a total amount equal to the Option Purchase Price or the Refusal Right Purchase Price (as applicable) and any other sums payable by Agency hereunder (including Agency's share of closing costs and prorations);

6.2.2 Any additional funds and/or instruments, properly executed and acknowledged by Agency, as appropriate, as may be necessary to comply with this Agreement.

6.3 **<u>Deposits to be Made by Seller</u>**. At or before 5:00 p.m. on the last business day immediately before the Close of Escrow, Seller shall deliver to Escrow Holder:

6.3.1 A grant deed conveying Seller's interest in the Property to Agency subject to the matters described in Paragraph 7.1, substantially conforming in form and substance first approved by the Agency (the "**Grant Deed**");

6.3.2 Any additional instruments, signed and properly acknowledged by Seller if appropriate, as may be necessary to comply with this Agreement.

7. **<u>Title Policy.</u>**

7.1 At Close of Escrow, Title Company shall issue to Agency a title policy (the **"Title Policy"**), covering the Property and insuring fee title vested in Agency, free of encumbrances, except:

(a) All general and special real property taxes and assessments which are not delinquent, other than any special taxes or liens;

(b) Easements, encumbrances, covenants, conditions and restrictions, reservations, rights-of-way and other matters of whatever kind or nature as shown on the Preliminary Report as finally approved or deemed approved by Agency under Paragraph 4.1;

(c) Any encumbrances or other matters resulting from the acts or omissions of Agency or its representatives, contractors, agents or consultants.

Agency may obtain from Title Company its A.L.T.A. Extended Title Policy coverage and/or such endorsements as Agency may desire, provided that (i) all costs thereof (including survey costs) shall be at Agency's expense, and (ii) the issuance of an A.L.T.A. Extended Title Policy or any endorsement required by Agency shall not extend Agency's title approval period under Paragraph 4.1, the Feasibility Period, the Closing Date or the Extended Closing Date, be a condition to Agency's obligations under this Agreement.

8. **<u>Legal and Equitable Enforcement of this Agreement</u>.**

8.1 **<u>Default by Seller</u>**. In the event the Close of Escrow and the acquisition of the Property by Agency does not occur by reason of any default by Seller, which default continues for a period of at least fifteen (15) days following Seller's receipt of written notice from Agency, then Agency shall be entitled to the return of all of its out-of-pocket expenses incurred in connection with the transaction, and shall have the right to pursue any other remedy available to it at law or in equity, including the specific performance of this Agreement.

8.2 **Default by Agency** . In the event the Close of Escrow and the acquisition of the Property by Agency does not occur by reason of any default by Agency, which default continues for a period of at least fifteen (15) days following Agency's receipt of written notice from Seller, then Seller shall be entitled to the return of all of its out-of-pocket expenses incurred in connection with the transaction, and shall have the right to pursue any other remedy available to it at law or in equity, including the specific performance of this Agreement.

8.3 **Cross Default.** The default by a party under the DDA shall constitute a default hereunder.

8.4 **Intentionally Blank.**

8.5 **Waiver**. The waiver by either Party of the performance of any covenant, condition or promise, shall not invalidate this Agreement, nor shall it be considered a waiver of any other covenant, condition or promise. The waiver by either Party of the time for performing any act shall not constitute a waiver of time for performing any other act or an identical act required to be performed at a later time.

9. **Seller's Representations and Warranties**. Seller hereby represents and warrants to Agency as follows, which representations and warranties are true in all material respects as of the date hereof and such representations and warranties shall be true on the Close of Escrow:

9.1 **Authority**. Seller has the legal power, right and authority to enter into this Agreement and to consummate the transactions contemplated hereby. The individuals executing this Agreement on behalf of Seller have the legal power, right and actual authority to bind Seller to the terms and conditions of this Agreement.

9.2 **Requisite Action**. As of the date hereof, all requisite action has been taken by Seller in connection with the entering into of this Agreement and the consummation of the transactions contemplated hereby.

9.3 **Validity**. This Agreement and all documents required hereby to be executed by Seller are and shall be valid, legally binding obligations of and enforceable against Seller in accordance with their terms.

10. **Agency's Representations, Warranties**. Agency hereby agrees and represents and warrants to Seller as follows, which representations and warranties are true in all respects as of the date hereof and shall be true on the Close of Escrow:

10.1 **Authority**. Agency has the legal power, right and authority to own property and to enter into this Agreement and the documents referenced herein, and to consummate the transactions contemplated hereby. The individuals executing this Agreement and the documents referenced herein on behalf of Agency have the legal power, right and actual authority to bind Agency to the terms and conditions hereof and thereof.

10.2 Requisite Action. As of the date hereof, all requisite action has been taken by Agency in connection with the entering into of this Agreement and the documents referenced herein, and the consummation of the transactions contemplated hereby.

10.3 Validity. This Agreement and all documents required hereby to be executed by Agency are and shall be valid, legally binding obligations of and enforceable against Agency in accordance with their terms.

