

**OPTION AND
PURCHASE AND SALE AGREEMENT
Information Sheet**

OPTIONOR/SELLER: City of Roseville, a municipal corporation
OPTIONEE/BUYER: PDC Sacramento LPIV, LLC, a Delaware limited liability company

PROPERTY: Address: 6382 Phillip Road, Roseville, CA
Legal Description: See Exhibit A to this Agreement
Approximate Acreage: 236.26

TITLE COMPANY: Placer Title Company, Attn: Tracy Murphy, 1508 Eureka Road, Suite 150, Roseville, California 95661

IMPORTANT DATES:
Due Diligence Period: Three Hundred & Sixty-Five (365) days from the Effective Date

TRANSACTION EXPENSES: Transaction expenses shall be allocated as follows:

| Closing Item | Buyer's Share of Costs | Seller's Share of Costs | Not Applicable (If N/A check box) |
|--|---------------------------------------|--|--|
| 1. Additional Inspections | 100% | 0% | <input type="checkbox"/> |
| 2. ALTA Survey | 100% | 0% | <input type="checkbox"/> |
| 3. Boundary Survey | 100% | 0% | <input type="checkbox"/> |
| 4. Deed Recording Costs | 50% | 50% | <input type="checkbox"/> |
| 5. Phase I Report | 100% | 0% | <input type="checkbox"/> |
| 6. Phase II Report (Supplemental) | 100% | 0% | <input type="checkbox"/> |
| 7. Standard Owner's Title Policy | 0% | 100% | <input type="checkbox"/> |
| 8. Extended Coverage of Owner's Title Policy | 100% | 0% | <input type="checkbox"/> |

Optionor and Optionee hereby acknowledge that each has verified the information contained in these Information Sheet.

Optionor's Initials: _____

Optionee's Initials: *B*

OPTION AND
PURCHASE AND SALE AGREEMENT
[Unimproved Property]

THIS OPTION AND PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made and entered into this ____ day of _____, 2021 (“**Effective Date**”) by and between the Optionor and Optionee identified in the above Information Sheet. All capitalized terms referenced or used in this Agreement shall have the meanings set forth herein.

OPTION AGREEMENT:

1. **Grant of Option/Term.** Optionor hereby grants to Optionee an option (“**Option**”) to purchase the Property as defined below under the terms and conditions as set forth herein. The term of the Option shall be for ten (10) years from the Effective Date. The Option can be exercised in phases as set forth in the Agreement below. Optionee shall exercise the Option by providing written notice of exercise (“**Option Notice**”) of the Option to Optionor.
2. **Option Fee.** Optionee will deposit with the Title Company (as defined below) an option fee (“**Option Fee**”) in the amount of FIFTY THOUSAND DOLLARS AND 00 CENTS (\$50,000.00). The Option Fee will be applicable to the Purchase Price of the first Phase of the Property.
3. **Right of Access.** During the term of this Option, the Optionor grants to Optionee the right to access the Property to conduct due diligence and to obtain the necessary surveys and other reports needed to process the Entitlements (as defined below) for the Property as set forth below in the Purchase Agreement.
4. **Put Option.** Within the first Ninety (90) days after the Effective Date, Optionee may give Optionor a written notice that Optionee has elected to acquire the First Phase of the Property before obtaining all Entitlements. If Optionee exercises the Option to acquire a Phase prior to obtaining the Entitlements and then subsequently is unable to obtain the Entitlements on economic terms acceptable to Optionee in its sole and absolute discretion, the Optionee will have the option to provide written notice (“**Put Notice**”) to the City that Optionee is electing to reconvey the Phase Property back to the City on the same terms and condition upon which the Optionee purchased the Phase from the Optionor under this Agreement and the City will be obligated to re-purchase the Phase.

PURCHASE AGREEMENT:

1. **Property.** Seller agrees that upon the Buyer’s exercise of the Option to convey to Buyer that certain real property and all improvements located thereon in the County of Placer, State of California known as: 6382 Phillip Road, Roseville, CA (as further identified on Exhibit A attached hereto and incorporated herein by reference), together with all of Seller’s right, title and interest in any assignable licenses, permits, mineral rights, water rights or shares, easements, rights-of-way or other items appurtenant or pertaining thereto that may benefit the same (all of which are hereinafter collectively called the “**Property**” and which is further divided into the “**Southern Property**” and the “**Northern Property**” as more particularly depicted on Exhibit A-1). The Buyer may exercise the Option to acquire the Property in phases. At the time Buyer has obtained all Entitlements (as that term is defined in Section 4(b) below) for the entire Property, Buyer will have a one hundred and eighty (180) day period (“**First Phase Option Period**”) from and after the date all Entitlements are issued by the City within which to exercise the Option to acquire a portion of the Property, consisting of a minimum of Thirty-Five (35) acres or more (at Buyer’s sole discretion) of the Property (“**First Phase**”) from

Seller at the Purchase Price (as defined in Section 2(a) below). Buyer will be required to exercise the Option to acquire a Phase of the Property every two (2) years (“**Phase Option Period**”) following the acquisition of the First Phase. Buyer may extend a Phase Option Period for an additional two-year period as set forth hereinbelow. Each subsequent Phase the Buyer exercises the Option shall consist of a minimum of 35 acres (“**Second Phase**”) or more of its own choosing, at its sole discretion. The Buyer will then have the Option to acquire additional phases of the Property consisting of a minimum of 35 acres or more per phase every two (2) years thereafter, subject to the Buyer’s right to extend the Phase Option Period for each Phase. Once the Buyer acquires a phase an additional two-year term will begin within which the Buyer will have the right to exercise the Option to acquire an additional phase of the Property. Buyer will also have an option to extend the two (2) year period for each phase by sending a written notice of the exercise of the extension option and depositing an additional deposit of FIFTY THOUSAND DOLLARS AND 00 CENTS (\$50,000.00) with the Title Company which additional deposit will be applicable to the Purchaser Price for that particular phase.

