



7505 South Holden Street
Midvale, UT 84047
(801) 567-7200
www.midvalecity.org

**REDEVELOPMENT AGENCY OF MIDVALE CITY
MEETING AGENDA
July 19, 2022**

PUBLIC NOTICE IS HEREBY GIVEN that the **Redevelopment Agency of Midvale City** will hold an electronic and in-person meeting on the **19th day of July 2022** as follows:

Electronic & In-Person City Council Meeting

This meeting will be held electronically and in-person. Midvale City recommends meeting attendees follow CDC guidelines regarding masking and social distancing. **Public comments may be submitted electronically for Board consideration at www.Midvalecity.org/government/contact-us by 5:00pm on July 18th. Please indicate if you would like your comment addressed in the Redevelopment Agency meeting.**

The meeting will be broadcast on the following: You Tube: www.MidvaleCity.org/YouTube

6:00 PM OR IMMEDIATELY FOLLOWING THE CITY COUNCIL MEETING

I. GENERAL BUSINESS

A. WELCOME AND ROLL CALL

II. PUBLIC COMMENTS

Any person wishing to comment on any item not otherwise scheduled for public hearing on the agenda may address the Redevelopment Agency of Midvale City Board at this point by stepping to the microphone and giving his or her name for the record. **Comments should be limited to not more than three (3) minutes unless additional time is authorized by the Governing Body.** Citizen groups will be asked to appoint a spokesperson. This is the time and place for any person who wishes to comment on non-hearing, non-Agenda items. Items brought forward to the attention of the Redevelopment Agency of Midvale City will be turned over to staff to provide a response outside of the Redevelopment Agency meeting.

III. CONSENT AGENDA

A. Consider Minutes of June 21, 2022 *[Rori Andreason, HR Director/City Recorder]*

IV. ACTION ITEM

A. Consider and Approval of **Resolution No. 2022-10RDA** entering into a Purchase Agreement with The Court Partners, LLC for the sale of the Basketball Court Parcels to the Developer to be Developed According to the Agreement *[Cody Hill, RDA Manager]*

V. ADJOURN

In accordance with the Americans with Disabilities Act, Midvale City will make reasonable accommodations for participation in the meeting. Request assistance by contacting the City Recorder at 801-567-7207, providing at least three working day notice of the meeting. TTY 711

Redevelopment Agency of Midvale City Meeting Agenda
July 19, 2022

A copy of the foregoing agenda was provided to the news media by email and/or fax. The agenda was also posted at the following locations on the date and time as posted above: City Hall Lobby, on the City's website at www.midvalecity.org and the State Public Notice Website at <http://pmn.utah.gov>. Board Members may participate in the meeting via electronic communications. Board Members' participation via electronic communication will be broadcast and amplified so other Board Members and all other persons present in the Council Chambers will be able to hear or see the communication.

DATE POSTED: JULY 18, 2022
TIME: 12:30 p.m.

RORI L. ANDREASON, MMC
H.R. DIRECTOR/CITY RECORDER



REDEVELOPMENT AGENCY MEETING

Minutes

Tuesday June 21, 2022

Council Chambers
7505 South Holden Street
Midvale, Utah 84047

CHAIR: Marcus Stevenson

BOARD MEMBERS: Board Member Bryant Brown
Board Member Heidi Robinson
Board Member Paul Glover
Board Member Dustin Gettel
Board Member Quinn Sperry

STAFF: Matt Dahl, City Manager; Shelly Reed, Deputy City Recorder; Lisa Garner, City Attorney; Glen Kennedy, Public Works Director; Chief Randy Thomas, UPD; Chief Brad Larsen, UFA; Jake Shepherd, Network Administrator.

Chair Stevenson called the meeting to order at 6:42 p.m.

I. GENERAL BUSINESS

A. Roll Call - Board Members Dustin Gettel, Quinn Sperry, Bryant Brown, Heidi Robinson, and Paul Glover were present at roll call.

II. PUBLIC COMMENTS

There was no one who desired to speak.

MOTION: Board Member Dustin Gettel **MOVED** to open the public hearing. Board Member Bryant Brown **SECONDED** the motion. Chair Stevenson called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

III. PUBLIC HEARINGS

A. PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE FY2022 BUDGET FOR THE JORDAN BLUFFS PROJECT AREA FUNDS

Cody Hill said Agency staff proposes amendments to the FY 2022 Budget for the Jordan Bluffs RDA Fund. The amendment covers an unanticipated expense, improvements to the Jordan River Trail that need to come from this fiscal year's budget.

PLAN COMPLIANCE:

The proposed budget amendment for the FY2022 budget follow all RDA plans.

FISCAL IMPACT:

The proposed budget amendment results in the following fiscal impact:

Jordan Bluffs RDA Fund Expenses (\$249,066 total increase)

- \$77,079 increase in Infrastructure Improvements
- \$77,079 decrease in Contribution to Fund Balance

RDA Operations

RDA Operations Fund Revenues

-179.37 Increase from other RDA Accounts

RDA Operations Fund Expenses

-179.37 increase in Contribution to Fund Balance

Bingham Junction Project Area

Bingham Junction RDA Fund Revenues

-207.11 Increase from Transfers from other RDA Accounts

-207.11 Decrease in use of Fraud Balance

Jordan Bluffs Project Area

Jordan Bluffs RDA Fund Revenues

-No Change

Jordan Bluffs RDA Fund Expenses (77,079 total increase)

-77,079 Infrastructure Improvements (Jordan River Trail)

-50,477 Taxing Entity Payments

-127,556 Decrease in contribution to Fund Balance

Main Street Project Area

Main Street Project Area Fund Revenues

-3,000 increase in Rent and Concessions

Main Street Project Area Fund Expenses

-3,000 increase in Contribution to Fund Balance

City-Wide Housing

City-Wide Housing Fund Revenues

-1,192.40 increase in Transfer from Other RDA Account

City-Wide Housing Fund Expenses

-1,192.40 Increase in Contribution to Fund Balance

Chair Stevenson opened public comment for public hearing. There were no public comments.

MOTION: Board Member Dustin Gettel MOVED to close the public hearing. Board Member Bryant Brown SECONDED the motion. Chair

Stevenson called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

ACTION: CONSIDER ADOPTION OF RESOLUTION NO. 2022-09RDA APPROVING THE PROPOSED AMENDMENTS TO THE FY2022 REDEVELOPMENT AGENCY OF MIDVALE CITY JORDAN BLUFFS PROJECT AREA FUNDS

MOTION: Board Member Dustin Gettel MOVED to Approve Resolution No. 2022-09RDA Adopting the Proposed Amendments to the Midvale City Redevelopment Agency Board Fiscal Year 2022 Budget for the Bingham Junction, Jordan Bluffs, Main Street and City-Wide Housing RDA Funds including the additional \$50,477 increase in Jordan Bluff RDA's Payment to Taxing Entities and the "Contributions to" or "Use of" Fund balance as noted in this presentation. Board Member Bryant Brown SECONDED the motion. Chair Stevenson called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

**Board Member Bryant Brown Aye
Board Member Dustin Gettel Aye
Board Member Paul Glover Aye
Board Member Quinn Sperry Aye
Board Member Heidi Robinson Aye**

The motion passed unanimously.

IV. CONSENT AGENDA

A. CONSIDER MINUTES OF JUNE 7, 2022

MOTION: Board Member Bryant Brown MOVED to approve the consent agenda. The motion was SECONDED by Board Member Heidi Robinson. Chair Stevenson called for discussion on the motion. There being none he called for a roll call vote. The voting was as follows:

**Board Member Bryant Brown Aye
Board Member Dustin Gettel Aye
Board Member Paul Glover Aye
Board Member Quinn Sperry Aye
Board Member Heidi Robinson Aye**

The motion passed unanimously.

V. ADJOURN

MOTION: Board Member Dustin Gettel MOVED to adjourn the meeting. Board Member Quinn Sperry SECONDED the motion. Chair Stevenson called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

The meeting adjourned at 7:03 p.m.

Rori L. Andreason, MMC
City Recorder

Approved this 19th day of July, 2022.

PENDING



REDEVELOPMENT AGENCY OF MIDVALE CITY SUMMARY REPORT

Meeting Date: 7/19/2022

ITEM TYPE: Action

SUBJECT: Purchase Agreement for Development of Land (Main Street Basketball Court)

SUBMITTED BY: Cody Hill, RDA Manager

SUMMARY: On September 21, 2021, the Agency adopted Resolution No. 2021-10RDA, which approved the release of a request for proposals for the sale and development of the Agency owned basketball court. The Agency received three proposals and awarded first place to The Court Partners, LLC (the "Developer"). Their proposal consists of a three-story mixed-use development with 2,200 square feet of commercial on the bottom floor and 16 residential units total making up the second and third floors. Renderings are available in Exhibit B. The selection committee favored the developer's proposal as it blended the single-family residential structure on its east to the Main Street mixed-use appearance required for the Main Street facing façade as well as the strong financial capacity of the developer to design, finance and build the development on schedule. RDA staff worked with the development partners to review all financial capabilities of the partnership in detail. Staff is satisfied with the financial capacity of the development team. As specified in the RFP, the RDA staff had gone through a negotiated agreement period with the developer to finalize terms of the Purchase Agreement for Development of Land and the development timeline. This agreement is attached in full to this summary report. Developer will negotiate with Agency staff on the purchase price, which is set at \$280,000, less any negotiated support for environmental remediation (which does not appear to be necessary) and support for affordable housing.

Key Dates for the Development:

- July 21, 2022 - Developer submits final construction documents for planning review
- Sep 9, 2022 - Developer submits construction budget and documents of Construction Financing
- Sept 22, 2022 - Building permits received
- Oct 13, 2022 - RDA and Developer close on the lot
- Oct 20, 2022 - Site prep and groundbreaking
- June 20, 2024 - Substantial Completion Date

Passing the resolution will enter the Agency into a purchase agreement with Developer. The sale of the property will only occur once all of the conditions of the purchase agreement are satisfied, including the development of the basketball court according to Developer's proposed plans.

PLAN COMPLIANCE: The selection committee found that the proposal submitted by the Developer best complied with the form-based code and the Main Street Community Development Area Plan.

FISCAL IMPACT: The base purchase price for the parcels is \$280,000 less any negotiated amount for affordable housing, a bulb out, or required environmental clean up costs.

STAFF’S RECOMMENDATION AND MOTION:

RDA staff recommend adopting Resolution No. 2022-10RDA which enters the Agency into a purchase agreement with The Court Partners, LLC.

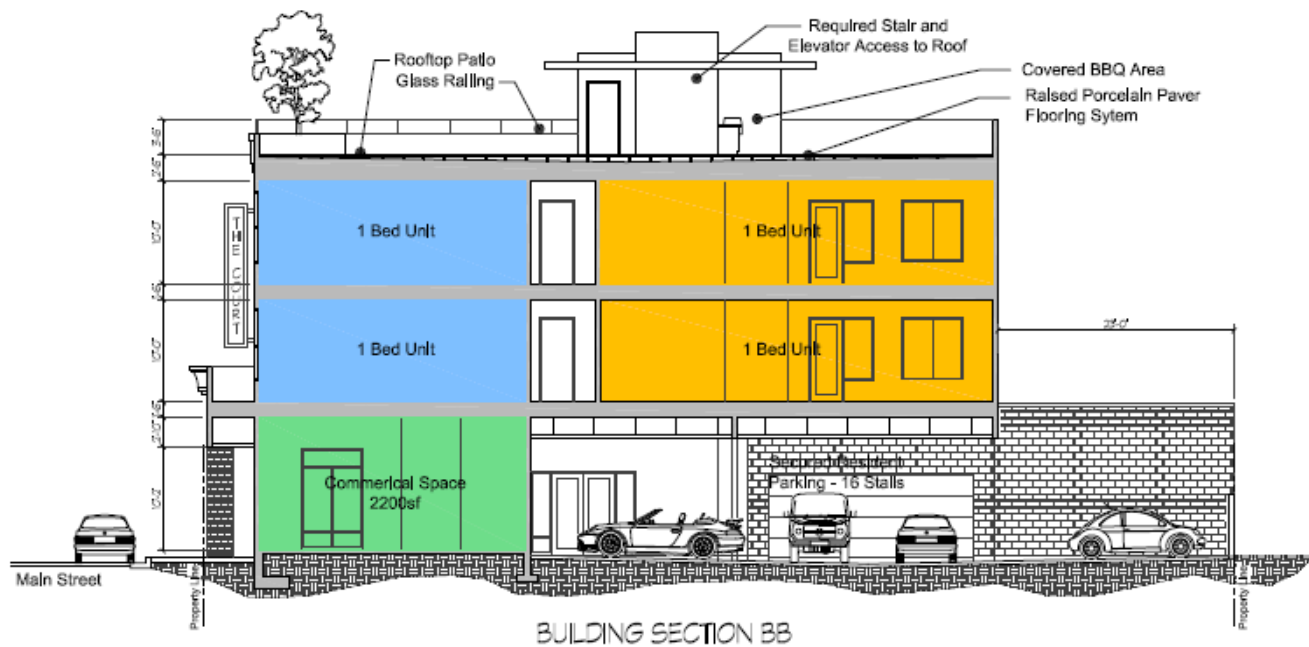
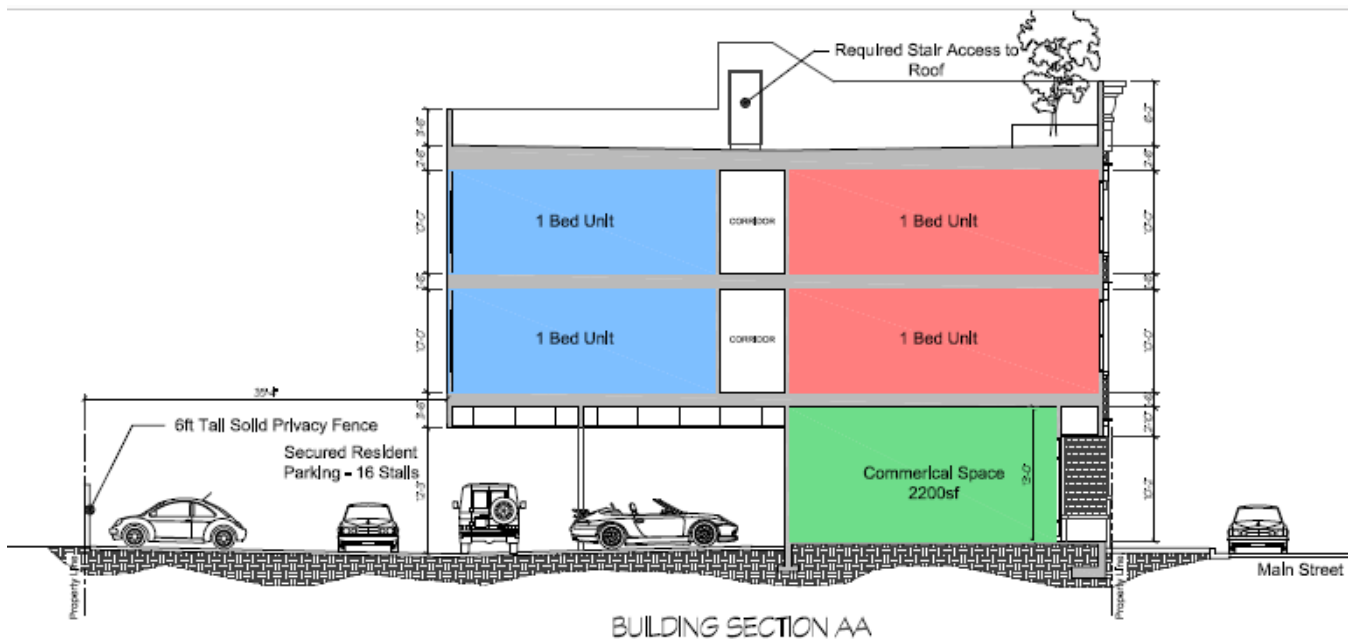
“I move to adopt Resolution No. 2022-10RDA which enters the Agency into a purchase agreement with The Court Partners, LLC for the sale of the basketball court parcels to the Developer to be developed according to the Agreement.”

Attachments: Development Renderings and Resolution No. 2022-10RDA

Attachment 1: The Court Partners, LLC. Development Renderings







RESOLUTION NO. 2022-10RDA

A RESOLUTION ENTERING THE AGENCY INTO A PURCHASE AGREEMENT WITH THE COURT PARTNERS, LLC. FOR THE SALE OF AGENCY OWNED PROPERTIES LOCATED AT 695 W FIFTH AVE AND 7555 S MAIN ST, KNOWN AS THE BASKETBALL COURT SITE

WHEREAS, the Redevelopment Agency of Midvale City (the “Agency”) was created to transact the business and exercise the powers provided for in the Utah Redevelopment Agencies Act; and

WHEREAS, the Agency created the Main Street Community Development Area with and Plan and Budget and intends to support, guide, and catalyze development within the Main Street Area; and

WHEREAS, the Agency owns two parcels located at 695 W Fifth Avenue and 7555 S Main Street, Midvale Utah 84047, also known as the basketball court site (parcel numbers 21253070010000 and 21253070020000), and wishes to sell the parcels to a qualified developer and guide the redevelopment of the site; and

WHEREAS, Utah State Code Annotated 17C-1-202 (d) permits the Agency to hold, sell, convey, grant, gift, or otherwise dispose of any interest in real or personal property; and

WHEREAS, the Agency went through the proper RFP process, received three qualified proposals for the purchase and development of the site, and organized a selection committee which ranked the received proposals and awarded a winner; and

WHEREAS, the Agency and the awarded developer, The Court Partners, LLC, are prepared to enter into a purchase agreement for the purchase and development of the property.

NOW THEREFORE BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF MIDVALE CITY, that the Redevelopment Agency of Midvale City enters into the Purchase Agreement for the Development of Land, attached here as **Exhibit A** with The Court Partners, LLC. and authorizes Agency staff to carry out and enforce the terms of the Agreement.

PASSED AND ADOPTED BY THE CITY COUNCIL OF MIDVALE CITY, this _____ day of _____ 2022.

Marcus Stevenson, Mayor

ATTEST:

Rori L. Andreason, MMC
City Recorder

Voting by the Agency Board	“Aye”	“Nay”
Bryant Brown	_____	_____
Paul Glover	_____	_____
Quinn Sperry	_____	_____
Heidi Robinson	_____	_____
Dustin Gettel	_____	_____

Exhibit A: Purchase Agreement for the Development of Land

Note: In accordance with the Term Sheet, if this Agreement is not signed by April 4, 2022, the RDA may pursue other options with respect to its property.

Fifth Avenue and Main

PURCHASE AGREEMENT FOR DEVELOPMENT OF LAND

between

Redevelopment Agency of Midvale City

and

**The Court Partners, LLC
Developer**

Property located at:

695 W. Fifth Avenue and 7555 S. Main Street
Midvale City, Utah

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List of Exhibits and Attachments

Exhibit A	–	Legal Description of Property
Exhibit B	–	Initial Description of Developer Improvements
Exhibit C	–	Initial Site Plan
Exhibit D	–	Schedule of Development
Exhibit E	–	Form of Special Warranty Deed
Exhibit F	–	Form of Guaranty
Exhibit G	–	Permitted Exceptions
Exhibit H	–	Form of Development Improvements Agreement
Exhibit I	–	Form of Option to Repurchase Agreement
Exhibit J	–	Form of Right of First Offer Agreement

PURCHASE AGREEMENT FOR DEVELOPMENT OF LAND

This Purchase Agreement for Development of Land (this “**Agreement**”) is made and entered into as of the ____ day of _____, 2022 (the “**Effective Date**”) by and between the Redevelopment Agency of Midvale City, a public body (the “**RDA**”), and The Court Partners, LLC, organized in Utah (the “**Developer**”).