11. Brokerage Commissions. Seller hereby represents and warrants to Agency that Seller has made no statement or representation to, nor entered into any agreement with, any broker, salesman or finder in connection with the transactions contemplated by this Agreement. Agency hereby represents and warrants to Seller that Agency has made no statement or representation to, nor entered into any agreement with, any broker, salesman or finder in connection with the transactions contemplated by this Agreement. Each party agrees to indemnify, defend, protect and hold the other harmless from and against any claim, loss, damage, cost or liability for any broker’s commission or salesman’s or finder’s fee asserted as a result of its own act or omission in connection with this transaction.

12. General Provisions.

12.1 Assignment. This Agreement shall be binding upon and shall inure to the benefit of Agency and Seller and their respective representatives, successors and assigns as may be permitted, if at all, below. Agency shall have the right to assign this Agreement or any interest or right under this Agreement or under the Escrow or to appoint a nominee to act as Agency under this Agreement.

12.2 Legal Fees. In the event that either party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this Option Agreement or as a consequence of any breach by the other party of its obligations under this Option Agreement, the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees (including allocable costs for any in-house counsel) and out-of-pocket expenditures paid by the losing party. The attorneys' fees so recovered shall include fees for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of attorneys' fees to the prevailing party, the prevailing party in any lawsuit on this Option Agreement shall be entitled to its attorneys' fees incurred in any post judgment proceedings to collect or enforce the judgment. This provision is separate and several and shall survive the merger of this Option Agreement into any judgment on this Option Agreement.

12.3 Approval and Notices. Any notice, demand, approval, consent or other communication required or desired to be given under this Agreement in writing may be given by personal service, fax (sent during normal business hours with a hard copy to follow immediately), recognized overnight air courier or by certified mail and shall be directed to the party involved at the address indicated below:

AGENCY: Culver City Redevelopment Agency
9770 Culver City Boulevard
Culver City, California 90232-0507.
Tel: 310-253-5760
Fax: 310-253-5779
Attn: Assistant Executive Director

With a copy to: Kane, Ballmer & Berkman
515 S. Figueroa Street
Suite 1850
Los Angeles, California 90071
Tel: 213-617-0480
Fax: 213-625-0931
Attn: Murray O. Kane

SELLER: [insert]

With a Copy To: [insert]

Any notice, demand, approval, consent or other communication given: (a) personally shall be deemed to have been given upon receipt, (b) by recognized overnight air courier, freight prepaid, shall be deemed to have been given on the next business day, (c) by certified mail shall be deemed to have been given on the third business day after it was deposited in the U.S. mail, certified and postage prepaid. Notices shall be deemed to have been validly given if given by either Agency's or Seller's respective counsel in the manner set forth above. In any case, in order for such notice, demand, approval, consent or other communication to be given, the same shall be addressed to the party to be served at said address or at such other address of which that party may have given notice under the provisions of this paragraph.

12.4 General Escrow Provisions. Seller and Agency agree that this Agreement shall also constitute instructions to Escrow Holder. In addition, Agency and Seller agree to execute, deliver, and be bound by any reasonable or customary supplemental escrow instructions of Escrow Holder, or other instruments as may reasonably be required by Escrow Holder, in order to consummate the transaction contemplated by this Agreement. Any such supplemental instructions shall not conflict with, amend, or supersede any portion of this Agreement. If there is any inconsistency between such supplemental instructions and this Agreement, then this Agreement shall control. Escrow Holder shall perform all customary functions of an escrow holder to consummate this transaction, including, among other duties, calculation of the prorations and closing costs required by this Agreement, as well as serving as depository for all funds, instruments and documents needed for the Close of Escrow. If the requirements relating to the duties or obligations of Escrow Holder are unacceptable to Escrow Holder, or if Escrow Holder requires additional instructions, the parties agree to make any deletions, substitutions and additions, as counsel for Agency and Seller shall mutually approve, and which do not materially alter the terms of this Agreement. Any supplemental instructions shall be signed only as an accommodation to Escrow Holder and shall not be deemed to modify or amend the rights of Agency or Seller, as between Agency and Seller, unless those signed supplemental instructions expressly so provide.

12.5 **<u>Prorations; Refundable Deposits</u>**. Property taxes, special taxes and assessments on the Property, and any rents, utilities and maintenance and other income and operating expenses for the Property shall be prorated between Agency and Seller as of Close of Escrow, based on the most current statements and information available to Escrow Holder.

12.6 **<u>Payment of Costs</u>**. Seller shall pay the premium charges for the Title Policy including all amounts which would be charged for an A.L.T.A. extended coverage owner's Title Policy (including, without limitation, all survey costs and additional premium charges) and any title endorsements requested by Agency, documentary transfer taxes, one half (1/2) of all Escrow costs and fees, and the charge for recording the Grant Deed. Agency shall pay one half (1/2) of all Escrow Costs and Fees. Each party shall be responsible for their respective legal fees and costs in connection with this transaction.