2. Consideration. The consideration for the conveyance shall be as follows:

(a) Purchase Price. The purchase price and consideration to be paid by Buyer to Seller for the First Phase of the Property shall be based on the appraised Fair Market Value (the “**First Phase Purchase Price**”) of the Property without any Entitlements. The Parties agree that the First Phase Purchase Price will be based on that certain appraisal dated August 5, 2020 (“**Appraisal**”). The First Phase Purchase Price will be calculated based on the per acre fair market value as established by the Appraisal multiplied by the number of acres contained in the Option Notice. The purchase price (the “**Subsequent Phase Purchase Price**”) of each subsequent phase of the Property selected by the Buyer to purchase shall be calculated based on the per acre First Phase Purchase Price for the subsequent phase of the Property as adjusted by the percentage change between the date of the Closing on the First Phase and the date of Closing on the Subsequent Phase based on the average increase of the 20-City Average Cost Index and the San Francisco Cost Index (“**Index**”) as reported in the Engineering News-Record from May (previous year) – May (current year) multiplied by the acreage of the phase of the Property that the Buyer has selected to purchase as contained in the Option Notice.

(b) Earnest Money. Buyer shall deposit FIFTY THOUSAND DOLLARS AND 00 CENTS (\$50,000.00) with the Title Company identified in the Information Sheet above (the “**Title Company**”) within five (5) business days of providing the Seller with the Option Notice as to the applicable Phase as earnest money (“**Earnest Money**”) to be held by the Title Company and disbursed in accordance with the terms and conditions of this Agreement. Notwithstanding the foregoing, as independent consideration for this Agreement, upon receipt of the Earnest Money, the Title Company shall immediately release \$100.00 of the Earnest Money to Seller as nonrefundable consideration for this Agreement. The Earnest Money shall be credited toward the Purchase Price at Closing.

3. Escrow. Buyer shall open an escrow with the Title Company by depositing with Title Company the Earnest Money and a copy of the Option Notice. This Agreement, together with other written instructions as will be provided by Buyer and Seller to the Title Company, shall constitute its escrow instructions to the Title Company.

4. Due Diligence Review. Buyer shall have until 5:00PM Pacific Standard Time on the date identified in the Information Sheet as the final day of the Due Diligence Period to conduct its inspection review of the Property and to obtain the Entitlements for the entire Property. Buyer may extend the Due Diligence Period for two (2) additional periods of Sixty (60) calendar days each by providing Seller with written notice of its intent to extend the Due Diligence Period prior to the expiration of the period then in effect and depositing into escrow FIFTY THOUSAND DOLLARS AND 00 CENTS (\$50,000.00), which shall be non-refundable but applicable to the Purchase Price for each extension period. During the Due Diligence Period, Buyer shall have the right to conduct, review, and approve any investigations, inspections, tests, reports, analyses, studies, or

other matters deemed necessary, prudent, or desirable by Buyer (in Buyer's sole discretion) including, but not limited to, the following activities:

(a) Studies/Inspections. Buyer may perform, authorize, review and/or approve any new or updated studies and/or reports on the Property required by Buyer in its sole discretion. Said new or updated studies and reports shall be obtained by Buyer at its sole expense, unless otherwise stated herein. Notwithstanding the foregoing, Seller will furnish to Buyer, at Seller's sole expense, and within ten (10) calendar days following the Effective Date, any information, surveys, studies and/or reports previously conducted on the Property and in Seller's possession or control. Furthermore, Buyer (and its agents, employees, consultants and representatives), at its/their sole cost and expense, shall have the right to enter upon the Property at its/their sole risk to conduct any investigations that Buyer deems necessary to determine the suitability of the Property for Buyer's intended use. However, no destructive testing or Phase II testing shall be done without the prior written approval of the Seller, which approval shall not be unreasonably withheld. After making such tests and inspections, Buyer shall promptly restore the Property to the condition that existed prior to making such tests and inspections (which obligation shall survive the Closing or any termination of this Agreement). Prior to Buyer entering the Property to conduct the inspections and tests described above, Buyer shall obtain and maintain, or shall cause each of its contractors and agents to maintain (and shall deliver to Seller evidence thereof), at no cost or expense to Seller, general liability insurance, from an insurer reasonably acceptable to Seller, in the amount of Two Million Dollars (\$2,000,000.00) combined single limit for personal injury and property damage per occurrence. Such policies shall name Seller as an additional insured party and shall provide coverage against any claim for personal liability or property damage caused by Buyer or its agents, representatives or consultants in connection with such inspections and tests.

(b). Entitlements. During the Due Diligence Period the Buyer, at its own costs and expense and with Seller's express permission, will apply for and use its best efforts to obtain all entitlements to develop the entire Property for commercial and industrial development, including but not limited to rezoning the Property, General Plan amendment for commercial/industrial use, CEQA analysis, Environmental analysis and reports, subdivision or parcel map of the Property, and other studies necessary to obtain the approval of the City for a phased development of the Property (the "**Entitlements**"). Seller (in its capacity as the owner of the Property), at no third party, out-of-pocket cost to Seller, shall cooperate with Buyer's efforts to obtain the Entitlements. Seller's cooperation required under this Section shall include, without limitation, executing applications for the Entitlements in the Seller's capacity as owner of the Property upon Buyer's request therefor, provided that Buyer's request is made with reasonable advance notice and includes reasonable supporting information and documentation. Seller's agreement to cooperate with Buyer in connection with Buyer's pursuit of the Entitlements and any other provision of this Agreement shall not be construed as making either party an agent, joint venture or partner of the other party. The Buyer will develop and submit a Master Infrastructure Plan, which will include a plan for the development of the Property in phases, bringing all necessary roads, utilities, stormwater drainage and other matters necessary to develop the Property for commercial and industrial uses. Seller makes no representations or warranties that any Entitlements will be obtained by Buyer. Seller retains sole and final discretion in processing the applications for the Entitlements, in conducting environmental review under CEQA, in approving the Entitlements, and in all related matters in connection therewith.

(c). Title and Survey. Within ten (10) business days after the Effective Date, Seller, at its sole expense, shall furnish Buyer with a Preliminary Report for a Standard owners' policy of title insurance ("**Title Commitment**") issued by the Title Company. Buyer may, at Buyer's sole cost, have an updated or new survey conducted on the Property (the "**Survey**"). Buyer shall have until thirty (30) days prior to the end of the Due Diligence Period to review and approve in writing the Title Commitment and Survey (as applicable). Buyer shall give notice to Seller of any matters contained in the Title Commitment or Survey to which Buyer objects ("**Objections**"). Except as provided below, any matters in the Title Commitment or Survey to which Buyer does not so object, except as stated in the paragraph below, shall be "**Permitted Exceptions.**" Seller

shall have five (5) business days after receipt of Buyer's notice of Objections ("**Seller's Curing Period**") to elect to cure the Objections to the reasonable satisfaction of Buyer or elect not to cure the same; provided, however, all deeds of trust, mortgages, judgment liens, mechanics' liens, materialmen's liens and other similar financial encumbrances recorded against or affecting the Property, except those caused by Buyer, shall not be considered Permitted Exceptions and will be discharged or otherwise removed by Seller at or before the Closing, the failure of which will constitute a Seller default and Buyer will be entitled to the remedies detailed in Section 13. If Seller fails or refuses to cure Buyer's Objections, Buyer shall have five (5) days after receipt of Seller's notice of election not to cure the Objections to either (a) waive any such Objections and proceed to Closing, or (b) terminate this Agreement and receive a refund of the Earnest Money.

(d) Termination of Due Diligence or Agreement. Buyer may waive the Due Diligence Period at any time by giving notice to Seller of its intent to proceed to Closing. Buyer shall give Seller notice of its decision to proceed to Closing (subject to conditions herein stipulated) or to terminate this Agreement on or before the expiration of the Due Diligence Period (the "**Waiver Notice**"). In the event Buyer fails to provide to Seller the Waiver Notice prior to the expiration of the Due Diligence Period, this Agreement shall be deemed terminated and Buyer and Seller shall have no further obligation to each other except as stated herein and all Earnest Money shall be returned to Buyer. Should the Waiver Notice provide that Buyer has elected to proceed to Closing, then the Earnest Money shall become non-refundable subject to: (i) any default by Seller, (ii) any Objections that have not been cured or waived, and/or (iii) any other Closing contingencies set forth herein.

(e) Buyer shall keep the Property free from all liens, and shall indemnify, defend, and hold harmless Seller from and against all claims, actions, losses, liabilities, damages, costs and expenses (including, but not limited to, attorneys' fees and costs) incurred, suffered by, or claimed against the Seller by reason of any damage to the Property or injury to persons caused by Buyer and/or its agents, representatives or consultants in exercising its rights under this Section 4. If any mechanic's liens or stop payment notices encumber the Property as a result of Buyer's activities or investigation, Buyer shall cause the mechanic's liens or stop payment notices to be removed ten (10) days after receiving written notice from Seller or cause a Release Bond to be posted in accordance with the provisions of California Civil Code sections 8424 or 9364. The foregoing provisions shall survive the Closing or any termination of this Agreement.

5. Conditions to Closing. Closing of each phase of the Property shall be contingent upon: (a) Buyer's receipt of a Pro Forma Policy of Title Insurance in a form reasonably satisfactory to Buyer; (b) Seller's satisfaction of all other obligations of Seller described in this Agreement; (c) Buyer's receipt of all Entitlements, permits, consents, map, and approvals required to create a legal parcel to be conveyed in fee simple to Buyer by Seller for the First Phase or as applicable each subsequent phase of the Property, including without limitation, any and all zoning approvals, building permits, conditional use permits, site plan approvals, rights of access at Buyer's desired locations, and/or environmental permits; (d) all representations and warranties of Seller set forth in Section 11 below continue to be true and accurate as of the Closing Date; and (e) all representations and warranties of Buyer set forth in Section 12 below continue to be true and accurate as of the Closing Date. Should the contingencies set forth in subsections (b) or (c) fail for any reason prior to the Closing, then Buyer may either waive the contingency and proceed to the Closing or Buyer may terminate this Agreement and receive a return of the Earnest Money. Should the contingencies set forth in subsection (d) fail for any reason prior to the Closing, then such shall be deemed a default by Seller of this Agreement and Buyer may pursue all remedies available to Buyer under Section 13 of this Agreement. The foregoing contingencies and conditions are for the benefit of Buyer and Buyer may waive any or all of same and proceed to the Closing.

6. Condemnation. If prior to the Closing Seller receives notice that a condemnation or eminent domain action is threatened or has been filed against the Property or any part thereof (or that a taking is pending or contemplated), Seller shall promptly give notice thereof to Buyer. In such event, Buyer, at Buyer's sole option, may elect, by written notice, to: (i) terminate this Agreement, in which event neither party shall have

any further obligation hereunder and the Earnest Money shall be returned to the Buyer; or (ii) to proceed to the Closing, in which event Seller will assign to Buyer all of Seller's rights, title, and interests (including to funds received and to be received) in the condemnation proceeding.

7. Closing. "**Closing**" of the First Phase shall occur at the office of the Title Company on or before the date which is Sixty (60) calendar days after the Option Notice is provided to Seller (the "**Closing Date**"). If the Closing Date occurs on a weekend, or a holiday observed in the jurisdiction where the Property is located, then the Closing Date shall be the next business day. As used herein the term "**Close of Escrow**" shall mean, the date the Grant Deed is recorded in the County in which the Property is located, and the Title Company is ready to issue its title policy to the Buyer.

(a) Subsequent Phase Closing. The Buyer will provide Seller with an Option Notice that it is exercising its option to Close escrow on the Second Phase and any subsequent phase of the Property at least Sixty (60) calendar days prior to the Closing Date selected by the Buyer. The Buyer's Option Notice will include the legal description of the Phase being purchased and the proposed Closing Date. The Parties will then determine the Purchase Price for the applicable Phase under the Option Notice in accordance with the terms set forth in Section 2(a) above. Each subsequent Closing will be on the same or similar terms and conditions as the Closing of the First Phase.

8. Closing Documents. The following shall be delivered at Closing:

(a) Deed. Seller shall deliver a Grant Deed (the "**Deed**"), executed and acknowledged by Seller, conveying to Buyer good, marketable, and insurable fee simple absolute title to the First Phase of the Property free and clear of all restrictions, easements, liens, assessments, tenancies (whether recorded or unrecorded) and other encumbrances, except the Permitted Exceptions and any additional easements created by Buyer in obtaining the Entitlements.

(b) Title Policy. Seller shall furnish, at Seller's expense, a standard coverage owner's title insurance policy issued by Title Company. The policy shall be in the amount of the Purchase Price and shall guarantee that Buyer's title to the First Phase of the Property is good and marketable, subject only to the Permitted Exceptions. Buyer may elect, at its sole cost, to obtain extended title coverage and any endorsements thereto.

(c) Other Documents. Seller shall provide the Title Company, at Seller's expense, with a non-foreign affidavit, an Owner's affidavit, and any other written assignments, agreements or documents reasonably requested by Buyer pertaining to the Property or required to convey title to the Property to Buyer. Seller and Buyer will both execute and deliver settlement statements to the Title Company within one day prior to the Closing.

(d) Buyer's Documents. Buyer shall deliver on the Closing Date the Purchase Price for the First Phase of the Property, less the Deposit, and Buyer's share of the pro-rata costs and closing costs. In addition, the Buyer shall provide the Title Company with any other documents requested by the Title Company to close the purchase and issue its Title Insurance Policy, including but not limited to a settlement statement and escrow instructions.

9. Closing Costs. Closing costs and prorations shall be prorated as follows:

(a) Taxes and Utilities. All ad valorem taxes, assessments, and utilities shall be prorated to the Closing Date. If the current year's taxes are not known as of the Closing Date, the proration shall be based

upon the previous year's taxes with an adjustment made between Seller and Buyer when the current year's taxes are known.

(b) Fees. Any escrow fees charged by Title Company and the cost of recording the Deed shall be shared equally by Seller and Buyer. Each party will pay its own attorneys' fees. Furthermore, Seller shall pay any and all documentary or transfer fees or taxes required to be paid in conjunction with this Agreement.

(c) Other. All other bills or charges including other recording fees, any state or local documentary stamps, fees, assessments for improvements completed or initiated prior to Closing, whether levied or not, pertaining to the Property as of the date of Closing shall be allocated in a manner customary for real estate transactions in the area where the Property is located.

10. Possession. Possession of the First Phase of the Property and each subsequent phase shall be delivered to Buyer at Closing. Seller agrees that any improvements remaining on the phase of the Property being purchased after the Closing Date shall belong to Buyer.

11. Warranties. Seller makes the following representations, warranties and covenants as of the Effective Date and as of the Closing Date of each phase, and such warranties and covenants shall survive each Closing.

(a) Seller, is a municipal corporation, is duly formed and in good standing under the laws of the state of its formation and is duly authorized to do business in the state where the Property is located.

(b) Seller has good, marketable, and insurable sole, fee simple, record title to the Property and the Property is not subject to any leases, rights of occupancy, or other similar possessory rights, except the agricultural lease as disclosed to Buyer.

(c) There are no actions, suits, proceedings or investigations, at law or in equity, or before any governmental agency, courts, or other adjunctive bodies pending or to Seller's actual knowledge threatened, affecting the Property, and Seller has not received any notice (written or otherwise) of condemnation or eminent domain proceedings with respect to the Property whether commenced or threatened.

(d) Except with respect to Environmental Laws (as defined below), which are covered by Section 11(e) below, and except as otherwise disclosed in writing by Seller to Buyer prior to the end of the Due Diligence Period, Seller has received no written notice from any city, county, state or other government authority of any violation of any statute, ordinance, regulation, or administrative or judicial order or holding, whether or not appearing in public records, with respect to the Property, which violation has not been corrected.

(e) Except as otherwise disclosed in writing by Seller to Buyer prior to the end of the Due Diligence Period, and except as expressly set forth in any environmental reports delivered to or obtained by Buyer under Section 5(b), Seller has received no written notice that (i) the Property is in violation of any federal, state and local laws, ordinances and regulations applicable to the Property with respect to hazardous or toxic substances or industrial hygiene (collectively, "**Environmental Laws**"), which violation has not been corrected, or (ii) past or current tenants of all or any portion of the Property have owned, used, generated, manufactured, stored, handled, released or disposed of any hazardous or toxic substances on the Property in violation of applicable Environmental Laws.

(f) Seller has complied with all of its obligations relating to the delivery of due diligence materials as set forth in Section 4 above.

(g) Seller has not made any assignment for the benefit of creditors, filed any petition in bankruptcy, been adjudicated insolvent or bankrupt, petitioned or applied to any tribunal for any receiver, conservator or trustee of it or any of its property or assets, or commenced any action or proceeding under any reorganization arrangement, readjustment of debt, conservation, dissolution or liquidation law or statute of any jurisdiction; no such action or proceeding has been commenced or threatened against Seller by any creditor, claimant, governmental authority or any other person or entity; and Seller is not contemplating or commencing any of the foregoing actions.

(h) From and after the Effective Date, (i) Seller shall not (1) enter into any contracts, leases, or agreements related to the Property without the Buyer's written consent, or (2) cause, permit, or allow any agreement, document, encumbrance or lien to be placed, or recorded against, the Property; and (ii) Seller shall, in all respects, use its best efforts to preserve the Property in its current state and not cause, permit, or allow any waste or deterioration of the Property to occur.

(i) The Property is in compliance with all applicable federal, state and local laws, codes, rules, and regulations, and Seller is not in default under any agreements of any kind related to the Property.

(j) Seller has no actual knowledge of any endangered species, wetland, protective plant life, geophysical feature or attribute or other physical attribute of the Property that may prohibit or limit the development thereof. The Real Property is not within the 100-year or shorter period of time flood plain.

(k) There is physical and legal vehicular access to the Southern Property from public streets or roads and all easements to effectuate access to the Southern Property have been duly filed and/or recorded.

(l) As of the expiration of the Due Diligence Period and as of the Closing Date, the First Phase of the Property (as each subsequent phase): (i) will be legally subdivided from all other surrounding real property; and (ii) constitutes its own property tax parcel.

(m) Neither Seller nor any direct or indirect constituents of Seller that either directly or indirectly own 25% of Seller or directly or indirectly control Seller have been designated as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website, <http://www.treas.gov/ofac/t11> or at any replacement website or other replacement official publication of such list. Seller is not in violation of compliance with the regulations of the Office of Foreign Asset Control of the Department of Treasury and any statute, executive order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or any other governmental action relating thereto. This representation will be true at all times from the time this is made and until all obligations under the Agreement are satisfied. In connection with this representation, no later than ten (10) days prior to Closing, Seller shall provide to Buyer all information required by Buyer to confirm Seller's compliance with this provision. Seller represents that all OFAC information provided by Seller to Buyer in connection with this Agreement is true and complete.

(n) As used in this Agreement, the phrase "**to Seller's actual knowledge**" or words of similar import means the actual (and not constructive or imputed) knowledge, without independent investigation or inquiry, of the City's Economic Development Director. Notwithstanding anything herein to the contrary, the individual listed in this Section shall have no personal liability to Buyer with respect to any representations or warranties made herein "to the best of Seller's knowledge" and Buyer has no legal recourse against the individuals listed herein. Buyer's only recourse for any breach of a representation or warranty set forth in this Agreement is limited by this Section and to the remedies set forth in Section 13, and only against the Seller.

The express representations and warranties made in this Agreement shall not merge into any instrument or conveyance delivered at the Closing; provided, however, that any action, suit or proceeding with respect to the truth, accuracy or completeness of such representations and warranties shall be commenced, if at all, on or before the date which is one year after the date of the Closing and, if not commenced on or before such date, thereafter shall be void and of no force or effect. If, prior to the Closing, Buyer obtains actual knowledge of information that contradicts any such representation or warranty or renders any such representation or warranty untrue or incorrect, and Buyer nevertheless consummates the transaction contemplated by this Agreement, Seller shall have no liability under such representation and warranty to the extent it rendered inaccurate information.

12. Buyer Warranties. Buyer represents and warrants to Seller that the following matters are true and correct as of the Effective Date and will also be true and correct as of each Closing:

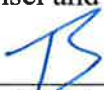
(a) Buyer is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware and is authorized to do business in the State of California.

(b) This Agreement is, and all the documents executed by Buyer which are to be delivered to Seller at the Closing will be, duly authorized, executed, and delivered by Buyer or its assignee. The obligations contained in this Agreement are, and will be, legal, valid, and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the right of contracting parties generally). This Agreement does not, and will not, violate any provisions of any agreement to which Buyer is a party or to which it is subject.

(c) Prior to the Closing, Buyer will have had the opportunity to investigate all physical and economic aspects of the Property and to make all inspections and investigations of the Property which Buyer deems necessary or desirable to protect its interests in acquiring the Property. Except as otherwise expressly set forth in this Agreement, (i) neither Seller, nor anyone acting for or on behalf of Seller, has made any representation, warranty, promise or statement, express or implied, to Buyer, or to anyone acting for or on behalf of Buyer, concerning the Property or the condition, use or development thereof, (ii) in entering into this Agreement, Buyer has not relied on any representation, warranty, promise or statement, express or implied, of Seller, or anyone acting for or on behalf of Seller, (iii) all matters concerning the Property have been or shall be independently verified by Buyer prior to the Closing, and Buyer shall purchase the Property, or elect not to do so, based on Buyer's own prior investigation and examination of the Property (or Buyer's election not to do so); (iv) **AS A MATERIAL INDUCEMENT TO THE EXECUTION AND DELIVERY OF THIS AGREEMENT BY SELLER, BUYER IS PURCHASING THE PROPERTY IN AN "AS IS" AND "WHERE IS" PHYSICAL CONDITION AND IN AN "AS IS" STATE OF REPAIR, WITH ALL FAULTS**, including, without limitation, latent defects and other matters not detected in Buyer's inspections, without recourse to Seller, and (v) except as provided herein, Buyer waives, and Seller disclaims, all warranties of any type or kind whatsoever with respect to the Property, whether express or implied, including, by way of description but not limitation, those of transfer, quality, merchantability or fitness for a particular purpose and use, including, without limitation, Buyer's intended uses or purposes. Upon the closing of the purchase and sale contemplated hereby, Buyer shall be deemed to have accepted the Property, and each and every portion thereof (including, without limitation, the Leases), unconditionally and with any and all (none being implied hereby) rights to rescind, set aside or avoid the transactions contemplated hereby or to seek a reduction, adjustment, offset or recovery of the Purchase Price waived and relinquished.

(d) Consistent with the foregoing and subject solely to the representations set forth in Section 6 and the limitations on such representations set forth in Section 6, effective as of the Closing Date, Buyer, for itself and its agents, affiliates, successors and assigns, hereby releases and forever discharges Seller, its

respective officials, members, beneficial owners, agents, affiliates, employees, successors and assigns (collectively, the "Releasees") from any and all rights, claims and demands at law or in equity, whether known or unknown at the time of this Agreement, which Buyer has or may have in the future, arising out of the physical, environmental, economic or legal condition of the Property, including, without limitation, all claims in tort or contract and any claim for indemnification or contribution arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9601, et. seq.) or any similar federal, state or local statute, rule or ordinance relating to liability of property owners for environmental matters. Without limiting the foregoing, Buyer, upon Closing, shall be deemed to have waived, relinquished and released Seller from and against any and all matters arising out of latent or patent defects or physical conditions, violations of applicable laws and any and all other acts, omissions, events, circumstances or matter affecting the Property. For the foregoing purposes, and in consideration of the Due Diligence Period, Buyer hereby specifically acknowledges that this release will extend to claims unknown at the time of executing this release, which if known by Buyer would have materially affected its decision to enter into this Agreement. Buyer specifically acknowledges the provisions of **Civil Code section 1542** and waives its provisions. Buyer hereby specifically acknowledges that Buyer has carefully reviewed this subsection and discussed its import with legal counsel and that the provisions of this subsection are a material part of this Agreement.



Buyer's initials

(e) OFAC.

- (i) Buyer is not a Prohibited Person (as defined below);
- (ii) To its actual knowledge, none of Buyer's investors, affiliates, brokers, or other agents (if any), acting or benefiting in any capacity in connection with this Agreement is a Prohibited Person;
- (iii) The funds or other assets it will transfer to Seller under the terms hereof are neither the property of, nor beneficially owned, directly or indirectly, by, a Prohibited Person;
- (iv) The funds or other assets it will transfer to Seller under the terms hereof are not the proceeds of specified unlawful activity as defined by 18 U.S.C. § 1956(c)(7).

As used in the foregoing representations and warranties, the term, "**Prohibited Person**" means any of the following: (i) a person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, Executive Order No. 13224 on Terrorist Financing (effective September 24, 2001) (the "**Executive Order**"); (ii) a person or entity owned or controlled by, or acting for or on behalf of any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order; (iii) a person or entity that is named as a "specially designated national" or "blocked person" on the most current list published by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**") at <http://www.treas.gov/offices/enforcement/ofac>; (iv) a person or entity that is otherwise the target of any economic sanctions program currently administered by OFAC; or (v) a person or entity that is affiliated with any person or entity identified in clause (i), (ii), (iii) and/or (iv) above.

13. Notices. Except as otherwise required by law, any notice, demand or request given in connection with this Agreement shall be in writing and shall be given by (i) personal delivery, (ii) recognized, national overnight courier service, (iii) United States certified mail, return receipt requested, postage or other delivery charge prepaid, or (iv) electronic mail. In all events, notice shall only be deemed given if properly addressed to Seller or Buyer as applicable, at the following addresses (or at such other address as Seller or Buyer or the person receiving copies may designate in writing given in accordance with this Section):

Buyer: PDC Sacramento LPIV, LLC
8775 Folsom Blvd., Suite 200
Sacramento, California 95826
Attn.: Tim Schaedler
Tel.: (916) 381-1561
Email: Tschaedler@Panattoni.com

With a Copy To: Albert & Coss, LLP
550 Howe Ave., Suite 100
Sacramento, Ca. 95825
Attn.: Anthony Coss
Tel.: (916) 640-0110
Email: Acoss@Albertcoss.com

With a Copy To: Albert & Coss, LLP
550 Howe Ave., Suite 100
Sacramento, California 95825
Attn.: Fred Albert
Tel.: (916) 769-2452

Seller: City of Roseville
311 Vernon Street
Roseville, California 95678
Attn.: City Manager
Tel.: (916)774-5325
Email: citymanager@roseville.ca.us

With a Copy To: City of Roseville
311 Vernon Street
Roseville, California 95678
Attn.: City Attorney
Tel.: (916) 774 -5325
Email: cityattorney@roseville.ca.us

Title Company: Placer Title Company
1508 Eureka Road, Suite 150
Roseville, California 95661
Attn.: Tracy Murphy
Tel.: (916) 782-3711
Email: tmurphy@placertitle.com

Notice shall be deemed to have been given on the date on which notice is delivered, if notice is given by personal delivery or electronic mail, on the date of delivery to the overnight courier service, if such a service is used, and on the date of deposit in the mail, if mailed. Notice shall be deemed to have been received on the date on which the notice is actually received, or delivery is refused. Copies of all notices given to Seller or Buyer shall be given to the Title Company (provided, however, any omission on the part of either party to provide a copy of the applicable notice to Title Company shall not affect the effectiveness of the notice if properly provided to the other parties as described above).

14. Termination/Default. If this Agreement is terminated or Closing does not occur because of the failure of any condition or the occurrence of an event giving rise to a termination right of Buyer as set forth herein, the Earnest Money will be returned to Buyer.

IF BUYER DEFAULTS IN ITS OBLIGATION TO CLOSE THE PURCHASE OF THE PROPERTY, THE DEPOSIT, PLUS ANY INTEREST ACCRUED THEREON, SHALL BE PAID TO AND RETAINED BY SELLER AS LIQUIDATED DAMAGES. THE AMOUNT PAID TO AND RETAINED BY SELLER AS LIQUIDATED DAMAGES SHALL BE SELLER'S SOLE REMEDY IF BUYER FAILS TO CLOSE THE PURCHASE OF THE PROPERTY. THE PARTIES HERETO EXPRESSLY AGREE AND ACKNOWLEDGE THAT SELLER'S ACTUAL DAMAGES IN THE EVENT OF A DEFAULT BY BUYER WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO ASCERTAIN AND THAT THE AMOUNT OF THE DEPOSIT REPRESENTS THE PARTIES' REASONABLE ESTIMATE OF SUCH DAMAGES. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY

WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369 BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. SELLER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389. SELLER SHALL HAVE NO OTHER REMEDY WHETHER AT LAW OR EQUITY FOR ANY DEFAULT BY BUYER. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL SELLER'S ABILITY TO RECOVER FROM BUYER ANY LOSS, COST, DAMAGE OR EXPENSE PURSUANT TO ANY INDEMNIFICATION OR OTHER PROVISIONS OF THIS AGREEMENT THAT SURVIVE CLOSING HEREUNDER BE DEEMED LIMITED IN ANY RESPECT BY SELLER'S RECEIPT OF THE DEPOSIT, INCLUDING, BUT NOT LIMITED TO SECTION 4(d), SECTION 4(e), SECTION 14, SECTION 15, AND SECTION 31.

SELLER'S INITIALS: _____

BUYER'S INITIALS: *BS*

If Seller defaults in its obligations under this Agreement on or before the Closing, or if any of Seller's representations or covenants set forth in this Agreement are not true and correct in all material aspects as of the Closing, then except as set forth in the next sentence, Buyer's sole remedies shall be (i) to terminate this Agreement, whereupon the Title Company shall return the Deposit to Buyer and both Seller and Buyer shall be relieved of any further liability under this Agreement; and (ii) to recover from Seller the reasonable and verifiable third-party out-of-pocket costs and expenses, up to the maximum amount of FIFTY THOUSAND DOLLARS AND 00 CENTS (\$50,000.00) incurred by Buyer in connection with the review of the Property, including, without limitation, title and survey expenses, third-party report expenses, and reasonable attorney's fees, all other damages costs or expenses pursuant to any indemnification or other provision that survives the termination of this Agreement being waived by this Section. Notwithstanding the foregoing, if Buyer shall have the right to terminate this Agreement by reason of Seller's default in tendering settlement to Buyer, Buyer may elect to terminate the Agreement as set forth in this Section or pursue a remedy of Specific Performance of Seller's obligation to convey the Property to Buyer within One Hundred Eighty (180) days of the Closing. If Buyer fails to file such action for Specific Performance within such One Hundred Eighty (180) day period, the remedy will be considered waived and no longer enforceable.

15. Brokers. Except as disclosed in the Information Sheet of this Agreement, Buyer and Seller have not hired or involved any brokers or agents in the Transaction. Seller indemnifies and agrees to hold the Buyer harmless from any claim, demand or suit for any brokerage or real estate commission, finder's fee, or similar charge with respect to the Property or the Transaction based on any act by, or agreement with, the indemnifying party. Buyer indemnifies and agrees to hold the Seller harmless from any claim, demand or suit for any brokerage or real estate commission, finder's fee, or similar charge with respect to the Property or the Transaction based on any act by, or agreement with, the indemnifying party. Neither party shall cause or permit any broker to place a lien against the Property.

16. Entire Agreement/Amendment. This Agreement sets forth the entire understanding of the parties with respect to the matters set forth herein as of the date hereof, and supersedes all prior oral and written agreements, discussions and understandings of the parties hereto as to the matters set forth herein, and cannot be waived, altered, supplemented, eliminated or amended except pursuant to an instrument in writing signed by both Buyer and Seller.

17. Successors and Assigns. Buyer shall have the right to assign its rights and obligations under this Agreement, with the written consent of Seller, to an affiliate of Buyer which is owned or controlled by Buyer, Panattoni Development company, Inc., the Panattoni Living Trust, dated April 8, 1996, Carl D. Panattoni, or Adon A. Panattoni, provided notice of such assignment is given to Seller and provided the assignee assumes all of the Buyer rights and obligations under the terms of this Agreement. If Buyer assigns this Agreement such

assignment will not relieve Buyer of its obligations or duties under the terms of this Agreement. Buyer shall not have the right to assign this Agreement to any third party without the written consent of the Seller. Seller shall have the right to assign its rights and obligations under this Agreement to any entity to which it transfers the Property prior to Closing, provided such entity assumes Seller's obligations under this Agreement and thereafter notice of such assignment is given to Buyer. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

18. Binding Effects. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors and assigns.

19. Authority of Signers. If Buyer or Seller is a corporation, partnership, limited liability company or other entity, the person executing this Agreement on its behalf, warrants his or her authority to do so and bind Buyer or Seller.

20. Attorneys' Fees. If there is any litigation between Seller and Buyer to enforce or interpret any provisions or rights under this Agreement, the unsuccessful party in such litigation, as determined by the court, shall pay to the successful party, as determined by the court, all costs and expenses, including but not limited to reasonable attorneys' fees, incurred by the successful party, such fees to be determined by the court sitting without a jury.

21. Risk of Loss. All risk of loss or damage to the Property shall be borne by Seller until closing.

22. Tax Deferred Exchange. At the request of either party, Buyer and Seller agree to reasonably cooperate with the other and Escrow Agent in structuring and documenting the sale of all or part of the Property to effect a tax deferred exchange in accordance with the provisions of Section 1031 of the Internal Revenue Code and its corresponding regulations. Such cooperation shall be at no cost or additional liability to the other party. In no event shall either party be required to assume any obligations or liability, take title to any property other than the Property or pay any cash price in excess of the Purchase Price of the Property and shall not be personally liable in such transaction.

23. Intentionally Deleted.

24. Counterparts. The parties may sign this Agreement in multiple identical counterparts, all of which taken together shall constitute one and the same agreement. Further, the parties shall treat a copy of an original signature to this Agreement for all purposes as an original signature. The parties shall consider a copy of the signed Agreement for all purposes as an original of the Agreement to the maximum extent permitted by law, and no party to this Agreement shall have any obligation to retain a version of this Agreement that contains original signatures in order to enforce this Agreement, or for any other purpose.

25. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Any action arising out of this Agreement shall be brought in Placer County, California, regardless of where else venue may lie.

26. Intentionally Deleted.

27. Liability of Seller. Buyer acknowledges and agrees that the liability of Seller under this Agreement shall be limited in the manner set forth in this Agreement and in no event shall the officials, members, partners, shareholders, officers, directors, employees, or owners of Seller have any personal liability, for any breach of this Agreement by Seller, and any judgments against Seller shall be satisfied solely out of the assets of Seller.

28. Negotiations. Each party acknowledges it has participated in the negotiation and preparation of this Agreement and has reviewed this Agreement and had the opportunity to consult with its counsel and accountants with respect to its terms. Therefore, each party agrees that the rule of construction to the effect that any ambiguities in a document shall be interpreted against the drafting party, will not be utilized in the interpretation, construction, or enforcement of this Agreement, and no consideration shall be given to the issue of which party hereto actually prepared, drafted or requested any term or condition of this Agreement.

29. Business Days. If the Agreement requires an act to be done or an action to be taken on a weekend or a holiday observed in either California or the jurisdiction where the Property is located, then such act or action shall be deemed to have been validly done or taken if done or taken on the next succeeding business day after such date.

30. Intentionally Deleted.

31. Indemnification. Seller hereby agrees to indemnify Buyer against and hold Buyer harmless from any and all claims, actions, costs, liability, loss, damage or expense, including, without limitation, reasonable attorneys' fees, resulting from operational events originating or relating to the period before the date of the close of escrow. Buyer hereby agrees to indemnify Seller against and hold Seller harmless from any and all claims, actions, costs, liability, loss, damage or expense, including, without limitation, reasonable attorneys' fees, resulting from operational events originating or relating to the period on or after the date of the close of escrow.

32. Recordation of Option. A Memorandum of Option Agreement shall be recorded in the Official Records of Placer County.

33. Inducement. The making, execution and delivery of this Agreement by the parties hereto have been induced by no representations, statements, warranties or agreements other than those expressly set forth herein.

34. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but, if any provision of this Agreement shall be invalid or prohibited thereunder, such invalidity or prohibition shall be construed as if such invalid or prohibited provision had not been inserted herein and shall not affect the remainder of such provision or the remaining provisions of this Agreement.

The rest of this page is left intentionally blank. Signatures are on the next page.

IN WITNESS WHEREOF, the City of Roseville, a municipal corporation, has authorized the execution of the Agreement in duplicate by its City Manager and attested to by the City Clerk under the authority of Resolution No. _____, adopted by the City Council of the City of Roseville on the ____ day of _____, 20____, and PDC Sacramento LPIV, LLC has caused this Agreement to be executed.

SELLER:

CITY OF ROSEVILLE, a
municipal corporation

BY: _____
DOMINICK CASEY
City Manager

BUYER:

PDC SACRAMENTO LPIV, LLC,
a Delaware limited liability company

BY: PDC Sacramento, LLC, a
a Delaware limited liability
company
Its Manager

BY: _____
TIMOTHY SCHAEGLER
Local Partner

ATTEST:

BY: _____
SONIA OROZCO
City Clerk

APPROVED AS TO FORM:

BY: _____
ROBERT R. SCHMITT
City Attorney

APPROVED AS TO SUBSTANCE:

BY: 
LAURA MATTEOLI
Economic Development Director

EXHIBIT A

Legal Description of the Property

The land described herein is situated in the State of California, County of Placer, unincorporated area, described as follows:

The West half of the West half of the West half of Section 14, Township 11 North, Range 5 East, M.D.B.&M., and the East half of the East half of Section 15, Township 11 North, Range 5 East, M.D.B.&M.

APN: 017-101-008

EXHIBIT A-1

MAP OF THE SOUTHERN AND NORTHERN PROPERTIES