RECITALS

A. On November 17, 2015, the RDA adopted a redevelopment plan entitled “Main Street Redevelopment Project Area Plan” (the “**Project Area Plan**”) for a portion of Midvale City described therein (the “**Project Area**”).

B. The RDA owns certain real property within the Project Area located at approximately 695 W. Fifth Avenue and 7555 S. Main Street, Midvale, Utah that the RDA desires to redevelop in accordance with the Project Area Plan (as more particularly defined below, the “**Property**”).

C. The RDA issued a “Request for Proposals for Development of the Property” at 695 W. Fifth Avenue and 7555 S. Main Street, Midvale, Utah” on September 30, 2021 (the “**RFP**”), pursuant to which the RDA set forth the terms and conditions for the selection of a developer to purchase the Property and to develop and operate the Property as specified therein (the “**Project**”).

D. In response to the RFP, the Developer submitted to the RDA a proposal with respect to the Project (the “**RFP Response**”).

E. In accordance with the RFP, the selection committee selected the Developer on December 8, 2021. The Board of Directors of the RDA adopted Resolution No. 2021-19RDA, which granted Agency staff the ability to negotiate with the Developer for the acquisition of the Property for the period ending on April 4, 2022 (the “**Exclusive Negotiations Period**”), to determine if the Parties would be able to agree, on a mutually acceptable basis, on the terms and conditions of the sale and development of the Property in order that the Project will be properly and timely completed.

F. During the Exclusive Negotiations Period, the Parties agreed on the form of this Agreement (including the exhibits hereto), to allow the Developer the opportunity to proceed hereunder to purchase the Property and to construct the Project, and the RDA is willing to sell the Property to the Developer for such purpose, on the terms and conditions contained herein;

NOW, THEREFORE, the Parties hereby agree as follows:

SECTION 1: Definitions

The terms defined in the Preamble and Recitals have their assigned meanings, and each of the following terms has the meaning assigned to it:

“Agreement” means this Purchase Agreement for Development of Land and all Exhibits, as amended from time to time.

“Applicable Requirements” means all federal, state and local laws, codes, ordinances, and regulations including, without limitation, building codes, and requirements of the City and all other governmental authorities that are applicable to the Developer Improvements.

“Architect” means the independent Utah-licensed architect selected by Developer and approved by the RDA, such approval not to be unreasonably withheld.

“Architect Contract” has the meaning specified in Section 3.1 below.

“Base Purchase Price” is equal to \$280,000 as indicated in the resolution passed by the RDA Board and as indicated in the RFP.

“Basic Concept Drawings” means those conceptual drawings and elevations, together with a preliminary site plan, depicting the overall plan for the Developer Improvements,. The Basic Concept Drawings are prepared by the Architect. The Developer has provided such Basic Concept Drawings to the RDA and the RDA has approved such Basic Concept Drawings.

“Bulb-out” means an extension to the curb resulting in a narrower curb-to-curb roadway width. It makes sidewalks more pedestrian-friendly by reducing vehicle speeds which increases pedestrian safety. The extended area can also accommodate landscaping, outdoor dining, and other features.

“City” means Midvale City Corporation.

“Closing” means the transfer of title to the Property by the RDA to the Developer in accordance with Section 6 below.

“Closing Date” has the meaning specified in Section 6.2 below.

“Construction Contract” has the meaning specified in Section 3.2 below.

“Construction Financing” has the meaning specified in Section 3.3 below.

“Construction Financing Documents” has the meaning specified in Section 3.3 below.

“Construction Lender” means one or more lenders under the Construction Financing Documents.

“Contractor” means an independent Utah-licensed contractor selected by Developer and approved by the RDA, such approval not to be unreasonably withheld.

“Covered Parties” means the RDA, the City, and their respective past, present, and future directors, officers, employees, representatives, and agents.

“Deed” means, in the event of a Closing, the special warranty deed from the RDA to the Developer conveying title to the Property, in the form attached hereto as Exhibit E.

“Design and Construction Documents” means the Basic Concept Drawings, the Schematic Design Drawings, the Design Development Drawings, and the Final Construction Documents.

“Design Development Drawings” has the meaning specified in Section 3.5 below.

“Design Review Committee” means the committee established by the RDA for the review of the Design and Construction Documents.

“Developer” means The Court Partners, LLC, a Utah limited liability company.

“Developer Event of Default” means any default under this Agreement by the Developer that is not cured by the Developer within 30 days after written notice thereof from the RDA.

“Development Improvements Agreement” means, in the event of a Closing, the Development Improvements Agreement to be entered into between the RDA and the Developer in the form of Exhibit G attached hereto.

“Developer Improvements” means the improvements to be constructed by the Developer on the Property pursuant to the Development Improvements Agreement, including, without limitation, the Public Art. The initial description of the Developer Improvements is set forth on Exhibit B attached hereto, which may be modified in accordance with Section 3.5.

“Developer Team” has the meaning specified in Section 3.4.

“Due Diligence Period” means, subject to all of the conditions precedent in Sections 4 and 5 being satisfied, the period commencing on the Effective Date and ending on the Due Diligence Period Expiration Date.

“Due Diligence Period Expiration Date” means the Due Diligence Period Expiration Date specified in the Schedule of Development.

“Earnest Money” has the meaning specified in Section 2.2.

“Effective Date” has the meaning specified in the first sentence of this Agreement.

“Environmental Tests” has the meaning specified in Section 4.1 below.

“Events of Force Majeure” means any event or period of delay preventing the performance of the Developer’s obligations, which delay is caused by governmental inaction specifically the planning review process and building permit application process taking significantly longer than is typical for a similar project (any governmental delays assume that requests and clarifications from the developer, contractor or subcontractor are not the cause of inaction), strikes, lock-outs, fire or other casualty, inclement weather abnormal for the period of time and not reasonably anticipatable, the elements or acts of God, war, conflict, riot, insurrections, public disorder, epidemic or pandemic, shortages of or delays in the delivery of construction materials (which have been ordered in a timely manner), or other causes, other than financial and managerial, beyond the reasonable control of the Developer or the Contractor, or their subcontractors of any tier, agents, or employees.

“Extension Event” has the meaning specified in Section 7.1.

“Final Construction Documents” has the meaning specified in Section 3.5 below.

“Guaranty” means a guaranty of completion and performance in the form of Exhibit F attached hereto.

“Guarantor” means [_____], [which] [who] owns 100% of the beneficial ownership of the Developer.] [the persons and entities specified by the RDA in connection with the approval of the Developer Team pursuant to Section 3.4.]

“Hazardous Material” means any substance or material that is defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous waste,” “acutely hazardous wastes,” “restricted hazardous waste,” “toxic substances,” or “known to cause cancer or reproductive toxicity” (or words of similar import), petroleum products (including crude oil or any fraction thereof), or any other chemical, substance, or material that is prohibited, limited, or regulated under any federal, state, or local law, ordinance, regulation, order, permit, license, decree, common law, or treaty now or hereafter in force regulating, relating to, or imposing liability or standards concerning materials or substances known or suspected to be toxic or hazardous to health and safety, the environment, or natural resources.

“Material Change” means (i) with respect to any portion of commercial improvements, an increase or decrease in the square footage of such portion of commercial improvements by more than 5%, (ii) with respect to any type of housing units, an increase or decrease in the number of such type of housing units by more than 5%, (iii) with respect to parking spaces, an increase or decrease in the number of parking spaces by more than 5%, (iv) with respect to any other element of the Developer Improvements, a reduction in the size of such element by more than 5%, (v) with respect to any element of the Developer Improvements, a substitution of any materials or a change in design from that specified in the Final Construction Documents that has a lower cost, or (vi) any other change in the Final Construction Documents, other than a

change that the Chief Administrative Officer of the RDA agrees in writing is an insignificant change.

“Option to Repurchase Agreement” means, in the event of a Closing, the Option to Repurchase Agreement to be entered into between the RDA and the Developer in the form of Exhibit H.

“Permitted Exceptions” means the Development Improvements Agreement, the Option to Repurchase Agreement, and the exceptions set forth on Exhibit F attached hereto.

“Party” means Developer or the RDA individually. **“Parties”** means the Developer and the RDA.

“Project” means the acquisition of the Property, the construction of the Developer Improvements, and the leasing of the Developer Improvements, all as provided herein.

“Project Area” has the meaning specified in the Recitals.

“Project Area Plan” has the meaning specified in the Recitals.

“Property” means that certain real property described on Exhibit A attached hereto, together with all improvements thereon.

“Public Art” shall mean an installation of art visible to the surrounding neighborhood substantially in the form and constructed of the materials described in the RFP Response, as the same may be revised in connection with the preparation and approval of the Design and Construction Documents.

“Purchase Price” means the final price the Developer will pay for the Property. It equals the sum of: (w) the Base Price minus (x) the Earnest Money minus (y) any costs or expenses borne by the Developer in connection with any remediation work as described in Section 4.1 that has been negotiated that the Agency will support plus or minus (z) any other negotiated adjustments.

“RDA Event of Default” means any default under this Agreement by RDA that is not cured by the RDA within 30 days after written notice thereof from the Developer.

“RFP” has the meaning specified in the Recitals.

“RFP Response” has the meaning specified in the Recitals.

“Right of First Offer” has the meaning specified in Exhibit I.

“Schedule of Development” means the schedule for completion of the Developer Improvements as set forth in Exhibit D attached hereto.

“Schematic Design Drawings” has the meaning specified in Section 3.5 below.

“Settlement Statement” means a settlement statement prepared by the Title Company, showing the Purchase Price and each Party’s share of prorations and costs of Closing as specified herein.

“Site Plan” means the site plan that depicts the Property and the Developer Improvements pursuant to the Development Improvements Agreement. The initial Site Plan is set forth on Exhibit C attached hereto, which may be modified in accordance with Section 3.5.

“Substantial Completion Date” means the Substantial Completion Date specified in the Schedule of Development.

“Title Commitment” means that certain Commitment for Title Insurance to be issued by the Title Company for an ALTA 2006 Form Owner’s Title Policy and in the amount of the Purchase Price naming the Developer as proposed insured.

“Title Company” means Cottonwood Title.

SECTION 2: Sale of Property

2.1 Agreement to Sell. For and in consideration of the terms and conditions of this Agreement, the RDA hereby agrees to sell the Property to the Developer as provided herein.

2.2 Earnest Money. The RDA acknowledges that it is holding the sum of \$3,000.00 as an earnest money deposit in accordance with the terms hereof (the “Earnest Money”). The Earnest Money shall be deemed fully earned by the RDA for executing this Agreement and shall not be refundable except as otherwise provided in Sections 3, 4, 5 and 8 below, but shall be applicable to the Purchase Price for the Property in the event of a Closing.

2.3 Purchase Price. In the event of a Closing, the Developer shall pay the RDA at the Closing the Purchase Price as provided in Section 6.

2.4 Title. In the event of a Closing, the Developer agrees that the purchase of the Property from the RDA will be subject to the Permitted Exceptions.

2.5 Development Improvements Agreement. In the event of a Closing, the Developer and the RDA shall execute and record the Development Improvements Agreement. The Developer acknowledges and agrees that the Developer’s agreement to complete the Developer Improvements in accordance with the Development Improvements Agreement is an essential term of the sale of the Property, and that the RDA would not have agreed to enter into this Agreement without the Developer agreeing to be obligated to develop the Property as provided therein. In the event of a Closing, the Developer agrees to commence and complete the construction of the Developer Improvements in accordance with the Schedule of Development.

2.6 Option to Repurchase Agreement. In the event of a Closing, the Developer and the RDA shall execute and record the Option to Repurchase Agreement. The Developer acknowledges and agrees that the RDA’s ability to regain the Property following an Event of Default under the Development Improvements Agreement pursuant to the RDA’s rights under the

Option to Repurchase Agreement is an essential term of the sale of the Property, and that the RDA would not have agreed to enter into this Agreement without the Developer agreeing to be obligated to sell the Property back to the RDA pursuant to the Option to Repurchase Agreement if required thereunder.

2.7 Recordation of Documents. The documents referred to herein that will be recorded in connection with the Closing shall be recorded immediately following the Deed and prior to the deed of trust securing the Construction Financing.

SECTION 3: RDA Approvals

3.1 Approval of the Architect Contract.

(a) The right of the Developer to purchase the Property is subject to the condition precedent that the RDA shall have approved the architect contract between the Developer and the Architect pursuant to which the Architect agrees to design the Developer Improvements (the “**Architect Contract**”), such approval not to be unreasonably withheld.

(b) The Developer agrees that the Architect Contract shall contain provisions pursuant to which (i) each of the Covered Parties is named as an indemnified party, (ii) each of the Covered Parties is named as additional insured on the general liability insurance, professional liability, and comprehensive automobile liability policies of the Architect, (iii) the RDA is specified as an intended third party beneficiary, (iv) all warranties made by the Architect are made to both the RDA and the Developer, and (v) the Architect Contract is contingently assigned to the RDA (permitting the RDA to assume the position of the Developer in the event of a default by the Developer under the Development Improvements Agreement).

(c) By the date specified in the Schedule of Development, the Developer shall provide a proposed Architect Contract (which shall conform to the requirements specified in this section) to the RDA. By the date specified in the Schedule of Development, the RDA shall review the proposed Architect Contract and notify the Developer that it either approves or disapproves it, such approval not to be unreasonably withheld so long as such documents comply with the requirements in this Section 3.1.

(d) In the event that the Developer provides a proposed Architect Contract by the date specified in the Schedule of Development and the RDA thereafter fails to approve the proposed Architect Contract within the time period specified in the Schedule of Development, and the Parties are unable to resolve any differences within the 30 day period after the date by which the RDA is to approve the proposed Architect Contract, then either Party may terminate this Agreement, in which event the RDA shall refund the Earnest Money to Developer, and the Parties shall thereafter have no further obligations hereunder.

3.2 Approval of the Construction Contract.

(a) The right of the Developer to purchase the Property is subject to the condition precedent that the RDA shall have approved the construction contract between the Developer and the Contractor pursuant to which the Contractor agrees to construct the Developer Improvements (the “**Construction Contract**”), such approval not to be unreasonably withheld.

(b) The Developer agrees that the Construction Contract shall contain provisions pursuant to which: (i) the Contractor agrees to construct the Developer Improvements in accordance with the Final Construction Documents for a fixed price within the budget contemplated by the Construction Financing, (ii) each of the Covered Parties is named as an indemnified party in accordance with paragraphs 3.18.1 and 10.1.4 of the standard AIA A-201 (1987) General Conditions; (iii) each of the Covered Parties is named as additional insured on the general liability insurance policy and comprehensive automobile liability policy of the Contractor; (iv) the Contractor agrees to commence and complete the Developer Improvements by dates that are consistent with the Schedule of Development; (v) the RDA is specified as an intended third party beneficiary; (vi) all warranties made by the Contractor are made to both the RDA and the Developer; (vii) the RDA is notified of each change order, the RDA’s approval is required for all change orders that (either individually or together with any previous change orders) reduce the size of any element of the Developer Improvements by more than 5% or involve the substitution of any materials or design specified in the Final Construction Documents that have a lower cost; (viii) the Contractor agrees to comply with the e-Verify law; and (ix) the Construction Contract is contingently assigned to the RDA (permitting the RDA to assume the position of the Developer in the event of a default by the Developer under the Development Improvements Agreement).

(c) By the date specified in the Schedule of Development, the Developer shall provide a proposed Construction Contract (which shall conform to the requirements specified in this section) to the RDA. By the date specified in the Schedule of Development, the RDA shall review the proposed Construction Contract and notify the Developer that it either approves or disapproves it, such approval not to be unreasonably withheld so long as such documents comply with the requirements in this Section 3.2.

(d) In the event that the Developer provides a proposed Construction Contract by the date specified in the Schedule of Development and the RDA thereafter fails to approve the proposed Construction Contract within the time period specified in the Schedule of Development, and the Parties are unable to resolve any differences within the 30 day period after the date by which the RDA is to approve the proposed Construction Contract, then either Party may terminate this Agreement by notice to the other Party, in which event the RDA shall refund the Earnest Money to Developer and the Parties shall thereafter have no further obligations hereunder.

3.3 Approval of the Construction Financing Documents.

(a) The right of the Developer to purchase the Property is subject to the condition precedent that the RDA shall have determined that the Developer has obtained one or more loans to finance a portion of the costs of the construction of the Developer

Improvements and timely complete the Developer Improvements, such determination not to be unreasonably withheld (collectively, the “**Construction Financing**”).

(b) Without limiting the generality of the RDA’s review rights, the Developer agrees that the Construction Financing shall require that the RDA shall have approved the construction budget (uses and sources) and that each disbursement shall be either as specified in such construction budget or approved by the RDA, such approval not to be unreasonably withheld.

The documents evidencing the Construction Financing must provide that (i) the construction deed of trust will be subordinate to each of the Development Improvements Agreement, the Option to Repurchase Agreement and the Right of First Offer, and (ii) in the event of a default by the Developer, they may be assigned and assumed by an assignee of the RDA or purchased at par (with no prepayment premium) by the RDA or an assignee of the RDA, and that the RDA is an intended third party beneficiary of such obligations.

(c) If a Construction Lender requires as a condition to its loan that the parties enter into an agreement that provides the Construction Lender with rights of notice and cure prior to the exercise of any rights by the RDA, the RDA, the Developer and Construction Lender shall use their best efforts to negotiate such agreement.

(d) By the dates specified in the Schedule of Development, the Developer shall provide RDA with documents evidencing the Construction Financing and the RDA shall approve or disapproves such documents, such approval not to be unreasonably withheld. Once the documents evidencing the Construction Financing have been approved by the RDA, they shall be referred to herein as the “**Construction Financing Documents**”).

(e) In the event that the Developer has provided a construction budget and the documents evidencing the Construction Financing, and the RDA thereafter fails to approve the same, or modifications of the same, within the time periods specified in the Schedule of Development, and the Parties are unable to resolve any differences within the 30 day period after the date by which the RDA is to approve the construction budget and the documents evidencing the Construction Financing, then either Party may terminate this Agreement by notice to the other Party, in which event the RDA shall be required to refund the Earnest Money to Developer and the Parties shall thereafter have no further obligations hereunder.

3.4 Developer Team. The right of the Developer to purchase the Property is subject to the condition precedent that the RDA shall have reviewed and approved the organizational structure and managers and members of the development team for the Project by the date specified in the Schedule of Development (“**Developer Team**”), such approval not to be unreasonably withheld. The Developer agrees to provide information regarding the Developer Team that is reasonably requested by the RDA. In the event that the Developer has provided the information specified in this Section 3.4 and the RDA thereafter fails to approve the same, or modifications of the same, within the time periods specified in the Schedule of Development,

either Party may terminate this Agreement by notice to the other Party, in which event the RDA shall be required to refund the Earnest Money to Developer and the Parties shall thereafter have no further obligations hereunder.