12.7 **<u>Escrow Holder Authorized to Complete Documents</u>**. If necessary, Escrow Holder is authorized to insert the date Escrow closes as the date of documents conveying interests therein.

12.8 **<u>Recordation of Documents</u>**. Upon Close of Escrow, Escrow Holder shall cause the Grant Deed and any other recordable instruments to be filed for recordation in the Office of the Los Angeles County Recorder. Escrow Holder shall supply all parties listed in Paragraph 13.3 with conformed copies of documents submitted for recording.

12.9 **<u>Delivery of Documents and Funds</u>**. Upon Close of Escrow, Escrow Holder shall deliver to Seller and to Agency all documents and funds to which each is entitled and for whose benefit those documents and funds were delivered to Escrow Holder.

12.10 **<u>Performance by Escrow Holder</u>**. Escrow Holder is to be concerned only with those paragraphs under this Agreement where Escrow Holder is given instructions to perform certain acts or with those paragraphs where escrow holders generally and reasonably would be expected to act.

12.11 **<u>Damage or Destruction; Condemnation</u>**.

(a) **<u>Material Damage or Destruction</u>**. In the event of "Material," as defined in Paragraph 12.11.d. below, damage to or destruction of the Property prior to Closing, through no fault of Seller, Agency shall have the right, exercisable by giving notice to Seller within fifteen (15) days after receiving written notice of such damage or destruction, either (i) to terminate this Agreement, in which case neither party shall have any further rights or obligations hereunder except that (a) all funds deposited into Escrow or documents in Escrow shall be returned to the party depositing the same, and (b) Agency and Seller each shall be responsible for one-half of any title or escrow cancellation fee, or (ii) to accept the Property in its then condition and to proceed with the Closing, in which event upon the Close of Escrow, Agency shall be entitled to receive an assignment of all of Seller's rights to any insurance proceeds payable by reason of such damage or destruction. If Agency elects to proceed under clause (ii) above, Seller shall not compromise, settle or adjust any claims to such proceeds without Agency's prior written consent.

(b) **Eminent Domain**. In the event that prior to the Closing, all or any "Material," as defined in Paragraph 12.11.d. below, portion of the Property is subject to a taking or a threatened taking by a public authority, Agency shall have the right, exercisable by giving notice to Seller within fifteen (15) days after receiving written notice of such taking, either (i) to terminate this Agreement, in which case neither party shall have any further rights or obligations hereunder except that (a) all funds deposited into Escrow or documents in Escrow shall be returned to the party depositing the same, and (b) Agency and Seller each shall be responsible for one-half of any title or escrow cancellation fee, or (ii) to accept the Property in its then condition and to proceed with the Closing without an abatement or reduction in the Purchase Price, in which case Agency shall be entitled to receive an assignment of all of Seller's rights to any condemnation award payable by reason of such taking. If Agency elects to proceed under clause (ii) above, Seller shall not compromise, settle or adjust any claims to such award without Agency's prior written consent.

(c) **Non-Material Taking or Damage**. In the event that prior to the Closing, any Non-Material portion of the Property is damaged, destroyed or subject to a taking or a threatened taking by a public authority, Agency shall accept the Property in its then condition and proceed with the Closing without any abatement or reduction in the Purchase Price, in which case Agency shall be entitled to receive an assignment of all of Seller's rights to (i) any applicable insurance proceeds; and/ or (ii) any condemnation award payable by reason of such taking. In the event of any such Non-Material damage, destruction or taking, Seller shall not compromise, settle or adjust any claims to such award without Agency's prior written consent.

12.12 **Survival.** The covenants, representations and warranties of both Agency and Seller set forth in this Agreement shall survive the recordation of the Grant Deed and the Close of Escrow for such period permitted by applicable law (the "Survival Period").

12.13 **Interpretation**. This Agreement shall be construed under the laws of the State of California in effect at the time of the signing of this Agreement. Each party acknowledges that it has been represented by independent counsel in connection with this Agreement and that this Agreement is the result of negotiations between the parties hereto. Any uncertainty or ambiguity shall not be construed against Agency because Agency's counsel, as a matter of convenience or otherwise, prepared this Agreement in its final form.

12.14 **Titles, Captions and Paragraphs**. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. References to paragraph numbers are to paragraphs as numbered in this Agreement unless expressly stated otherwise.

12.15 Gender, Etc. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. As used in this Agreement, the terms "including" and "include" shall have their most comprehensive meanings and shall be deemed to mean "including, without limitation" and "include, without limitation," respectively.

12.16 No Waiver. A waiver by either party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement.

12.17 Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party.

12.18 Severability. If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

12.19 Merger of Prior Agreements and Understandings. This Agreement, together with the DDA and the DDA Grant Deed contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force.

12.20 Time of Essence. Time is expressly made of the essence with respect to the performance by Agency and Seller of each and every obligation and condition of this Agreement in general, and of the Option Expiration Date and Close of Escrow in particular.

