

SETTLEMENT AGREEMENT & GENERAL RELEASE OF ALL CLAIMS

THIS SETTLEMENT AGREEMENT & GENERAL RELEASE OF ALL CLAIMS ("Agreement") is made and entered into this ____ day of _____, 2017 ("Settlement Date"), by and between the CITY OF CARSON, a municipal corporation ("City") and THE COMMUNITY DEVELOPMENT CENTER, INC., a California corporation, ("CDC"). City and CDC may be referred to, individually or jointly, as "Party" or "Parties."

RECITALS

- A. On December 1, 2014, City filed a quiet title action in the Los Angeles Superior Court entitled City of Carson v. The Community Development Center, Inc., at al., Case No. BC565404 ("Quiet Title Action" or "Dispute").
- B. The Dispute concerns title to that certain unimproved real property in the Dominguez Hills Village Specific Plan area, located at the northwest corner of the intersection of Victoria Street and Cedarbluff Way, situated in the City of Carson, County of Los Angeles, State of California (identified as APN 7319-038-900), as described on Exhibit A attached hereto and incorporated herein by reference ("Property").
- C. City also recorded against the Property that certain Notice of Pending Actions on December 4, 2014 as Instrument No. 20141311236 in the Official Records of Los Angeles County ("Notice of Action").
- D. In an effort to minimize further litigation, the Parties have now agreed to resolve the Dispute and all claims which may exist by and between the Parties by proceeding with the sale of the Property as set forth in this Agreement.

NOW, THEREFORE, for full and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and based upon the foregoing recitals and the terms, conditions, covenants, and agreements contained herein, the Parties hereto agree as follows:

AGREEMENT

1. **Recitals.** The foregoing Recitals are true and material statements upon which this Agreement is based.

2. **Settlement Terms.** Promptly following the Settlement Date, the Parties agree as follows:

A. Commencing within ten (10) days of the Settlement Date and in accordance with its standard procedures, City will engage David Rosenthal, M.A.I. of Curtis-Rosenthal, Inc. which is an independent MAI appraiser chosen by CDC in its sole discretion to determine the fair market value of the Property based on a zoning designation consistent with the General Plan Land Use Designation of High Density Residential, which allows up to 25 dwelling units per acre ("Fair Market Value"). The Appraiser shall be directed to deliver a full copy of the final appraisal to both Parties.

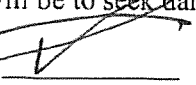
B. Within thirty (30) days from receipt of the Appraisal, City shall, in

accordance with its standard procedures, select a licensed California commercial real estate brokerage firm ("**Broker**") and negotiate a listing agreement to sell the Property (i) for a price not less than the Fair Market Value as determined by the Appraisal ("**Minimum Sales Price**"), (ii) with the purchase price to be paid in cash at closing, and (iii) such other terms as determined by City in its sole discretion ("**Listing Agreement**"). The Listing Agreement shall be executed by both Parties although the Listing Agreement will indicate that City shall have sole control over the negotiation of the sale of the Property. CDC shall execute and return the Listing Agreement within five (5) business days of receipt of the Listing Agreement from the City.

C. City will be solely responsible for and in control of (i) receiving and evaluating offers to purchase the Property, and (ii) negotiating Property and executing a purchase and sale agreement ("**PSA**"). However, City will forward a copy of offers received to CDC for comment, but CDC will have no right to veto or otherwise affect an offer or sale agreement.

D. At closing of a sale pursuant to a PSA for the Property ("**Closing**"), CDC will be entitled to receive Fifty Percent (50%) of the (i) Minimum Sales Price or the actual sales price, whichever is greater, less (ii) all closing costs, marketing costs, commission, cost of the appraisal, and attorney's fees incurred by City with respect to negotiating and document the commission agreement and sale agreement ("**Net Proceeds**"). As long as CDC receives fifty percent (50%) of the Net Proceeds in cash upon consummation of the sale, City can agree to other terms and provisions including carryback financing with the buyer. The attorney's fees incurred by the City shall be at the City's standard rate being Two Hundred Forty-Five Dollars (\$245) per hour.

E. CDC agrees to promptly execute, acknowledge and deliver any and all documents required by a reputable title company to effect the sale of the Property pursuant to a PSA. In the event that CDC fails to execute any and all documents necessary for the sale of the Property within five (5) business days of City's request, City's City Manager will have the authority, but not the obligation, to execute the documents on CDC's behalf which shall be legally binding on CDC and this covenant may be relied upon by a title company to effect the Closing. In order that a title company can rely on this covenant, this Agreement is being notarized and, if required by the title company, may be recorded in the public record. Furthermore, so that a title company may rely on this Agreement to insure the transfer of title of the Property, CDC shall agree that in the event that it believes that City has violated this Agreement, CDC agrees that it shall have no rights or claims against title to the Property and CDC's sole remedy will be to seek damages from the City.