3.5 Approval of the Final Construction Documents. The right of the Developer to purchase the Property is subject to the condition precedent that the RDA shall have approved the Final Construction Documents in accordance with the following process:

(a) Schematic Design Drawings. By the date set forth in the Schedule of Development, the Developer shall prepare and submit to the RDA for its approval schematic design drawings and related textual documents containing the overall plan for the Developer Improvements, which shall consist of 30% or more construction documents (the “**Schematic Design Drawings**”), which shall include the following:

(i) A narrative description of the development concept, including the type of construction to be used, a description of the exterior materials to be used; the number of floors of the building(s); the maximum height in feet above the sidewalk grade; the number of housing units (if any); the location and square footage of floor area devoted to street level retail space; a description, location, and square footage of common areas and facilities for use by residents of the housing units; common areas and facilities for use in connection with the street level retail space; the location and square footage of floor area devoted to mechanical equipment; pedestrian access, vehicular access for residents, visitors and service; the number of parking stalls in the parking facilities; and the location and square footage of any extraordinary facilities or uses to be included as part of the development,

(ii) a presentation site plan which indicates the relationship of the Developer Improvements to the other developments and existing facilities on adjoining property, the exterior common areas and public sidewalks, illustrating the function of each area and the location and dimensions of hardscape and landscape areas,

(iii) exterior concept elevations of street frontage, which clearly identify the massing of the building, the shape of the roof of the building, the height of the building with respect to street frontage, doorways, windows, walls, decorative elements, and ventilation and equipment openings, and

(iv) two project sections, one a north/south section and one an east/west section.

The Schematic Design Drawings shall be a refinement of and consistent with the approved Basic Concept Drawings. If the Schematic Design Drawings comply with the requirements of this subsection (a), the RDA shall not unreasonably withhold its approval.

If the Developer desires to include within the Schematic Design Drawings any element that reflects a change to what was shown on the approved Basic Concept Drawings, then

at the time they are submitted the Developer must specifically describe such element and such change in detail and in writing so that the RDA can understand the nature of such proposed change. The RDA shall not be obligated to approve any such new element in the Schematic Design Drawings if and to the extent that the RDA would not have been required to approve such element if it had been included in the Basic Concept Drawings originally.

(b) Design Development Drawings. By the date set forth in the Schedule of Development, the Developer shall prepare and submit to the RDA for its approval design development drawings for the Developer Improvements and related textual documents (including a preliminary draft of written specifications) containing the overall plan for the Developer Improvements, which shall consist of 60% or more construction documents (the “**Design Development Drawings**”). At a minimum, the Design Development Drawings shall include:

- (i) the exterior design of the site and the building,
- (ii) samples to the RDA of all exterior materials to be used,
- (iii) the location of all exterior and surface materials to be used,
- (iv) the location of parking areas and pedestrian and vehicular circulation areas,
- (v) exterior entryways and open spaces,
- (vi) the design and location of all windows, doors, and service entrances,
- (vii) the design and location of any canopies, awnings, and arcades,
- (viii) the shape and the proposed materials for the roof,
- (ix) the design and location of service accessways and enclosures,
- (x) the design and location of security equipment and features,
- (xi) the design, location, and screening of trash collection areas, recycling areas, meters, stacks, grills, antennae, exhaust ducts, ventilation equipment and ducts, and mechanical equipment (including without limitation with respect to any of such items that are located on the roof),
- (xii) the design, location, and screening of electrical facilities and equipment, including without limitation poles, overhead lines, transformers, and distribution boxes,
- (xiii) the design and location of exterior signs (as to tenant signage, when available),

(xiv) the design and location of principal and extraordinary features of the building and site,

(xv) the location and description of pedestrian and exterior lighting,

(xvi) a detailed landscape plan showing the size and location of all plant materials to be installed in the common areas, the adjacent public sidewalks, and otherwise in connection with the Developer Improvements, and

(xvii) the design and location of both storm water detention and ground water mitigation facilities.

The Design Development Drawings shall be a refinement of and consistent with the approved Schematic Design Drawings. If the Design Development Drawings comply with the requirements of this subsection (b), the RDA shall not unreasonably withhold its approval.

If the Developer desires to include within the Design Development Drawings any element that reflects a change to what was shown on the approved Schematic Design Drawings, then at the time they are submitted the Developer must specifically describe such element and such change in detail and in writing so that the RDA can understand the nature of such proposed change. The RDA shall not be obligated to approve such new element in the Design Development Drawings if and to the extent that the RDA would not have been required to approve such element if it had been included in the Schematic Design Drawings originally.

(c) Final Construction Documents. By the date set forth in the Schedule of Development, the Developer shall prepare and submit to the RDA for its approval the final construction documents for the Developer Improvements, which shall include:

(i) all drawings, specifications, and related documents necessary for construction and completion of the Developer Improvements in accordance with the requirements of this Agreement and in sufficient detail to obtain a building permit, and

(ii) samples of all exterior materials that the Developer proposes to use.

The final construction documents, together with such samples, shall be referred to herein as the “**Final Construction Documents**”.

The Final Construction Documents shall be a refinement of and consistent with the approved Design Development Drawings and each subsequently approved document. If the Final Construction Documents comply with the requirements of this subsection (c), the RDA shall not unreasonably withhold its approval.

If the Developer desires to include within the Final Construction Documents any element that reflects a change to what was shown on the approved Design Development

Drawings, then at the time they are submitted the Developer must specifically describe such element and such change in detail and in writing so that the RDA can understand the nature of such proposed change. The RDA shall not be obligated to approve such new element in the Final Construction Documents if and to the extent that the RDA would not have been required to approve such element if it had been included in the Design Development Drawings originally.

(d) Design Review Committee. The Developer agrees that each of the Schematic Design Drawings, the Design Development Drawings and the Final Construction Documents shall be reviewed by and is subject to the approval of the Design Review Committee.

(e) Preparation of Submissions and Reviews. All documents shall be in such form and with such detail, including size and scale, as the RDA shall prescribe, including without limitation in a compatible electronic format as specified by the RDA. During the preparation of such documents, the RDA and the Developer shall hold progress meetings as needed to coordinate the preparation of, submission to, and review of such documents by the RDA. The staff of the RDA and the Developer shall communicate and consult informally as frequently as is necessary to ensure that the formal submittal of such documents to the RDA can receive prompt consideration. Provided that the submissions by the Developer are made timely and are complete, and are consistent with the requirements set forth herein, the RDA shall approve or disapprove of the Schematic Design Drawings, the Design Development Drawings, and the Final Construction Documents within the respective times set forth in the Schedule of Development.

(f) Compliance with Applicable Requirements. The Final Construction Documents shall comply with all Applicable Requirements. In addition, the Final Construction Documents shall contain such provisions as are necessary for the Architect to issue the LEED Certificate required by Section 3.5 of the Development Improvements Agreement.

(g) Disapprovals. Failure by the RDA to either approve or disapprove any submission within the time established in the Schedule of Development shall be deemed approval. In the event of a disapproval by the RDA, the RDA shall specify in reasonable detail the basis for the disapproval. The Developer, upon receipt of a notice of disapproval, shall promptly revise such submission and resubmit it to the RDA as soon as possible after receipt of such notice.

(h) Modifications to the Developer Improvements and the Site Plan. In the preparation of the Final Construction Documents, the Developer may make minor modifications to the description of the initial Developer Improvements and to the initial Site Plan, so long as no such modification constitutes a Material Change. The Developer shall provide the RDA with written notice of any such minor modification, including without limitation any changes specified by the City's Building Services and Licensing Department. The Developer shall not make any Material Change to the initial Developer Improvements or the initial Site Plan without the approval of the RDA, which approval may be given or withheld in the RDA's sole discretion. In connection with, and as a

condition to, the RDA's approval of the Final Construction Documents, the Parties shall add the revised Developer Improvements and the revised Site Plan to the form of the Development Improvements Agreement.

(i) RDA Not Liable. The Developer shall be solely responsible for errors and omissions in the Design and Construction Documents, change orders thereto, and shop drawings and other submittals interpreting them and for their accuracy, suitability, technical adequacy, and compliance with Applicable Requirements. The RDA's reviews and approvals of all or any portion of the Design and Construction Documents are solely for the purpose of determining the general conformance of the Developer Improvements with the original design concept or intent, and shall not constitute an opinion or agreement by the RDA that the Developer Improvements are structurally or otherwise sufficient or that the Design and Construction Documents are accurate or in compliance with Applicable Requirements, nor shall such approval impose any present or future liability on the RDA or waive any of the RDA's rights hereunder. The Developer shall be solely responsible for structural and other defects in the Developer Improvements and for compliance with all Applicable Requirements.

SECTION 4: Conditions Precedent to Purchase of the Property

4.1 Due Diligence. The Developer shall determine whether or not the Property is satisfactory to the Developer in accordance with the following provisions:

(a) General Review. During the Due Diligence Period, the Developer may make such investigations and inspections of the Property as Developer deems necessary or acceptable, in the Developer's sole discretion and at the Developer's sole expense. In connection with such investigations and inspections, the Developer, and its employees, agents, consultants and contractors, shall, subject to subsection 5.1 below, have the right to enter upon the Property and inspect and conduct such assessments, investigations, reviews, studies, tests and analyses of the Property, as the Developer deems necessary or acceptable, in the Developer's sole discretion and at Developer's sole expense.

(b) Title and Survey Matters. During the Due Diligence Period, the Developer may review the Title Commitment and all exception documents referred to therein and any surveys it obtains at its expense.

(c) Environmental Investigations and Remediation. During the Due Diligence Period, the Developer may make such investigations and inspections of the Property relating to environmental matters (collectively, "Environmental Tests") as Developer deems necessary or acceptable, in Developer's sole discretion and at Developer's sole expense. Notwithstanding the foregoing, if the aggregate cost relating to any remediation (including without limitation any cleanup of Hazardous Material or otherwise unsafe materials or conditions) that Developer, in its sole discretion, deems is necessary to begin and/or complete the Developer Improvements exceeds the Purchase Price, then either (i) the RDA will negotiate in good faith the support of remediation costs with Developer, or (ii) either Party may terminate this Agreement upon written notice to the other Party, in which case the RDA shall return the Earnest Money to the Developer.

(d) The Developer shall cause Environmental Tests to be conducted in strict accordance with applicable laws, regulations, and ordinances applicable to the Property. Prior to conducting any Environmental Tests on the Property, if any applicable laws, regulations or ordinances require permits, approvals, or consents from any governmental entity or agency, the Developer shall obtain the requisite permits, approvals and consents.

(e) Responsibilities. The Developer shall indemnify, defend and hold the RDA and its respective past, present, and future directors, officers, employees, representatives, and agents harmless from any and all damages, claims, liabilities, expenses (including reasonable attorneys' fees), penalties, and fines arising out of or as a result of the negligence of Developer, its agents, consultants, contractors and/or their subcontractors in performing Environmental Tests, provided that the Developer shall have no obligation, responsibility or liability under this provision with respect to any damages, claims, liabilities, expenses (including reasonable attorneys' fees), penalties or fines arising out of or as a result of (i) the negligence or willful conduct of the RDA or (ii) any conditions in the Property (including without limitation any Hazardous Material and unsafe material) that pre-dated the Environmental Tests or were not directly caused by Developer's negligent performance of Environmental Tests.

4.2 Conditions Precedent to Purchase of the Property. The Developer's right to purchase the Property is subject to the satisfaction, at no expense or liability to the RDA, of the following additional conditions:

(a) Review. The Developer shall have given the RDA written notice that the Developer has approved the Property pursuant to Section 4.1 above.

(b) Architect Contract. The RDA shall have approved the Architect Contract pursuant to Section 3.1 above.

(c) Construction Contract. The RDA shall have approved the Construction Contract pursuant to Section 3.2 above.

(d) Construction Financing Documents. The RDA shall have approved the Construction Financing Documents pursuant to Section 3.3 above.

(e) Developer Team. The RDA shall have approved the Developer Team pursuant to Section 3.4 above.

(f) Final Construction Documents. The RDA shall have approved the Final Construction Documents pursuant to Section 3.5 above.

(g) Litigation. No litigation, arbitration, governmental administrative proceeding or investigation prohibiting the RDA from conveying the Property to the Developer or restricting the RDA's ability to perform its obligations under this Agreement, shall be pending or threatened as of the Closing Date. No litigation shall be pending or threatened between the RDA and Developer as of the Closing Date.

(h) No Material Adverse Change. There shall have been no material adverse change to the condition of the Property.

(i) RDA Event of Default. There shall not be an RDA Event of Default.

4.3 Failure of a Condition; No Obligation of the RDA. The RDA does not guarantee, warrant, or represent that any of the conditions set forth in Section 4.2 shall be or can be satisfied. Furthermore, the RDA shall incur no liability or expense in connection with the Developer's ability or inability to satisfy any of such conditions, nor shall the RDA be obligated to take any action, except as otherwise expressly provided herein. The Developer agrees that any expenditure, commitment, or other action taken by it pursuant to this Agreement or prior to its execution of this Agreement, or otherwise in contemplation of the Closing, has been and/or is taken at its own risk, and no such expenditure, commitment, or action shall obligate the RDA to incur any liability to the Developer or any third party, against which the Developer expressly indemnifies the Covered Parties.

4.4 Termination Upon Failure of Section 4.2 Conditions. If each of the conditions specified in Section 4.2 has not been satisfied (or waived by the Developer) by the date that is specified herein for such condition precedent, then this Agreement may be terminated by either Party upon ten days' notice to the other Party, in which case the RDA shall return the Earnest Money to the Developer and neither Party shall have any further obligations or liability to the other Party.

SECTION 5: Conditions Precedent to the RDA's Obligations

5.1 Conditions Precedent. The RDA's obligation to sell the Property is subject to the satisfaction (or the RDA's waiver), at no expense or liability to the Developer, of the following conditions precedent:

(a) Architect Contract. The RDA shall have approved the Architect Contract pursuant to Section 3.1 above.

(b) Construction Contract. The RDA shall have approved the Construction Contract pursuant to Section 3.2 above.

(c) Documents Evidencing Construction Financing. The RDA shall have approved the documents evidencing the Construction Financing pursuant to Section 3.3 above.

(d) Developer Team. The RDA shall have approved the Developer Team pursuant to Section 3.4 above.

(e) Final Construction Documents. The RDA shall have approved the Final Construction Documents pursuant to Section 3.5 above.

(f) Assignments. The RDA shall have approved the assignments from the Developer to the RDA of the Architect Contract, the Construction Financing Documents, the Construction Contract, and the subcontracts under the Construction Contract.

(g) Construction Financing Closing. The Developer shall have provided satisfactory written evidence to the RDA that all conditions precedent to the closing of the Construction Financing (including, without limitation, the funding of the required equity contributions) shall have been satisfied, and that the Developer's lender is ready to close on the Construction Financing in connection with the Closing hereunder.

(h) Requirements under the Development Improvements Agreement. The Developer shall have provided written evidence to the RDA that the Developer has satisfied all of the conditions set forth in Section 2 of the Development Improvements Agreement required for the commencement of the construction of the Developer Improvements.

(i) Representations and Warranties. All representations and warranties of the Developer shall be true and correct as of the date made and as of the Closing Date with the same effect as if the representations and warranties were made as of the Closing Date.

(j) Litigation. No litigation, arbitration, governmental administrative proceeding or investigation prohibiting the RDA from conveying the Property to the Developer or restricting the RDA's ability to perform its obligations under this Agreement, shall be pending or threatened as of the Closing Date. No litigation shall be pending or threatened between the RDA and Developer as of the Closing Date.

5.2 Termination Upon Failure of Conditions Precedent. In the event that each of the conditions specified in Subsections 5.1 has not been satisfied (or waived by the RDA) by the date that is specified herein for such condition precedent, then this Agreement may be terminated by either Party upon ten days' notice to the other Party, in the case that the RDA caused the purchase to fail or the parties could not reach a mutual agreement, the RDA will return the earnest money to the Developer. If the Developer failed to fulfill its responsibilities, then the RDA will retain the earnest money. Neither Party shall thereafter have any further obligations or liability to the other Party.

5.3 No Right to Extensions. The Developer acknowledges and agrees that the deadlines for satisfying the conditions precedent set forth herein and in the deadlines for satisfying the requirements set forth in the Schedule of Development are realistic and that the Developer anticipates being able to meet all such deadlines. The Developer understands that it is not entitled to an extension of any such deadline, and that if the Developer requests that the RDA consider any such extension, the Developer agrees that the RDA may decide to grant, modify, or decline such request, in the RDA's sole discretion. The Developer confirms that by giving the Developer the time specified for the satisfaction of any particular requirement, the RDA has taken the Property off the market and prevents the RDA from pursuing other options during such time, and therefore the RDA is entitled to decline any such request without having to prove that declining such request is reasonable under the circumstances. The Developer acknowledges that the RDA does not have the burden of proof to show that declining such request was reasonable; the Developer's mere failure to satisfy all of the requirements (due to any reason) shall be all that is necessary for the RDA to terminate the Development Improvements Agreement and exercise its right to purchase the Property as provided in the Option to Repurchase Agreement.

SECTION 6: Closing

6.1 Title Company. Promptly following the execution of this Agreement, the RDA shall open an escrow with the Title Company. A copy of this Agreement shall be provided to the Title Company to advise the Title Company of the terms and conditions hereof and the RDA shall seek the Title Company's acceptance as provided at the end of this Agreement. Prior to the Closing, the Developer and the RDA shall give separate written closing instructions to the Title Company (with a copy sent concurrently to the other Party) which instructions shall be consistent with the provisions of this Agreement.

6.2 Closing Date. The Closing hereunder shall take place on a date (the "**Closing Date**") reasonably selected by the Developer.

6.3 Prorations. Normal prorations of taxes and related items shall be made at the Closing. If the Closing occurs before the tax rate is fixed for the then current year, then the proration of taxes shall be based upon taxes for the prior year and adjusted for the year of the Closing within a reasonable time after they become finally determined for such year.

6.4 Costs and Title Policy. The RDA shall pay the cost of recording the documents that need to be recorded as part of the Closing. Any escrow fees and additional recording fees shall be paid equally by the Parties. The RDA shall pay the cost of the premium for a standard form owner's policy of title insurance. If the Developer elects extended coverage, the Developer shall pay the difference between the title insurance premium for standard coverage and the title insurance premium for extended coverage. The Developer shall pay the costs of any endorsements requested by the Developer. In addition, if the Closing does not occur, any cancellation charges in connection with the Title Commitment shall be paid equally by the Parties, provided that, if the Closing does not occur as a result of an Event of Default, the Party responsible for the Event of Default shall pay any such cancellation charges. The RDA shall deliver all affidavits and indemnifications against mechanic's and materialmen's and other similar liens requested by the Title Company to eliminate the standard printed mechanic's lien exception from the standard owner's policy of title insurance.

6.5 Items to be Delivered by the RDA at the Closing. At the Closing, the RDA shall deliver, or cause to be delivered, to the Developer each of the following items:

- (a) The Deed, duly executed and acknowledged by the RDA, and in form for recording, conveying fee simple title to the Property to the Developer, subject only to the Permitted Exceptions.
- (b) A standard owner's title policy.
- (c) The Development Improvements Agreement, duly executed and acknowledged by the RDA.
- (d) The Option to Repurchase Agreement, duly executed and acknowledged by the RDA.
- (e) The Right of First Offer, duly executed and acknowledged by the RDA.

(f) The Settlement Statement, approved by the RDA.

6.6 Items to be Delivered by the Developer at the Closing. At the Closing, the Developer shall deliver, or cause to be delivered, to the RDA each of the following items:

(a) The Purchase Price by wire transfer, as such amount is adjusted as shown on the Settlement Statement.

(b) The Development Improvements Agreement, duly executed and acknowledged by the Developer.

(c) The Option to Repurchase Agreement, duly executed and acknowledged by the Developer.

(d) The Right of First Offer, duly executed and acknowledged by the Developer.

(k) The assignments required by Section 5.1 above, subject in each case to the rights of the Developer's lender as specified in the Construction Financing.

(l) The Settlement Statement, approved by the Developer.

6.7 Recording Order. The Development Improvements Agreement and the Option to Repurchase Agreement and the Right of First Offer shall be recorded immediately after the Deed in that order, and prior to any deed of trust securing the Construction Financing.