12.21 Possession of Property. Agency shall be entitled to possession of the Property only at the Close of Escrow.

12.22 Counterparts. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding Agreement.

12.23 Exhibits Incorporated by Reference. All exhibits attached to this Agreement are incorporated into this Agreement by reference.

12.24 Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day Escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, in which case the time shall be extended to the next business day.

12.25 Further Actions. Each party agrees to sign such other and further instruments and documents and take such other and further actions as may be reasonably necessary or proper in order to accomplish the intent of this Agreement.

12.26 Reserved.

12.27 No Recordation. Neither this Agreement nor any memorandum hereof shall be recorded or filed except for the Memorandum to be recorded pursuant to Paragraph 12.29.

12.28 No Third Party Beneficiaries. This Agreement does not create, and it shall not be construed as creating, any rights enforceable by any person or entity not a party to this Agreement except to the extent such person or entity is the beneficiary of any indemnity, waiver or release contained herein.

12.29 Memorandum of Option and Refusal Right. Concurrently with the execution of this Agreement, Agency and Seller shall execute in a form suitable for recordation a Memorandum of Option and Refusal Right, conforming in form and substance to **Exhibit "C",** attached hereto and incorporated herein by this reference, disclosing the grant of the Option and Refusal Right to Agency and Agency's right to purchase the Property pursuant to this Agreement. The Agency shall pay all costs incurred in recording the Memorandum of Option and Refusal Right.

12.30 Superiority of Option and Refusal Right. The Option and Refusal Right granted to the Agency herein shall be superior at all times to any lease, conveyance, mortgage, deed of trust or any other form of security interest, encumbrance or lien in connection with any debt financing secured by the Property (collectively a "Mortgage"). The words "mortgage" and "deed of trust" as used herein shall include all modes of financing. Seller hereby covenants and agrees for itself, its successors and assigns and every successor in interest to the Property that Seller will take all steps necessary to ensure that the Agency's Option and Refusal Right are superior to any Mortgage and Agency's exercise of such Option and Refusal Right shall not be subject to the approval of the holder of any such Mortgage.

[Remainder of Page Intentionally Blank]

[Signatures on following page]

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the date set forth next to their respective signatures below.

EXCEPTIONAL CHILDREN'S FOUNDATION, a 501 (c) (3) non-profit corporation

By: ______________________________
Its: ______________________________

[*Signatures continued on following page*]

“Agency”

REDEVELOPMENT AGENCY
OF THE CITY OF CULVER CITY

Dated: ____________________

By: ______________________________________
John Nachbar
Executive Director

APPROVED AS TO FORM:

KANE, BALLMER & BERKMAN
Agency General Counsel

By: _________________________
Murray O. Kane

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

Real property in the City of Culver City, County of Los Angeles, State of California, described as follows:

[to be inserted]

EXHIBIT “B”

SITE MAP

EXHIBIT "C"

FORM OF MEMORANDUM OF OPTION TO PURCHASE AND RIGHT OF FIRST REFUSAL

OFFICIAL BUSINESS
Document entitled to free
recording per Government Code
Sections 6103 and 27383

Recording Requested by and
When Recorded, Mail To:

CULVER CITY REDEVELOPMENT AGENCY
9770 Culver Boulevard
P.O. Box 507
Culver City, California 90232-0507
Attention: Asst. Executive Director

ABOVE SPACE FOR RECORDER'S USE ONLY

MEMORANDUM OF OPTION TO PURCHASE AND RIGHT OF FIRST REFUSAL

THIS MEMORANDUM OF OPTION TO PURCHASE AND RIGHT OF FIRST REFUSAL (this "**Memorandum**") is made as of ________________, 2010, by and between between the CULVER CITY REDEVELOPMENT AGENCY, public body corporate and politic ("Agency") and EXCEPTIONAL CHILDREN'S FOUNDATION, a 501 (c) (3) non-profit corporation ("Seller"). All capitalized terms used and not otherwise defined in this Memorandum shall have such meaning ascribed to it in the Option Agreement (defined below).

RECITALS

A. Seller and Agency have entered into that certain Option To Purchase and Right of First Refusal Agreement dated ________________, 2010 (the "**Option Agreement**"), pursuant to which Seller has granted to Agency the option to purchase ("**Option**") the real property more particularly described in Exhibit "1" attached hereto and all improvements, easements, appurtenances, and other intangible property appurtenant thereto (the "**Property**") and the right of first refusal to purchase the Property ("Refusal Right").

B. Pursuant to the Option Agreement, the parties now desire to enter into this Memorandum to provide record notice of the Option Agreement.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, it is hereby agreed as follows:

AGREEMENT

1. Option to Purchase; Right of Refusal. Seller hereby grants to Agency (i) the option to purchase the Property, and (ii) a right of first refusal to purchase the Property for the price and upon all of the terms and conditions set forth in the Option Agreement, which Option Agreement is incorporated herein by this reference.

2. Term of Option and Refusal Right. Subject to all of the terms and conditions contained in the Option Agreement, Agency's Option and Refusal right may be exercised within the time frames specified in the Option Agreement.

3. Purpose of Memorandum of Option to Purchase and Right of First Refusal. This Memorandum is prepared for the purpose of recordation only, and in no way modifies the provisions of the Option Agreement. In the event that any provisions of this Memorandum are inconsistent with provisions of the Option Agreement, the provisions in the Option Agreement shall prevail.

4. Governing Law. This Memorandum shall be construed and enforced in accordance with the laws of the State of California.

5. Counterparts. This Memorandum may be executed in several counterparts, each of which shall constitute an original.

[Remainder of Page Intentionally Blank]

[Signatures on Following Page]

IN WITNESS WHEREOF, each of the parties hereto has executed this instrument as of the date first above written.

SELLER:

EXCEPTIONAL CHILDREN'S FOUNDATION, a 501 (c) (3) non-profit corporation

By: ______________________________
Its: ______________________________

AGENCY:

REDEVELOPMENT AGENCY OF THE CITY OF CULVER CITY

Dated: ___________________

By: ____________________________________
John Nachbar
Executive Director

APPROVED AS TO FORM:

KANE, BALLMER & BERKMAN
Agency General Counsel

By: ________________________
Murray O. Kane

EXHIBIT 1

LEGAL DESCRIPTION OF THE PROPERTY

[to be inserted]

ATTACHMENT NO. 13

LEGAL DESCRIPTION

LOTS 1 TO 57, INCLUSIVE, AND LOTS A, B, C, D, AND E OF TRACT 52402 IN THE CITY OF CULVER CITY, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1233, PAGES 93 TO 100 INCLUSIVE, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

ATTACHMENT NO. 14

LEGAL DESCRIPTION:

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

PARCEL 1: (ERAS SITE)

THAT PORTION OF THE BERNARDINO MACHADO 18.0905 ACRE ALLOTMENT OF THE RANCHO LA BALLONA AS SHOWN ON MAP RECORDED IN BOOK 3 PAGES 204 TO 209 INCLUSIVE OF MISCELLANEOUS RECORDS, IN THE CITY OF CULVER CITY, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY SIDE LINE OF PARCEL 2-E AS SHOWN ON RECORD OF SURVEY MAP IN SAID CITY, FILED IN BOOK 157 PAGES 35 TO 37 INCLUSIVE OF RECORD OF SURVEY MAPS, RECORDS OF SAID COUNTY WITH THE SOUTHERLY LINE OF TRACT NO. 16283, IN SAID CITY, AS PER MAP RECORDED IN BOOK 381 PAGES 43 AND 44 OF SAID MAPS, SAID INTERSECTION BEING THE BEGINNING OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 264.01 FEET, A RADIAL LINE TO SAID CURVE BEARS NORTH 88°26'04" EAST, THENCE SOUTHERLY 40.01 FEET ALONG SAID CURVE AND ALONG SAID WESTERLY SIDE LINE OF PARCEL 2-E THROUGH A CENTRAL ANGLE OF 08°40'58"; THENCE CONTINUING ALONG SAID WESTERLY SIDE LINE SOUTH 07°05'54" WEST 40.68 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 264.01 FEET; THENCE SOUTHERLY 40.02 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 08° 41' 09"; THENCE CONTINUING ALONG SAID WESTERLY SIDE LINE SOUTH 01° 35' 15" EAST 74.06 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WESTERLY SIDE LINE SOUTH 01° 35' 15" EAST 242.05 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 32.00 FEET; THENCE SOUTHWESTERLY 50.34 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90° 07' 45", THE END OF SAID CURVE IS ON THE NORTHERLY SIDE LINE OF PARCEL 2-A AS SHOWN ON SAID RECORD OF SURVEY MAP; THENCE ALONG SAID NORTHERLY SIDE LINE SOUTH 88° 32' 30" WEST 82.66 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 490.00 FEET; THENCE WESTERLY 113.77 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 13°18'13"; THENCE CONTINUING ALONG SAID NORTHERLY SIDE LINE NORTH 78°09'17" WEST 107.18 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 20.00 FEET; THENCE LEAVING SAID NORTHERLY SIDE LINE OF PARCEL 2-A NORTHWESTERLY 29.18 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 83°35'18"; THENCE ALONG A RADIAL LINE FROM SAID CURVE NORTH 84°33'59" WEST 8.00 FEET; THENCE NORTH 05°26'01" EAST 35.92 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 55.00 FEET; THENCE NORTHERLY, NORTHWESTERLY AND WESTERLY 91.03 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 94°49'49"; THENCE NORTH 89°23'47" WEST 0.79 FEET; THENCE NORTH 01°33'56" WEST 115.48 FEET; THENCE NORTH 88°26'04" EAST 135.00 FEET; THENCE NORTH 01°33'56" WEST 70.00 FEET; THENCE NORTH 88°26'04" EAST 128.21 FEET, THENCE SOUTH 01°33'56" EAST 70.00 FEET; THENCE NORTH 88°26'04" EAST 140.47 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT TO THE OWNERS THEREOF ALL OIL, GAS AND MINERAL SUBSTANCES, TOGETHER WITH THE RIGHT TO EXPLORE FOR AND EXTRACT SUCH SUBSTANCES PROVIDED THAT THE SURFACE OPENING OF ANY WELL, HOLE, SHAFT OR OTHER MEANS OF EXPLORING FOR, REACHING OR REMOVING SUCH SUBSTANCES SHALL NOT BE LOCATED WITHIN THE OVERLAND-JEFFERSON REDEVELOPMENT PROJECT NO. 2 AND SHALL NOT PENETRATE ANY PART OF OR PORTION OF SAID PROJECT AREA WITHIN 500 FEET OF THE SURFACE THEREOF, AS RESERVED IN DEED RECORDED MARCH 11, 1993 AS INSTRUMENT NO. 93-466973.