CDC Initials 

F. Prior to the Closing, City and CDC will provide such documents as required by the Title Company to remove any items of record against the Property including the Notice of Action.

G. Within five (5) calendar days after the Closing, City will dismiss the Quiet Title Action with prejudice.

H. If CDC breaches its obligations in this Agreement particularly in this Section

2, which breach results in (i) the commission becoming due and payable under the Listing Agreement, and/or (ii) breach of the PSA, CDC will be fully and solely liable for the commission and damages and shall fully indemnify City with respect to same.

I. If the City breaches its obligations in this Agreement the City will be liable for the damages actually suffered by CDC.

J. Each Party shall be solely responsible for its own attorney's fees incurred with respect to the Dispute, this Agreement, and consummation of the sale of the Property except as set forth in Section 2.D.

3. CDC's Release. Effective at the Closing and except with respect to any obligations, warranties, and representations created by this Agreement in particular set forth in Section 2 above, CDC fully and forever releases and discharges the City, including the City's current and former employees, partners, insurers, sureties, agents, representatives, attorneys, officers, directors, members of governing boards, shareholders, successors, assigns, and parent, subsidiary and affiliated companies from any and all rights, claims, demands, damages, actions, causes of action, costs, expenses, and suits at law or in equity, of whatever kind or nature, whether based in tort, contract, or any other theory of recovery, known or unknown, past or present, anticipated or not anticipated, suspected or not suspected, fixed or contingent, which each party had, now has, or may have in the future, arising from, or in any way related to the facts on which the Agreement is based.

4. City's Release. Effective at the Closing and except with respect to any obligations, warranties, and representations created by this Agreement in particular set forth in Section 2 above, City fully and forever releases and discharges CDC, including CDC's current and former employees, partners, insurers, sureties, agents, representatives, attorneys, officers, directors, members of governing boards, shareholders, successors, assigns, and parent, subsidiary and affiliated companies from any and all rights, claims, demands, damages, actions, causes of action, costs, expenses, and suits at law or in equity, of whatever kind or nature, whether based in tort, contract, or any other theory of recovery, known or unknown, past or present, anticipated or not anticipated, suspected or not suspected, fixed or contingent, which each party had, now has, or may have in the future, arising from, or in any way related to the facts on which the Agreement is based.

5. Waiver of Civil Code Section 1542. Upon the releases becoming effective as set forth in Sections 4 and 5, each Party expressly agrees to waive and relinquish all rights and benefits that it may have under Section 1542 of the Civil Code of the State of California. That section reads as follows:

"§ 1542. 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."

6. No Waiver. No delay or omission in the exercise of any right or remedy by a nondefaulting Party on any default shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Any waiver by either Party or any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7. **No Assignment of Claims.** Each Party represents and warrant to the other Party that (i) it has not assigned nor will it assign any claim, cause of action, right of action or any right of any kind whatsoever, embodied in any of the claims and allegations referred to herein, and (ii) no other person or entity of any kind had or has any interest in any of the demands, obligations, actions, causes of action, debts, liabilities, rights, contracts, damages, attorneys' fees, costs, expenses, losses or claims referred to in this Agreement.

8. **Sole Agreement.** This Agreement contains the entire understanding between the Parties as to the specific subject matter hereof and supersedes any prior understanding and/or written or oral agreements between them respecting the within subject matter. There are no representations, agreements, arrangements, or understandings, oral or written, between and among the Parties hereto, relating to the subject matter of this Agreement, which are not fully expressed herein.

9. **Severability.** In the event that any provision of this Agreement shall be held to be invalid, the same shall not affect, in any respect whatsoever, the validity of the remainder of this Agreement.

10. **Choice of Law; Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of California. Any legal action arising in any way in connection with this Agreement shall be filed in the County of Los Angeles, California.

11. **Attorneys' Fees.** Each Party shall bear its own attorneys' fees and costs in connection with the Quiet Title Action, and the negotiation and drafting of this Agreement. In the event of any dispute between the Parties hereto arising out of the terms of this Agreement, the prevailing party in such dispute shall be entitled to recover from the other all costs and expenses, including reasonable attorney's fees and court costs incurred by the prevailing party in any such dispute (whether or not such dispute is prosecuted to a final judgment or other final determination), together with all costs of enforcement and/or collection of any judgment.