6.8 Possession. Possession of the Property shall be delivered to the Developer by the RDA at Closing.

SECTION 7: Extension of Dates and Deadlines

7.1 Extensions. Possession of the Property shall be delivered to the Developer by the RDA at Closing. The Developer shall make commercially reasonable efforts to perform its duties by any dates set forth in the Schedule of Development. Notwithstanding the foregoing, if the Developer cannot adhere to the Schedule of Development due to the delay in awarding or approving any permit, consent, contract, document, or other legal instrument by the RDA or any permitting or other governing division/authority (each an "Extension Event"), then (i) the Developer shall promptly notify the RDA of the occurrence of such Extension Event upon learning that an adjustment to applicable dates in the Schedule of Development will be required due to the Extension Event, (ii) the Developer shall include within such notification to the RDA a proposed adjustment to applicable dates in the Schedule of Development, and (iii) the Developer and the RDA shall extend or modify all relevant dates in the Schedule of Development in good faith to allow the Developer to fulfil its obligations hereunder. If the City's planning approval and building permit reviews are performed in a timely manner and requests for clarifications or modifications are provided to the Developer so the development will comply with the area's form-based code and building code standards, however the Developer does not provide clarifications or make the requested modifications and resubmits plans, this will not constitute an Extension Event, and the RDA will have no obligation to extend deadlines.

SECTION 8: Other Provisions

8.1 Representations of the Developer. The Developer represents and warrants, as of the date this Agreement is fully executed and as of the Closing Date, that the Developer has taken all action required by law, and all required action under its governing documents necessary to authorize the Developer to enter into this Agreement and to carry out its obligations hereunder.

8.2 No Representations as to the Property. The Developer hereby affirms that the RDA, its agents, employees, and/or attorneys have not made, nor has the Developer relied upon any representation, warranty, or promise with respect to the Property or any other subject matter of this Agreement except as expressly set forth in this Agreement and/or the Deed, including, without limitation, any warranties or representations, express or implied, as to matters of title or the existence of any easements or other encumbrances, the general plan designation, zoning, value, use, tax status or physical condition of the Property, or improvements thereon, or any part thereof, including but not limited to the flood elevations, drainage patterns and soils and subsoils composition and compaction level, and other conditions at the Property, or the existence or non-existence of Hazardous Material or any other environmental condition on or under the Property or adjacent property, or as to the accuracy of any boundary survey or other survey or any soils reports or other plans or reports therefor. Without limiting the generality of the foregoing, and except for the warranties and covenants set forth in the Deed, the Developer is purchasing the Property from the RDA in an "AS IS", "WHERE IS" CONDITION, SUBJECT TO "ALL FAULTS", INCLUDING BUT NOT LIMITED TO BOTH LATENT AND PATENT DEFECTS, AND THE EXISTENCE OF HAZARDOUS MATERIAL. EXCEPT AS OTHERWISE PROVIDED IN THE DEED, THE DEVELOPER HEREBY WAIVES ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE TITLE, CONDITION, AND USE OF THE PROPERTY, INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8.3 Developer's Indemnity. With respect to events occurring during the period from the date of this Agreement until the Closing Date, the Developer hereby indemnifies, holds harmless, and agrees to defend the Covered Parties, including the RDA, from and against all damages, expenses (including, without limitation, reasonable attorneys' fees and reasonable investigative and discovery costs), liabilities, judgments, environmental laws, and other claims ("Claims") on account of injury to persons, loss of life, or damage to property occurring on the Property and/or incurred as a result of or arising out of (i) the negligence or willful conduct of the Developer, and its agents, servants, and employees, (ii) the breach of any of the Developer's obligations hereunder, and for environmental and related hazardous material.

(a) the Developer shall indemnify the Covered Parties with respect to events occurring during the period from the Closing Date through the completion of the Developer Improvements under the Development Improvements Agreement, the condition and use of the Property.

8.4 No Commissions. Each of the RDA and the Developer represents that it has not entered into any written contracts with any brokers or finders nor obligated themselves to pay any real estate commissions or finders' fees on account of the execution of this Agreement or the close of the transaction contemplated hereby. Based on such representations, the Developer and

the RDA hereby agree to indemnify and hold each other harmless from any claims, damages, expenses, liabilities, liens, or judgments (including costs, expenses, and attorneys' fees in defending the same) which arise on account of any claim made against the indemnifying party that real estate commissions or finders' fees (including those identified above) are payable and have not been discharged in their entirety.

8.5 Condemnation. If any portion of the Property is condemned or access thereto is taken prior to the Closing Date, and the Developer reasonably concludes that the taking renders the Property unsuitable for the development contemplated by the Development Improvements Agreement and the Developer so notifies the RDA in writing promptly after learning of such condemnation action, then this Agreement shall terminate and the RDA shall return to the Developer the Earnest Money. If this Agreement is not terminated pursuant to the preceding sentence, the Purchase Price shall not be affected, it being agreed that if the award is paid prior to the Closing Date, such amount shall be held in escrow and delivered to the Developer at the Closing, and if the award has not been paid before the Closing Date, then at the Closing the RDA shall assign to the Developer all of its right, title, and interest with respect to such award.

8.6 Developer Event of Default. IN THE EVENT OF A DEVELOPER EVENT OF DEFAULT OR IN THE EVENT THE CONDITIONS PRECEDENT DESCRIBED IN SECTIONS 4 AND 5 HEREIN HAVE BEEN SATISFIED OR WAIVED, AND THE DEVELOPER FAILS TO CLOSE THE TRANSACTION AS PROVIDED FOR HEREIN, IT IS AGREED THAT THE RDA MAY TERMINATE THIS AGREEMENT AND RETAIN THE EARNEST MONEY. The RDA hereby waives any right to seek specific performance or to recover any other damages or sums from the Developer; provided, however, this Section in no way limits the Developer's potential liability for attorney's fees or for the indemnity obligations set forth in this Agreement.

8.7 RDA Default. In the event of an RDA Event of Default, the Developer shall, as the Developer's sole remedy, either seek specific performance or a refund of the Earnest Money. In no event shall the RDA be liable to the Developer for any damages or any other amount, provided; provided, however, that this Section in no way limits the RDA's potential liability for attorney's fees.

8.8 Reports. In the event the transaction contemplated herein fails to close for any reason, at the request of the RDA, the Developer shall, upon receipt from the RDA of a customary non-reliance letter, deliver to the RDA, at no cost to the RDA, copies of all environmental, soils, and hydrology studies and reports prepared in connection with this transaction or otherwise pertaining to the Property which were prepared for or on behalf of the Developer, the RDA, or any third party, but in no event any marketing or financial information related to the Developer. The Developer shall also confirm in writing, receipt of the non-reliance letter notifying the Developer of termination, as issued by the RDA. Notwithstanding the foregoing, if the RDA purchases the Property pursuant to the Option to Repurchase Agreement, then the provisions of the Option to Repurchase Agreement regarding payment for any such studies and reports shall govern.

9.1 Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be given by (i) Federal Express (or other established express delivery service which maintains delivery records), (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested, to the Parties at the following addresses, or other such addresses as the Parties may designate from time to time by written notice in the above manner:

With a copy to: _____

 Attn: _____

9.2 References. All references to “Section” or “Sections” contained herein are, unless specifically indicated otherwise, references to Sections of this Agreement. All references to “Exhibits” contained herein are references to Exhibits attached hereto, all of which are made part hereof for all purposes.

9.3 Captions; Headings. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

9.4 Attorney's Fees. If a Party commences a legal or equitable proceeding to enforce any of the terms of this Agreement, then the prevailing Party in such action shall have the right to recover reasonable attorneys' fees and actual costs from the other Party. The term "legal proceedings" as used above shall be deemed to include appeals from a lower court judgment and

it shall include proceedings in the Federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters.

9.5 Governing Law. This Agreement and all transactions contemplated hereunder and/or evidence hereby shall be governed by, construed under, and enforced in accordance with the internal laws of the State of Utah without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than Utah.

9.6 Venue. The Parties hereby agree that all actions to enforce the terms and provisions of this Agreement shall be brought and maintained only within the State of Utah and the Developer hereby consents to the exclusive jurisdiction of the appropriate court within Salt Lake County, Utah.

9.7 Amendments. This Agreement may be amended or supplemented only by an instrument in writing, executed by both the RDA and the Developer.

9.8 Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.

9.9 Multiple Counterparts. This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one agreement, but, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

9.10 Further Acts. In addition to the acts and deeds recited herein and contemplated to be performed, executed, and delivered by the Parties, the Parties agree to perform, execute, and deliver or cause to be performed, executed, and delivered at the Closing or after the Closing any and all such further acts, deeds, and assurances as may be reasonably necessary to consummate the transactions contemplated hereby.

9.11 Survival. Except as otherwise provided for herein, all agreements, covenants, representations and warranties contained herein shall survive the expiration or termination of this Agreement and the performance by the Developer of its obligations hereunder.

9.12 Conflict of Interest. In accordance with the Municipal Officers' and Employees' Ethics Act (Utah Code Ann. § 10-3-1301 to 1312), the Developer represents that none of its officers, employees, or agents are officials, officers, or employees of the RDA, unless disclosure has been made in accordance with the RDA's ordinances and policies. Further, the Developer certifies that it has not offered or given any gift or compensation prohibited by local, state, or federal law, to an official, officer, or employee of the RDA to secure favorable treatment with respect to being awarded this Agreement.

9.13 Nonliability of RDA Officials and Employees. No member, official, or employee of the RDA shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the RDA or for any amount which may become due to the Developer or its successor or on any obligation under the terms of this Agreement.

9.14 Binding Effect. This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and assigns. If Developer is now or is ever composed of more than one party, the obligations and warranties contained herein and arising therefrom are and shall be joint and several as to each such party.

9.15 No Relationship. Nothing contained in this Agreement, nor any acts of the Parties shall be deemed or construed to create the relationship of principal and agent or of limited or general partnership or of joint venture or of any other similar association between the RDA, its successors or assigns, or the Developer, its successors or assigns.

9.16 No Presumption. This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either Party.

9.17 Days. Unless otherwise specified in this Agreement, a reference to the word “days” shall mean calendar days. The term “business days” shall mean each day of the week except weekends and federal holidays during which the United States mail is not delivered.

9.18 No Waiver of Governmental Immunity. The Developer acknowledges that the RDA is a political subdivision of the State of Utah and as such is subject to and bound by the provisions of the Utah Governmental Immunity Act, Utah Code Ann. § 63-30-1 (the “Act”). No covenant, provision or agreement contained in this Agreement will be deemed to be a waiver of the rights of the RDA under the Act.

9.19 Merger; Time of the Essence. This Agreement supersedes all prior agreements and constitutes the entire agreement between the Parties with respect to the subject matter hereof. No modification of this Agreement will be effective unless in writing and signed by each Party. All documents and other matters required to be furnished by the Developer will be satisfactory in form and substance to counsel for the RDA. Time is of the essence hereof.

9.20 Waiver. Neither Party shall be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by the waiving Party. No delay or omission on the part of a Party in exercising any right shall operate as a waiver of such right or any other right.

[Remainder of this page intentionally left blank, signature page to follow.]

IN WITNESS WHEREOF, the Parties have caused this Purchase Agreement to be duly executed as of the date first written.

RDA:

REDEVELOPMENT AGENCY OF MIDVALE CITY

By _____
Marcus Stevenson
Its: Chief Administrative Officer

By _____
Matt Dahl
Its: Executive Director

Approved as to legal form:

By _____
Lisa A. Garner
Its: RDA Attorney

DEVELOPER:

THE COURT PARTNERS, LLC

By: _____
Name: _____
Its: _____

TITLE COMPANY ACCEPTANCE

The foregoing Purchase Agreement for Development of Land (the “**Agreement**”) is accepted and the Escrow is opened this ____ day of _____, 20____. The undersigned hereby agrees to act as the “Title Company” as defined in the Agreement and to perform its duties in accordance with the provisions of the Agreement. Further, the Title Company agrees to (a) timely file returns with the Internal Revenue Service, on Form 1099-B or such other forms as instructed by the Internal Revenue Service, showing the gross proceeds of each transaction contemplated hereunder, the recipient thereof and such other information as the Internal Revenue Service may by form or regulation require from time to time, and (b) furnish the RDA and the Developer with a written statement showing the name and address of the Title Company and the information shown on such returns with respect to each such transaction. These returns shall be filed to ensure that the parties to these transactions will be in compliance with Section 6045(e) of the Internal Revenue Code of 1986, as amended from time to time, and as further set forth in any regulations promulgated thereunder.

[Title Company Name]

By: _____

Name: _____

Title: _____

EXHIBIT A
(To Purchase Agreement for Development of Land)

Legal Description of Property

That certain real property located in Salt Lake County, Utah more particularly described as follows:



EXHIBIT B
(To Purchase Agreement for Development of Land)

Description of Developer Improvements

(To be included based on Developer proposal)

EXHIBIT C
(To Purchase Agreement for Development of Land)

Site Plan

EXHIBIT D
(To Purchase Agreement for Development of Land)

Schedule of Development

<u>Approval/Milestone</u>	<u>Agreement Reference</u>	<u>Schedule</u>
Developer submits to RDA staff proposed Schematic Design Drawings	Purchase Agreement – Section 3.5(a)	November 17, 2021
Developer begins search for general contractor		November 17, 2021
RDA staff approves proposed Schematic Design Drawings	Purchase Agreement – Section 3.5(a)	December 15, 2021
Developer submits to RDA staff proposed Design Development Drawings	Purchase Agreement – Section 3.5(b)	December 16, 2021
Developer submits to RDA staff names, organizational documents, financial statements, and all other information necessary for the RDA to evaluate the Developer Team	Purchase Agreement – Section 3.4	January 26, 2022
Developer submits proposed Architect Contract	Purchase Agreement – Section 3.1(c)	July 21, 2022
Developer submits to RDA staff and applicable planning department/authority proposed Final Construction Documents	Purchase Agreement – Section 3.5(c)	July 21, 2022

<u>Approval/Milestone</u>	<u>Agreement Reference</u>	<u>Schedule</u>
RDA either approves the Developer Team or disapproves the Developer Team	Purchase Agreement – Section 3.4	August 11, 2022
RDA staff either approves or disapproves proposed Final Construction Documents	Purchase Agreement – Section 3.5(d)	August 11, 2022
Midvale City Planning staff either approves or disapproves proposed Final Construction Documents	Purchase Agreement – Section 3.5(c)	August 11, 2022
Developer submits RDA and planning approved final construction documents to Midvale City's building permit department		August 12, 2022
Developer submits the construction budget and documents evidencing the Construction Financing	Purchase Agreement – Section 3.3(c)	September 9, 2022
Estimated date of receipt of building permit		September 22, 2022
Developer submits proposed Construction Contract	Purchase Agreement – Section 3.2(c)	The later of: (i) September 29, 2022, or (ii) within 7 days after receiving building permit from permitting department/authority
RDA either approves or disapproves proposed Architect Contract, Construction Contract, and the construction budget and documents evidencing the Construction Financing	Purchase Agreement – Section 3.1(c), 3.2(c), 3.3(d)	The later of: (i) October 6, 2022, or (ii) within 2 weeks of receiving building permit from permitting department/authority
RDA and Developer close on the lot		The later of: (i) October 13, 2022, or (ii) 3 weeks after receipt of building permit from permitting division/authority

<u>Approval/Milestone</u>	<u>Agreement Reference</u>	<u>Schedule</u>
General contractor installs construction fencing and begins construction		Later of: (i) October 20, 2022, or (ii) 4 weeks after receiving building permit from permitting division/authority is latest.
Substantial Completion Date	Development Improvements Agreement – Section 3.2	The later of: (i) June 20, 2024, and (ii) 20 months after receiving building permit from permitting division/authority
Completion of Punch List	Development Improvements Agreement – Section 3.2	The later of: (i) July 20, 2024, and (ii) 21 months after receiving building permit from permitting department/authority

EXHIBIT E
(To Purchase Agreement for Development of Land)

Form of Special Warranty Deed

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

Redevelopment Agency of Midvale City
Attn: Executive Director
7505 South Holden Street
Midvale, Utah 841047

Sidwell Nos. _____

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED (this “**Deed**”), is made as of the ____ day of _____, 2022, by and between the Redevelopment Agency of Midvale City, a public agency (the “**Grantor**”), and The Court Partners, LLC, a Utah limited liability company (the “**Grantee**”):

For and in consideration of \$10 and other good and valuable consideration, and pursuant to that certain Development Improvements Agreement of even date herewith between the Grantor and the Grantee (the “Development Improvements Agreement”) the receipt and sufficiency of which are hereby acknowledged, the Grantor does, by this Deed, CONVEY AND WARRANT to the Grantee, against all claiming by, through or under it that certain real property situated in Midvale City, Salt Lake County, Utah more particularly described in Exhibit E-2 attached hereto (the “Property”), subject to the exceptions to title set forth in Exhibit E-2 attached hereto.

The Grantee covenants that it will not remove or materially change the Public Art (as defined in the Development Improvements Agreement) for a period beginning on the date that the Certificate of Completion (as defined in the Development Improvements Agreement) is issued and ending on the fifth anniversary thereof.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Grantor and the Grantee have caused this Special Warranty Deed to be duly executed as of the date first above written.

GRANTOR

REDEVELOPMENT AGENCY OF MIDVALE CITY

By _____
Marcus Stevenson
Its: Chief Administrative Officer

By _____
Matt Dahl
Its: Executive Director

Approved as to legal form:

By _____
Lisa A. Garner
Its: RDA Attorney

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Marcus Stevenson, the Chief Administrative Officer of the Redevelopment Agency of Midvale City.

NOTARY PUBLIC
Residing at: _____

My Commission Expires:

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Matt Dahl, the Executive Director of the Redevelopment Agency of Midvale City.

NOTARY PUBLIC

Residing at: _____

My Commission Expires:

EXHIBIT E-1
(to Special Warranty Deed)

Legal Description of Property



EXHIBIT E-2
(to Special Warranty Deed)

Permitted Exceptions



EXHIBIT F
(To Purchase Agreement for Development of Land)

Guaranty

GUARANTY OF COMPLETION AND PERFORMANCE

This Guaranty of Completion and Performance (this “**Guaranty**”) is made as of _____, 20____, by _____, (the “**Guarantor**”) to and for the benefit of the Redevelopment Agency of Midvale City, its successors and assigns (the “**RDA**”).

1. Development Improvements Agreement. The RDA and _____, L.L.C. a Utah limited liability company (the “**Developer**”), entered into that certain Purchase Agreement for Development of Land dated as of _____, 20____ (the “**Purchase Agreement**”) pursuant to which the RDA has agreed, upon the satisfaction of certain conditions, to sell to the Developer certain real property in Salt Lake County described therein (the “**Property**”). Pursuant to the Purchase Agreement, the RDA and the Developer entered into a Development Improvements Agreement on or about the date hereof (the “**Development Improvements Agreement**”) in which the Developer covenants for the benefit of the RDA to complete certain improvements on the Property (as defined therein, the “**Developer Improvements**”). As a condition to the RDA selling the Property to the Developer, the RDA has requested that the Guarantor, which owns [100%] of the beneficial ownership of the Developer, duly execute and deliver this Guaranty guaranteeing completion of the construction of the Developer Improvements and the performance of other covenants which are all considered by the RDA to be material regarding the RDA’s decision to sell the Property to the Developer. For the purposes of this Guaranty, the preceding and following capitalized terms shall have the meanings specified or referenced in the Development Improvements Agreement to the extent that they are not already defined herein.

2. Guaranty. The Guarantor hereby unconditionally and absolutely warrants and guarantees to the RDA that: (a) construction of the Developer Improvements shall be commenced and shall be substantially completed within the time limits set forth in the Development Improvements Agreement; (b) the Developer Improvements shall be constructed and completed in accordance with the Development Improvements Agreement and the Design and Construction Documents (as such term is defined in the Development Improvements Agreement) without material deviation therefrom unless permitted by the Development Improvements Agreement or approved by the RDA in writing in accordance with the Development Improvements Agreement; (c) except as otherwise provided in the Development Improvements Agreement, the Developer Improvements will be constructed and completed free and clear of all liens and encumbrances, including, without limitation, all mechanics liens, materialmen’s liens, and other similar liens (provided, however, it shall not be a breach of the Guarantor’s warranties and guarantees if a lien or encumbrance is filed against the Developer Improvements and Developer and/or the Guarantor expeditiously pays or, if disputed, either bonds or provides another reasonable and customary form of security for the payment of the lien during the time any such dispute is pending); and (d) except for contested amounts, as to which

adequate assurance of payment is provided, all costs of constructing the Developer Improvements will be paid when due.

3. Nature of Guaranty. This Guaranty is an original and independent obligation of the Guarantor, separate and distinct from Developer's obligations to the RDA under the Development Improvements Agreement. The obligations of the Guarantor to the RDA under this are direct and primary, regardless of the validity or enforceability of the Development Improvements Agreement. This Guaranty is for the benefit of the RDA and is not for the benefit of any third party. This Guaranty shall continue (a) until the Developer Improvements have been completed, free and clear of all liens and encumbrances as provided above and (b) all obligations of the Guarantor to the RDA have been performed in full.

4. Guarantor's Authorization to RDA. The Guarantor authorizes the RDA, without notice or demand and without lessening the Guarantor's liability under this Guaranty, from time to time: (a) to make or approve changes to Construction Documents and the Development Improvements Agreement and (b) grant extensions of time under the Construction Documents and the Development Improvements Agreement; provided, however, that if the RDA makes any such changes and such changes increase the cost to construct the Developer Improvements, then the Guarantor shall not be liable for the amount of such increased cost. The Guarantor authorizes the RDA, with notice and without lessening the Guarantor's liability under this Guaranty, to assign or transfer this Guaranty in whole or in part; provided, however, that such assignment shall be to a party designated by the RDA to complete the Developer Improvements in connection with the RDA's exercise of its remedies under the Development Improvements Agreement.

5. Waivers. The obligations of the Guarantor hereunder are independent of the obligations of Developer under the Development Improvements Agreement. The Guarantor waives any defense related to the impossibility, illegality, incapacity, bankruptcy, or receivership of Developer. The Guarantor waives any defenses based on the failure or inability of Developer to pay or reimburse the Guarantor the costs of performance hereunder. The Guarantor waives any defense to the extent that it may require the creditor to proceed against Developer as a condition precedent to any claim or demand hereon, and the Guarantor waives any right to compel the transfer of security held by the RDA, if any, including any encumbrance entitling the RDA to foreclose or levy on the Property until such time as the Certificate of Completion (as defined in the Development Improvements Agreement) is recorded.

6. Rights and Remedies. If the Guarantor after written demand of the RDA shall fail to commence to perform or cause to be performed promptly as provided in this Guaranty and thereafter diligently so perform, the RDA shall have the following rights and remedies after an Event of Default by Developer under the Development Improvements Agreement:

(a) The RDA, at its option, but without any obligation to do so, may proceed to perform on behalf of the Guarantor any and all work on the Developer Improvements and to pay any costs incurred in connection with the work. The Guarantor, upon the RDA's written demand, shall promptly pay to the RDA all such sums expended together with interest thereon at a rate (the "**Specified Rate**") per annum equal to the 4% above the "prime rate" of Wells Fargo Bank, N.A.

(b) The RDA, at its option, but without any obligation to do so, may cure any defaults, including without limitation, paying any unpaid bills and liens, including without limitation those for construction, labor, and material. The Guarantor, upon the RDA's written demand, shall promptly pay the RDA all such sums expended together with interest thereon at the Specified Rate.

(c) The RDA may require the Guarantor specifically to perform the Guarantor's obligations under this Guaranty, by action at law or in equity, or both, and further to collect in any such action, compensation for all loss, cost, damage, injury, and expense sustained or incurred by the RDA as a direct or indirect consequence of Developer's or the Guarantor's failure to perform, with interest thereon at the Specified Rate.

(d) The RDA may require the Guarantor to pay to the RDA all amounts owing by Developer to all of Developer's contractors and subcontractors and materialmen.

(e) In addition, the RDA shall have and may exercise any or all of the rights and remedies it may have available at law, in equity or otherwise.

7. Repurchase Agreement. If an Event of Default shall occur, the RDA has the option of pursuing the Guarantor hereunder or exercising its rights under the Option to Repurchase Agreement; provided, however, that if the RDA exercises its Option under the Option to Repurchase Agreement, then, from and after such date, the Guarantor's sole obligation hereunder is to pay the RDA the Deficit Amount (as defined in the Option to Repurchase Agreement).

8. Termination. This Agreement shall terminate upon:

(a) the issuance by the RDA of a Completion Certificate under the Development Improvements Agreement,

(b) the payment by the Guarantor of the Deficit Amount, or

(c) the purchase of the Property by the RDA pursuant to the Option to Repurchase Agreement without the RDA giving notice to the Guarantor that the RDA is making a claim for payment of the Deficit Amount.

9. Other Agreements

(a) Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be given by (i) Federal Express (or other established express delivery service which maintains delivery records), (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested, to the Parties at the following addresses, or other such addresses as the Parties may designate from time to time by written notice in the above manner:

If to the Guarantor: _____

Attn: _____

With a copy to: _____

Attn: _____

If to the RDA: Redevelopment Agency of Midvale City
7505 South Holden Street
Midvale, UT 84047

Attn: Chief Administrative Officer
Redevelopment Agency of Midvale City
7505 South Holden Street
Midvale, Utah 84047
Attn: Executive Director

With a copy to: _____

Attn: _____

Notices shall be deemed effective on receipt, or upon attempted delivery thereof if delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means for accomplishing delivery.

(b) References. All references to “Section” or “Sections” contained herein are, unless specifically indicated otherwise, references to Sections of this Guaranty. All references to “Exhibits” contained herein are references to Exhibits attached hereto, all of which are made a part hereof for all purposes.

(c) Captions; Headings. The captions, headings, and arrangements used in this Guaranty are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

(d) Number and Gender of Words. Whenever herein the words of any gender shall include each other gender where appropriate.

(e) Attorney’s Fees. If either the RDA or the Guarantor commences a legal or equitable proceeding to enforce any of the terms of this Guaranty, then the prevailing party in such action shall have the right to recover reasonable attorneys’ fees and actual costs from the other party. The term “legal proceedings” as used above shall be deemed to include appeals from a lower court judgment and it shall include proceedings in the Federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters.

(f) Governing Law. This Guaranty and all transactions contemplated hereunder and/or evidenced hereby shall be governed by, construed under, and enforced in accordance with the internal laws of the State of Utah without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than Utah.

(g) Venue. The Guarantor hereby agrees that all actions to enforce the terms and provisions of this Guaranty shall be brought and maintained only within the State of Utah and the Guarantor hereby consents to the exclusive jurisdiction of the appropriate court within Salt Lake County, Utah.

(h) Severability. If any provision of this Guaranty is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Guaranty shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Guaranty; and the remaining provisions of this Guaranty shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Guaranty.

(i) Multiple Counterparts. This Guaranty may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one agreement, but, in making proof of this Guaranty, it shall not be necessary to produce or account for more than one such counterpart.

(j) Binding Effect. This Guaranty is binding upon and inures to the benefit of the RDA and the Guarantor and their respective successors and assigns. If Guarantor is now or is ever composed of more than one party, the obligations and warranties contained herein and arising therefrom shall be joint and several as to each party.

(k) No Presumption. This Guaranty shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either Party.

(l) Merger; Time of the Essence. This Guaranty supersedes all prior agreements, and constitutes the entire agreement between the RDA and the Guarantor with respect to the subject matter hereof. No modification or waiver will be effective unless in writing and signed by the party to be charged. All documents and other matters required to be furnished by the Guarantor will be satisfactory in form and substance to counsel for the RDA. Time is of the essence hereof.

(m) Assignment and Enforcement. The RDA may, without any notice whatsoever to anyone, sell, assign, or transfer its interest in the Property and/or the Development Improvements Agreement, and in that event, each and every immediate and successive assignee, transferee, or holder of all or any part of the Property and the Development Improvements Agreement, as the case may be, shall have the right to enforce this Guaranty, by suit or otherwise, for the benefit of such assignee, transferee, or holder as fully as if such assignee, transferee, or holder were herein by name specifically given such rights, powers, and benefits, provided that notice of transfer

and/or proof of ownership of this Guaranty is provided to the Guarantor prior to the enforcement of this Guaranty.

(n) Waiver. The RDA shall not be deemed to have waived any rights under this Guaranty unless such waiver is given in writing and signed by the RDA. No delay or omission on the part of the RDA in exercising any right shall operate as a waiver of such right or any other right.

EXECUTED by the undersigned Guarantor as of the date specified above.

GUARANTOR:

Permitted Exceptions

1. The Special Warranty Deed
2. Development Improvements Agreement
3. Option to Repurchase Agreement
4. Right of First Offer Agreement

[From the Title Commitment.]

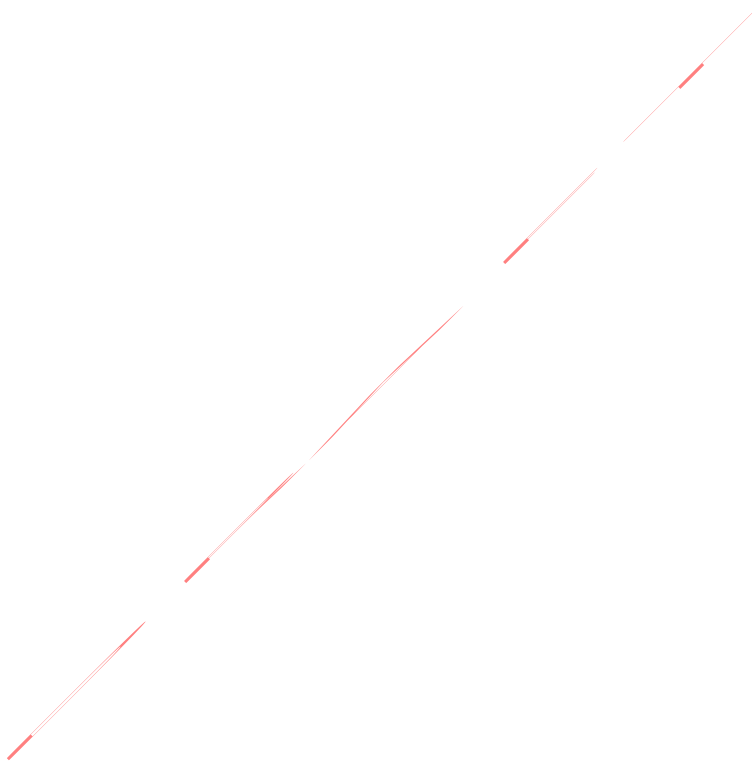


EXHIBIT G
(To Purchase Agreement for Development of Land)

Form of Development Improvements Agreement





**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

Redevelopment Agency of Midvale City
Attn: Chief Administrative Officer
7505 South Holden Street
Midvale, Utah 84047

DEVELOPMENT IMPROVEMENTS AGREEMENT

This Development Improvements Agreement (this “**Agreement**”) is made and entered into as of the ____ day of _____, 20__ by and between the Redevelopment Agency of Midvale City, a public agency (the “**RDA**”), and The Court Partners, LLC, a Utah limited liability company (the “**Developer**”), both of whom are collectively referred to herein as the “**Parties**”, and individually as a “**Party**.”

RECITALS

A. The RDA and the Developer entered into that certain Purchase Agreement for Development of Land dated as of _____, 2022 (the “**Purchase Agreement**”), pursuant to which the RDA agreed to sell to the Developer on the terms and conditions contained therein, certain property located in Midvale City, Utah (as more particularly defined below, the “**Property**”).

B. The Developer agreed in the Purchase Agreement that, in the event of a closing thereunder, it would construct certain improvements on the Property (as more particularly defined below, the “**Developer Improvements**”) in accordance with the terms of a development improvements agreement in the form hereof.

C. The Developer has purchased the Property on the date hereof and, in connection with the closing of such purchase, the Parties desire to enter into this Agreement;

NOW, THEREFORE, the Parties agree as follows:

SECTION 1: Definitions

The terms defined in the Preamble and the Recitals have their assigned meanings, and each of the following terms has the meaning assigned to it:

“**Agreement**” means this Development Improvements Agreement and all Exhibits, as amended from time to time.

“**Architect**” means _____, the independent Utah-licensed architect hired by the Developer to perform design and architectural services in connection with the Developer Improvements.

“Architect Contract” means that certain Standard Form of Agreement between the Owner and the Architect (AIA Document B1431-1997) dated as of _____, 20____ between the Developer and the Architect.

“Certificate of Completion” has the meaning specified in Section 3.5 below.

“City” means Midvale City Corporation, a municipal corporation.

“Contractor” means _____, the independent Utah-licensed contractor hired by the Developer to construct the Developer Improvements.

“Construction Contract” means that certain [title of agreement] dated as of _____, 20____ between the Developer and the Contractor pursuant to which Contractor has agreed to construct the Developer Improvements.

“Construction Financing Documents” means all of the documents approved by the RDA and evidencing sufficient financing to finance a portion of the costs of the construction of the Developer Improvements and timely complete the Developer Improvements.

“Deed” means that certain Special Warranty Deed recorded in Salt Lake County Official Records on the date hereof pursuant to which the RDA conveyed the Property to the Developer.

“Developer Improvements” means the improvements to be constructed by the Developer on the Property as described in Exhibit H-2 attached hereto and as shown on the Site Plan, including, without limitation, the Public Art (as shown in the Final Construction Documents and/or as shown in any other plans and specifications provided to the RDA by the Developer and approved by the RDA).

“Event of Default” has the meaning specified in Section 6.1 below.

“Events of Force Majeure” means any event or period of delay preventing the performance of the Developer’s obligations, which delay is caused by governmental inaction specifically the planning review process and building permit application process taking significantly longer than is typical for a similar project (any governmental delays assume that requests and clarifications from the developer, contractor or subcontractor are not the cause of inaction),, strikes, lock-outs, fire or other casualty, inclement weather abnormal for the period of time and not reasonably anticipatable, the elements or acts of God, war, conflict, riot, insurrections, public disorder, epidemic or pandemic, shortages of or delays in the delivery of construction materials (which have been ordered in a timely manner), or other causes, other than financial and managerial, beyond the reasonable control of the Developer or the Contractor, or their subcontractors of any tier, agents, or employees.

“Final Construction Documents” means the final construction documents for the Developer Improvements, prepared by the Architect and dated _____, 20____, as approved by the RDA pursuant to Section 3.5 of the Purchase Agreement. A copy of the index sheet of the Final Construction Documents is attached hereto as Exhibit H-5.

“Guaranty” means a guaranty of completion and performance in the form of Exhibit F attached hereto.

“Indemnitees” has the meaning specified in Section 4.1 below.

“Interest Rate” has the meaning specified in Section 6.3 below.

“Lender” means _____.

“Material Change” means (i) with respect to any portion of commercial improvements, an increase or decrease in the square footage of such portion of commercial improvements by more than 5%, (ii) with respect to any type of housing units, an increase or decrease in the number of such type of housing units by more than 5%, (iii) with respect to parking spaces, an increase or decrease in the number of parking spaces by more than 5%, (iv) with respect to any other element of the Developer Improvements, a reduction in the size of such element by more than 5%, (v) with respect to any element of the Developer Improvements, a substitution of any materials or a change in design from that specified in the Final Construction Documents that has a lower cost, (vi) any change that would prevent the Architect from issuing the LEED Certificate as required by Section 3.5(a)(ii) of this Agreement, or (vii) any other change in the Final Construction Documents, other than a change that the Chief Administrative Officer of the RDA agrees in writing is an insignificant change.

“Option to Repurchase Agreement” means that certain Option to Repurchase Agreement on the date hereof between the RDA and the Developer.

“Property” means the real property upon which the Developer Improvements are to be constructed as more particularly described on Exhibit E-1 attached hereto.

“Project Area” has the meaning specified in the Purchase Agreement.

“Punchlist Items” means incompletely or improperly constructed items that are qualitatively minor and that do not materially impair a tenant’s ability to use the Developer Improvements for their intended purpose or materially impair a tenant’s ability to occupy the Developer Improvements.

“Purchase Agreement” has the meaning specified in the Recitals.

“RDA” means the Redevelopment Agency of Midvale City, a public agency, and includes any successor designated by the RDA or succeeding to the RDA.

“Records” shall have the meaning set forth in Section 3.11 below.

“Schedule of Development” means the respective times for the completion of the construction of the Developer Improvements set forth in Exhibit E-4 attached hereto.

“Site Plan” means the site plan attached hereto as Exhibit E-3 that generally depicts the Property and the configuration of the Developer Improvements.

SECTION 2: Requirements for the Development of the Property

2.1 Insurance, Building Permits and Bonds. Prior to commencing any construction activities on the Property or adjacent property or any construction staging area, the Developer shall (or the Developer shall cause the Contractor to) deliver to the RDA the following:

(a) certificates of insurance verifying that the insurance required under Sections 2.2, 2.3 and 2.4 has been obtained.

(b) copies of all permits, including without limitation building permits, which are required by the City or any other governmental agency having jurisdiction over the construction of the Developer Improvements.

(c) a performance bond and a payment bond from the Contractor, naming the Contractor as principal and the RDA and the Developer as dual obligees, jointly and severally, written on bond forms, approved by the RDA and the Developer in a penal amount of not less than the full amount of the contract price for the construction of the Developer Improvements, together with (i) a certified and current copy of the power of attorney for the attorney-in-fact who executes the bonds on behalf of the surety and (ii) evidence that the penal sum shall be within the maximum specified for such surety; provided, however, that if the Construction Financing Documents require payment and performance bonds and the requirements for such bonds are reasonably acceptable to the RDA, then the RDA will accept such bonds to satisfy the requirements of this Agreement.

(d) The Developer shall have delivered to the RDA a completion bond naming the Developer as principal and the RDA as obligee written on a bond form, approved by the RDA, in a penal amount of not less than the full amount of the contract price for the construction of the Developer Improvements. Such bond shall be secured from a surety authorized to do business in the State of Utah and rated A- or better by the A. M. Best Company at the time of issuance of the bond and holding certificates of authority as an acceptable surety on federal bonds as listed by the United States Department of Treasury (Circular 570, as amended) in its most recent list at the time of issuance of the bond. The penal sum shall be within the maximum specified for such surety. The attorney-in-fact who executes the bonds on behalf of the surety shall affix to the bond a certified and current copy of his or her power of attorney.

2.2 Property Insurance. The Developer shall maintain property insurance in the amount of the contract price for construction of the Developer Improvements (including any increase in price based on change orders) on a replacement cost basis without voluntary deductibles in excess of \$50,000. Such property insurance shall be maintained, unless otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made to the Contractor for the construction of the Developer Improvements. The RDA shall be named as an additional named insured of such insurance policy. Such insurance shall include the interests of the RDA, the Developer, Contractor and any subcontractors and sub-subcontractors in the work. Such property insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, flood, earthquake, theft, vandalism,

malicious mischief, collapse, false work, temporary buildings and debris removal, including demolition occasioned by enforcement of any Applicable Requirements, and shall cover reasonable compensation for the Architect's services and expenses required as a result of such insured loss. The Developer shall also maintain Boiler and Machinery Insurance which shall specifically cover such insured objects during installation until final acceptance by the Developer. The RDA shall be named as an additional named insured of such insurance policy. Such insurance shall include the interests of the RDA, the Developer, the Contractor, subcontractors and sub-subcontractors in the work.

2.3 Contractor's Insurance. The Developer shall cause the Contractor to maintain insurance with at least the following minimum insurance coverages:

- (a) Workers' compensation insurance in the amount of the statutory limit;
- (b) Employers' liability insurance in an amount not less than \$1,000,000; and
- (c) The Contractor's Comprehensive Automobile Liability Insurance, including coverages of owned, non-owned and hired vehicles, shall be written with combined single limits (including personal injury liability, bodily injury liability, and property damage liability) of not less than \$3,000,000 per each occurrence during the policy year.
- (d) The Contractor's General Liability Insurance shall be written on a Commercial General Liability coverage form, which coverages shall include Independent Contractor's Liability coverage, Blanket Contractual Liability Endorsement, premise and operation coverage, Broad Form Property Damages Endorsement, explosion, collapse and underground hazard coverage, fire legal liability coverage, Product-Completed Operations coverage (which shall be kept in effect for two years after the completion of the Developer Improvements) and Personal Advertising Injury Coverage. The coverage limits shall be not less than the following:
 - (i) Each Occurrence limit - \$3,000,000
 - (ii) General Aggregate - \$3,000,000
 - (iii) Product/Completed Operations Aggregate - \$3,000,000
 - (iv) Personal and Advertising Injury Limit - \$3,000,000

The Developer and the RDA shall be additional named insureds on the Contractor's General Liability Insurance and Comprehensive Automobile Liability Insurance. The Contractor's General Liability Insurance and Comprehensive Automobile Liability Insurance shall be provided on an "occurrence" form and not on a "claims made" form.

2.4 Architect's Insurance. The Developer shall cause the Architect to continuously maintain during the course of its performance of professional services, insurance as follows:

(a) General Liability Insurance written on an occurrence basis with per claim and aggregate annual limits of liability of not less than \$1,000,000 and with a deductible or self-insured retention of not greater than \$10,000; and

(b) Professional liability insurance with per claim and aggregate annual limits of liability of not less than \$2,000,000 and with a deductible or self-insured retention of not greater than \$50,000.

The Professional Liability Insurance shall be maintained without interruption for a period of two years after the date of the completion of the Developer Improvements. The Developer and the RDA shall be additional named insureds on the Architect's General Liability Insurance.

2.5 Insurance Requirements Generally. Each insurance policy and bond required hereunder must be issued by a company lawfully authorized to do business in the State of Utah rated A- or better with a financial size category of class VIII or larger by A.M. Best Company and, in the case of the bonds, from a surety holding a certificate of authority as an acceptable surety on federal bonds as listed by the United States Department of Treasury (Circular 570, as amended) in its most recent list at the time of issuance of the applicable bond. The Developer shall, and shall obtain the agreement of the Contractor and the Architect to, permit the RDA, upon request, to examine the original insurance policies required hereby along with any endorsements thereto. In the event the aggregate annual limits of any insurance policies required in Sections 2.3 and 2.4 above are depleted below the aggregate annual limits required set forth therein because of payment of claims, defense costs or any other reason, the Developer shall require that the Contractor or the Architect, as the case may be, purchase such additional insurance coverage as is necessary to cause such insurance policy(ies) to achieve the aggregate annual limits of liability required in Sections 2.3 and 2.4 above. The Developer shall provide in its contracts with the Contractor and the Architect that if the Contractor or the Architect at any time neglects or refuses to provide the insurance required herein, or should such insurance be canceled, the Developer shall have the right, but not the obligation, to procure the same at the cost and expense of the Contractor and the Architect, and the cost thereof may be deducted by the Developer from any monies then due or thereafter to become due to the Contractor and the Architect. The Developer shall promptly exercise its rights under such contracts. The Developer shall bear all costs, expenses, and damages incurred by the RDA arising from such failure to purchase and maintain insurance required by this Agreement.

SECTION 3: Agreements to Develop the Property

3.1 Developer Obligation. The Developer agrees to cause the Property to be developed in accordance with the terms and provisions set forth in this Agreement.

3.2 Construction of Developer Improvements. Developer shall commence and diligently prosecute to completion the construction of the Developer Improvements in accordance with this Agreement and the Schedule of Development. By the time set forth in the Schedule of Development, the Developer shall substantially complete the Developer Improvements in accordance with the Final Construction Documents and the requirements of all governmental authorities, except for "**Punchlist Items.**" The Developer shall complete the Punchlist Items in the time frame set forth in the Schedule of Development.

3.3 Cost of Construction of Developer Improvements. The cost of demolition and developing and constructing the Developer Improvements and all other costs shall be borne solely by the Developer.

3.4 Change Orders for Final Construction Documents. The RDA's written approval of each change order to the Construction Contract involving a change to the Final Construction Documents is required. The Developer shall provide the RDA with copies of any proposed change order to the Construction Contract. The RDA shall have three business days to review any such proposed change order. If the proposed change order does not involve a Material Change to the Final Construction Documents, then the RDA shall not unreasonably withhold its approval. If the proposed change order involves a Material Change to the Final Construction Documents, then the RDA may give or withhold its approval in the RDA's sole discretion.

3.5 Certificate of Completion.

(a) Within ten days after completion of all construction and development of the Developer Improvements, the Developer shall provide to the RDA:

(i) a certificate to that effect signed by the Developer and the Architect,

(ii) a certificate from the Architect certifying that the construction of the Developer Improvements is consistent with the design elements required to achieve the "silver" level according to the LEED standards established by the U.S. Green Building Council (official certification will not be required), together with a work sheet prepared by the Architect with points allocated to the various features of the Project and its construction in accordance with such standards, that demonstrates how the Developer Improvements would be entitled to such "silver" status, and

(iii) a written Project Report to the RDA and the Salt Lake County Assessor, which shall include the following information:

(A) Total square footage of the Developer Improvements.

(B) Total development cost,

(C) Description of the development, and

(D) Lease rates for the Developer Improvements (as applicable).

(b) Upon written request by the Developer and if the RDA finds that the documents provided in subsection (a) are in order, the RDA shall furnish the Developer a certificate of completion ("**Certificate of Completion**"). The Certificate of Completion shall be a preliminary determination of satisfactory completion of the Developer's obligations required by this Agreement with respect to the Developer Improvements and the Certificate of Completion shall so state. Notwithstanding any issuance of a Certificate of Completion, the duty of the Developer to construct the Developer

Improvements in accordance with the Final Construction Documents shall survive the issuance of a Certificate of Completion and causes of action related to the Developer Improvements shall be limited solely by the applicable statute of limitations; provided, however, that the RDA agrees that it may not exercise its option to repurchase the Property pursuant to the Option to Repurchase Agreement after the date on which the Certificate of Completion is issued. A Certificate of Completion shall be in recordable form and may, at the option of the Developer, be recorded in the Recorder's Office of Salt Lake County, and upon such recordation of the Certificate of Completion, this Agreement shall be terminated of record.

(c) If the RDA refuses or fails to furnish a Certificate of Completion for the Developer Improvements within 20 days after a written request from the Developer, the RDA shall, within days of such written request for a Certificate of Completion, provide the Developer with a written statement of the reasons the RDA refused or failed to furnish a Certificate of Completion. The statement shall also contain the RDA's opinion of the actions the Developer must take to obtain a Certificate of Completion. A Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of any mortgage, or any insurer of a mortgage securing money loaned to finance the Developer Improvements, or any part thereof.

3.6 Rights of Access. For the purpose of assuring compliance with this Agreement, so long as they comply with all safety rules of the Developer and its Contractor, including signing a standard construction area release, representatives of the RDA shall have the right of access to the Property without charges or fees, 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 Developer Improvements.

3.7 Local, State and Federal Laws. The Developer shall carry out the construction of the Developer Improvements in compliance with all Applicable Requirements, licenses, permits, and orders. The Developer represents that it has registered with and is participating in the Status Verification System under the Utah Identity Documents and Verification Act (Utah Code Title 63G, Chapter 11), to verify the work eligibility status of the Developer's new employees that are employed in Utah. In addition, the Developer represents that each contractor or subcontractor who is working under or for the Developer (including without limitation the Contractor) has certified to the Developer by affidavit that such contractor or subcontractor has verified through the Status Verification System the employment status of each new employee of such respective contractor or subcontractor.

3.8 Antidiscrimination During Construction. The Developer, for itself and agrees that in the construction of the Developer Improvements, its Contractor, subcontractors, sub-subcontractors, the Architect, and its and their agents and employees, shall not discriminate against any employee or applicant for employment on any unlawful basis. The Developer agrees not to discriminate against or segregate any person or group of persons on any unlawful basis in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property or any part thereof or of any Developer Improvements erected or to be erected thereon or any part thereof.

3.9 Amendments to Architect Contract and Construction Contract. The Developer shall not amend the Architect Contract or the Construction Contract without the written approval of the RDA, such approval not to be unreasonably withhold so long as the amendment shall not result in the contract being inconsistent with this Agreement.

3.10 Maintenance of Records. The Developer shall keep complete and comprehensive records and books of account as to all of its activities, including the performance of its obligations, under this Agreement. The Developer shall maintain all records pursuant to Generally Accepted Accounting Principles (GAAP) and pursuant to pronouncements by the Financial Accounting Standards Board (FASB). Upon not less than five business days prior written notice to the Developer, the RDA shall have reasonable access during customary business hours to all records, functions, property and to the extent reasonably available personnel of the Developer, including the Developer's consultants and subcontractors under this Agreement, for the purpose of reviewing and auditing, at the RDA's expense, all records of the Developer related to the Developer Improvements as necessary to determine the Developer's compliance with this Agreement.

3.11 Monthly Reports. The Developer shall provide to the RDA each month a status report regarding the construction of the Developer Improvements, in form and in detail as requested by the RDA.

3.12 Utah Governmental Records Access Management Act. The Parties recognize that the RDA is subject to the Utah Governmental Records Access Management Act ("**GRAMA**"), Utah Code Ann. §§63G-2-101 et seq, as amended. Pursuant to GRAMA, certain records within the RDA's possession or control (including those potential provided by the Developer) may be subject to public disclosure. The RDA hereby informs the Developer that any person or entity that provides the RDA with records that such person or entity believes should be protected from disclosure for business reasons must, pursuant to Section 63G-2-309 of GRAMA, provide to the RDA, with the record, a written claim of business confidentiality and a concise statement of reasons supporting such claim. Notwithstanding any provision to the contrary in this Agreement, the RDA may disclose any information or record to the extent required by GRAMA or otherwise required by law, and to the RDA's attorneys, accountants, consultants on a need-to-know basis.

SECTION 4: Indemnity

4.1 Indemnification. The Developer assumes responsibility (both before and after the issuance of the Certificate of Completion) for, and holds the RDA and the City, and their consultants, officers, employees, and agents harmless from, and agrees to indemnify and defend the RDA and the City and their respective consultants, officials, officers, employees, and agents (collectively and individually the "**Indemnitees**") against, all claims, liabilities, losses, costs and expenses (including, without limitation, attorneys' fees, damages, and injuries (including, without limitation, injuries to persons, loss of life, damage to tangible or intangible property rights, whenever occurring, but excluding economic loss or consequential damages) (collectively, "**Losses**") to the extent arising out of or caused by the acts, errors or omissions of the Developer or its agents, employees, servants, or their contractors, subconsultants or subcontractors of any tier, or anyone directly or indirectly employed by them or for whose acts they may be liable, in the design and construction of the Developer Improvements, the Property and/or adjacent

property or any improvements thereon (as applicable); provided that, if such Losses arise in part out of or are caused in part by acts, errors or omissions of an Indemnatee(s), then the Losses shall be apportioned among the Developer and such Indemnatee(s) pro rata based on the proportional share of fault of the Developer and Indemnatee(s)

4.2 Defense. The Developer shall defend all suits brought upon such claims and shall pay all costs and expenses incidental thereto; provided, that if such claims arise in part out of or are caused in part by acts, errors or omissions of an Indemnatee(s), then the costs and expenses incidental to the Developer's defense of suits brought upon such claims shall be apportioned among the Developer and such Indemnatee(s) pro rata based on the proportional share of fault of the Developer and Indemnatee(s).

4.3 No Effect on Other Rights. The Developer's obligation to indemnify shall not be construed to negate, abridge or otherwise reduce other rights or obligations of indemnity which may otherwise exist in favor of the Indemnitees.

4.4 Coverage. In claims against the Indemnitees by an employee of the Developer, or its agents, employees, servants, consultants, subconsultants or subcontractors of any tier, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 4 shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for the Developer or its agents, employees, servants, consultants, subconsultants of any tier or subcontractors of any tier, under workers' or workman's compensation acts, disability benefit acts or other employee benefits acts. Without limiting the generality of the foregoing, the indemnity and obligation to defend and hold harmless shall extend to:

(a) Design and/or construction by or through the Developer of the Developer Improvements or any other work or thing done in, on or about the Property or adjacent property (if applicable), or a part thereof;

(b) During the term hereof, any use, non-use, possession, occupation, construction, alteration, repair, condition, operation or maintenance of the Property or adjacent property (if applicable), or improvements thereon by or through the Developer, or any nuisance made or suffered thereon or any failure by the Developer to keep the Property, adjacent property (if applicable), or improvements thereon, or of any street, alley, parking area or facility, sidewalk, curb, vault, passageway, gutter, tunnel, bridge, or space comprising a part thereof in a safe condition;

(c) Any fire, accident, injury (including death) or damage to any person or property occurring in, on or about the Property or adjacent property (if applicable) or improvements thereon or any part thereof or in, on or about any street, alley, parking area or facility, sidewalk, curb, vault, passageway, gutter, tunnel, bridge, or space comprising a part thereof; and

(d) Any lien or claim which may be alleged to have arisen against or on the Property or adjacent property, or improvements thereon or any part thereof or any of the

assets of, or funds appropriated to, the RDA, or any liability which may be asserted against the RDA with respect thereto.

SECTION 5: Transfer; Financial Encumbrances

5.1 Prohibition Against Transfer of Property, Developer Improvements and Assignment of Agreement. Prior to the issuance of the Certificate of Completion by the RDA and except as provided in Section 5.2 below, the Developer shall not, without the prior written approval of the RDA (which may be withheld in its absolute discretion) (i) sell, transfer, or convey directly or indirectly, the whole or any part of the Property or the buildings or structures thereon or (ii) transfer, assign or convey this Agreement or the Developer's obligations hereunder; provided, however, that notwithstanding the foregoing, the Developer shall be entitled to (A) enter into reservation agreements, pre-sale agreements, purchase and sale agreements, leases and other similar agreements with respect to portions of the Property so long as such agreements are documented on forms previously approved by the RDA and (B) sell residential units pursuant to bona fide sales to third parties. The Developer shall not permit any change in the general partner(s) or managing member(s), if applicable, or in the ownership of or with respect to the parties that own an interest in the Developer on the date hereof, prior to the issuance of Certificate of Completion for the Developer Improvements, without the Developer providing the RDA with prior written notice of such change. These prohibitions shall not be deemed to prevent the granting of utility easements or permits to facilitate the construction of the Developer Improvements.

5.2 Encumbrances. Prior to the issuance of Certificate of Completion for the Developer Improvements, the Developer shall not (a) grant any mortgage, deed of trust, or other lien secured by the Property, other than the Construction Financing Documents or (b) enter into any other agreement encumbering the Property with any restrictions on use.

SECTION 6: Extension of Dates and Deadlines; Defaults and Remedies

6.1 Extension. The Developer shall make commercially reasonable efforts to perform its duties by any dates set forth in the Schedule of Development. Notwithstanding the foregoing, if the Developer cannot reasonably perform a duty due to the occurrence of an Event of Force Majeure or the rejection of or delay in awarding or approving any permit, consent, contract, document, or other legal instrument by the RDA or any permitting or other governing division/authority (each an "Extension Event"), then (i) the Developer shall promptly notify the RDA of the occurrence of such Extension Event upon learning that an adjustment to applicable dates in the Schedule of Development will be required due to the Extension Event, (ii) the Developer shall include within such notification to the RDA a proposed adjustment to applicable dates in the Schedule of Development, and (iii) the Developer and the RDA shall extend or modify all relevant dates in the Schedule of Development in good faith to allow the Developer to fulfil its obligations hereunder.

6.2 Default. Subject to Section 6.1, it shall be an event of default under this Agreement by the Developer (an "Event of Default") if the Developer shall fail to perform any of its duties or obligations hereunder at the time for performance set forth herein or if the Developer shall default in its obligations under any of the covenants and conditions contained in the Deed,

and thereafter fails to cure any such default within 30 days of its receipt of a written notice of default from the RDA; provided, however, that if the nature of such default is such that more than 30 days are reasonably required for its cure, then such default will not be deemed to be an Event of Default if the Developer shall commence such cure within such 30 day period and shall thereafter diligently prosecute such cure to completion; provided, further, that the maximum additional time to complete such cure shall be 30 days (60 days in total); provided further that if an Event of Force Majeure shall occur during such period then the time to complete such cure shall be extended by the time period agreed to by the Parties pursuant to Section 6.1. Following an Event of Default, the RDA shall have all remedies specified in the Option to Repurchase Agreement, and all remedies at law or in equity, which shall include the right to restrain by injunction any violation or threatened violation and by decree to compel specific performance of any terms, covenants or conditions of this Agreement, it being agreed that the remedy at law for any breach of any term, covenant, or condition of this Agreement is not adequate.

6.3 Right to Cure. Should the Developer fail to timely perform any of the obligations set forth in this Agreement and thereafter fail to diligently commence performing any of such obligations within 30 days of its receipt of the RDA's written demand therefor, and diligently and continuously pursue such performance to completion, the RDA, its successors and assigns, shall, in addition to any other remedy provided at law or in this Agreement, have the right (but not the obligation) to perform such obligation on behalf of the Developer, and the Developer shall reimburse the RDA, its successors and assigns, for the actual cost of performing such work within ten days after receipt of billing therefor and proof of payment thereof. In the event the Developer does not reimburse the RDA or its successors and assigns within such ten days, the RDA, its successors or assigns, shall have (i) the right to exercise any and all rights which the RDA, its successors or assigns, might have at law to collect the same, and (ii) have a lien on the Property to the extent of the amount paid by the RDA, its successors or assigns, but not reimbursed by the Developer, which amount shall bear interest at a rate equal to the then published "Prime Rate" of Wells Fargo Bank, N.A. the "Interest rate". Such lien may be filed for record as a claim against the Developer, in the form required by law, in the Salt Lake County Recorder's Office, which lien shall contain at least the following information:

- (a) The name of the lien claimant;
- (b) The name of the Developer;
- (c) A description of the work performed on behalf of the Developer and a statement itemizing the cost thereof; and
- (d) A description of the Property.

The lien so claimed shall attach from the date of recordation in the amount claimed, and it may be enforced and foreclosed in any manner allowed by law, including, but not limited to, suits to foreclose a mechanic's lien, trust deed, or mortgage under applicable law. Such lien, when so established against the real property described in such lien, shall be prior and superior to any right, title, interest, lien, or claim which may be or is acquired or attached to such real property after the time of recording the claim of lien, but shall in any event be subordinate to the lien of a Qualified Mortgagee (as defined below).

6.4 Breach Shall Not Permit Termination. No breach of this Agreement shall entitle the Developer to cancel, rescind or otherwise terminate this Agreement.

6.5 No Limitation of Remedies; Sole Discretion. The various rights and remedies herein contained, except as otherwise provided in this Agreement, shall not be considered as exclusive of any other right or remedy, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute. No delay or omission of the right to exercise any power or remedy shall impair any such right, power or remedy or be construed as a waiver of any default or nonperformance or as acquiescence therein. The Developer and the successors and assigns of the Developer, shall be jointly and severally liable for any default under this Agreement; provided, any action with regard to such default may be instituted against all or any one of them. All decisions and determinations made by the RDA under this Section 6 may be made in the RDA's sole discretion. Notwithstanding the foregoing, the RDA agrees that if it exercises its Option under the Option to Repurchase Agreement, it shall have no further remedies hereunder and its rights under the Guaranty shall be limited to payment of the Deficit Amount (as defined in the Option to Repurchase Agreement).

6.6 RDA Default. The RDA shall be deemed to be in default hereunder in the event the RDA shall, for any reason other than the Developer's default, fail to meet, comply with, or perform any covenant, agreement, or obligation on its part required within the time limits (including applicable cure periods) and the manner required in this Agreement. In the event the RDA shall be deemed to be in default hereunder, the Developer may specific performance of, or a writ of mandamus to compel performance of, such duties. The RDA shall be liable for all costs and expenses (including reasonable attorney's fees from successful action) incurred by the Developer in connection with the Developer's action for such specific performance or writ of mandamus.

SECTION 7: Acknowledgement of RDA

(a) City Logo. From and after the date hereof, Developer shall display the City's logo, pursuant to the City Branding Guide available from the City, through the date the Project is fully occupied or every Unit is sold, in the following instances: (i) on any signage located on the site of the Project that names, announces, or provides renderings or photographs of the Project; (ii) on signage in or on any building, parking structure, façade, or public space being constructed or renovated that names, announces, or provides renderings or photographs of the Project; (iii) on any printed materials describing the Project; (iv) on any signage located on site that provides logos or names of one or more organizations involved in financing any part of the Project, advertising their involvement in the Project; and (v) on any digital or online presentation of the Project in part or in their entirety. At least one of the signs on which the City logo is displayed will be easily visible and legible from the center of the nearest public street, and will be approved by the RDA.

(b) RDA Acknowledgement. From and after the date hereof, Developer will include the full name of the "Redevelopment Agency of Midvale City (RDA)" in the first instance, or "RDA" in subsequent instances, and acknowledge the RDA's contributions or assistance to the Project in all printed materials describing the Project including but not

limited to: (i) brochures, flyers, printed materials and signage; (ii) interviews with press organizations; (iii) descriptions of the project in newspapers, mass emails, advertisements, and case studies; and (iv) on websites owned by Developer in which the Project is discussed or described. When RDA assistance is acknowledged in any of the above instances, the font size, layout, and variation will be consistent with other acknowledgments in the same instance. A sample acknowledgment that may be used in some instances includes but is not limited to the following: "This project assisted/funded in part by the Redevelopment Agency of Midvale City (RDA)." The RDA acknowledges that references to the RDA may not have been included in marketing materials, signage, interviews, and descriptions used, displayed, or occurring prior to the date of this Agreement.

SECTION 8: **Mortgagee Protection and Notices**

8.1 **Definitions.** As used in this Agreement, each of the following terms shall have the indicated meaning:

(a) **"Mortgage"** means a mortgage, or a deed of trust, or other security agreement recorded in the Official Records.

(b) **"Mortgagee"** means the mortgagee under a mortgage, the beneficiary under a deed of trust or the secured party under any security agreement recorded with respect to the Property or any portion thereof in the Official Records.

(c) **"Official Records"** means the official records of the Salt Lake County Recorder, State of Utah.

(d) **"Qualified Mortgagee"** means a Mortgagee of which the RDA has been provided examples of previously successful development initiatives, similar in scope and scale to the submitted proposal. The RDA shall be given written notice, including such Mortgagee's previous developments, name and address which has been evaluated and verified as qualified by the selection committee. This will be evaluated through the selection criteria highlighted in *Section III – Selection Process and Criteria*, of the RFP document.

8.2 **Obligations of Mortgagee.** Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure, any Qualified Mortgagee shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, and shall have no liability under, this Agreement.

8.3 **Notices; Right to Cure.** On delivering to the Developer any notice, demand or other communication pursuant to the provisions of this Agreement and the Option to Repurchase Agreement, the RDA shall at the same time deliver copies of such notice to each Qualified Mortgagee at the latest address provided to the RDA by such Qualified Mortgagee. Although otherwise effective with respect to the Developer, no notice delivered to the Developer shall affect any rights or remedies of a Qualified Mortgagee unless a copy of such notice has been delivered to such Qualified Mortgagee in accordance with the immediately preceding sentence.

Each Qualified Mortgagee shall have the right to remedy a default or cause the same to be remedied within the time allowed to the Developer.

8.4 Performance. A Qualified Mortgagee shall have the right to act for and in the place of the Developer to the extent permitted by the applicable Mortgage or otherwise agreed to by the Developer in writing. The RDA shall accept performance by or on behalf of a Qualified Mortgagee as if the same had been performed by the Developer. A Qualified Mortgagee shall have the right, to the extent the Developer agrees in writing, to appear in a legal action or proceeding on behalf of the Developer in connection with the Property.

8.5 Recognition. Within 30 days of a written request therefor together with evidence as the RDA may reasonably require that a proposed Qualified Mortgagee in fact meets the requirements of a Qualified Mortgagee as set forth herein, the RDA agrees to execute, acknowledge and deliver to such Qualified Mortgagee an instrument stating that such Qualified Mortgagee is a "Qualified Mortgagee" entitled to the benefits of this Section 8.

8.6 Estoppel Certificate. Within ten days after a written request by the Developer, a Qualified Mortgagee or a proposed Qualified Mortgagee, and upon payment of the RDA's reasonable out-of-pocket legal costs incurred in connection with the issuance thereof, the RDA shall issue a certificate confirming or not confirming if not accurate:

- (a) that this Agreement is in full force and effect;
- (b) that to the RDA's knowledge no default (or event which with the giving of notice or passage of time, or both will constitute default) exists on the part of the Developer or the RDA under this Agreement; and
- (c) such other matters pertaining to this Agreement as may reasonably be requested.

The recipient of the certificate shall be entitled to rely on the certificate.

SECTION 9: Other Agreements

9.1 Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be given by (i) Federal Express (or other established express delivery service which maintains delivery records), (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested, to the Parties at the following addresses, or such other addresses as the Parties may designate from time to time by written notice in the above manner:

If to the Developer: The Court Partners, LLC

Attn: _____

With a copy to: _____

Attn: _____

If to the RDA: Redevelopment Agency of Midvale City
7505 South Holden Street
Midvale, Utah 84047
Attn: Chief Administrative Officer

Redevelopment Agency of Midvale City
7505 South Holden Street
Midvale, Utah 84047
Attn: Executive Director

With a copy to: _____

Attn: _____

Notices shall be deemed effective on receipt, or upon attempted delivery thereof if delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means for accomplishing delivery.

9.2 References. All references to “Section” or “Sections” contained herein are, unless specifically indicated otherwise, references to Sections of this Agreement. All references to “Exhibits” contained herein are references to Exhibits attached hereto, all of which are made a part hereof for all purposes.

9.3 Captions; Headings. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

9.4 Attorneys’ Fees. If a Party commences a legal or equitable proceeding to enforce any of the terms of this Agreement, then the prevailing Party in such action shall have the right to recover reasonable attorneys’ fees and actual costs from the other Party. The term “legal proceedings” as used above shall be deemed to include appeals from a lower court judgment and it shall include proceedings in the Federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters.

9.5 Governing Law. This Agreement and all transactions contemplated hereunder and/or evidenced hereby shall be governed by, construed under, and enforced in accordance with the internal laws of the State of Utah without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than Utah.

9.6 Venue. The Parties hereby agree that all actions to enforce the terms and provisions of this Agreement shall be brought and maintained only within the State of Utah. The Developer hereby consents to the exclusive jurisdiction of the appropriate court within Salt Lake County, Utah.

9.7 Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.

9.8 Multiple Counterparts. This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one agreement, but, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

9.9 Further Acts. In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by the Parties, the Parties agree to perform, execute, and deliver or cause to be performed, executed, and delivered any and all such further acts, deeds, and assurances as may be reasonably necessary to consummate the transactions contemplated hereby.

9.10 Survival. Except as otherwise provided for herein, all agreements, covenants, representations and warranties contained herein shall survive the expiration or termination of this Agreement and the performance by the Developer of its obligations hereunder.

9.11 Conflict of Interest. In accordance with the Municipal Officers' and Employees' Ethics Act (Utah Code Ann. § 10-3-1301 to 1312), the developer represents that none of its officers, employees, or agents are officials, officers, or employees of the Agency, unless disclosure has been made in accordance with the Agency's ordinances and policies. Further, the developer certifies that it has not offered or given any gift or compensation prohibited by local, state, or federal law, to an official, officer, or employee of the Agency to secure favorable treatment with respect to being awarded this Agreement.

9.12 Nonliability of RDA Officials and Employees. No member, official, or employee of the RDA shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the RDA or for any amount which may become due to the Developer or its successor or on any obligation under the terms of this Agreement.

9.13 Binding Effect. This Agreement is binding upon and inures to the benefit of the Parties and their respect successors and assigns. If Developer is now or is ever composed of more than one party, the obligations and warranties contained herein and arising therefrom are and shall be joint and several as to each such party.

9.14 No Relationship. Nothing contained in this Agreement, nor any acts of the Parties shall be deemed or construed to create the relationship of principal and agent or of limited or general partnership or of joint venture or of any other similar association between the RDA, its successors or assigns, or the Developer, its successors or assigns.

9.15 No Presumption. This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either Party.

9.16 Days. Unless otherwise specified in this Agreement, a reference to the word “**days**” shall mean calendar days. The term “**business days**” shall mean each day of the week except weekends and federal holidays during which the United States mail is not delivered.

9.17 No Waiver of Governmental Immunity. The Developer acknowledges that the RDA is an agency of the State of Utah and as such is subject to and bound by the provisions of the Utah Governmental Immunity Act, Utah Code Ann. § 63-30-1 (the “**Act**”). No covenant, provision or agreement contained in this Agreement will be deemed to be a waiver of the rights of the RDA under the Act.

9.18 Merger; Time of the Essence. This Agreement, together with the Purchase Agreement, supersedes all prior agreements, and constitutes the entire agreement between the Parties with respect to the subject matter hereof. No modification of this Agreement will be effective unless in writing and signed by each Party. All documents and other matters required to be furnished by the Developer will be satisfactory in form and substance to counsel for the RDA. Time is of the essence hereof.

9.19 Assignability and Enforcement. The RDA may, upon written consent of the Developer, such consent not to be unreasonably withheld, sell, assign, or transfer its interest in the Property and/or this Agreement, and in that event, each and every immediate and successive assignee, transferee, or holder of all or any part of the Property and this Agreement, as the case may be, shall have the right to enforce this Agreement, by suit or otherwise, for the benefit of such assignee, transferee, or holder as fully as if such assignee, transferee, or holder were herein by name specifically given such rights, powers, and benefits, provided that notice of transfer and/or proof of ownership of this Agreement is provided to the Developer prior to the enforcement of this Agreement.

9.20 Recordation. This Agreement or a memorandum of this Agreement shall be recorded in the office of the Salt Lake County Recorder.

9.21 Approvals and Consents. Whenever either Party is obligated to not unreasonably withhold an approval or consent hereunder, such Party shall also not unreasonably delay or condition such approval or consent.

9.22 Waiver. The RDA shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by the RDA. No delay or omission on the part of the RDA in exercising any right shall operate as a waiver of such right or any other right.

[Remainder of this page intentionally left blank, signature page to follow.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.

REDEVELOPMENT AGENCY OF MIDVALE CITY

By _____
Marcus Stevenson
Its: Chief Administrative Officer

By _____
Matt Dahl
Its: Executive Director

Approved as to legal form:

By _____
Lisa A. Garner
Its: RDA Attorney

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Marcus Stevenson, the Chief Administrative Officer of the Redevelopment Agency of Midvale City.

NOTARY PUBLIC
Residing at: _____

My Commission Expires:

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Matt Dahl, the Executive Director of the Redevelopment Agency of Midvale City.

NOTARY PUBLIC

Residing at: _____

My Commission Expires:

By: _____
Name: _____
Its: _____

My Commission Expires:

EXHIBIT G-1
(to Development Improvements Agreement)

Description of the Property

[The initial description of the Property is set forth on Exhibit A of the Purchase Agreement.]



EXHIBIT G-2
(to Development Improvements Agreement)

Description of Developer Improvements

[The initial description of the Developer Improvements is set forth on Exhibit B of the Purchase Agreement, which may be modified in accordance with Section 3.5 of the Purchase Agreement.]



EXHIBIT G-3
(to Development Improvements Agreement)

Site Plan

[The initial description of the Site Plan is set forth on Exhibit C of the Purchase Agreement, which may be modified in accordance with Section 3.5 of the Purchase Agreement.]



EXHIBIT G-4
(to Development Improvements Agreement)

Schedule of Development

<u>Approval/Milestone</u>	<u>Section Reference</u>	<u>Outside Date</u>
General contractor installs construction fencing and begins construction	Section 3.2	Later of: (i) October 20, 2022, or (ii) 4 weeks after receiving building permit from permitting division/authority is latest.
Substantial Completion Date	Section 3.2	The later of: (i) June 20, 2024, or (ii) 20 months after receiving building permit from permitting division/authority
Completion of Punchlist Items	Section 3.2	The later of: (i) July 27, 2024, or (ii) 21 months after receiving building permit from permitting department/authority

EXHIBIT G-5
(to Development Improvements Agreement)

Index Sheet of Final Construction Documents



EXHIBIT H
(To Purchase Agreement for Development of Land)

Option to Repurchase Agreement



**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

Redevelopment Agency of Midvale City
7505 South Holden Street
Midvale, Utah 84047
Attn: Chief Administrative Officer

(Above space for recorder's use only)

OPTION TO REPURCHASE AGREEMENT

This Option to Repurchase Agreement (this "**Agreement**") is made and entered into as of the ____ day of _____, 20__, by and between the Redevelopment Agency of Midvale City, a public agency (the "**RDA**"), and The Court Partners, LLC, a Utah limited liability company (the "**Owner**"), both of whom are collectively referred to herein as the "**Parties**", and individually as a "**Party**."

RECITALS

- A. In accordance with the terms of that certain Purchase Agreement to Develop Land dated as of _____, 20__ (the "**Purchase Agreement**"), and pursuant to that Special Warranty Deed which was recorded on the date hereof (the "**Deed**"), the RDA sold and the Owner purchased certain real property located at approximately _____, Salt Lake City, Utah (as more particularly described in Exhibit "H-1" attached hereto, the "**Property**").
- B. Also pursuant to the Purchase Agreement, on the date hereof the RDA and the Owner entered into that certain Development Improvements Agreement, which was recorded immediately before this Agreement (the "**Development Improvements Agreement**"), in accordance with which the Owner agreed to develop the Property as provided therein.
- C. To provide assurances to the RDA that the Owner shall construct the Developer Improvements as provided in the Development Improvements Agreement, the RDA and the Owner have agreed to enter into this Agreement providing the RDA with an exclusive option to repurchase the Property from the Owner, subject to the terms, conditions and provisions set forth herein.
- D. The Owner has executed this Agreement as a material inducement and condition precedent to the RDA to close on the sale of the Property in accordance with the terms, conditions and provisions of the Purchase Agreement and, *but for* the execution of this Agreement, the RDA would not have agreed to sell the Property to the Owner.

NOW, THEREFORE, the Parties agree as follows:

1. Incorporation of Recitals; Definition. The recitals set forth above are hereby incorporated into this Agreement and the matters therein are acknowledged by the Parties hereto to be true and correct in all material respects.

The following terms shall have the meanings set forth below:

“Developer Improvements” shall have the meaning set forth in the Development Improvements Agreement.

“Repurchase Price” shall mean the sum of the following:

(i) the Purchase Price in cash actually received by the RDA from the Owner for the Property pursuant to the Purchase Agreement.

plus

(ii) the costs reasonably incurred by the Owner in connection with or in preparation of the design and construction of the Developer Improvements existing on the Property at the time of the closing of the repurchase of the Property, including the following: (i) fees paid to the Architect under the Architect Contract (as defined in the Purchase Agreement); (ii) fees paid to the Contractor under the Construction Contract (as defined in the Purchase Agreement); (iii) services performed by the Owner’s engineers, and to the Owner’s other design development and construction professionals whose work product the RDA reasonably determines creates value for such Developer Improvements (but excluding all other soft costs and other expenses incurred by the Owner in connection with the development of the Developer Improvements and the costs of personnel of the Owner); (iv) any permits, approvals, and consents required for the construction of the Developer Improvements; and (v) costs of Environmental Tests (as defined in the Purchase Agreement),

plus

(iii) the demolition or removal of any of the Developer Improvements existing on the Property at the time of the closing of the repurchase of the Property, if and to the extent that the RDA determines such existing Developer Improvements cannot be used in completing the construction of the remaining Developer Improvements or cannot be used in completing any other development of the Property (such determinations to be made on a reasonable basis),

minus

(iv) with respect to any loan secured by a mortgage or deed of trust on the Property, the amount necessary to pay in full such loan including without limitation any prepayment fees or other costs or charges, or, in the alternative, if the RDA (or the RDA’s assigned) assumes any such loan with the consent of the

lender, the amount of principal of and the accrued interest on such loan and all other costs or charges with respect to the assumption of such loan,

minus

(v) the total of all then unreimbursed costs and expenses reasonably incurred by the RDA in connection with the exercise of the RDA's rights hereunder (less any income derived by the RDA from the Property subsequent to exercising its rights hereunder); all then unreimbursed taxes, assessments, and water, sewer and other utility charges with respect to the Property; any payments made or necessary to be made to discharge any existing encumbrances or liens, or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of or inaction by the Owner,

minus

(vi) the total of all then unreimbursed costs and expenses incurred by the RDA in connection with the completion of the Developer Improvements prior to the Closing of the Repurchase Agreement, as the term "Closing" is defined therein,

minus

(vii) the total of all then unreimbursed costs and expenses incurred by the RDA or the RDA's successor in connection with the completion of the Developer Improvements or the total of all such reasonably estimated costs and expenses that, in either case, are in excess of the projected costs for the Developer Improvements that were previously approved by the RDA pursuant to Section 3.3 of the Purchase Agreement, and

minus

(viii) any amounts otherwise then owing the RDA by the Owner.

If the Repurchase Price as so calculated is a negative number, then the Repurchase Price shall be deemed to be \$0, and the amount of the negative number is the "Deficit Amount", which defined term is used in the Guaranty.

2. Purchase Option. Upon the occurrence of an Event of Default (as defined in the Development Improvements Agreement), the RDA shall have an exclusive option to elect to repurchase the Property (the "**Option**") from the Owner on the terms and conditions specified herein.

3. Exercise of Option. The RDA may exercise the Option by giving written notice to the Owner ("**RDA's Option Notice**") at any time after the date which is ten days following the date on which an Event of Default occurs. The Parties agree that if the RDA pursues its remedies under

the Guaranty, the RDA does not waive its rights hereunder, it being understood that the RDA may exercise the Option at any time following the date specified in the prior sentence.

4. Termination of Option. The Option shall terminate on the date that the RDA shall issue the Certificate of Completion as provided in the Development Improvements Agreement.

5. Repurchase Price. If the RDA shall exercise the Option, then it shall be obligated to pay the Owner the Repurchase Price. At the option of the RDA, the Repurchase Price may be paid in full with a promissory note, secured by a first position deed of trust on the Property, bearing an interest rate of 3% per annum and having a maturity date of the earlier to occur of (a) the date that the RDA sells the Property to another developer or (b) the date that is three years after the date that the RDA acquired the Property pursuant to this Agreement.

6. Closing Date. If the RDA elects to exercise the Option, the closing of the RDA's repurchase of the Property (the "**Closing**") shall occur on a date specified in writing by the RDA to the Owner, which date shall not be later than 30 days following the date of the RDA's delivery of the RDA's Option Notice (the "**Closing Date**").

7. Conveyance of the Demised Premises. The Owner shall convey the Property by means of a special warranty deed, subject to all matters of record except for liens and monetary encumbrances created by the Owner, the intent of the Parties being that the RDA shall again hold fee title to the Property, subject only to such exceptions as existed immediately prior to the date on which the RDA and the Owner entered into the Purchase Agreement. The Owner shall cause any financing against the Property to be released and satisfied out of the proceeds of the Repurchase Price, unless the RDA assumes such financing.

8. Title Insurance and Closing Costs. In the event the RDA shall exercise its Option, the RDA shall have the right to procure from a title company of its choice, an owner's policy of title insurance that insures marketable fee title to the Property, subject only to matters of record as of the date the Owner purchased the Property (and excluding all liens and monetary encumbrances created by the Owner), together with such endorsements as the RDA may require. The Owner shall pay for the cost of the standard coverage owner's title insurance policy, and the RDA shall pay for the additional cost related to the issuance of an extended coverage owner's title insurance policy, as well as the cost of any endorsements thereto (except for endorsements related to mechanic's liens as set forth below). The Owner agrees to cooperate in causing the Owner's policy of title insurance to issue, and it shall remove or cause to be removed those mechanic's liens or monetary encumbrances that it has created or permitted, or, in the case of mechanic's liens, to cause (at the Owner's expense) an endorsement to be issued by the title company. The RDA shall pay all recording fees. The Owner shall pay all documentary or transfer taxes, if any. The RDA and the Owner shall equally share escrow fees. All unpaid ad valorem taxes shall be prorated between the RDA and the Owner as of the date of Closing. No brokers or real estate agents shall be utilized in such transaction and no commissions will be due any broker or agent. Each party shall indemnify the other from any liability for any such fees or commissions incurred by it. At Closing, the Owner shall also execute and deliver any affidavit or lien waiver reasonably requested by the RDA's title insurer and a non-foreign affidavit.

9. Default. If the RDA exercises its Option, and the sale and purchase of the Property is not timely consummated on account of a default by the Owner under any of its obligations in this Agreement, the RDA shall be entitled to pursue any and all available remedies at law or in equity, including the remedy of specific performance of the Owner's obligations hereunder. Additionally, the Owner shall reimburse the RDA for its out-of-pocket expenses incurred in connection with the exercise of the Option, or the enforcement of its rights under this Agreement.

10. Other Agreements.

(a) Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be given by (i) Federal Express (or other established express delivery which maintains delivery records), (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested, to the Parties at the following addresses, or other such addresses as the Parties may designate from time to time by written notice in the above manner:

If to the Owner: The Court Partners, LLC

Attn: _____

With a copy to: _____

Attn: _____

If to the RDA: Redevelopment Agency of Midvale City
7505 South Holden Street
Midvale, UT 84047
Attention: Chief Administrative Officer

Redevelopment Agency of Midvale City
7505 South Holden Street
Midvale, Utah 84047
Attn: Executive Director

With a copy to: _____

Attn: _____

Notices shall be deemed effective on receipt, or upon attempted delivery thereof if delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means for accomplishing delivery.

(b) References. All references to "Section" or "Sections" contained herein are, unless specifically indicated otherwise, references to Sections of this Agreement. All references to

“Exhibits” contained herein are references to Exhibits attached hereto, all of which are made a part hereof for all purposes.

(c) Captions; Headings. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

(d) Attorneys’ Fees. If a Party commences a legal or equitable proceeding to enforce any of the terms of this Agreement, then the prevailing Party in such action shall have the right to recover reasonable attorneys’ fees and actual costs from the other Party. The term “legal proceedings” as used above shall be deemed to include appeals from a lower court judgment and it shall include proceedings in the federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters.

(e) Governing Law. This Agreement and all transactions contemplated hereunder and/or evidenced hereby shall be governed by, construed under, and enforced in accordance with the internal laws of the State of Utah without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than Utah.

(f) Venue. The Parties hereby agree that all actions to enforce the terms and provisions of this Agreement shall be brought and maintained only within the State of Utah and the Owner hereby consents to the exclusive jurisdiction of the appropriate court within Salt Lake County, Utah.

(g) Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.

(h) Multiple Counterparts. This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one agreement, but, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

(i) Further Acts. In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by the Parties, the Parties agree to perform, execute and deliver or cause to be performed, executed, and delivered at the Closing or after the Closing any and all such further acts, deeds and assurances as may be reasonably necessary to consummate the transactions contemplated hereby.

(j) Survival. Except as otherwise provided for herein, all agreements, covenants, representations and warranties contained herein shall survive the expiration or termination of this Agreement and the performance by the Owner of its obligations hereunder.

(k) Conflict of Interest. In accordance with the Municipal Officers' and Employees' Ethics Act (Utah Code Ann. § 10-3-1301 to 1312), the developer represents that none of its officers, employees, or agents are officials, officers, or employees of the Agency, unless disclosure has been made in accordance with the Agency's ordinances and policies. Further, the developer certifies that it has not offered or given any gift or compensation prohibited by local, state, or federal law, to an official, officer, or employee of the Agency to secure favorable treatment with respect to being awarded this Agreement.

(l) Nonliability of RDA Officials and Employees. No member, official or employee of the RDA shall be personally liable to the Owner, or any successor in interest, in the event of any default or breach by the RDA or for any amount which may become due to the Owner or its successor or on any obligation under the terms of this Agreement.

(m) Binding Effect. This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and assigns. If Owner is now or is ever composed of more than one party, the obligations and warranties contained herein and arising therefrom are and shall be joint and several as to each such party.

(n) No Relationship. Nothing contained in this Agreement, nor any acts of the Parties shall be deemed or construed to create the relationship of principal and agent or of limited or general partnership or of joint venture or of any other similar association between the RDA, its successors or assigns, or the Owner, its successors or assigns.

(o) No Presumption. This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either Party.

(p) Days. Unless otherwise specified in this Agreement, a reference to the word "**days**" shall mean calendar days. The term "**business days**" shall mean each day of the week except weekends and federal holidays during which the United States mail is not delivered.

(q) No Waiver of Governmental Immunity. The Owner acknowledges that the RDA is an agency of the State of Utah and as such is subject to and bound by the provisions of the Utah Governmental Immunity Act, Utah Code Ann. § 63-30-1 (the "**Act**"). No covenant, provision or agreement contained in this Agreement will be deemed to be a waiver of the rights of the RDA under the Act.

(r) Merger; Time of the Essence. This Agreement supersedes all prior agreements and constitutes the entire agreement between the Parties with respect to the subject matter hereof. No modification of this Agreement will be effective unless in writing and signed by each Party. All documents and other matters to be furnished by the Owner will be satisfactory in form and substance to counsel for the RDA. Time is of the essence hereof.

(s) Assignability and Enforcement. The RDA may, without any notice whatsoever to anyone, sell, assign, or transfer its interest in the Property and/or the Development Improvements Agreement, and in that event, each and every immediate and successive assignee, transferee, or holder of all or any part of the Property and the Development Improvements Agreement, as the

case may be, shall have the right to enforce this Agreement, by suit or otherwise, for the benefit of such assignee, transferee, or holder as fully as if such assignee, transferee, or holder were herein by name specifically given such rights, powers, and benefits, provided that notice of transfer and/or proof of ownership of this Agreement is provided to the Owner prior to the enforcement of this Agreement.

(t) Recordation. This Agreement or a memorandum of this Agreement shall be recorded in the office of the Salt Lake County Recorder.

(u) Waiver. The RDA shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by the RDA. No delay or omission on the part of the RDA in exercising any right shall operate as a waiver of such right or any other right.

(v) Priority. This Agreement shall not be subject to any deed of trust or other financial lien.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.

RDA:
REDEVELOPMENT AGENCY OF MIDVALE CITY

By: _____
Marcus Stevenson
Its: Chief Administrative Officer

By _____
Matt Dahl
Its: Executive Director

Approved as to legal form:

By _____
Lisa A. Garner
Its: RDA Attorney

OWNER:

The Court Partners, LLC,
a Utah limited liability company

By: _____
Name: _____
Its: _____

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Marcus Stevenson, the Chief Administrative Officer of the Redevelopment Agency of Midvale City.

NOTARY PUBLIC

Residing at: _____

My Commission Expires:

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Matt Dahl, the Executive Director of the Redevelopment Agency of Midvale City.

NOTARY PUBLIC

Residing at: _____

My Commission Expires:

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____, the _____ of The Court Partners, LLC.

NOTARY PUBLIC

Residing at: _____

My Commission Expires:

EXHIBIT H-1
(to Option to Repurchase Agreement)

Legal Description of Property



EXHIBIT I
(To Purchase Agreement for Development of Land)

Right of First Offer Agreement

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

Redevelopment Agency of Midvale City
7505 South Holden Street
Midvale, Utah 84047
Attn: Chief Administrative Officer

(Above space for recorder's use only)

RIGHT OF FIRST OFFER AGREEMENT

This Right of First Offer Agreement (this “**Agreement**” or “**ROFO**”) is made and entered into as of the ____ day of _____, 20__, by and between the Redevelopment Agency of Midvale City, a public agency (the “**RDA**”), and The Court Partners, LLC, a Utah limited liability company (the “**Owner**”), both of whom are collectively referred to herein as the “**Parties**”, and individually as a “**Party**.”

RECITALS

A. In accordance with the terms of that certain Purchase Agreement to Develop Land dated as of _____, 20__ (the “**Purchase Agreement**”), and pursuant to that Special Warranty Deed which was recorded on the date hereof (the “**Deed**”), the RDA sold and the Owner purchased certain real property located at approximately _____, Salt Lake City, Utah (as more particularly described in Exhibit “I-1” attached hereto, the “**Property**”).

B. As provided in the Purchase Agreement, the Owner agreed to enter into a right of first offer agreement with respect to the Property.

C. The Owner has executed this ROFO as a material inducement and condition precedent to the RDA to close on the sale of the Property in accordance with the terms, conditions and provisions of the Purchase Agreement and, *but for* the execution of this ROFO, the RDA would not have agreed to sell the Property to the Owner.

NOW, THEREFORE, the Parties agree as follows:

1. Right of First Offer

(a) In the event that the Owner shall decide to sell the Property, the Owner shall indicate its desire to negotiate a transaction with the RDA by giving written notice (the “**ROFO Notice**”) to the RDA of its decision to propose that the Property be sold on such economic terms as are set forth therein. The RDA shall have ten days after receipt of the ROFO Notice to notify the Owner in writing of its intent to repurchase the Property substantially in accordance with the terms of the ROFO Notice (the “**Acceptance Notice**”). If the RDA gives an Acceptance Notice, the parties shall negotiate for a period of 15 days

following the Acceptance Notice toward a repurchase and sale agreement for the sale of the Property on terms mutually agreeable to the RDA and the Owner, the first draft of which shall be prepared by the RDA and the economic terms of which shall be such terms as are stated in the ROFO Notice (a "Repurchase Agreement").

(b) In the event that the RDA shall not timely give an Acceptance Notice, or in the event that the Owner and the RDA do not execute a Repurchase Agreement within 15 days following the Acceptance Notice, or in the event that the RDA shall not acquire the Property pursuant to the Repurchase Agreement, then the Owner shall have the right to sell the Property to any other party provided that the purchase price to such other party shall not be less than 95% of the repurchase price specified in the ROFO Notice and otherwise substantially on the terms contained therein. The right of the Owner to so sell the Property shall extend for 12 months from the date of the ROFO Notice. In the event that the Owner does not sell the Property within such 12-month period and thereafter the Owner desires to sell the Property, or in the event that the Owner desires to sell the Property for a purchase price less than 95% of the repurchase price specified in the ROFO Notice, the Owner shall provide the RDA with an additional notice and right of first offer in the manner set forth above in Subsection (a). In the event that the Owner does sell the Property within such 12-month period in accordance with the foregoing, then the RDA's ROFO shall terminate, effective as of the date of such sale.

(c) In the event that the Owner shall have the right to sell the Property to any other party as provided in and pursuant to the first sentence of Subsection (b) above, then the Owner shall be entitled to record a certificate to such effect ten days after the Owner gives written notice to the RDA of its intention to do so. The recordation of such a certificate shall be conclusive between the parties as to the Owner's right to so sell the Property, and any third party may rely thereon.

2. Repurchase Closing Date. If the RDA elects to exercise the Option, the closing of the RDA's repurchase of the Property (the "Repurchase Closing") shall occur on a date specified in writing by the RDA to the Owner, which date shall not be later than 30 days following the date of the RDA's delivery of the RDA's ROFO Notice (the "Repurchase **Closing Date**").

3. Conveyance of the Demised Premises. The Owner shall convey the Property by means of a special warranty deed, subject to all matters of record except for liens and monetary encumbrances created by the Owner, the intent of the Parties being that the RDA shall again hold fee title to the Property, subject only to such exceptions as existed immediately prior to the date on which the RDA and the Owner entered into the Purchase Agreement. The Owner shall cause any financing against the Property to be released and satisfied out of the proceeds of the purchase price.

4. Title Insurance and Repurchase Closing Costs. In the event the RDA shall exercise its ROFO, the RDA shall have the right to procure from a title company of its choice, an owner's policy of title insurance that insures marketable fee title to the Property, subject only to matters of record as of the date the Owner purchased the Property (and excluding all liens and monetary encumbrances created by the Owner), together with such endorsements as the RDA may require. The Owner shall pay for the cost of the standard coverage owner's title insurance policy, and the RDA shall pay for the additional cost related to the issuance of an extended coverage owner's title

insurance policy, as well as the cost of any endorsements thereto (except for endorsements related to mechanic's liens as set forth below). The Owner agrees to cooperate in causing the Owner's policy of title insurance to issue, and it shall remove or cause to be removed those mechanic's liens or monetary encumbrances that it has created or permitted, or, in the case of mechanic's liens, to cause (at the Owner's expense) an endorsement to be issued by the title company. The RDA shall pay all recording fees. The Owner shall pay all documentary or transfer taxes, if any. The RDA and the Owner shall equally share escrow fees. All unpaid ad valorem taxes shall be prorated between the RDA and the Owner as of the date of Repurchase Closing. No brokers or real estate agents shall be utilized in such transaction and no commissions will be due any broker or agent. Each party shall indemnify the other from any liability for any such fees or commissions incurred by it. At Repurchase Closing, the Owner shall also execute and deliver any affidavit or lien waiver reasonably requested by the RDA's title insurer and a non-foreign affidavit.

5. Default. If the RDA exercises its ROFO, and the sale and purchase of the Property is not timely consummated on account of a default by the Owner under any of its obligations in this Agreement, the RDA shall be entitled to pursue any and all available remedies at law or in equity, including the remedy of specific performance of the Owner's obligations hereunder. Additionally, the Owner shall reimburse the RDA for its out-of-pocket expenses incurred in connection with the default, or the enforcement of its rights under this Agreement.

6. Other Agreements.

(a) Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be given by (i) Federal Express (or other established express delivery which maintains delivery records), (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested, to the Parties at the following addresses, or other such addresses as the Parties may designate from time to time by written notice in the above manner:

If to the Owner: The Court Partners, LLC

Attn: _____

With a copy to: _____

Attn: _____

If to the RDA: Redevelopment Agency of Midvale City
7505 South Holden Street
Midvale, UT 84047
Attention: Chief Administrative Officer

Redevelopment Agency of Midvale City
7505 South Holden Street
Midvale, Utah 84047
Attn: Executive Director

With a copy to: _____

Attn: _____

Notices shall be deemed effective on receipt, or upon attempted delivery thereof if delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means for accomplishing delivery.

(b) References. All references to “Section” or “Sections” contained herein are, unless specifically indicated otherwise, references to Sections of this Agreement. All references to “Exhibits” contained herein are references to Exhibits attached hereto, all of which are made a part hereof for all purposes.

(c) Captions; Headings. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

(d) Attorneys’ Fees. If a Party commences a legal or equitable proceeding to enforce any of the terms of this Agreement, then the prevailing Party in such action shall have the right to recover reasonable attorneys’ fees and actual costs from the other Party. The term “legal proceedings” as used above shall be deemed to include appeals from a lower court judgment and it shall include proceedings in the federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters.

(e) Governing Law. This Agreement and all transactions contemplated hereunder and/or evidenced hereby shall be governed by, construed under, and enforced in accordance with the internal laws of the State of Utah without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than Utah.

(f) Venue. The Parties hereby agree that all actions to enforce the terms and provisions of this Agreement shall be brought and maintained only within the State of Utah and the Owner hereby consents to the exclusive jurisdiction of the appropriate court within Salt Lake County, Utah.

(g) Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.

(h) Multiple Counterparts. This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes,

and all such counterparts shall, collectively, constitute one agreement, but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

(i) Further Acts. In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by the Parties, the Parties agree to perform, execute and deliver or cause to be performed, executed, and delivered at the Repurchase Closing or after the Repurchase Closing any and all such further acts, deeds and assurances as may be reasonably necessary to consummate the transactions contemplated hereby.

(j) Survival. Except as otherwise provided for herein, all agreements, covenants, representations and warranties contained herein shall survive the expiration or termination of this Agreement and the performance by the Owner of its obligations hereunder.

(k) Conflict of Interest. In accordance with the Municipal Officers' and Employees' Ethics Act (Utah Code Ann. § 10-3-1301 to 1312), the developer represents that none of its officers, employees, or agents are officials, officers, or employees of the Agency, unless disclosure has been made in accordance with the Agency's ordinances and policies. Further, the developer certifies that it has not offered or given any gift or compensation prohibited by local, state, or federal law, to an official, officer, or employee of the Agency to secure favorable treatment with respect to being awarded this Agreement.

(l) Nonliability of RDA Officials and Employees. No member, official or employee of the RDA shall be personally liable to the Owner, or any successor in interest, in the event of any default or breach by the RDA or for any amount which may become due to the Owner or its successor or on any obligation under the terms of this Agreement.

(m) Binding Effect. This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and assigns. If Owner is now or is ever composed of more than one party, the obligations and warranties contained herein and arising therefrom are and shall be joint and several as to each such party.

(n) No Relationship. Nothing contained in this Agreement, nor any acts of the Parties shall be deemed or construed to create the relationship of principal and agent or of limited or general partnership or of joint venture or of any other similar association between the RDA, its successors or assigns, or the Owner, its successors or assigns.

(o) No Presumption. This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either Party.

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(v) Priority. This Agreement shall not be subject to any deed of trust or other financial lien.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.

RDA:
REDEVELOPMENT AGENCY OF MIDVALE CITY

By _____
Marcus Stevenson
Its: Chief Administrative Officer

By _____
Matt Dahl
Its: Executive Director

Approved as to legal form:

By _____
Lisa A. Garner
Its: RDA Attorney

OWNER:

The Court Partners, LLC,
a Utah limited liability company

By: _____
Name: _____
Its: _____

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Marcus Stevenson, the Chief Administrative Officer of the Redevelopment Agency of Midvale City.

NOTARY PUBLIC

Residing at: _____

My Commission Expires:

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Matt Dahl, the Executive Director of the Redevelopment Agency of Midvale City.

NOTARY PUBLIC

Residing at: _____

My Commission Expires:

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____, the _____ of The Court Partners, LLC.

NOTARY PUBLIC

Residing at: _____

My Commission Expires:

EXHIBIT I-1
(to Right of First Offer Agreement)

Legal Description of Property