RESOLUTION No. 2010- A_________

A RESOLUTION OF THE CULVER CITY REDEVELOPMENT AGENCY BOARD OF THE CITY OF CULVER CITY, CALIFORNIA, APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) BETWEEN THE AGENCY AND EXCEPTIONAL CHILDREN'S FOUNDATION FOR THE MACHADO DRIVE PARKING LOT PROJECT (PROJECT) LOCATED WITHIN COMPONENT AREA NO. 2 OF THE MERGED CULVER CITY REDEVELOPMENT PROJECT; AND APPROVING OTHER ACTIONS TO IMPLEMENT THE PROJECT AND THE DDA.

WHEREAS, the Culver City Redevelopment ("Agency") is engaged in activities necessary to carry out and implement the Redevelopment Plan for the Merged Culver City Redevelopment Project (the "Redevelopment Plan") for Component Area No. 2; and

WHEREAS, the Agency has adopted an Implementation Plan for the Merged Culver City Redevelopment Project (the "Implementation Plan") in accordance with California Health and Safety Code Section 33490, which is part of the California Community Redevelopment Law ("CRL"), California Health and Safety Code Sections 33000, et seq.; and

WHEREAS, in order to carry out and implement the Redevelopment Plan, Agency and Exceptional Children's Foundation, a California non-profit 501(c)(3) corporation ("Developer"), now desire to enter into a Disposition and Development Agreement ("DDA"), pursuant to which, subject to the satisfaction of certain conditions precedent set forth in the DDA, Agency will convey to Developer and Developer will acquire that certain 16,168 square foot remnant parcel located on the southeast corner of Machado Road and Sepulveda Boulevard within Component Area No. 2 of the Merged Culver City Redevelopment Project as more particularly described in the legal description contained in the DDA (the "Property"); and

WHEREAS, in addition to the disposition of the Property by Agency, the DDA provides for the construction, development and maintenance of a surface parking lot providing a minimum of twenty (20) tandem parking spaces to benefit Developer and the Exceptional Children's Foundation school and eliminate the current parking incursion in the adjacent Classics at Heritage Park neighborhood as more specifically defined and provided for in the DDA (the "Project"); and

WHEREAS, Agency has reserved an option to repurchase and right of first refusal to repurchase the fee interest in the Property (i) in the event any future development is planned near the Property and incorporation of the Property is contemplated as a component of such new development or (ii) in the event Developer desires to sell the Property, as more specifically set forth and provided for in the DDA and the proposed Option to Purchase and Right of First Refusal to be entered into between Agency and Developer (Attachment No. 12 of the DDA); and

WHEREAS, Developer has submitted to Agency and the City of Culver City ("City") copies of the proposed DDA in a form acceptable to Developer; and

WHEREAS, pursuant to CRL Section 33433, Agency prepared a summary report (the "Summary Report") affixed to the staff report as Attachment 2 and on file in the office of the Agency Secretary, and made copies of the DDA, with all attachments, available for public inspection and copying no later than the time of the first publication of the notice of the public hearing; and

WHEREAS, the Summary Report contains a summary which describes and specifies all of the following:

(i) Agency's cost of the DDA, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by Agency, plus the expected interest on any loans or bonds to finance the DDA;

(ii) The estimated value of the interests to be conveyed, determined at the highest and best uses permitted under the Redevelopment Plan;

(iii) The estimated value of the interests to be conveyed, determined at the use and with the conditions, covenants, and development costs required by the Disposition Agreement;

(iv) The purchase price which Developer will be required to pay Agency, along with an explanation as to why the amount is not less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the Redevelopment Plan; and

(v) An explanation of why the conveyance of the Property in accordance with the DDA will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation; and

WHEREAS, a Certified Final Subsequent Environmental Impact Report for the Merged Culver City Redevelopment Project (Final SEIR) referenced by State Clearinghouse No. 98081097 was duly adopted by (i) the Culver City Redevelopment Agency Board on November 2, 1998 (Resolution No. 98-A015) and (ii) the City Council of the City of Culver City on November 16, 1998 (Resolution No. 98-R107), in compliance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., and the State and local guidelines for the implementation of CEQA; and

WHEREAS, this activity is in furtherance of the Redevelopment Plan and the environmental impacts of the proposed project were adequately addressed in the Final SEIR and as such there is no significant environmental effect other than those already analyzed in the Final SEIR; and

WHEREAS, this activity does not constitute a substantial change in circumstance, project changes, or new information of substantial importance which would warrant additional environmental review, therefore this activity in furtherance of the Redevelopment Plan shall be deemed to be a single project pursuant to Section 21090 of the Public Resources Code and no further environmental documentation is required under CEQA; and

WHEREAS, Agency believes that the Project pursuant to the DDA is in the best interests of the Merged Culver City Redevelopment Project, the City of Culver City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law and requirements.

NOW, THEREFORE, the Culver City Redevelopment Agency Board DOES HEREBY RESOLVE, as follows:

1. That the foregoing recitals are true and correct and incorporated herein in full by this reference.

2. That the Culver City Redevelopment Agency Board received and heard any and all oral and written objections relating to the DDA, and that all such oral and written objections are overruled.

3. That the Culver City Redevelopment Agency Board finds and determines that the consideration to be received by Agency under the terms of the DDA is not less than fair market value of the interest to be conveyed at the use and with covenants and conditions and development costs authorized by the DDA for, among other reasons, the reasons set forth in Sections II, III, IV and V and of the Summary Report.

4. That the Culver City Redevelopment Agency Board finds and determines that the conveyance of the Property in accordance with the DDA and the development and construction of the improvements on the Property in accordance with the DDA, will assist in the elimination of blight for, among other reasons, the reasons set forth in Section VI of the Summary Report.

5. That the Culver City Redevelopment Agency Board finds and determines that the conveyance of the Property in accordance with the DDA and the development and construction of the improvements on the Property is consistent with the Implementation Plan adopted pursuant to CRL Section 33490, which specifically provides for the elimination of blight as a goal of the Implementation Plan.

6. That the Culver City Redevelopment Agency Board approves the conveyance of the Property in accordance with the DDA and the development and construction of the improvements on the Property in accordance with the DDA.

7. That in making the findings and recommendations herein, the Culver City Redevelopment Agency Board has considered all testimony presented at the noticed public hearing, all written evidence presented, and the entire record prepared by Agency and City staff.

8. That the DDA, including all of its attachments, is approved.

9. That the Executive Director, or designee, is authorized to execute the DDA, including all implementing documents, and take any actions necessary and appropriate to implement the DDA.

10. The Agency Secretary shall certify to the adoption of this Resolution and thereupon and thereafter the same shall be in full force and effect.

APPROVED and ADOPTED this ___ day of ____________, 2010.

____
MICHEÁL O' LEARY, CHAIR
Culver City Redevelopment Agency

ATTEST

____
ALICE PRASAD, Secretary

APPROVED AS TO FORM

____
MURRAY KANE, Agency General Counsel

A10-00424

RESOLUTION No. 2010- R________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CULVER CITY, CALIFORNIA, APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) BETWEEN THE AGENCY AND EXCEPTIONAL CHILDREN'S FOUNDATION FOR THE MACHADO DRIVE PARKING LOT PROJECT (PROJECT) LOCATED WITHIN COMPONENT AREA NO. 2 OF THE MERGED CULVER CITY REDEVELOPMENT PROJECT; AND APPROVING OTHER ACTIONS TO IMPLEMENT THE PROJECT AND THE DDA.

WHEREAS, the Culver City Redevelopment ("Agency") is engaged in activities necessary to carry out and implement the Redevelopment Plan for the Merged Culver City Redevelopment Project (the "Redevelopment Plan") for Component Area No. 2; and

WHEREAS, the Agency has adopted an Implementation Plan for the Merged Culver City Redevelopment Project (the "Implementation Plan") in accordance with California Health and Safety Code Section 33490, which is part of the California Community Redevelopment Law ("CRL"), California Health and Safety Code Sections 33000, et seq.; and

WHEREAS, in order to carry out and implement the Redevelopment Plan, Agency and Exceptional Children's Foundation, a California non-profit 501(c)(3) corporation ("Developer"), now desire to enter into a Disposition and Development Agreement ("DDA"), pursuant to which, subject to the satisfaction of certain conditions precedent set forth in the DDA, Agency will convey to Developer and Developer will acquire that certain 16,168 square foot remnant parcel located on the southeast corner of Machado Road and Sepulveda Boulevard within Component Area No. 2 of the Merged Culver City Redevelopment Project as more particularly described in the legal description contained in the DDA (the "Property"); and

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WHEREAS, in addition to the disposition of the Property by Agency, the DDA provides for the construction, development and maintenance of a surface parking lot providing a minimum of twenty (20) tandem parking spaces to benefit Developer and the Exceptional Children's Foundation school and eliminate the current parking incursion in the adjacent Classics at Heritage Park neighborhood as more specifically defined and provided for in the DDA (the "Project"); and

WHEREAS, Agency has reserved an option to repurchase and right of first refusal to repurchase the fee interest in the Property (i) in the event any future development is planned near the Property and incorporation of the Property is contemplated as a component of such new development or (ii) in the event Developer desires to sell the Property, as more specifically set forth and provided for in the DDA and the proposed Option to Purchase and Right of First Refusal to be entered into between Agency and Developer (Attachment No. 12 of the DDA); and

WHEREAS, Developer has submitted to Agency and the City of Culver City ("City") copies of the proposed DDA in a form acceptable to Developer; and

WHEREAS, pursuant to CRL Section 33433, Agency prepared a summary report (the "Summary Report") affixed to the staff report as Attachment 2 and on file in the office of the Agency Secretary, and made copies of the DDA, with all attachments, available for public inspection and copying no later than the time of the first publication of the notice of the public hearing; and

WHEREAS, the Summary Report contains a summary which describes and specifies all of the following:

(i) Agency's cost of the DDA, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by Agency, plus the expected interest on any loans or bonds to finance the DDA;

(ii) The estimated value of the interests to be conveyed, determined at the highest and best uses permitted under the Redevelopment Plan;

(iii) The estimated value of the interests to be conveyed, determined at the use and with the conditions, covenants, and development costs required by the Disposition Agreement;

(iv) The purchase price which Developer will be required to pay Agency, along with an explanation as to why the amount is not less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the Redevelopment Plan; and

(v) An explanation of why the conveyance of the Property in accordance with the DDA will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation; and

WHEREAS, a Certified Final Subsequent Environmental Impact Report for the Merged Culver City Redevelopment Project (Final SEIR) referenced by State Clearinghouse No. 98081097 was duly adopted by (i) the Culver City Redevelopment Agency Board on November 2, 1998 (Resolution No. 98-A015) and (ii) the City Council of the City of Culver City on November 16, 1998 (Resolution No. 98-R107), in compliance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq., and the State and local guidelines for the implementation of CEQA; and

WHEREAS, this activity is in furtherance of the Redevelopment Plan and the environmental impacts of the proposed project were adequately addressed in the Final SEIR and as such there is no significant environmental effect other than those already analyzed in the Final SEIR; and

WHEREAS, this activity does not constitute a substantial change in circumstance, project changes, or new information of substantial importance which would warrant additional environmental review, therefore this activity in furtherance of the Redevelopment Plan shall be deemed to be a single project pursuant to Section 21090 of the Public Resources Code and no further environmental documentation is required under CEQA; and

WHEREAS, the City believes that the Project pursuant to the DDA is in the best interests of the Merged Culver City Redevelopment Project, the City of Culver City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law and requirements.

NOW, THEREFORE, the City Council of the City of Culver City DOES HEREBY RESOLVE, as follows:

1. That the foregoing recitals are true and correct and incorporated herein in full by this reference.

2. That the City Council of the City of Culver City received and heard any and all oral and written objections relating to the DDA, and that all such oral and written objections are overruled.

3. That the City Council of the City of Culver City finds and determines that the consideration to be received by Agency under the terms of the DDA is not less than fair market value of the interest to be conveyed at the use and with covenants and conditions and development costs authorized by the DDA for, among other reasons, the reasons set forth in Sections II, III, IV and V and of the Summary Report.

4. That the City Council of the City of Culver City finds and determines that the conveyance of the Property in accordance with the DDA and the development and construction of the improvements on the Property in accordance with the DDA, will assist in the elimination of blight for, among other reasons, the reasons set forth in Section VI of the Summary Report.

5. That the City Council of the City of Culver City finds and determines that the conveyance of the Property in accordance with the DDA and the development and construction of the improvements on the Property is consistent with the Implementation Plan adopted pursuant to CRL Section 33490, which specifically provides for the elimination of blight as a goal of the Implementation Plan.

6. That the City Council of the City of Culver City approves the conveyance of the Property in accordance with the DDA and the development and construction of the improvements on the Property in accordance with the DDA.

7. That in making the findings and recommendations herein, the City Council of the City of Culver City has considered all testimony presented at the noticed public hearing, all written evidence presented, and the entire record prepared by Agency and City staff.

8. That the DDA, including all of its attachments, is approved.

9. That the City Manager, or designee, is authorized to execute the DDA, including all implementing documents, and take any actions necessary and appropriate to implement the DDA.

10. The City Clerk shall certify to the adoption of this Resolution and thereupon and thereafter the same shall be in full force and effect.

APPROVED and ADOPTED this ___ day of ____________, 2010.

CHRISTOPHER ARMENTA, Mayor
City of Culver City

ATTEST

MARTIN R. COLE, City Clerk

A10-00425

APPROVED AS TO FORM

for

CAROL SCHWAB, City Attorney