12. **Knowing and Voluntary.** This Agreement is an important legal document and in all respects has been voluntarily and knowingly executed by the Parties hereto. The Parties specifically represent that prior to signing this Agreement they have been provided a reasonable period of time within which to consider whether to accept this Agreement. The Parties further represent that they have each carefully read and fully understand all of the provisions of this Agreement, and that they are voluntarily, knowingly, and without coercion entering into this Agreement based upon their own judgment.

13. **Assistance of Counsel.** The Parties each specifically represent that they have consulted to their satisfaction with and received independent advice from their respective legal counsel prior to executing this Agreement concerning the terms and conditions of this Agreement.

14. **Construction.** In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase or provision of this Agreement, no uncertainty or ambiguity shall be construed or resolved against a party under any rule of construction, including the Party primarily responsible for the drafting and preparation of this Agreement. Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent. Whenever required by the context, as used in this Agreement the singular shall include the plural, and the masculine gender shall include the feminine and the neuter, and the feminine gender shall include the masculine and the neuter.

15. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original but all of which shall constitute one agreement.

16. **Injunctive Relief for Breach.** CDC acknowledges and agrees that any material violation of this Agreement is likely to result in immediate and irreparable harm for which monetary damages are likely to be inadequate. Accordingly, CDC specifically consents to injunctive and other appropriate equitable relief upon the institution of proceedings therefor by the City in order to protect the rights of the City under this Agreement including, but not limited to, executing documents required under Section 2. Such relief shall be in addition to any other relief to which the City may be entitled at law or in equity.

17. **Modifications.** Any alteration, change, or modification of or to this Agreement must be in writing executed by each Party in order to be effective.

18. **No Third Party Beneficiaries.** No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity any rights, remedies, obligations or liabilities under or by reason of this Agreement.

19. **Authority.** A person executing this Agreement on behalf of a Party hereto represents and warrants, with the intention that the other Party rely on such representation and warranty, that (i) such Party is duly organized and existing, (ii) the person is duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound.

20. **Successors and Assigns.** This Agreement, and all the terms and provisions hereof, shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, legal representatives, successors and assigns.

21. **Notices.** Any notice to be given under this Agreement shall be given by personal delivery or by depositing the same in the United States Mail, certified or registered, postage prepaid, at the following address:

City: City of Carson
701 E. Carson Street
Carson, CA 90745
Attn: Community Development Department

With Copy to: Aleshire & Wynder LLP
18881 Von Karman Avenue
Suite 1700
Irvine, CA 92612
Attn: Sunny K. Soltani, City Attorney
CDC: Community Development Center, Inc.

Attn: _____

Attn: _____

With Copy to: Law Offices of Robin D. Perry
400 Oceangate Ave., Suite 700
Long Beach, CA 90802
Attention: Robin D. Perry, Esq.

Any notice delivered personally shall be effective upon delivery. Any notice given by mail as above provided shall be effective three (3) business days after deposit in the mails. Any notice given by facsimile or by email shall be effective on the business day following the transmittal of the notice. Any party may change address for notice by giving written notice of such change to the other party.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first above written.

REMINDER: CDC MUST ALSO INITIAL SECTION 2.F

CITY:

CITY OF CARSON,
a municipal corporation

By: _____
Albert Robles, Mayor

_____, 2017

ATTEST:

Donesia L. Gause, CMC,
City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Sunny K. Soltani, Esq.
City Attorney

CDC:

COMMUNITY DEVELOPMENT
CENTER, INC., a California corporation

By: _____

Its: Executive Director

By: _____

Its: _____

May 28, 2017

APPROVED AS TO FORM:

LAW OFFICES OF ROBIN D. PERRY

By: _____
Robin D. Perry, Esq.

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

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

**LOT 11 TRACT NO. 52103, IN THE CITY OF CARSON, COUNTY OF LOS ANGELES,
STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1224, PAGES 17 TO 21
INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID
COUNTY.**

**EXCEPTING THEREFROM ALL OIL, GAS MINERALS, AND OTHER HYDROCARBON
SUBSTANCES LYING BELOW THE SURFACE OF SAID LAND, BUT WITH NO RIGHT
OF SURFACE ENTRY, AS PROVIDED IN DEEDS RECORD.**

APN: 7319-038-900

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2017 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.

Notary Public

SEAL:

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

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2017 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.

Notary Public

SEAL: