

**SPECIAL MEETING
OF THE
OVERSIGHT BOARD
SUCCESSOR AGENCY
AGENDA**

**March 31, 2017
SPECIAL SESSION
9 a.m. - Executive Conference Room
Level Three
1 Civic Center Circle, Brea, CA 92821**

NEXT RESOLUTION NO. OB 2017-08

CALL TO ORDER / ROLL CALL

1. **Public Comment** - This is the portion of the meeting for any member of the public to address the Oversight Board on any matter not on the agenda that is within the subject matter jurisdiction of the board. The Brown Act, with limited exception, does not allow the board or staff to discuss issues brought forth under Public Comment. Comments should be limited to 5 minutes per person.

POLICY ITEMS

DISCUSSION / ACTION ITEMS

2. **January 20, 2017 Special Meeting Minutes** - Approve.
3. **Consideration of Approval of Execution and Delivery of an Agreement to Terminate Disposition and Development Agreement as to Commercial Center Component (Gateway Center) and Related Payoff Agreement and Taking Certain Related Actions-** Adopt **Resolution OB 2017-08** to approve an Agreement to Terminate Disposition and Development Agreement as to Commercial Center Component and Related Payoff Agreement and Taking Certain Related Actions.
4. **Sale of Successor Agency Owned Property Located at 323 N. Brea Blvd.** - Adopt **Resolution OB 2017-09** Authorizing the Sale of Real Property to the Recommended Buyer.

MEMBER REPORTS / ANNOUNCEMENTS**ADJOURNMENT**

This agenda contains a brief general description of each item the Oversight Board will consider. The City Clerk has on file copies of written documentation relating to each item of business on this Agenda available for public inspection. Contact the City Clerk's Office at (714) 990-7756 or view the Agenda and related materials on the City's website at www.cityofbrea.net. Materials related to an item on this agenda submitted to the Oversight Board after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 1 Civic Center Circle, Brea, CA during normal business hours. Such documents may also be available on the City's website subject to staff's ability to post documents before the meeting.

Special Accommodations

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (714) 990-7757. Notification 48 hours prior to the meeting will enable City staff to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)

City of Brea

BOARD COMMUNICATION

TO: Honorable Chair and Board Members
FROM: City Manager,
DATE: 03/31/2017
SUBJECT: January 20, 2017 Special Meeting Minutes

SIGNATURE BLOCK

Respectfully submitted: Lillian Harris-Neal, City Clerk

Attachments

01-20-2017 Special Meeting Minutes

DRAFT

SPECIAL MEETING OF THE OVERSIGHT BOARD TO THE CITY OF BREA AS SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY

MINUTES

January 20, 2017

SPECIAL MEETING

9:00 a.m. - Executive Conference Room
Level Three

Present: Chair Bill Gallardo; Vice Chair Brad Mason; Don Parker; Kashu Vyas; Kent Forde; Don Schweitzer; Keri Bullock

Staff Present: Lee Squire; David Crabtree; Kathie DeRobbio; Cindy Russell; Lillian Harris-Neal; Karen O'Leary

CALL TO ORDER / ROLL CALL

Chair Bill Gallardo called the meeting to order at 9:00 a.m.

Chair Gallardo welcomed new Board Member Keri Bullock, Economic Development Management Analyst II.

1. **Public Comment** - None.

DISCUSSION / ACTION ITEMS

Board Member Don Schweitzer reported that he would abstain from discussion and voting on Item 4 (Sale of Successor Agency Owned properties Located at 240 N. Orange Ave. and 112 W. Bracken St.) due to possible conflict of interest.

2. **August 2, 2016 Regular Meeting Minutes**

Motion was made by Don Parker, seconded by Don Schweitzer to approve the August 2, 2016 Oversight Board Regular Meeting Minutes, as presented.

AYES: Chair Bill Gallardo, Vice Chair Brad Mason, Don Parker, Kashu Vyas, Kent Forde, Don Schweitzer, Keri Bullock

Passed

3. **September 20, 2016 Regular Meeting Minutes.**

Motion was made by Don Schweitzer, seconded by Don Parker to approve the September 20, 2016 Oversight Board Regular Meeting Minutes, as presented.

AYES: Chair Bill Gallardo, Vice Chair Brad Mason, Don Parker, Kashu Vyas, Kent Forde, Don Schweitzer, Keri Bullock

Passed

4. Sale of Successor Agency Owned Properties Located at 340 N. Orange Ave. and 112 W. Bracken St.

Economic Development Manager DeRobbio provided an update on the status of the three Successor Agency owned properties. The sale of 323 N. Brea Blvd. is not ready to be approved and is still in negotiations. The Successor Agency approved the sales of the Orange Ave. and the Bracken St. properties pending the approval of the Oversight Board.

Economic Development Manager DeRobbio replied to a question from Board Member Parker regarding whether the Successor Agency and the Oversight Board must hold public hearings on the sale of the properties. Economic Development Manager DeRobbio said that she will confer with the City Attorney.

In response to a question about who will benefit from the sales of the properties from Board Member Mason, Economic Development Manager DeRobbio clarified that the proceeds will go to the County and are then distributed based on the recipients' percentages of property tax revenue.

Motion was made by Don Parker, seconded by Kent Forde to adopt **Resolutions OB 2017-01 and OB 2017-02** Authorizing the Sale of Real Property located at 340 N. Orange and 112 W. Bracken St. to the Recommended Buyers.

AYES: Chair Bill Gallardo, Vice Chair Brad Mason, Don Parker, Kashu Vyas, Kent Forde, Keri Bullock

Other: Don Schweitzer (ABSTAIN)

Passed

5. Application of Bond Interest Earnings Towards the Recognized Obligation Payment Schedule (ROPS) 17-18A and 17-18B Bond Payments

Finance Manager Squire explained that this is a recurring item for the annual ROPS. Brea is required by the trust indenture to apply any interest earned on the reserve funds in excess of the amount required to be applied to the bond payments.

Motion was made by Don Parker, seconded by Keri Bullock to adopt **Resolution OB 2017-03** Approving the Application of Alternate Funds (Bond Interest Earnings) Towards ROPS 17-18A and 17-18B Period Bond Payments.

AYES: Chair Bill Gallardo, Vice Chair Brad Mason, Don Parker, Kashu Vyas, Kent Forde, Don Schweitzer, Keri Bullock

Passed

6. Second Amendment to the Brea Mall Owner Participation Agreement (OPA)

Finance Manager Squire explained that one of the requirements for getting a Last and Final ROPS is preparing a defined payment schedule for the remaining enforceable obligations. Brea has negotiated a defined payment schedule for the Brea Mall OPA that is based on a calculation with a cap of 2% per year and a "true up" provision in the final year.

In response to questions from Board Members, Finance Manager Squire stated that he was doubtful that there would be a possibility of overpaying by basing the payment on calculations rather than a fixed amount, was optimistic that the Department of Finance would approve the amendment and that he was hesitant to reopen negotiations with the Brea Mall OPA. Finance Manager Squire agreed to consult with the City Attorney on the language of the "true up" provision.

Motion was made by Don Parker, seconded by Vice Chair Brad Mason to adopt **Resolution OB 2017-04** Approving the Second Amendment to the Brea Mall Owner Participation Agreement.

AYES: Chair Bill Gallardo, Vice Chair Brad Mason, Don Parker, Kashu Vyas, Kent Forde, Don Schweitzer, Keri Bullock

Passed

7. Resolutions Approving the Fiscal Year 2017-2018 Recognized Obligation Payment Schedule (ROPS 17-18) and the Administrative Budget

Concerning the Administrative Budget, Finance Manager Squire stated that by statute, the Oversight Board is required to adopt a semi-annual budget for each ROPS period. Based on the annual administrative costs including attorney services, the semi-annual budget would be \$139,695.

In response to Board Member questions, Finance Manager Squire explained that the audit costs were \$8,500 and represented all the work involved with the Successor Agency and were separate from the audit costs for the City.

Regarding the ROPS payment schedule, Finance Manager Squire explained that three new items were added to the ROPS this year: the 2nd Amendment to the Brea Mall OPA, the 2016 Refunding Bonds, and the 2017 Tax Allocation Bonds as placeholders to preserve our right to amend ROPS 17-18B.

In response to Board Member questions, Finance Manager Squire and Administrative Services Director Russell explained that the Last and Final ROPS only allows for two amendments. One of those is reserved for the Brea Mall to amend the Last and Final ROPS. The second amendment was claimed by the Bond Insurer. In order to amend the Last and Final ROPS to include the 2016 Refunding Bonds, the line item must be on the annual ROPS.

Motion was made by Kent Forde, seconded by Keri Bullock to adopt **Resolution OB 2017-05** Approving the Fiscal Year 2017-2018 Recognized Obligation Payment Schedule (ROPS 17-18).

AYES: Chair Bill Gallardo, Vice Chair Brad Mason, Don Parker, Kashu Vyas, Kent Forde, Don Schweitzer, Keri Bullock

Passed

Motion was made by Don Schweitzer, seconded by Don Parker to adopt **Resolution OB 2017-06** Approving the Administrative Budgets.

AYES: Chair Bill Gallardo, Vice Chair Brad Mason, Don Parker, Kashu Vyas, Kent Forde, Don Schweitzer, Keri Bullock

Passed

MEMBER REPORTS / ANNOUNCEMENTS

None.

ADJOURNMENT

Chair Bill Gallardo adjourned the meeting at 9:27 a.m.

Respectfully submitted,

The foregoing minutes are hereby
approved this 31st day of March, 2017

Lillian Harris-Neal, City Clerk

Bill Gallardo, Chair

City of Brea

BOARD COMMUNICATION

TO: Honorable Chair and Board Members

FROM: David Crabtree, Community Development Director

DATE: 03/31/2017

SUBJECT: Consideration of Approval of Execution and Delivery of an Agreement to Terminate Disposition and Development Agreement as to Commercial Center Component (Gateway Center) and Related Payoff Agreement and Taking Certain Related Actions

RECOMMENDATION

Adopt resolution to approve an Agreement to Terminate Disposition and Development Agreement as to Commercial Center Component and related Payoff Agreement and taking certain related actions.

BACKGROUND

With the elimination of redevelopment in California in 2012, successor agencies to the former redevelopment agencies have been tasked with the wind-down of the former redevelopment agencies' affairs. The proposed actions are in furtherance of the expeditious wind-down of the affairs of the former Brea Redevelopment Agency (the "Former Agency").

Pursuant to Health and Safety Code ("HSC") Section 34191.5, the Successor Agency prepared a long range property management plan (the "LRPMP") addressing the disposition of the real properties interests acquired by the Former Agency. As reflected on the LRPMP (as Property Interest #5), the Former Agency was, and now the Successor Agency is, the beneficiary under a Subordinated Deed of Trust and Assignment of Rents (the "Deed of Trust"). The Deed of Trust relates to a property commonly known as the "Gateway Center" (a shopping center located in Downtown Brea). The Deed of Trust secures certain periodic payments (the "Participation Payments") which Brea Gateway Center LP is obligated to make to the Successor Agency pursuant to a Disposition and Development Agreement (the "DDA"). Under the DDA, the Successor Agency is also obligated to make certain payments to Brea Gateway Center LP, as described below.

The Former Agency entered into the DDA in 1991 with Brea Center Associates, the original developer. The DDA outlined the redevelopment of Downtown Brea and included several components commonly known today as the Gateway Center, Downtown Birch Street, and the Ash Street Cottages. There have been three amendments to the DDA, executed in November 1992, February 1994 and November 1994, respectively. The Gateway Center is identified in the DDA as the "Commercial Center Component." The current tenants of the Gateway Center include Ralphs, Rite Aid, Cost Plus and other businesses.

Before Brea Gateway Center LP acquired fee ownership of the Gateway Center, the property was owned by the Former Agency. The Former Agency leased the property to Brea Gateway Center LP's predecessor under a Ground Lease (the "Lease"). The Lease included terms for three categories of rent: participation rent, refinancing rent, and sale rent.

The DDA, as amended by its second amendment, contemplated the possible sale of the "Commercial Component", *i.e.*, the Gateway Center, to Brea Gateway Center LP, and provided that, in the event of such sale, Brea Gateway Center LP's obligation to make payments under the provisions relating to the participation rent, refinancing rent, and sale rent would survive termination of the Lease. After Brea Gateway Center LP became the fee owner of the Gateway Center in 1994, it executed the Deed of Trust, in favor of the Former Agency, to provide security for the Brea Gateway Center LP's payment obligations under the DDA.

Participation Payment to Successor Agency: Brea Gateway Center LP's Offer for Early Payoff – Simply described, the periodic participation rent payments are calculated based on a percentage of the performance of shopping center income (e.g., tenant rents), less certain operating expenses. In contrast, the refinancing rent and sale rent would become payable only if Brea Gateway Center LP refinanced or sold the property to an unrelated third party. Historically, the Successor Agency has only received participation rent. No triggering of the refinancing rent or sale rent has ever occurred over the term of the agreement.

By the terms of the agreements, without any modification, the final participation rent payment would be made in 2048. The Successor Agency would have to continue to expend resources to administer the related DDA provisions.

When the LRPMP was being prepared, the State Department of Finance (the "DOF") and Successor Agency Staff discussed the possibility of the Successor Agency disposing its interest under the Deed of Trust, through a sale to, or a pay-off by, the Brea Gateway Center LP. However, in light of the DOF's deadline to finalize the LRPMP for approval (by the end of December 2015), the Successor Agency was not in a position to engage in, and complete the necessary negotiation with, Brea Gateway Center LP for such a transaction.

In the LRPMP, it is listed that the Successor Agency would continue to receive the Participation Payments under the DDA and the Deed of Trust. However, that does not prohibit the possibility of an early pay-off by Brea Gateway Center LP and a corresponding termination of the DDA with respect to the Commercial Center Component, if approved by the Successor Agency and the Oversight Board. HSC Section 34181(e) provides that the Oversight Board may approve any modification to or early termination of an agreement with a private party if the Oversight Board finds that such modification or early termination would be in the best interests of the taxing entities. Such Oversight Board action would be subject to the DOF's approval.

At this time, Brea Gateway Center LP has put forth an offer to pay a lump sum of \$8,050,000 for an early payoff of the Participation Payments. Brea Gateway Center LP calculated this payoff amount assuming a February 15, 2017 payoff date. However, the Successor Agency will not be able to consummate the transaction until the DOF has issued its approval. Brea Gateway Center LP has agreed to proceed with the agreement that, to the extent it pays any further scheduled participation rent between February 15, 2017 and the transaction closing date (the "Interim Participation Rent Amounts"), the payment otherwise due for the payoff will be reduced by the Interim Participation Rent Amounts.

Successor Agency Payment Obligation under DDA Pertaining to CFD – Section 201.9 of the DDA (as amended by the second amendment) provides that if the City or the Former Agency ever formed a community facilities district (a “CFD”) affecting the Commercial Center Component (i.e., Gateway Center site), then the Former Agency (and now the Successor Agency) would be obligated to make certain periodic payments to the Brea Gateway Center LP, calculated based on a portion of the amount that Brea Gateway Center LP must pay for the CFD special tax (attributable to the parcels where the Ralphs and Rite-Aid stores are located).

In 1996, a CFD was formed, triggering the Successor Agency’s obligation to make this CFD-related payment. Staff estimates that the Successor Agency’s CFD-related payments between now and the related final payment date in 2021 would total approximately \$135,000 (the “CFD Offset”).

It is proposed that Brea Gateway Center LP’s payment otherwise due to the Successor Agency for the payoff be reduced by the \$135,000 CFD Offset. This way, any further Successor Agency obligation to make payments under Section 201.9 of the DDA would be extinguished at the same time.

DISCUSSION

Pursuant to Brea Gateway Center LP’s offer, the net amount to be received by the Successor Agency will be based on this \$8,050,000 offer amount, minus the \$135,000 CFD Offset and any offset for Interim Participation Rent Amounts, as discussed above.

The payoff will be implemented pursuant to a Payoff Agreement and Joint Escrow Instructions (the “Payoff Agreement”), in the form attached to the Resolution as an Exhibit. The termination of the DDA as to the Commercial Center Component will be effected by an Terminate Disposition and Development Agreement as to Commercial Center Component (the “DDA Termination Agreement”), in the form attached to the Payoff Agreement as Attachment A. The Successor Agency will also execute a Substitution of Trustee and Full Reconveyance (the “Deed of Trust Reconveyance”), to evidence the termination its rights and interests under the Deed of Trust upon the payoff.

By adopting the attached Resolution, the Oversight Board will take action to approve the Successor Agency’s execution and delivery of the Payoff Agreement, the DDA Termination Agreement and the Deed of Trust Reconveyance. Pursuant to law, the Oversight Board resolution will become effective only upon the DOF’s approval (or deemed approval).

It is contemplated that, upon receipt of the DOF’s approval, Successor Agency and Brea Gateway Center will work with a title and escrow company to open an escrow to complete the transaction. After the close of escrow, the Successor Agency will transmit the proceeds from the transaction to the County Auditor-Controller, who will disburse the money to the taxing entities, including the City.

FISCAL IMPACT

Staff requested Keyser Marston Associates (“KMA”) to provide an analysis of Gateway Center LP’s payoff offer. A summary of KMA’s findings is attached as Exhibit A to this report. In summary, KMA finds that the \$8.05 million pay-off offer merits approval. Per KMA’s analysis, the offer covers the net present value of future participation rent payable to the Successor Agency (estimated by KMA to be \$5.18 million), and the intrinsic value to Brea Gateway Center with the removal of the burden imposed by the DDA restrictions (including freedom for future sale, or refinancing of the property without considerations with respect to the sale rent or the refinancing rent).

The proposed transaction would also extinguish the Successor Agency’s obligation to make future CFD-related payments (estimated to be \$135,000) under the DDA.

This payoff will result in a one-time receipt of approximately \$8 million to the Successor Agency, which will then will be transmitted to the County Auditor-Controller for disbursement to the taxing entities.

SIGNATURE BLOCK

Respectfully submitted: William Gallardo, City Manager

Prepared by: David M. Crabtree, AICP, Community Development Director

Concurrence: Cindy Russell, Administrative Services Director

Concurrence: Lee Squire, Financial Services Manager

Attachments

Resolution OB 2017-08

Reso No.SA 2017-02

KMA Buyout Memo 2.24.17

Sections of lease and DDA amendments

RESOLUTION NO. OB 2017-08

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY APPROVING THE SUCCESSOR AGENCY'S EXECUTION AND DELIVERY OF AN AGREEMENT TO TERMINATE DISPOSITION AND DEVELOPMENT AGREEMENT AS TO COMMERCIAL CENTER COMPONENT AND A RELATED PAYOFF AGREEMENT AND TAKING CERTAIN RELATED ACTIONS

A. RECITALS:

(i) The Brea Redevelopment Agency (the "**Former Agency**") was a redevelopment agency duly formed pursuant to the Community Redevelopment Law, set forth in Part 1 of Division 24 of the California Health and Safety Code ("**HSC**");

(ii) Pursuant to AB X1 26 (enacted in June 2011) and the *California Supreme Court's decision in California Redevelopment Association, et al. v. Ana Matosantos, et al., 53 Cal.4th 231 (2011)*, the Former Agency was dissolved as of February 1, 2012, the Successor Agency to the Brea Redevelopment Agency (the "**Successor Agency**") was constituted as the successor entity to the Former Agency, and an oversight board of the Successor Agency (the "**Oversight Board**") was established;

(iii) AB X1 26 added Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of the HSC. Such Parts 1.8 and 1.85, together with any amendments and supplements thereto enacted from time to time, are collectively referred to herein as the "**Dissolution Act**";

(iv) Pursuant to the Dissolution Act, all assets, properties, and contracts of the Former Agency have transferred to the control of the Successor Agency by operation of law;

(v) As part of the Former Agency's program to redevelop a project area known and designated as the Redevelopment Project AB, the Former Agency entered into a Disposition and Development Agreement in October 1991 (the "**Original DDA**"), by and between the Former Agency and Brea Center Associates (the "**Original Developer**"), relating to a site consisting of multiple components, including among them, a "**Commercial Center Component**";

(vi) The Original DDA has been amended and supplemented by an Amendment No. 1 to the Disposition and Development Agreement, executed in November 1992 ("**DDA Amendment No. 1**"), an Amendment No. 2 to the Disposition and Development Agreement, executed in February 1994 ("**DDA Amendment No. 2**"), and an Amendment No. 3 to the Disposition and Development Agreement, executed in November 1994 ("**DDA Amendment No. 3**"), each by and among the Former Agency, Watt-Craig Associates Limited Partnership ("**Watt-Craig**") on the one hand as the successor to the Original Developer with respect to the Commercial Center Component and Baywood Homes-Victoria on the other hand as the successor to the Original Developer with respect to the

“Housing Component” (the Original DDA, as so amended and supplemented, being referred to herein as the “**DDA**”);

(vii) The Former Agency, as landlord, and Watt-Craig, as tenant, entered into a Ground Lease, dated as of May 12, 1994 (the “**Lease**”), with respect to the Commercial Center Component.

(viii) Pursuant to Sections 3.2, 3.3 and 3.4 of the Lease, Watt-Craig agreed to make certain payments (referred to in the Lease as “**Participation Rent**,” “**Refinancing Rent**” and “**Sale Rent**,” and collectively referred to herein as the “**Participation Payments**”) in accordance with the terms of provisions of Sections 3.2, 3.3, 3.4, 3.5 and 3.6 of the Lease;

(ix) Pursuant to the provisions of DDA Amendment No. 2 and the Lease, the final Participation Payment (the “**Final Participation Payment Date**”) was scheduled to take place in the year 2048;

(x) Pursuant to the DDA, the Former Agency granted Watt-Craig an option to purchase the Commercial Center Component but Watt-Craig was required to continue to pay the Participation Payments with respect to the Gateway Center Property for a number of years after a purchase under the option;

(xi) Watt-Craig exercised its option to purchase the Commercial Center Component in 1995, and assigned its rights to purchase the Commercial Center Component to Brea Gateway Center LP, an affiliate entity of Watt-Craig, and, as the result, Brea Gateway Center LP became the fee title owner to the Commercial Center Component pursuant to the exercised option;

(xii) Brea Gateway Center LP executed a Subordinated Deed of Trust and Assignment of Rents and Request for Special Notice, dated as of August 4, 1995 (the “**Deed of Trust**”), creating a security interest in the Commercial Center Component to secure Brea Gateway Center LP’s obligations to make Participation Payments to the Former Agency;

(xiii) Brea Gateway Center LP has made an offer (the “**Prepayment Offer**”) to make a lump sum payment, in the approximate amount of \$8 million, to prepay all future Participation Payments in full and effect a termination of the DDA with respect to Commercial Center Component (including the termination of the Successor Agency’s obligation to make payments to Brea Gateway Center LP under Section 201.9 of the DDA, as amended by Section 6 of DDA Amendment No. 2);

(xiv) In connection with the Prepayment Offer, there has been presented to the Oversight Board forms of the following: (i) a Payoff Agreement and Joint Escrow Instructions (the “**Payoff Agreement**”), and (b) an Agreement to Terminate Disposition and Development Agreement as to Commercial Center Component (“**DDA Termination Agreement**”) as Attachment A to the Payoff Agreement, and (c) a Substitution of Trustee and Full Reconveyance (the “**Deed of Trust Reconveyance**”) as Attachment B to the Payoff Agreement;

(xv) HSC Section 34181(e) provides that the Oversight Board may approve a modification to or early termination of agreements with a private party if the Oversight Board finds that such modification or early termination would be in the best interests of the taxing entities;

(xvi) The Oversight Board finds that acceptance of the Prepayment offer would reduce liabilities and increase net revenues to the taxing entities, and it is in the best interests of the Successor Agency and the affected taxing entities to accept the Prepayment offer and approve the Successor Agency's execution and delivery of the Payoff Agreement and the DDA Termination Agreement;

B. RESOLUTION:

NOW, THEREFORE, be it found, determined and resolved by the Oversight Board of the Successor Agency to the Brea Redevelopment Agency, as follows:

1. The above recitals are true and correct and are a substantive part of this Resolution.

2. The Oversight Board hereby approves the Successor Agency's execution and delivery of: (i) the Payoff Agreement, substantially in the form of Exhibit A hereto, (ii) the DDA Termination Agreement, substantially in the form attached to the Payoff Agreement, and (iii) the Deed of Trust Reconveyance, substantially in the form attached to the Payoff Agreement.

3. For the purposes of HSC Section 34181(e), the Oversight Board finds and determines that the Successor Agency's acceptance of the Prepayment Offer, and the execution and delivery of the Payoff Agreement, the DDA Termination Agreement and the Deed of Trust Reconveyance are in the best interests of the taxing entities.

4. The officers and staff of the Successor Agency are hereby authorized, jointly and severally, to do all things (including but not limited to the execution of any certificates or other instruments) which they may deem necessary or proper to effectuate the purposes of this Resolution, the Prepayment Agreement, the DDA Termination Agreement and the Deed of Trust Reconveyance.

APPROVED AND ADOPTED this 31st day of March, 2017.

Bill Gallardo, Chair

ATTEST:

Lillian Harris-Neal, City Clerk

March 31, 2017
RESO. OB 2017-08

I, Lillian Harris-Neal, City Clerk of the City of Brea, do hereby certify that the foregoing Resolution was passed at a special meeting of the Oversight Board for the Successor Agency to the Brea Redevelopment Agency, held on the 31st day of March, 2017, by the following vote:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

Dated: March 31, 2017

Lillian Harris-Neal, City Clerk

EXHIBIT A

Prepayment Agreement
(with DDA Termination Agreement as Attachment A,
and Deed of Trust Recovenyance as Attachment B)

(in substantial final form)

(see attached)

PAYOFF AGREEMENT AND JOINT ESCROW INSTRUCTIONS

This **Payoff Agreement and Joint Escrow Instructions** (this “**Agreement**”), dated as of _____, 2017, is entered into by and between the Successor Agency to the Brea Redevelopment Agency, a public body of the State of California (the “**Successor Agency**”) and Brea Gateway Center, L.P., an Illinois limited partnership (the “**Brea Gateway Center LP**”).

Recitals

A. The Brea Redevelopment Agency (“**Former Agency**”) was a redevelopment agency formed pursuant to the Community Redevelopment Law, set forth in Part 1 of Division 24 of the California Health and Safety Code (“**HSC**”).

B. Pursuant to AB X1 26 (enacted in June 2011) and the California Supreme Court’s decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, 53 Cal.4th 231 (2011), the Former Agency was dissolved as of February 1, 2012, the Successor Agency was constituted as the successor entity to the Former Agency, and an oversight board of the Successor Agency (the “**Oversight Board**”) was established.

C. AB X1 26 added to Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 the HSC. Such Parts 1.8 and 1.85, together with any amendments and supplements thereto enacted from time to time, are collectively referred to herein as the “**Dissolution Act**.”

D. Pursuant to the Dissolution Act, all assets, properties, and contracts of the Former Agency have transferred to the control of the Successor Agency by operation of law.

E. As part of the Former Agency’s program to redevelop a project area known and designated as the Redevelopment Project AB, the Former Agency entered into a Disposition and Development Agreement in October 1991 (the “**Original DDA**”), by and between the Former Agency and Brea Center Associates (the “**Original Developer**”). The Original DDA relates to a site consisting of multiple components, including among them, a “**Commercial Center Component**” as described in the Original DDA and in Recital F, below and the referenced Attachments. The Original DDA has been amended and supplemented by an Amendment No. 1 to the Disposition and Development Agreement, executed in November 1992 (“**DDA Amendment No. 1**”), an Amendment No. 2 to the Disposition and Development Agreement, executed in February 1994 (“**DDA Amendment No. 2**”), and an Amendment No. 3 to the Disposition and Development Agreement, executed in November 1994 (“**DDA Amendment No. 3**”), each by and among the Former Agency, Watt-Craig Associates Limited Partnership (“**Watt-Craig**”) on the one hand as the successor to the Original Developer with respect to the Commercial Center Component and Baywood Homes-Victoria on the other hand as the successor to the Original Developer with respect to the “**Housing Component**.” The Original DDA, as so amended and supplemented, is referred to herein as the “**DDA**.” The Original DDA, DDA Amendment No. 1, DDA Amendment No. 2 and DDA Amendment No. 3 are each recorded in the Official Records of the County, as Document No. 91-562200 (recorded on October 15, 1991), Document No. 94-0158683 (recorded on March 4, 1994), Document No. 94-0158684 (recorded on March 4, 1994) and Document No. 94-0694881 (recorded on December 1, 1994), respectively.

F. The legal description of the Commercial Center Component is set forth in Exhibit A to each of Attachment A and Attachment B hereto.

G. The Former Agency, as landlord, and Watt-Craig, as tenant, entered into a Ground Lease, dated as of May 12, 1994 (the "**Lease**"), with respect to the Commercial Center Component.

H. Pursuant to Sections 3.2, 3.3 and 3.4 of the Lease, Watt-Craig agreed to make certain payments (referred to in the Lease as "Participation Rent," "Refinancing Rent" and "Sale Rent," and collectively referred to herein as the "**Participation Payments**") in accordance with the terms of provisions of Sections 3.2, 3.3, 3.4, 3.5 and 3.6 of the Lease. Pursuant to the provisions of DDA Amendment No. 2 and the Lease, the final Participation Payment (the "**Final Participation Payment Date**") was scheduled to take place in the year 2048.

I. Pursuant to the DDA, the Former Agency granted Watt-Craig an option to purchase the Commercial Center Component but Watt-Craig was required to continue to pay the Participation Payments for a number of years after a purchase under the option.

J. Watt-Craig exercised its option to purchase the Commercial Center Component in 1995, and assigned its rights to purchase the Commercial Center Component to Brea Gateway Center LP, an affiliate entity of Watt-Craig. Brea Gateway Center LP then became the fee title owner to the Commercial Center Component pursuant to the exercised option.

K. Brea Gateway Center LP executed a Subordinated Deed of Trust and Assignment of Rents and Request for Special Notice, dated as of August 4, 1995 recorded in the Official Records of the County, as Document No. 95-0349470 (recorded on August 14, 1995) (the "**Deed of Trust**"), creating a security interest in the Commercial Center Component to secure Brea Gateway Center LP's obligations to make Participation Payments to the Former Agency.

L. Brea Gateway Center LP has offered to make a lump sum payment, in the amount of \$ _____*, to prepay in full all future Participation Payments (the "**Prepayment**") and effect a termination of the DDA with respect to Commercial Center Component (including the termination of the Successor Agency's obligation to make payments to Brea Gateway Center LP under Section 201.9 of the DDA, as amended by Section 6 of DDA Amendment No. 2).

M. While the DDA currently does not contemplate such Prepayment, the Successor Agency is willing to accept the Prepayment subject to the terms of this Agreement.

* This dollar amount will be inserted prior to signing of the agreement, as it will change depending how soon the DOF will issue its approval and the parties will be able to open the escrow thereafter. It will be equal to \$8,050,000 minus (i) the monthly Participation Payments that Brea Gateway Center paid to the Agency between 2/15/2017 and the escrow open date, and (ii) \$134,467.37, representing the estimated payments that the Successor Agency would have to pay Brea Gateway Center pursuant to Section 201.9 of the DDA, as amended by Section 6 of DDA Amendment No. 2 between 2017 and 2021.

N. The City Council of the City of Brea, acting as the governing body of the Successor Agency, adopted its Resolution No. _____, on _____, 2017, authorizing the Successor Agency's execution and delivery of documents relating to the Prepayment, including this Agreement.

O. The Oversight Board adopted its Resolution No. _____, on _____, 2017 (the "**Oversight Board Resolution**") approving the Successor Agency's execution and delivery of documents relating to the Prepayment, including this Agreement. The California State Department of Finance issued its letter, dated _____, 2017, approving the Oversight Board Resolution.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE MUTUAL COVENANTS SET FORTH HEREIN, AND OTHER CONSIDERATION THE SUFFICIENCY OF WHICH THE PARTIES HERETO ACKNOWLEDGE, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Prepayment Amount.

Brea Gateway Center LP hereby agrees to pay to the Successor Agency the sum of \$_____* (the "**Prepayment Amount**"), as prepayment in full of all future Participation Payments due under the DDA, and the Successor Agency agrees to accept such prepayment, provided that Brea Gateway Center LP complies with this Agreement and the Escrow (defined below) successfully closes pursuant to Section 3 hereof.

Section 2. Execution and Delivery of Deed of Trust Reconveyance and Agreement to Terminate DDA as to the Commercial Component.

In consideration of the Prepayment Amount, the Successor Agency agrees to execute and deliver: (i) Agreement to Terminate the Disposition and Development Agreement as to the Commercial Center Component, in substantially the form attached hereto as Attachment A ("**DDA Termination Agreement**"), and (ii) Substitution of Trustee and Full Reconveyance, in substantially the form attached hereto as Attachment B (the "**Deed of Trust Reconveyance**"). The DDA Termination Agreement and the Deed of Trust shall become effective only upon the successful Close of Escrow (defined below).

Section 3. Escrow.

(a) The payment of the Prepayment Amount and the reconveyance of the Deed of Trust shall be accomplished through an escrow (the "**Escrow**") as follows. This Agreement shall constitute escrow instructions and a copy hereof shall be deposited with the Escrow Holder (defined below) for this purpose.

(b) The escrow shall be opened with Chicago Title Insurance Company, 700 South Flower Street, Suite 800, Los Angeles, CA 90017 (Escrow Officer: Debbie Bond) ("**Escrow Holder**"), within three (3) business days after the execution of this Agreement by the Successor Agency and Brea Gateway Center LP, with the deposit of an executed copy or executed counterparts of this Agreement with Escrow Holder. This document shall be considered as the

* This dollar amount will be inserted prior to signing of the agreement. See footnote on page 2.

escrow instructions between the parties, with such further instructions as Escrow Holder requires in order to clarify the duties and responsibilities of Escrow Holder. If Escrow Holder shall require further escrow instructions, Escrow Holder shall promptly prepare such escrow instructions upon the terms and provisions hereof. Provided such further escrow instructions are consistent with this Agreement, they shall be promptly signed by the Successor Agency and Brea Gateway Center LP within five (5) business days after delivery thereof to each party. The further escrow instructions shall incorporate each and every term of this Agreement and shall provide that in the event of any conflict between the terms and conditions of this Agreement and such further escrow instructions, the terms and conditions of this Agreement shall control.

(c) For the purposes of this Agreement, the “**Close of Escrow**” shall be the date on which the DDA Termination Agreement and the Deed of Trust Reconveyance are each recorded in the Official Records of the Orange County (California) County Recorder’s Office. Provided that all of Successor Agency’s and Brea Gateway Center LP’s obligations to be performed on or before the Close of Escrow have been performed and all of the conditions to the Close of Escrow set forth in this Agreement have been satisfied, the Escrow shall close on or before _____, 2017.

(d) On or before the Close of Escrow, Brea Gateway Center LP shall deposit into Escrow the following (properly executed and acknowledged, if applicable):

- (i) The Prepayment Amount;
- (ii) The Brea Gateway Center LP’s executed counterpart of the DDA Termination Agreement; and
- (iii) Any other documents contemplated by this Agreement or required by Escrow Holder to be deposited by Brea Gateway Center LP to carry out the Escrow and this transaction.

(e) On or before the Close of Escrow, the Successor Agency shall deposit into Escrow the following (properly executed and acknowledged, if applicable):

- (i) The Deed of Trust Reconveyance, duly executed by the Successor Agency;
- (ii) The Successor Agency’s executed counterpart of the DDA Termination Agreement; and
- (iii) Any other documents contemplated by this Agreement or required by Escrow Holder to be deposited by the Successor Agency to carry out the escrow and this transaction.

* This date will be inserted just before signing of the agreement. It is assumed that the parties will sign the agreement (as well as the other documents) as soon as practical upon the DOF’s approval. The deposit of documents with the escrow company will take place quickly thereafter, and the close of escrow can occur as soon as Brea Gateway Center can arrange the wire transfer.

(f) The Escrow shall not close unless and until both parties have deposited with Escrow Holder all sums and documents required to be deposited as provided in this Agreement. Escrow Holder shall prepare a preliminary settlement statement, showing all costs, for execution by both parties.

(g) Upon receipt of the funds and documents described in this Section 3, and satisfaction (or express written waiver) of the closing conditions, Escrow Holder shall cause the Deed of Trust Reconveyance and the DDA Termination Agreement to be recorded in the office of the County Recorder of Orange County, California, and shall deliver the Prepayment Amount (less any amount to be paid by the Successor Agency pursuant to Section 3(h) below) to the Successor Agency.

(h) It is agreed that Brea Gateway Center's obligation to make any additional monthly Participation Payments shall be suspended while the Escrow remains open and, upon the successful Close of Escrow, such obligation shall be extinguished and the DDA Termination Agreement and the Deed of Trust Reconveyance shall become effective.

(i) The Successor Agency and Brea Gateway Center LP shall each pay one-half of the escrow fee and one-half of the cost of recording the DDA Termination Agreement and the Deed of Trust Reconveyance. Brea Gateway Center LP shall pay any other closing costs or charges not expressly provided herein, unless otherwise agreed by the Executive Director of the Successor Agency in writing.

(j) In the event that the Escrow shall fail to close because of the default of Successor Agency, including Successor Agency's failure or refusal to deliver the Successor Agency's executed counterpart of the DDA Termination Agreement or the Deed of Trust Reconveyance after Brea Gateway Center LP has deposited the Prepayment Amount, the Successor Agency shall be liable for any escrow cancellation charges. If the Escrow fails to close for any other reason, Brea Gateway Center LP shall pay all charges relating to such escrow cancellation.

(k) In the event that Escrow fails to close, Escrow Holder shall promptly: (i) return to Brea Gateway Center all of the documents and funds (less any charges for escrow cancellation pursuant to Section 3(j) above) deposited by Brea Gateway Center, and (ii) return to the Successor Agency all documents deposited by the Successor Agency.

Section 4. Release.

(a) In consideration of the Successor Agency's acceptance of the prepayment described herein, Brea Gateway Center LP fully and irrevocably releases, waives, acquits and discharges the Successor Agency from all Claims (defined below), whether known or unknown, existing or potential, suspected or unsuspected, or that may hereafter be sustained, that Brea Gateway Center LP may have or assert, or may hereafter have or assert, against the Successor Agency, excluding Claims based on any failure by the Successor Agency to comply with the terms of this Agreement.

(b) As used herein, the term "**Claims**" shall mean any past, present or future, fixed or contingent, matured or unmatured, liquidated or unliquidated, claims, cross-claims,

liabilities, rights, demands, notices, injuries, damages, losses, requests, obligations to defend or indemnify, suits, lawsuits, costs, costs of suit, attorneys' fees, experts' fees, actions, administrative proceedings, causes of action or orders of any nature, character, type or description, relating to the DDA and this Agreement whenever and however occurring, whether at law, or in equity, and whether sounding in tort, contract, nuisance, trespass, negligence, strict liability or any statutory, common law or other cause of action.

(c) Brea Gateway Center LP represents and warrants that Brea Gateway Center LP has not assigned any Claims.

(d) Brea Gateway Center LP acknowledges that it may hereafter discover facts different from, or in addition to, those that it now believes to be true with respect to any and all of the matters or rights released in this Section 4. Nevertheless, Brea Gateway Center LP agrees that the releases set forth in this Section 4 shall be and shall remain effective in all respects, notwithstanding the discovery of any such different or additional facts.

(e) Brea Gateway Center LP hereby waives and relinquishes all rights and benefits under California Civil Code Section 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

Brea Gateway Center LP Initials

Section 5. No Brokers

Each party to this agreement represents and warrants that it has not has not engaged a broker or other similar functioning party (an “**Intermediary**”) with regard to this transaction and, in the event that a claim is made for a commission or other similar payment against a party (the “Indemnatee”) because of the other party’s engagement of an Intermediary, that latter party agrees to indemnify and hold harmless the Indemnatee from such claim.

Section 6. Use of Proceeds

Brea Gateway Center LP understands that, after the Successor Agency’s receipt of moneys to be released from the Escrow, the Successor Agency will transmit such proceeds to the County Auditor-Controller, who will then distribute such the moneys to the affected taxing entities in accordance to the Dissolution Act.

Section 7. Benefits Limited to Parties.

Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

Section 8. Complete Agreement.

This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein, and all prior or contemporaneous agreements or understandings, oral or written, pertaining to any such matters are merged herein and shall not be effective for any purpose.

Section 9. Modification in Writing.

No provision of this Agreement may be changed, discharged, supplemented, terminated or waived except in writing signed by the parties hereto.

Section 10. Governing Law.

This Agreement shall be governed by, interpreted under, construed and enforced, in accordance with the laws of the State of California.

Section 11. Execution in Counterparts.

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same.

[Remainder of Page Left Blank. Signatures Follow.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers.

**SUCCESSOR AGENCY TO THE
BREA REDEVELOPMENT AGENCY**

By _____
Cecilia Hupp
Mayor of the City Brea

ATTEST:

Lillian Harris-Neal
City Clerk of the City Brea

BREA GATEWAY CENTER, L.P.,
an Illinois limited partnership

By: _____

Print Name: _____

Title: _____

ATTACHMENT A

Form of
Agreement to Terminate Disposition and Development Agreement
as to Commercial Center Component

(attached)

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Brea
1 Civic Center Circle
Brea, CA 92821
Attention: City Clerk

[SPACE ABOVE FOR RECORDER'S USE ONLY]

*[This document is exempt from Recording Fees
pursuant to California Government Code Section 27383]*

AGREEMENT TO TERMINATE DISPOSITION AND DEVELOPMENT AGREEMENT
AS TO COMMERCIAL CENTER COMPONENT

This **Agreement to Terminate Disposition and Development Agreement as to Commercial Center Component** (this “**Agreement**”), dated as of _____, 2017, is entered into by and between the Successor Agency to the Brea Redevelopment Agency, a public body of the State of California (the “**Successor Agency**”) and Brea Gateway Center, L.P., an Illinois limited partnership (“**Brea Gateway Center LP**”).

This Agreement amends the DDA (as defined and described below). Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the DDA.

Recitals

A. The Brea Redevelopment Agency (the “**Former Agency**”) was a redevelopment agency formed pursuant to the Community Redevelopment Law, set forth in Part 1 of Division 24 of the California Health and Safety Code (“**HSC**”).

B. Pursuant to AB X1 26 (enacted in June 2011) and the California Supreme Court’s decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, 53 Cal.4th 231 (2011), the Former Agency was dissolved as of February 1, 2012, the Successor Agency was constituted as the successor entity to the Former Agency.

C. AB X1 26 added to Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 the HSC. Such Parts 1.8 and 1.85, together with any amendments and supplements thereto enacted from time to time, are collectively referred to herein as the “**Dissolution Act**.”

D. Pursuant to the Dissolution Act, all assets, properties, and contracts of the Former Agency have transferred to the control of the Successor Agency by operation of law.

E. As part of the Former Agency’s program to redevelop a project area known and designated as the Redevelopment Project AB, the Former Agency entered into a Disposition and Development Agreement in October 1991 (the “**Original DDA**”), by and between the Former Agency and Brea Center Associates (the “**Original Developer**”). The Original DDA relates to a

site consisting of multiple components, including among them, a “**Commercial Center Component**” as described in the Original DDA. The Original DDA has been amended and supplemented by an Amendment No. 1 to the Disposition and Development Agreement, executed in November 1992 (“**DDA Amendment No. 1**”), an Amendment No. 2 to the Disposition and Development Agreement, executed in February 1994 (“**DDA Amendment No. 2**”), and an Amendment No. 3 to the Disposition and Development Agreement, executed in November 1994 (“**DDA Amendment No. 3**”), each by and among the Former Agency, Watt-Craig Associates Limited Partnership (“**Watt-Craig**”) on the one hand as the successor to the Original Developer with respect to the Commercial Center Component and Baywood Homes-Victoria on the other hand as the successor to the Original Developer with respect to the “Housing Component.” The Original DDA, as so amended and supplemented, is referred to herein as the “**DDA**.” The Original DDA, DDA Amendment No. 1, DDA Amendment No. 2 and DDA Amendment No. 3 are each recorded in the Official Records of the County, as Document No. 91-562200 (recorded on October 15, 1991), Document No. 94-0158683 (recorded on March 4, 1994), Document No. 94-0158684 (recorded on March 4, 1994) and Document No. 94-0694881 (recorded on December 1, 1994), respectively.

F. The legal description of the Commercial Component is set forth in Exhibit A hereto.

G. The Former Agency, as landlord, and Watt-Craig, as tenant, entered into a Ground Lease, dated as of May 12, 1994 (the “**Lease**”), with respect to the Commercial Center Component.

H. Pursuant to Sections 3.2, 3.3 and 3.4 of the Lease, Watt-Craig agreed to make certain payments (referred to in the Lease as “Participation Rent,” “Refinancing Rent” and “Sale Rent,” and collectively referred to herein as the “**Participation Payments**”) in accordance with the terms of provisions of Sections 3.2, 3.3, 3.4, 3.5 and 3.6 of the Lease. Pursuant to the provisions of DDA Amendment No. 2 and the Lease, the final Participation Payment (the “**Final Participation Payment Date**”) was scheduled to take place in the year 2048.

I. Pursuant to the DDA, the Former Agency granted Watt-Craig an option to purchase the Commercial Center Component but Watt-Craig was required to continue to pay the Participation Payments with respect to the Gateway Center Property for a number of years after a purchase under the option.

J. Watt-Craig exercised its option to purchase the Commercial Center Component in 1995, and assigned its rights to purchase the Commercial Center Component to Brea Gateway Center LP, an affiliate entity of Watt-Craig. Brea Gateway Center LP then became the fee title owner to the Commercial Center Component pursuant to the exercised option.

K. Brea Gateway Center LP executed a Subordinated Deed of Trust and Assignment of Rents and Request for Special Notice, dated as of August 4, 1995 and recorded in the Official Records of the County, as Document No. 95-0349470 (recorded on August 14, 1995) (the “**Deed of Trust**”), creating a security interest in the Commercial Center Component to secure the Brea Gateway Center LP’s obligations to make Participation Payments to the Former Agency.

L. The Successor Agency affirms that the construction and improvements required to be completed by the Developer with respect to the Commercial Center Component under the DDA have been completed, and the recordation of this Agreement has the same force and effect as the recordation of a Certificate of Completion with respect to each Parcel that constitutes the Commercial Center Component.

M. Brea Gateway Center LP has made, and the Successor Agency has accepted, a lump sum of \$ [REDACTED], as prepayment and satisfaction in full of all future Participation Payments (the “**Prepayment**”) and effect a termination of the DDA with respect to Commercial Center Component (including the termination of the Successor Agency’s obligation to make payments to Brea Gateway Center LP under Section 201.9 of the DDA, as amended by Section 6 of DDA Amendment No. 2).

N. The City Council of the City of Brea, acting as the governing body of the Successor Agency, adopted its Resolution No. _____, on _____, 2017, authorizing the Successor Agency’s execution and delivery of documents relating to the Prepayment, including this Amendment.

O. The Oversight Board adopted its Resolution No. _____, on _____, 2017 (the “**Oversight Board Resolution**”) approving the Successor Agency’s execution and delivery of documents relating to the Prepayment, including this Amendment. The California State Department of Finance issued its letter, dated _____, 2017, approving the Oversight Board Resolution.

NOW, THEREFORE, THE PARTIES HERETO, FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND AGREEMENTS HEREIN, CONTAINED DO AGREE AS FOLLOWS:

Section 1. As of the dated date of this Agreement, and with regard to the Commercial Center Component, the DDA shall be deemed completed and terminated. The parties hereto shall execute such other and further documents as may be reasonably necessary to reflect such termination.

Section 2. The parties hereby agree and confirm that this Agreement shall have no effect on the provisions of the DDA pertaining to any property other than the Commercial Center Component (the “**Other Properties**”).

Section 3. This Agreement shall be governed by, interpreted under, construed and enforced, in accordance with the laws of the State of California.

* This dollar amount will be inserted prior to signing of the agreement, as it will change depending how soon the DOF will issue its approval and the parties will be able to open the escrow thereafter.. It will be equal to \$8,050,000 minus (i) the monthly Participation Payments that Brea Gateway Center paid to the Agency between 2/15/2017 and the escrow open date, and (ii) \$134,467.37, representing the estimated payments that the Successor Agency would have to pay Brea Gateway Center pursuant to Section 201.9 of the DDA, as amended by Section 6 of DDA Amendment No. 2 between 2017 and 2021.

Section 4. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers.

**SUCCESSOR AGENCY TO THE
BREA REDEVELOPMENT AGENCY**

By _____
Cecilia Hupp
Mayor of the City of Brea

ATTEST:

Lillian Harris-Neal
City Clerk of the City of Brea

BREA GATEWAY CENTER, L.P.,
an Illinois limited partnership

By: _____

Print Name: _____

Title: _____

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

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

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

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

(Agreement to Terminate Disposition and Development Agreement as to Commercial Center Component)

LEGAL DESCRIPTION OF PROPERTY

Parcels 1 to 11, inclusive, of Parcel Map No. 91-217 in the City of Brea, County of Orange, State of California, as per Map filed in Book 280, Page(s) 44 to 48 inclusive, of Parcel Maps, in the office of the County Recorder of said County.

EXCEPTING THEREFROM all coal, oil, petroleum, natural gas and other hydrocarbons upon, in or under said land, but without the right of surface entry, as reserved by Ontario Investment Company in deed recorded November 28, 1910 in Book 194, Page 243 of Deeds, records of Orange County, and other deeds of record.

ATTACHMENT B

Form of
Substitution of Trustee and Full Reconveyance
(attached)

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Brea Gateway Center, L.P.

Attention: _____

[SPACE ABOVE FOR RECORDER'S USE ONLY]

SUBSTITUTION OF TRUSTEE AND FULL RECONVEYANCE

The undersigned, being the present beneficiary under that certain Subordinated Deed of Trust, made on August 4, 1995, by Brea Gateway Center, L.P., as trustor, to Continental Lawyers Title Company, as trustee, and recorded on August 14, 1995, as Document No. 95-0349470, Official Records of the County of Orange, State of California (the "Deed of Trust"), **HEREBY APPOINTS AND SUBSTITUTES THE SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY (the "Successor Agency")** as the new trustee thereunder.

As such duly appointed and substituted trustee thereunder, the Successor Agency **DOES HEREBY RECONVEY** to the person or persons legally entitled thereto, without warranty, all the estate, title and interest of the trustee under said Deed of Trust.

The Successor Agency became the successor entity to the former Brea Redevelopment Agency (*i.e.*, the named beneficiary under the Deed of Trust) as of February 1, 2012, by operation of law, particularly Health and Safety Code Section 34173.

SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY

By _____
Cecilia Hupp
Mayor of the City of Brea

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

State of California)
County of Orange)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

(Substitution of Trustee and Full Reconveyance)

LEGAL DESCRIPTION OF PROPERTY

Parcels 1 to 11, inclusive, of Parcel Map No. 91-217 in the City of Brea, County of Orange, State of California, as per Map filed in Book 280, Page(s) 44 to 48 inclusive, of Parcel Maps, in the office of the County Recorder of said County.

EXCEPTING THEREFROM all coal, oil, petroleum, natural gas and other hydrocarbons upon, in or under said land, but without the right of surface entry, as reserved by Ontario Investment Company in deed recorded November 28, 1910 in Book 194, Page 243 of Deeds, records of Orange County, and other deeds of record.

RESOLUTION NO. SA 2017-02

A RESOLUTION OF THE CITY COUNCIL OF THE CITY BREA, ACTING AS THE SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY, AUTHORIZING THE SUCCESSOR AGENCY'S EXECUTION AND DELIVERY OF AN AGREEMENT TO TERMINATE DISPOSITION AND DEVELOPMENT AGREEMENT AS TO COMMERCIAL CENTER COMPONENT AND A RELATED PAYOFF AGREEMENT AND TAKING CERTAIN RELATED ACTIONS

A. RECITALS:

(i) The Brea Redevelopment Agency (the "**Former Agency**") was a redevelopment agency duly formed pursuant to the Community Redevelopment Law, set forth in Part 1 of Division 24 of the California Health and Safety Code ("**HSC**");

(ii) Pursuant to AB X1 26 (enacted in June 2011) and the *California Supreme Court's decision in California Redevelopment Association, et al. v. Ana Matosantos, et al.*, 53 Cal.4th 231 (2011), the Former Agency was dissolved as of February 1, 2012, the Successor Agency to the Brea Redevelopment Agency (the "**Successor Agency**") was constituted as the successor entity to the Former Agency, and an oversight board of the Successor Agency (the "**Oversight Board**") was established;

(iii) AB X1 26 added Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of the HSC. Such Parts 1.8 and 1.85, together with any amendments and supplements thereto enacted from time to time, are collectively referred to herein as the "**Dissolution Act**";

(iv) Pursuant to the Dissolution Act, all assets, properties, and contracts of the Former Agency have transferred to the control of the Successor Agency by operation of law;

(v) As part of the Former Agency's program to redevelop a project area known and designated as the Redevelopment Project AB, the Former Agency entered into a Disposition and Development Agreement in October 1991 (the "**Original DDA**"), by and between the Former Agency and Brea Center Associates (the "**Original Developer**"), relating to a site consisting of multiple components, including among them, a "**Commercial Center Component**";

(vi) The Original DDA has been amended and supplemented by an Amendment No. 1 to the Disposition and Development Agreement, executed in November 1992 ("**DDA Amendment No. 1**"), an Amendment No. 2 to the Disposition and Development Agreement, executed in February 1994 ("**DDA Amendment No. 2**"), and an Amendment No. 3 to the Disposition and Development Agreement, executed in November 1994 ("**DDA Amendment No. 3**"), each by and among the Former Agency, Watt-Craig Associates Limited Partnership ("**Watt-Craig**") on the one hand as the successor to the Original Developer with respect to the Commercial Center Component and Baywood Homes-Victoria on the other hand as the successor to the Original Developer with respect to the

March 7, 2017
RESO. SA 2017-02

"Housing Component" (the Original DDA, as so amended and supplemented, being referred to herein as the "**DDA**");

(vii) The Former Agency, as landlord, and Watt-Craig, as tenant, entered into a Ground Lease, dated as of May 12, 1994 (the "**Lease**"), with respect to the Commercial Center Component.

(viii) Pursuant to Sections 3.2, 3.3 and 3.4 of the Lease, Watt-Craig agreed to make certain payments (referred to in the Lease as "**Participation Rent**," "**Refinancing Rent**" and "**Sale Rent**," and collectively referred to herein as the "**Participation Payments**") in accordance with the terms of provisions of Sections 3.2, 3.3, 3.4, 3.5 and 3.6 of the Lease;

(ix) Pursuant to the provisions of DDA Amendment No. 2 and the Lease, the final Participation Payment (the "**Final Participation Payment Date**") was scheduled to take place in the year 2048;

(x) Pursuant to the DDA, the Former Agency granted Watt-Craig an option to purchase the Commercial Center Component but Watt-Craig was required to continue to pay the Participation Payments with respect to the Gateway Center Property for a number of years after a purchase under the option;

(xi) Watt-Craig exercised its option to purchase the Commercial Center Component in 1995, and assigned its rights to purchase the Commercial Center Component to Brea Gateway Center LP, an affiliate entity of Watt-Craig, and, as the result, Brea Gateway Center LP became the fee title owner to the Commercial Center Component pursuant to the exercised option;

(xii) Brea Gateway Center LP executed a Subordinated Deed of Trust and Assignment of Rents and Request for Special Notice, dated as of August 4, 1995 (the "**Deed of Trust**"), creating a security interest in the Commercial Center Component to secure Brea Gateway Center LP's obligations to make Participation Payments to the Former Agency;

(xiii) Brea Gateway Center LP has made an offer (the "**Prepayment Offer**") to make a lump sum payment, in the approximate amount of \$8 million, to prepay all future Participation Payments in full and effect a termination of the DDA with respect to Commercial Center Component (including the termination of the Successor Agency's obligation to make payments to Brea Gateway Center LP under Section 201.9 of the DDA, as amended by Section 6 of DDA Amendment No. 2);

(xiv) In connection with the Prepayment Offer, there has been presented to the this Board forms of the following: (i) a Payoff Agreement and Joint Escrow Instructions (the "**Payoff Agreement**"), and (b) Agreement to Terminate Disposition and Development Agreement as to Commercial Center Component ("**DDA Termination Agreement**") as Attachment A to the Payoff Agreement, and (c) a Substitution of Trustee and Full Reconveyance (the "**Deed of Trust Reconveyance**") as Attachment B to the Payoff Agreement;

March 7, 2017
RESO. SA 2017-02

(xv) Under HSC Section 34181(e), the Oversight Board may approve a modification to or an early termination of an agreement between the Former Agency (as succeeded by the Successor Agency) and any private party, if the Oversight Board finds the Successor Agency's execution and delivery of such modification or early termination is in the best interests of the taxing entities;

B. RESOLUTION:

NOW, THEREFORE, be it found, determined and resolved by the City Council of the City of Brea, acting as the Successor Agency to the Brea Redevelopment Agency, as follows:

1. The above recitals are true and correct and are a substantive part of this Resolution.

2. The Payoff Agreement, DDA Termination Agreement and the Deed of Trust Reconveyance, in the forms attached hereto as Exhibit A, are hereby approved. Each of the Mayor of the City, the Mayor Pro Tem of the City and the Executive Director of the Successor Agency (who is the City Manager of the City) (collectively, the "**Authorized Officers**"), acting individually, is hereby authorized to execute and deliver, for and in the name of the Successor Agency, the Payoff Agreement, DDA Termination Agreement and the Deed of Trust Reconveyance, in substantially such forms, with changes therein as the Authorized Officer executing the same may approve (with such approval to be conclusively evidenced by the execution and delivery thereof); provided, that such execution and delivery shall occur after the effectiveness of the Oversight Board Resolution (defined below)

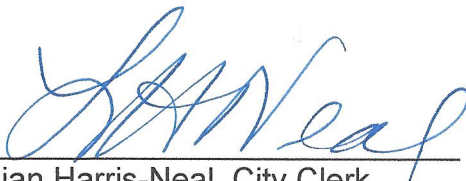
3. The Oversight Board is hereby requested to adopt a resolution (the "**Oversight Board Resolution**") to: (a) make a finding and determination for the purposes of HSC Section 34181(e), that the Successor Agency's execution and delivery of the Payoff Agreement, the DDA Termination Agreement and the Deed of Trust Reconveyance are in the best interests of the taxing entities, and (b) approve the Successor Agency's execution and delivery of the Payoff Agreement, DDA Termination Agreement and the Deed of Trust Reconveyance. The City Clerk is hereby directed to transmit this Resolution to the Oversight Board for consideration at the earliest possible date.

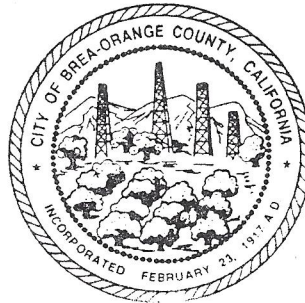
4. The officers of the City, acting for an on behalf Successor Agency, are hereby authorized, jointly and severally, to execute and deliver any and all necessary documents and instruments and to do all things which they may deem necessary or proper to effectuate the purposes of this Resolution, the Prepayment Agreement, the DDA Termination Agreement and the Deed of Trust Reconveyance.

APPROVED AND ADOPTED this 7th day of March, 2017.


Cecilia Hupp, Mayor

ATTEST:


Lillian Harris-Neal, City Clerk



I, Lillian Harris-Neal, City Clerk of the City of Brea, do hereby certify that the foregoing Resolution was passed at a regular meeting of the City Council of the City of Brea, acting as the Successor Agency to the Brea Redevelopment Agency, held on the 7th day of March, 2017, by the following vote:

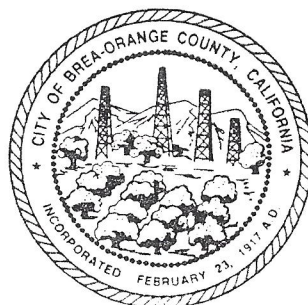
AYES: BOARD MEMBERS: Hupp, Parker, Marick, Simonoff, Vargas

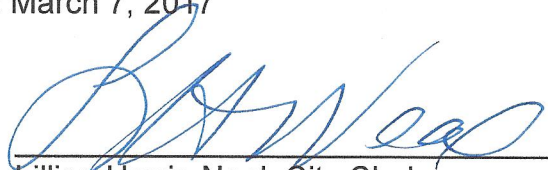
NOES: BOARD MEMBERS: None

ABSENT: BOARD MEMBERS: None

ABSTAIN: BOARD MEMBERS: None

Dated: March 7, 2017




Lillian Harris-Neal, City Clerk

March 7, 2017
RESO. SA 2017-02

EXHIBIT A

Prepayment Agreement
(with DDA Termination Agreement as Attachment A,
and Deed of Trust Recovenyance as Attachment B)

(in substantial final form)

(see attached)

PAYOFF AGREEMENT AND JOINT ESCROW INSTRUCTIONS

This **Payoff Agreement and Joint Escrow Instructions** (this “**Agreement**”), dated as of _____, 2017, is entered into by and between the Successor Agency to the Brea Redevelopment Agency, a public body of the State of California (the “**Successor Agency**”) and Brea Gateway Center, L.P., an Illinois limited partnership (the “**Brea Gateway Center LP**”).

Recitals

A. The Brea Redevelopment Agency (“**Former Agency**”) was a redevelopment agency formed pursuant to the Community Redevelopment Law, set forth in Part 1 of Division 24 of the California Health and Safety Code (“**HSC**”).

B. Pursuant to AB X1 26 (enacted in June 2011) and the California Supreme Court’s decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, 53 Cal.4th 231 (2011), the Former Agency was dissolved as of February 1, 2012, the Successor Agency was constituted as the successor entity to the Former Agency, and an oversight board of the Successor Agency (the “**Oversight Board**”) was established.

C. AB X1 26 added to Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 the HSC. Such Parts 1.8 and 1.85, together with any amendments and supplements thereto enacted from time to time, are collectively referred to herein as the “**Dissolution Act**.”

D. Pursuant to the Dissolution Act, all assets, properties, and contracts of the Former Agency have transferred to the control of the Successor Agency by operation of law.

E. As part of the Former Agency’s program to redevelop a project area known and designated as the Redevelopment Project AB, the Former Agency entered into a Disposition and Development Agreement in October 1991 (the “**Original DDA**”), by and between the Former Agency and Brea Center Associates (the “**Original Developer**”). The Original DDA relates to a site consisting of multiple components, including among them, a “**Commercial Center Component**” as described in the Original DDA and in Recital F, below and the referenced Attachments. The Original DDA has been amended and supplemented by an Amendment No. 1 to the Disposition and Development Agreement, executed in November 1992 (“**DDA Amendment No. 1**”), an Amendment No. 2 to the Disposition and Development Agreement, executed in February 1994 (“**DDA Amendment No. 2**”), and an Amendment No. 3 to the Disposition and Development Agreement, executed in November 1994 (“**DDA Amendment No. 3**”), each by and among the Former Agency, Watt-Craig Associates Limited Partnership (“**Watt-Craig**”) on the one hand as the successor to the Original Developer with respect to the Commercial Center Component and Baywood Homes-Victoria on the other hand as the successor to the Original Developer with respect to the “**Housing Component**.” The Original DDA, as so amended and supplemented, is referred to herein as the “**DDA**.” The Original DDA, DDA Amendment No. 1, DDA Amendment No. 2 and DDA Amendment No. 3 are each recorded in the Official Records of the County, as Document No. 91-562200 (recorded on October 15, 1991), Document No. 94-0158683 (recorded on March 4, 1994), Document No. 94-0158684 (recorded on March 4, 1994) and Document No. 94-0694881 (recorded on December 1, 1994), respectively.

F. The legal description of the Commercial Center Component is set forth in Exhibit A to each of Attachment A and Attachment B hereto.

G. The Former Agency, as landlord, and Watt-Craig, as tenant, entered into a Ground Lease, dated as of May 12, 1994 (the "**Lease**"), with respect to the Commercial Center Component.

H. Pursuant to Sections 3.2, 3.3 and 3.4 of the Lease, Watt-Craig agreed to make certain payments (referred to in the Lease as "Participation Rent," "Refinancing Rent" and "Sale Rent," and collectively referred to herein as the "**Participation Payments**") in accordance with the terms of provisions of Sections 3.2, 3.3, 3.4, 3.5 and 3.6 of the Lease. Pursuant to the provisions of DDA Amendment No. 2 and the Lease, the final Participation Payment (the "**Final Participation Payment Date**") was scheduled to take place in the year 2048.

I. Pursuant to the DDA, the Former Agency granted Watt-Craig an option to purchase the Commercial Center Component but Watt-Craig was required to continue to pay the Participation Payments for a number of years after a purchase under the option.

J. Watt-Craig exercised its option to purchase the Commercial Center Component in 1995, and assigned its rights to purchase the Commercial Center Component to Brea Gateway Center LP, an affiliate entity of Watt-Craig. Brea Gateway Center LP then became the fee title owner to the Commercial Center Component pursuant to the exercised option.

K. Brea Gateway Center LP executed a Subordinated Deed of Trust and Assignment of Rents and Request for Special Notice, dated as of August 4, 1995 recorded in the Official Records of the County, as Document No. 95-0349470 (recorded on August 14, 1995) (the "**Deed of Trust**"), creating a security interest in the Commercial Center Component to secure Brea Gateway Center LP's obligations to make Participation Payments to the Former Agency.

L. Brea Gateway Center LP has offered to make a lump sum payment, in the amount of \$ _____*, to prepay in full all future Participation Payments (the "**Prepayment**") and effect a termination of the DDA with respect to Commercial Center Component (including the termination of the Successor Agency's obligation to make payments to Brea Gateway Center LP under Section 201.9 of the DDA, as amended by Section 6 of DDA Amendment No. 2).

M. While the DDA currently does not contemplate such Prepayment, the Successor Agency is willing to accept the Prepayment subject to the terms of this Agreement.

* This dollar amount will be inserted prior to signing of the agreement, as it will change depending how soon the DOF will issue its approval and the parties will be able to open the escrow thereafter. It will be equal to \$8,050,000 minus (i) the monthly Participation Payments that Brea Gateway Center paid to the Agency between 2/15/2017 and the escrow open date, and (ii) \$134,467.37, representing the estimated payments that the Successor Agency would have to pay Brea Gateway Center pursuant to Section 201.9 of the DDA, as amended by Section 6 of DDA Amendment No. 2 between 2017 and 2021.

N. The City Council of the City of Brea, acting as the governing body of the Successor Agency, adopted its Resolution No. _____, on _____, 2017, authorizing the Successor Agency's execution and delivery of documents relating to the Prepayment, including this Agreement.

O. The Oversight Board adopted its Resolution No. _____, on _____, 2017 (the "**Oversight Board Resolution**") approving the Successor Agency's execution and delivery of documents relating to the Prepayment, including this Agreement. The California State Department of Finance issued its letter, dated _____, 2017, approving the Oversight Board Resolution.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, THE MUTUAL COVENANTS SET FORTH HEREIN, AND OTHER CONSIDERATION THE SUFFICIENCY OF WHICH THE PARTIES HERETO ACKNOWLEDGE, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Prepayment Amount.

Brea Gateway Center LP hereby agrees to pay to the Successor Agency the sum of \$_____* (the "**Prepayment Amount**"), as prepayment in full of all future Participation Payments due under the DDA, and the Successor Agency agrees to accept such prepayment, provided that Brea Gateway Center LP complies with this Agreement and the Escrow (defined below) successfully closes pursuant to Section 3 hereof.

Section 2. Execution and Delivery of Deed of Trust Reconveyance and Agreement to Terminate DDA as to the Commercial Component.

In consideration of the Prepayment Amount, the Successor Agency agrees to execute and deliver: (i) Agreement to Terminate the Disposition and Development Agreement as to the Commercial Center Component, in substantially the form attached hereto as Attachment A ("**DDA Termination Agreement**"), and (ii) Substitution of Trustee and Full Reconveyance, in substantially the form attached hereto as Attachment B (the "**Deed of Trust Reconveyance**"). The DDA Termination Agreement and the Deed of Trust shall become effective only upon the successful Close of Escrow (defined below).

Section 3. Escrow.

(a) The payment of the Prepayment Amount and the reconveyance of the Deed of Trust shall be accomplished through an escrow (the "**Escrow**") as follows. This Agreement shall constitute escrow instructions and a copy hereof shall be deposited with the Escrow Holder (defined below) for this purpose.

(b) The escrow shall be opened with Chicago Title Insurance Company, 700 South Flower Street, Suite 800, Los Angeles, CA 90017 (Escrow Officer: Debbie Bond) ("**Escrow Holder**"), within three (3) business days after the execution of this Agreement by the Successor Agency and Brea Gateway Center LP, with the deposit of an executed copy or executed counterparts of this Agreement with Escrow Holder. This document shall be considered as the

* This dollar amount will be inserted prior to signing of the agreement. See footnote on page 2.

escrow instructions between the parties, with such further instructions as Escrow Holder requires in order to clarify the duties and responsibilities of Escrow Holder. If Escrow Holder shall require further escrow instructions, Escrow Holder shall promptly prepare such escrow instructions upon the terms and provisions hereof. Provided such further escrow instructions are consistent with this Agreement, they shall be promptly signed by the Successor Agency and Brea Gateway Center LP within five (5) business days after delivery thereof to each party. The further escrow instructions shall incorporate each and every term of this Agreement and shall provide that in the event of any conflict between the terms and conditions of this Agreement and such further escrow instructions, the terms and conditions of this Agreement shall control.

(c) For the purposes of this Agreement, the “**Close of Escrow**” shall be the date on which the DDA Termination Agreement and the Deed of Trust Reconveyance are each recorded in the Official Records of the Orange County (California) County Recorder’s Office. Provided that all of Successor Agency’s and Brea Gateway Center LP’s obligations to be performed on or before the Close of Escrow have been performed and all of the conditions to the Close of Escrow set forth in this Agreement have been satisfied, the Escrow shall close on or before _____, 2017.

(d) On or before the Close of Escrow, Brea Gateway Center LP shall deposit into Escrow the following (properly executed and acknowledged, if applicable):

- (i) The Prepayment Amount;
- (ii) The Brea Gateway Center LP’s executed counterpart of the DDA Termination Agreement; and
- (iii) Any other documents contemplated by this Agreement or required by Escrow Holder to be deposited by Brea Gateway Center LP to carry out the Escrow and this transaction.

(e) On or before the Close of Escrow, the Successor Agency shall deposit into Escrow the following (properly executed and acknowledged, if applicable):

- (i) The Deed of Trust Reconveyance, duly executed by the Successor Agency;
- (ii) The Successor Agency’s executed counterpart of the DDA Termination Agreement; and
- (iii) Any other documents contemplated by this Agreement or required by Escrow Holder to be deposited by the Successor Agency to carry out the escrow and this transaction.

* This date will be inserted just before signing of the agreement. It is assumed that the parties will sign the agreement (as well as the other documents) as soon as practical upon the DOF’s approval. The deposit of documents with the escrow company will take place quickly thereafter, and the close of escrow can occur as soon as Brea Gateway Center can arrange the wire transfer.

(f) The Escrow shall not close unless and until both parties have deposited with Escrow Holder all sums and documents required to be deposited as provided in this Agreement. Escrow Holder shall prepare a preliminary settlement statement, showing all costs, for execution by both parties.

(g) Upon receipt of the funds and documents described in this Section 3, and satisfaction (or express written waiver) of the closing conditions, Escrow Holder shall cause the Deed of Trust Reconveyance and the DDA Termination Agreement to be recorded in the office of the County Recorder of Orange County, California, and shall deliver the Prepayment Amount (less any amount to be paid by the Successor Agency pursuant to Section 3(h) below) to the Successor Agency.

(h) It is agreed that Brea Gateway Center's obligation to make any additional monthly Participation Payments shall be suspended while the Escrow remains open and, upon the successful Close of Escrow, such obligation shall be extinguished and the DDA Termination Agreement and the Deed of Trust Reconveyance shall become effective.

(i) The Successor Agency and Brea Gateway Center LP shall each pay one-half of the escrow fee and one-half of the cost of recording the DDA Termination Agreement and the Deed of Trust Reconveyance. Brea Gateway Center LP shall pay any other closing costs or charges not expressly provided herein, unless otherwise agreed by the Executive Director of the Successor Agency in writing.

(j) In the event that the Escrow shall fail to close because of the default of Successor Agency, including Successor Agency's failure or refusal to deliver the Successor Agency's executed counterpart of the DDA Termination Agreement or the Deed of Trust Reconveyance after Brea Gateway Center LP has deposited the Prepayment Amount, the Successor Agency shall be liable for any escrow cancellation charges. If the Escrow fails to close for any other reason, Brea Gateway Center LP shall pay all charges relating to such escrow cancellation.

(k) In the event that Escrow fails to close, Escrow Holder shall promptly: (i) return to Brea Gateway Center all of the documents and funds (less any charges for escrow cancellation pursuant to Section 3(j) above) deposited by Brea Gateway Center, and (ii) return to the Successor Agency all documents deposited by the Successor Agency.

Section 4. Release.

(a) In consideration of the Successor Agency's acceptance of the prepayment described herein, Brea Gateway Center LP fully and irrevocably releases, waives, acquits and discharges the Successor Agency from all Claims (defined below), whether known or unknown, existing or potential, suspected or unsuspected, or that may hereafter be sustained, that Brea Gateway Center LP may have or assert, or may hereafter have or assert, against the Successor Agency, excluding Claims based on any failure by the Successor Agency to comply with the terms of this Agreement.

(b) As used herein, the term "**Claims**" shall mean any past, present or future, fixed or contingent, matured or unmatured, liquidated or unliquidated, claims, cross-claims,

liabilities, rights, demands, notices, injuries, damages, losses, requests, obligations to defend or indemnify, suits, lawsuits, costs, costs of suit, attorneys' fees, experts' fees, actions, administrative proceedings, causes of action or orders of any nature, character, type or description, relating to the DDA and this Agreement whenever and however occurring, whether at law, or in equity, and whether sounding in tort, contract, nuisance, trespass, negligence, strict liability or any statutory, common law or other cause of action.

(c) Brea Gateway Center LP represents and warrants that Brea Gateway Center LP has not assigned any Claims.

(d) Brea Gateway Center LP acknowledges that it may hereafter discover facts different from, or in addition to, those that it now believes to be true with respect to any and all of the matters or rights released in this Section 4. Nevertheless, Brea Gateway Center LP agrees that the releases set forth in this Section 4 shall be and shall remain effective in all respects, notwithstanding the discovery of any such different or additional facts.

(e) Brea Gateway Center LP hereby waives and relinquishes all rights and benefits under California Civil Code Section 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

Brea Gateway Center LP Initials

Section 5. No Brokers

Each party to this agreement represents and warrants that it has not has not engaged a broker or other similar functioning party (an “**Intermediary**”) with regard to this transaction and, in the event that a claim is made for a commission or other similar payment against a party (the “Indemnatee”) because of the other party’s engagement of an Intermediary, that latter party agrees to indemnify and hold harmless the Indemnatee from such claim.

Section 6. Use of Proceeds

Brea Gateway Center LP understands that, after the Successor Agency’s receipt of moneys to be released from the Escrow, the Successor Agency will transmit such proceeds to the County Auditor-Controller, who will then distribute such the moneys to the affected taxing entities in accordance to the Dissolution Act.

Section 7. Benefits Limited to Parties.

Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

Section 8. Complete Agreement.

This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein, and all prior or contemporaneous agreements or understandings, oral or written, pertaining to any such matters are merged herein and shall not be effective for any purpose.

Section 9. Modification in Writing.

No provision of this Agreement may be changed, discharged, supplemented, terminated or waived except in writing signed by the parties hereto.

Section 10. Governing Law.

This Agreement shall be governed by, interpreted under, construed and enforced, in accordance with the laws of the State of California.

Section 11. Execution in Counterparts.

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same.

[Remainder of Page Left Blank. Signatures Follow.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers.

**SUCCESSOR AGENCY TO THE
BREA REDEVELOPMENT AGENCY**

By _____
Cecilia Hupp
Mayor of the City Brea

ATTEST:

Lillian Harris-Neal
City Clerk of the City Brea

BREA GATEWAY CENTER, L.P.,
an Illinois limited partnership

By: _____

Print Name: _____

Title: _____

ATTACHMENT A

Form of
Agreement to Terminate Disposition and Development Agreement
as to Commercial Center Component

(attached)

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Brea
1 Civic Center Circle
Brea, CA 92821
Attention: City Clerk

[SPACE ABOVE FOR RECORDER'S USE ONLY]

*[This document is exempt from Recording Fees
pursuant to California Government Code Section 27383]*

AGREEMENT TO TERMINATE DISPOSITION AND DEVELOPMENT AGREEMENT
AS TO COMMERCIAL CENTER COMPONENT

This **Agreement to Terminate Disposition and Development Agreement as to Commercial Center Component** (this “**Agreement**”), dated as of _____, 2017, is entered into by and between the Successor Agency to the Brea Redevelopment Agency, a public body of the State of California (the “**Successor Agency**”) and Brea Gateway Center, L.P., an Illinois limited partnership (“**Brea Gateway Center LP**”).

This Agreement amends the DDA (as defined and described below). Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the DDA.

Recitals

A. The Brea Redevelopment Agency (the “**Former Agency**”) was a redevelopment agency formed pursuant to the Community Redevelopment Law, set forth in Part 1 of Division 24 of the California Health and Safety Code (“**HSC**”).

B. Pursuant to AB X1 26 (enacted in June 2011) and the California Supreme Court’s decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, 53 Cal.4th 231 (2011), the Former Agency was dissolved as of February 1, 2012, the Successor Agency was constituted as the successor entity to the Former Agency.

C. AB X1 26 added to Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 the HSC. Such Parts 1.8 and 1.85, together with any amendments and supplements thereto enacted from time to time, are collectively referred to herein as the “**Dissolution Act**.”

D. Pursuant to the Dissolution Act, all assets, properties, and contracts of the Former Agency have transferred to the control of the Successor Agency by operation of law.

E. As part of the Former Agency’s program to redevelop a project area known and designated as the Redevelopment Project AB, the Former Agency entered into a Disposition and Development Agreement in October 1991 (the “**Original DDA**”), by and between the Former Agency and Brea Center Associates (the “**Original Developer**”). The Original DDA relates to a

site consisting of multiple components, including among them, a “**Commercial Center Component**” as described in the Original DDA. The Original DDA has been amended and supplemented by an Amendment No. 1 to the Disposition and Development Agreement, executed in November 1992 (“**DDA Amendment No. 1**”), an Amendment No. 2 to the Disposition and Development Agreement, executed in February 1994 (“**DDA Amendment No. 2**”), and an Amendment No. 3 to the Disposition and Development Agreement, executed in November 1994 (“**DDA Amendment No. 3**”), each by and among the Former Agency, Watt-Craig Associates Limited Partnership (“**Watt-Craig**”) on the one hand as the successor to the Original Developer with respect to the Commercial Center Component and Baywood Homes-Victoria on the other hand as the successor to the Original Developer with respect to the “Housing Component.” The Original DDA, as so amended and supplemented, is referred to herein as the “**DDA**.” The Original DDA, DDA Amendment No. 1, DDA Amendment No. 2 and DDA Amendment No. 3 are each recorded in the Official Records of the County, as Document No. 91-562200 (recorded on October 15, 1991), Document No. 94-0158683 (recorded on March 4, 1994), Document No. 94-0158684 (recorded on March 4, 1994) and Document No. 94-0694881 (recorded on December 1, 1994), respectively.

F. The legal description of the Commercial Component is set forth in Exhibit A hereto.

G. The Former Agency, as landlord, and Watt-Craig, as tenant, entered into a Ground Lease, dated as of May 12, 1994 (the “**Lease**”), with respect to the Commercial Center Component.

H. Pursuant to Sections 3.2, 3.3 and 3.4 of the Lease, Watt-Craig agreed to make certain payments (referred to in the Lease as “Participation Rent,” “Refinancing Rent” and “Sale Rent,” and collectively referred to herein as the “**Participation Payments**”) in accordance with the terms of provisions of Sections 3.2, 3.3, 3.4, 3.5 and 3.6 of the Lease. Pursuant to the provisions of DDA Amendment No. 2 and the Lease, the final Participation Payment (the “**Final Participation Payment Date**”) was scheduled to take place in the year 2048.

I. Pursuant to the DDA, the Former Agency granted Watt-Craig an option to purchase the Commercial Center Component but Watt-Craig was required to continue to pay the Participation Payments with respect to the Gateway Center Property for a number of years after a purchase under the option.

J. Watt-Craig exercised its option to purchase the Commercial Center Component in 1995, and assigned its rights to purchase the Commercial Center Component to Brea Gateway Center LP, an affiliate entity of Watt-Craig. Brea Gateway Center LP then became the fee title owner to the Commercial Center Component pursuant to the exercised option.

K. Brea Gateway Center LP executed a Subordinated Deed of Trust and Assignment of Rents and Request for Special Notice, dated as of August 4, 1995 and recorded in the Official Records of the County, as Document No. 95-0349470 (recorded on August 14, 1995) (the “**Deed of Trust**”), creating a security interest in the Commercial Center Component to secure the Brea Gateway Center LP’s obligations to make Participation Payments to the Former Agency.

L. The Successor Agency affirms that the construction and improvements required to be completed by the Developer with respect to the Commercial Center Component under the DDA have been completed, and the recordation of this Agreement has the same force and effect as the recordation of a Certificate of Completion with respect to each Parcel that constitutes the Commercial Center Component.

M. Brea Gateway Center LP has made, and the Successor Agency has accepted, a lump sum of \$ [REDACTED], as prepayment and satisfaction in full of all future Participation Payments (the “**Prepayment**”) and effect a termination of the DDA with respect to Commercial Center Component (including the termination of the Successor Agency’s obligation to make payments to Brea Gateway Center LP under Section 201.9 of the DDA, as amended by Section 6 of DDA Amendment No. 2).

N. The City Council of the City of Brea, acting as the governing body of the Successor Agency, adopted its Resolution No. _____, on _____, 2017, authorizing the Successor Agency’s execution and delivery of documents relating to the Prepayment, including this Amendment.

O. The Oversight Board adopted its Resolution No. _____, on _____, 2017 (the “**Oversight Board Resolution**”) approving the Successor Agency’s execution and delivery of documents relating to the Prepayment, including this Amendment. The California State Department of Finance issued its letter, dated _____, 2017, approving the Oversight Board Resolution.

NOW, THEREFORE, THE PARTIES HERETO, FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES AND AGREEMENTS HEREIN, CONTAINED DO AGREE AS FOLLOWS:

Section 1. As of the dated date of this Agreement, and with regard to the Commercial Center Component, the DDA shall be deemed completed and terminated. The parties hereto shall execute such other and further documents as may be reasonably necessary to reflect such termination.

Section 2. The parties hereby agree and confirm that this Agreement shall have no effect on the provisions of the DDA pertaining to any property other than the Commercial Center Component (the “**Other Properties**”).

Section 3. This Agreement shall be governed by, interpreted under, construed and enforced, in accordance with the laws of the State of California.

* This dollar amount will be inserted prior to signing of the agreement, as it will change depending how soon the DOF will issue its approval and the parties will be able to open the escrow thereafter.. It will be equal to \$8,050,000 minus (i) the monthly Participation Payments that Brea Gateway Center paid to the Agency between 2/15/2017 and the escrow open date, and (ii) \$134,467.37, representing the estimated payments that the Successor Agency would have to pay Brea Gateway Center pursuant to Section 201.9 of the DDA, as amended by Section 6 of DDA Amendment No. 2 between 2017 and 2021.

Section 4. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers.

**SUCCESSOR AGENCY TO THE
BREA REDEVELOPMENT AGENCY**

By _____
Cecilia Hupp
Mayor of the City of Brea

ATTEST:

Lillian Harris-Neal
City Clerk of the City of Brea

BREA GATEWAY CENTER, L.P.,
an Illinois limited partnership

By: _____

Print Name: _____

Title: _____

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

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature_____ (Seal)

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

State of California)
County of _____)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

(Agreement to Terminate Disposition and Development Agreement as to Commercial Center Component)

LEGAL DESCRIPTION OF PROPERTY

Parcels 1 to 11, inclusive, of Parcel Map No. 91-217 in the City of Brea, County of Orange, State of California, as per Map filed in Book 280, Page(s) 44 to 48 inclusive, of Parcel Maps, in the office of the County Recorder of said County.

EXCEPTING THEREFROM all coal, oil, petroleum, natural gas and other hydrocarbons upon, in or under said land, but without the right of surface entry, as reserved by Ontario Investment Company in deed recorded November 28, 1910 in Book 194, Page 243 of Deeds, records of Orange County, and other deeds of record.

ATTACHMENT B

Form of
Substitution of Trustee and Full Reconveyance
(attached)

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Brea Gateway Center, L.P.

Attention: _____

[SPACE ABOVE FOR RECORDER'S USE ONLY]

SUBSTITUTION OF TRUSTEE AND FULL RECONVEYANCE

The undersigned, being the present beneficiary under that certain Subordinated Deed of Trust, made on August 4, 1995, by Brea Gateway Center, L.P., as trustor, to Continental Lawyers Title Company, as trustee, and recorded on August 14, 1995, as Document No. 95-0349470, Official Records of the County of Orange, State of California (the "Deed of Trust"), **HEREBY APPOINTS AND SUBSTITUTES THE SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY (the "Successor Agency")** as the new trustee thereunder.

As such duly appointed and substituted trustee thereunder, the Successor Agency **DOES HEREBY RECONVEY** to the person or persons legally entitled thereto, without warranty, all the estate, title and interest of the trustee under said Deed of Trust.

The Successor Agency became the successor entity to the former Brea Redevelopment Agency (*i.e.*, the named beneficiary under the Deed of Trust) as of February 1, 2012, by operation of law, particularly Health and Safety Code Section 34173.

SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY

By _____
Cecilia Hupp
Mayor of the City of Brea

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

State of California)
County of Orange)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

(Substitution of Trustee and Full Reconveyance)

LEGAL DESCRIPTION OF PROPERTY

Parcels 1 to 11, inclusive, of Parcel Map No. 91-217 in the City of Brea, County of Orange, State of California, as per Map filed in Book 280, Page(s) 44 to 48 inclusive, of Parcel Maps, in the office of the County Recorder of said County.

EXCEPTING THEREFROM all coal, oil, petroleum, natural gas and other hydrocarbons upon, in or under said land, but without the right of surface entry, as reserved by Ontario Investment Company in deed recorded November 28, 1910 in Book 194, Page 243 of Deeds, records of Orange County, and other deeds of record.



KEYSER MARSTON ASSOCIATES™
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORS IN:

Real Estate
Redevelopment
Affordable Housing
Economic Development

SAN FRANCISCO

A. Jerry Keyser
Timothy C. Kelly
Kate Earle Funk
Debbie M. Kern
Reed T. Kawahara
David Doezeema

LOS ANGELES

Kathleen H. Head
James A. Rabe
Gregory D. Soo-Hoo
Kevin E. Engstrom
Julie L. Romey

SAN DIEGO

Paul C. Marra

To: David Crabtree, Community Development Director
City of Brea

From: Julie Romey

Date: February 24, 2017

Subject: Proposed Brea Gateway Center Payoff Agreement

The City of Brea (City) staff has requested that Keyser Marston Associates, Inc. (KMA) review the proposed payoff agreement for the Successor Agency's interest in the Brea Gateway Center (Property) that has been proposed by Brea Gateway Center LP (Owner). KMA reviewed the correspondence between the City and Owner as well as discussed methodology with the Owner's representative and the City's Legal Counsel. The following summarizes the KMA findings and conclusions.

BACKGROUND STATEMENT

In 1991, the Brea Redevelopment Agency (Agency) entered into a Disposition and Development Agreement (Agreement) with Brea Center Associates, the original developer. Since then, there have been three amendments to the Agreement. The Agency ground leased the Property to Brea Center Associates until 1994 when Brea Gateway Center LP acquire fee ownership of the Property through an option. Watt-Craig was the majority stakeholder of the ownership entity at the time the Property was acquired. Watt-Craig has since sold its majority stake in the ownership entity to AFL-CIO Building Investment Trust (AFL-CIO BIT), for which PNC Realty Investors, Inc. serves as the trustee. Watt-Craig, however, has continued to retain a small portion of the partnership interest.

The Property was sold by the Agency with the condition that participation payments payable pursuant to the terms of the Agreement would continue to be paid to the Agency until 2048; and that the participation payments would be secured by a deed of trust. The following summarizes the Agency's continued interest in the Property since 1994:

Payment Type	Definition	Termination
Participation Rent	25% of Net Spendable Income; however, if Property is sold, the Participation Rent is lowered to 10% of net Spendable Income	Continues through 2048 regardless of a sale or refinancing.
Refinancing Rent	25% of Net Refinancing Proceeds	Continues through 2048; however, if the Property is sold during that period, the Refinancing Rent requirement is removed.
Sale Rent	25% of Net Sale Proceeds	Continues through 2048 and is in effect for each sale.

Since 2012 and the dissolution of the Agency, the Successor Agency has received average monthly participation payments of \$29,531, or \$354,371 per year. All revenue from these rent payments are used to fulfill enforceable obligations.

In 2016, PNC approached the City with a proposal to buy-out the Successor Agency's remaining interest in the Property. Therefore, the Successor Agency would receive a one-time payment versus annual payments through 2048. It should be noted that 15% of the one-time payment would be distributed to the City and the remaining amount distributed to other taxing agencies.

SUMMARY OF HISTORIC PAYMENTS

The following summarizes the historic payments to the Agency, and then Successor Agency since 2006.¹

¹ The Successor Agency does not have records of the payments from 1996 through 2005.

Year	Average Monthly Payment	Annual Payments	Annual Change
2006	\$25,652	\$153,912	N/A
2007	42,686	512,230	66.4%
2008	40,614	487,367	(4.9%)
2009	38,535	462,418	(5.1%)
2010	25,202	302,429	(34.6%)
2011	34,700	716,400	37.7%
2012	14,024	168,285	(59.6%)
2013	2,804	33,654	(80.0%)
2014	20,834	250,002	642.9%
2015	42,257	507,085	102.8%
2016	37,532	450,390	(11.2%)
Averages	\$29,531	\$354,371	

OWNER'S PROPOSAL

The Owner is proposing the buyout of the Successor Agency's interest for \$8.05 million. As will be discussed in more detail later, the net present value of the future Participation Rent is estimated at approximately \$5.65 million for payments projected through 2048. However, the removal of the Successor Agency's interest in the Property has an intrinsic value to the Owner and future buyers through a reduction in capitalization rate and increased flexibility in attracting capital and buyer. Therefore, the Owner's proposal also takes into account that they will have a more viable Property to sell without the Agreement, and are willing to pay more than the anticipated Participation Rent payments through 2048.

KMA'S VALUATION OF SUCCESSOR AGENCY'S INTEREST

The Agreement entitles the Successor Agency to annual Participation Rent payments as well as payments when the Property is refinanced or sold. For purposes of estimating the value of the Successor Agency's position, KMA has utilized the following methodology:

Participation Rent Scenario

KMA estimated the value of the future Participation Rent Payments to the Successor Agency through 2048 assuming a 9% discount rate and projecting the average monthly

payments based on the total \$450,390 payment for 2016 and historical increases and decreases in the payments.² The analysis concluded that the net present value of the remaining Participation Rent payments is estimated at approximately \$5.18 million.

Refinancing Rent Scenario

Currently, there does not appear to be any debt on the Property and there is no way to predict when or if the Owner will refinance the Property. Per the Agreement, if the Property is refinanced, a 25% of the Net Refinancing Proceeds payment would be made to the Successor Agency. However, the future Net Spendable Income would decrease once the debt service payments are deducted. Therefore, based on forecasted future terms for commercial loans assuming that the Property is refinanced in 2018, KMA assumed a 55% loan to value ratio, a 6.00% interest rate and a 30-year term. The net present value of the Successor Agency's interest is estimated to be \$4.07 million. This estimate is lower than the Participation Rent net present value of \$5.18 million.

Sale Rent Scenario

Watt-Craig has previously sold 99% of its interest in Brea Gateway Center, LP to AFL-CIO BIT. However, it was determined by the Successor Agency that this transaction did not result in a 'sale' of the Property which would have triggered the Sale Rent provision. Presumably if AFL-CIO BIT were to decide to sell their majority interest in the ownership entity, the Sale Rent provisions would not be triggered either. Therefore, the only possibility of the Sale Rent payment being triggered is if both Watt-Craig and AFL-CIO BIT decide to sell the Property to a third party.

Therefore, it is unlikely that the Owner will sell the Property with the Agreement still in effect due to the difference in net proceeds between the buyout and non-buyout scenarios. While from the Successor Agency's perspective, there could be value from the Sale Rent provision, the Successor Agency cannot force a sale and thus it is concluded that this provision would not be triggered through 2048.

² The Successor Agency's discount rate is 100 basis points below the Owner's discount rate due to the Successor Agency being a tax-exempt entity.

It should be noted that the removal of the Successor Agency's interest in the Property has an intrinsic value to the Owner in that the Property will be easier to sell and refinancing in the future.

CONCLUSION

From a buyer's and future lender's perspectives, the Rent provisions are senior to any loan and any new buyer must stay in partnership with Watt-Craig. Also, Watt-Craig cannot extricate itself from the partnership. All of these things help explain why the Owner's buyout proposal of \$8.05 million is higher than the estimated net present value of the Participation Rent payments through 2048. To the extent that eliminating the Rent provision also makes it easier to reposition and/or redevelop the Property, then this has additional value to the Owner. In that context, the \$8.05 million offer is a reasonable offer.

GROUND LEASE

By and Between

**Brea Redevelopment Agency,
City of Brea, California**

and

**Watt-Craig Associates, Ltd.,
a California Limited Partnership**

assuming exercise of all remaining options, to implement the provisions of Section 12.20 of this Lease. The procedure, including timelines, specified in this Section 3.1 shall apply to the Leasehold Interest appraisals.

3.2 Participation Rent. In addition to the Minimum Annual Rent provided for in paragraph 3.1 above, Tenant shall pay to Landlord participation rent (the "Participation Rent") equal to 25% of Tenant's net spendable income for each calendar year or partial calendar year during that portion of the Initial Term during which Tenant is obligated to pay Minimum Annual Rent to the Landlord. Said Participation Rent shall be due and payable from Tenant to Landlord simultaneously with each and every distribution of net spendable income engaged in by Tenant and on or before the March 1 next succeeding the end of the calendar year during which the rent accrues, to the extent not yet paid to Landlord. Such Participation Rent shall be payable at the offices of the Executive Director, Brea Redevelopment Agency, Number One Civic Center Circle, Brea, California, 92621. Participation Rent shall be paid without withhold, abatement, setoff or deduction, except as specifically provided for in this Lease.

For the purposes of this Lease, the phrase "net spendable income" shall be determined through the application of the following defined phrases:

(a) "Net Spendable Income" means Gross Income (as defined in (b) below) less Allowable Expenses (as defined in (c) below).

(b) "Gross Income" shall equal the total of any and all normal and customary amounts, payments, fees, rentals, percentage rentals, reimbursements including all reimbursements by subtenants, sublessees, licensees and occupants of the Premises or by insurance or other reimbursement, (to the extent not required to be used to repair or reconstruct improvements or paid to a lender) but excepting contributions by or reimbursements from subtenants and sublessees paid to Tenant for tenant improvements. Excluded from Gross Income are Net Sale Proceeds, Net Financing Proceeds, Tenant's share of condemnation proceeds or proceeds from any insurance carried by Tenant used to repair or reconstruct improvements or paid to a bank. Gross income shall also include, but not be limited to: (i) deposits forfeited by tenants (but shall not include deposits which have not been forfeited); (ii) parking income; (iii) income, earnings or interest on deposit accounts for maintenance reserves maintained with respect to the Premises and/or improvements; (iv) payments under licenses, concessions or other agreements for vending machines, advertising signs, radios and television services antennas and discs, but not including revenues from pay phones owned by Tenant or a Tenant Affiliate; (v) cancellation fees and late charges net of any third party collection costs not included as an allowable expense; (vi) price index increases and

other rental adjustments to leases; (vii) rental or other consideration in the nature of rental for, or the computed fair market value of imputed rent (Rental Value) of a portion of the property and/or improvements used or occupied by Tenant or any employee or Affiliate of Tenant or by any person or entity in which Tenant has an interest, directly or indirectly, excluding therefrom the Rental Value of any space occupied by Tenant and its employees used solely in connection with the management, leasing, subleasing, and maintenance of the Premises; (viii) net proceeds from the sale of any subleasehold interest in the property; and (ix) net proceeds of Rental Abatement Insurance received and retained by Tenant. All rentals, sums or the considerations which are to be included in Gross Income shall be computed on a cash accounting basis and shall include for each calendar month all amounts actually received in such calendar month whether or not such amounts are attributable to a charge arising in such calendar month or in prior or subsequent calendar months.

(c) "Allowable Expenses" means the sum of the following expenses: (i) all taxes and assessments imposed upon the property and/or improvements to the extent that such taxes and assessments are required to be paid by Tenant, but only when such taxes and assessments are actually paid or set aside in a reserve by Tenant during the applicable period; (ii) all amounts paid by Tenant in the applicable period on account of insurance premiums for insurance carried by Tenant in connection with the

property and/or improvements, provided that if such insurance is maintained as part of a blanket policy covering other properties as well, the insurance premium included in this definition shall be the premium fairly allocable to the property and/or improvements; (iii) normal and reasonable operating expenses (excluding amounts paid from retained reserves) incurred by Tenant during the applicable period and not otherwise reimbursed through the reserve account for the management, operation, cleaning, subleasing, tenant evictions and other court processes, marketing, remodeling, maintenance and repair of the property and/or improvements, according to accounting practice applied consistently throughout the term of this Lease and any applicable provisions hereof, including, but not limited to, wages and payroll costs, utility and heating charges, material costs, maintenance costs, costs of services, water and sewer charges, legal and accounting expenses directly related to the operation of the Premises, and license fees and business taxes; provided that management fees paid to Tenant or any Affiliate or Partner of Tenant may not exceed the average rate charged by the three leading property management companies in North Orange County who manage like commercial centers and leasing fees paid to Tenant or any Affiliate or Partner of Tenant shall not exceed the average commission rate charged by the three leading retail brokers of retail space in North Orange County for leasing to new tenants or renewal of lease as the case may be to the extent such fees are not included in project development costs; (iv) a reasonable

reserve preliminarily estimated to be \$0.05 per square foot of gross building area to be held by Tenant in a reserve account and disbursed for such expenses as Tenant deems desirable utilizing reasonable discretion (the "Reserve"); (v) Minimum Annual Rent; (vi) debt service; and (vii) all other customary and reasonable expenditures made by Tenant in operating the Premises not expressly excluded in this subparagraph 3.2(c). "Allowable Expenses" shall not include any expenditure funded out of debt proceeds of any kind and/or reserves, shall not include any allocation or allowances for depreciation, shall not include financing costs paid from proceeds of any Financing and shall not include any interest penalties which may be due Landlord by Tenant pursuant to Sections 3.5 and 3.6 hereunder. Debt service shall mean the amount paid for allowed loans related only to the Premises and a cumulative return on (but not of) Tenant equity and advances, such return equal to Bank of America's prevailing prime rate + 2% until Tenant transfers its Leasehold Interest. Thereafter, debt service shall include a return on Tenant equity and advances equal to the greater of ten percent (10%) per annum or the coupon interest rate on the first trust deed applicable to the Premises.

In the event that Tenant transfers its interest in this Lease prior to the expiration of the Initial Term to a third party other than to a Tenant Affiliate, and said third party makes the security deposit provided in Section 12.21 hereof, the Participation Rent payable for the period subsequent to close of

such sale shall be equal to 10% of Tenant's net spendable income. "Tenant Affiliate" as utilized in this Lease shall mean (i) any person or party who is a partner of Tenant or a shareholder of a partner of Tenant or (ii) a person or entity as to whom Tenant or any partner of Tenant holds any financial interest whatsoever. A sale to a Tenant Affiliate, other than a financial institution which purchase the leasehold interest pursuant to a preexisting contractual right, shall not so reduce the amount of Participation Rent due and owing to Landlord. Further, during any Option Period hereof, the participation rent payable shall be equal to 10% of Tenant's net spendable income.

3.3 Refinancing Rent. In addition to the minimum annual rent provided for in paragraph 3.1 above and the participation rent provided for in paragraph 3.2 above, Tenant shall pay to Landlord rent equal to 25% of Tenant's "Net Financing Proceeds" derived each time that Tenant refinances its Leasehold Interest by replacing the permanent loan encumbering the Premises with a substitute permanent loan which yields proceeds in excess of all amounts needed to pay off the holders of all existing indebtedness including Tenant's equity and advances. During any Option Period hereof, the refinancing rent payable shall be equal to 10% of Tenant's "Net Refinancing Proceeds." Said refinancing rent shall be due and payable from Tenant to Landlord from the escrow through which any such refinancing is implemented at the office of the Executive Director, Brea Redevelopment Agency, at Number One Civic Center

Circle, City of Brea, California, 92621. Such refinancing rent shall be paid without withhold, abatement, setoff or deduction, except as hereinafter specifically provided.

For the purposes of this Lease, the phrase "Net Financing Proceeds" shall be defined as follows:

"Net Financing Proceeds" means the principal amount of any Financing disbursed to or on behalf of Tenant prior to Disposition of the property less (i) the outstanding principal balance of any allowed Mortgage, (ii) actual out-of-pocket third party closing costs, including but not limited to loan commitment fees, finance fees, brokerage fees, charges, discounts, points, commissions or rebates, (iii) all proceeds of the Financing that will be used to repay any prior Financing made in accordance with this Lease, (iv) all proceeds of the Financing that will be used to make improvements so long as such improvements conform with the provisions of the DDA, and (v) any outstanding Tenant equity and advances together with any accrued interest thereon not previously paid from Financing proceeds. Tenant advances means all unreimbursed cash expenditures made by Tenant related to initial development equity contributions and subsequent equity contributions made to, among other reasons, offset negative operating cash flows or as additional capital expenditures. Tenant's obligation to pay to Landlord refinancing rent shall terminate upon Tenant's sale of its Leasehold Interest to a party other than a Tenant Affiliate, or a Tenant Affiliate which is a

financial institution which purchases the leasehold interest pursuant to a preexisting contractual right..

3.4 Sale Rent. In addition to the minimum annual rent provided for in paragraph 3.1 above, the participation rent provided in paragraph 3.2 above, and the refinancing rent provided for in paragraph 3.3 above, Tenant shall make a one time payment to Landlord equal to 25% of Tenant's "Net Sale Proceeds" derived when Tenant sells the entirety of its Leasehold Interest hereunder to a party other than a Tenant Affiliate or a Tenant Affiliate which is a financial institution which purchases the leasehold interest pursuant to a preexisting contractual right. Said sale rent shall be due and payable from Tenant to Landlord from the escrow through which such sale is consummated, or within 60 days of receipt to the extent received subsequent to close of escrow, at the office of the Executive Director, Brea Redevelopment Agency, at Number One Civic Center Drive, City of Brea, California, 92621. Such sale rent shall be paid without withhold, abatement, setoff or deduction, except as hereinafter specifically provided.

For the purposes of this Lease, the phrase "Net Sale Proceeds" shall be defined as follows:

"Net Sale Proceeds" means the gross amount of consideration received or to be received by Tenant for or on account of any Disposition of the entirety of Tenant's leasehold interest under this Agreement, less (i) the unpaid principal balance of any Financing attributable to the Premises; (ii)

brokerage commissions and customary closing costs provided that the maximum aggregate amount for closing costs and brokerage commissions shall not exceed the actual out-of-pocket costs to Tenant; and (iii) Tenant's equity and advances together with any accrued interest thereon not previously paid from previous financings or project cash flow.

Consideration shall include without limitation, all cash including, but not limited to, retained reserves and security deposits, and the fair market value equivalent in cash of any non-monetary consideration. Absent the agreement of Agency and Tenant, the valuation of any non-monetary consideration shall be made by an independent appraisal, except to the extent that such valuation has been objectively determined upon an arms-length basis between independent parties neither of which is an Affiliate of Developer.

3.5 Accounting for The Purpose of Calculating Rent.

(a) Maintenance of Financial Records. Tenant shall maintain accurate and complete records, in customary form, such that Landlord can determine, upon inspection, the manner, means and supporting data by which Tenant calculates "net spendable income," "net financing proceeds" and "net sale proceeds" hereunder. In that regard, Tenant shall also maintain, and provide to Landlord upon request, accurate records of actual revenues and operating expenses, including but not limited to any outstanding equity capital accounts, together with copies of

RECORDING REQUESTED BY
CONTINENTAL LAWYERS TITLE CO.

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Brea, California
Number One Civic Center Circle
Brea, California 92621
Attn: Elaine Capps, City Clerk

DOC # 94-0158683
04-MAR-1994 03:59 PM

Recorded in Official Records
of Orange County, California
Lee A. Branch, County Recorder
Page 1 of 38 Fees: \$ 0.00
Tax: \$ 0.00

(Space above for Recorder's use)

FREE RECORDING REQUESTED PER CA GOV'T CODE SECTION NO. 6103

AMENDMENT NO. 1 TO
DISPOSITION AND DEVELOPMENT AGREEMENT

By and Between

THE BREA REDEVELOPMENT AGENCY
CITY OF BREA, CALIFORNIA (RECORD OWNER)

and

WATT-CRAIG ASSOCIATES LIMITED PARTNERSHIP,
a California Limited Partnership
and
BAYWOOD HOMES - VICTORIA,
a California general partnership
as the successors to BREA CENTER ASSOCIATES

M 33870-12

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d. Participation Payments.

Developer shall pay to AGENCY after the purchase of the Commercial Center Component payments equivalent to Participation Rent, Refinancing Rent and Sale Rent specified in Sections 3.2, 3.3 and 3.4 of the Agency Lease accruing from and after the closing of such purchase, which sums are to be calculated and paid to AGENCY in accordance with the terms and provisions of Sections 3.2, 3.3, 3.4, 3.5 and 3.6 of the Agency Lease during a period not to exceed the expiration date of the initial term of the Agency Lease. Further in that regard, if and as applied to said participation payments, references to the transfer of Tenant's interest in the Agency Lease in the last subparagraph of Section 3.2 of the Agency Lease, to Tenant's refinancing of its Leasehold Interest in Section 3.3 of the Agency Lease and to Tenant's sale of the entirety of its Leasehold Interest in Section 3.4 of the Agency Lease for purposes of this option such terms shall be deemed to mean DEVELOPER'S transfer of its fee title interest, DEVELOPER'S refinancing of its fee title interest and DEVELOPER'S sale of the entirety of its fee title interest, respectively.

Escrow Effecting Purchase of the Fee Title to the Commercial Center Component.

(i) Within thirty days subsequent to DEVELOPER'S timely and validly exercising the option provided for herein, DEVELOPER and AGENCY shall enter into an escrow with a mutually agreeable escrow company to consummate the sale of fee

RECORDING REQUESTED BY
CONTINENTAL LAWYERS TITLE CO.

RECORDING REQUESTED BY)
AND WHEN RECORDED RETURN TO:)

City of Brea, California)
Number One Civic Center Circle)
Brea, California 92621)
Attn: Elaine Capps, City Clerk)

DOC # 94-0158684
04-MAR-1994 03:59 PM

Recorded in Official Records
of Orange County, California
Lee A. Branch, County Recorder
Page 1 of 11 Fees: \$ 0.00
Tax: \$ 0.00

(Space above for Recorder's use)

FREE RECORDING REQUESTED PER CA GOV'T CODE SECTION NO. 6103

AMENDMENT NO. 2 TO
DISPOSITION AND DEVELOPMENT AGREEMENT

By and Between

THE BREA REDEVELOPMENT AGENCY
CITY OF BREA, CALIFORNIA (RECORD OWNER)

and

WATT-CRAIG ASSOCIATES, LTD,
a California Limited Partnership
and
BAYWOOD HOMES - VICTORIA,
a California general partnership
as the successors to BREA CENTER ASSOCIATES

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P
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No. 2A consisting of approximately 18 acres bounded on the south by Imperial Highway, on the east by Brea Boulevard, on the north by Birch Street and on the west by a flood control channel."

2. Purchase Option Price of the Commercial Center Component.

Section 3(c) of the Amendment is hereby revised and replaced with the following:

"The amount to be paid by DEVELOPER to acquire from AGENCY fee title in and to the Commercial Center Component (the 'Fee Purchase') pursuant to the Purchase Option shall be Four Million Five Hundred Fifty Thousand Dollars (\$4,550,000) (the 'Purchase Consideration') payable through the escrow provided for in Section 3(e) of the Amendment."

3. Extension of Participation Rent Payments.

The first sentence of Section 3(d) of the Amendment shall be revised and replaced with the following:

"From and after the closing of the Fee Purchase, DEVELOPER shall pay to AGENCY payments equivalent in amount to the Participation Rent, Refinancing Rent and Sale Rent specified in Sections 3.2, 3.3

and 3.4 of the Agency Lease accruing from and after the closing of such purchase, which sums are to be calculated and paid to AGENCY in accordance with the terms and provisions of Section 3.2, 3.3, 3.4, 3.5 and 3.6 of the Agency Lease during a period (the 'Initial Participation Rent Term') which shall expire on that date fifty-six (56) years after the earlier of (a) that date eighteen (18) months subsequent to the date of the close of the Agency Lease escrow provided for in the DDA or (b) AGENCY's issuance of the final unconditional certificates of completion and the City of Brea's issuance of final unconditional certificates of occupancy for all structures and uses referred to in the Revised Site Map (Attachment No. 2A) and the Scope of Development (Attachment No. 3) except those structures and uses referred to in the Development Agreement as Pads D and E. For a period of five (5) years from and after the expiration of the Initial Participation Rent Term, DEVELOPER shall pay to AGENCY annually payments equivalent to Participation Rent in an amount equal to five percent (5%) of Tenant's net spendable income (as defined in the Agency Lease)."

City of Brea

BOARD COMMUNICATION

TO: Honorable Chair and Board Members
FROM: David Crabtree, Community Development Director
DATE: 03/31/2017
SUBJECT: Sale of Successor Agency Owned Property Located at 323 N. Brea Blvd.

RECOMMENDATION

Adopt resolution authorizing the sale of real property to the recommended buyer.

BACKGROUND

With the elimination of redevelopment in California in 2012, successor agencies to the former redevelopment agencies were directed by the State to prepare a Long Range Property Management Plan (LRPMP) to govern the disposition and use of the former Agency's non-housing properties. Brea's LRPMP, approved by the State Department of Finance (DOF) in December 2015, included selling three undeveloped lots in the Downtown Brea area. Via a Request for Proposal process brokers Lee and Associates Commercial Real Estate Services, Inc. were recommended to and approved by the Successor Agency to assist staff in selling the three properties.

Lee and Associates used comparative sales in Brea and nearby cities to establish a market value asking price. All those who had previously inquired about the availability of former redevelopment properties were notified that the properties were now available for sale. Purchase offers were received over a two month period and multiple cash offers were received for each of the three properties. The purchase offers were evaluated by staff with assistance from the brokers on criteria that included offer amount as well as the potential buyer's intended use for the property, zoning requirements, neighborhood compatibility and long term value of the property.

The Successor Agency and Oversight Board approved the Purchase and Sale agreements for the two other properties owned by the Successor Agency. Escrow has closed on the property located at 340 North Orange Avenue and escrow is anticipated to close April 7 on the property located at 112 West Bracken Street

The Purchase and Sale agreement has been signed by the buyer of the Brea Boulevard property and the Successor Agency has authorized the sale contingent upon the Oversight Board's approval. The Board is now asked to adopt a resolution approving the execution of that agreement.

The following chart notes the recommended purchase offer and lists the other offers received.

323 N. Brea Blvd. 19,044 SF Mixed Use I Zone	
Asking Price: \$800,000 (\$42.00/SF)	Recommended Offer: Better Blocks LLC (Medical Office) - \$950,000 (\$49.88/SF) Other Offers: <ul style="list-style-type: none"> • Pacific National Development - \$950,000 • Stone Chen - \$900,000 • Richmore Realty - \$809,370 • AVA Properties - \$800,000 • Woo Sung Lim - \$800,000

The recommended buyer's intended use of the property is to build and occupy a dental office on the property.

If the Oversight Board adopts the resolution authorizing the sale of the Brea Boulevard property, the next step will be to open escrow.

FISCAL IMPACT

The sale proceeds from this property minus the broker commission, title report and escrow expenses will be remitted to the County Auditor-Controller for distribution to the taxing entities including the City of Brea. The City's share on this property is approximately \$133,000. Additionally, as the property is improved and the value increases, the annual property tax generated will increase and thus benefit all of the taxing entities.

The Oversight Board is asked to adopt a resolution to authorize the sale of property at 323 North Brea Boulevard. This property was acquired by the former redevelopment agency for redevelopment purposes in the Downtown Brea area. Current State legislation requires that it be sold per the terms approved in the Long Range Property Management Plan and that the sales proceeds be distributed to the various taxing entities, including the City of Brea.

SIGNATURE BLOCK

Respectfully Submitted by: David Crabtree, Community Development Director
Prepared by: Kathie DeRobbio, Economic Development Manager
Concurrence: David Crabtree, Community Development Director

Attachments

Resolution OB 2017-09
Purchase and Sale Agreement
Resolution SA 2017-03

RESOLUTION NO. OB 2017-09

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY, APPROVING THE SUCCESSOR AGENCY'S EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT FOR THE SALE OF A PROPERTY LOCATED AT 323 N BREA BLVD STREET AND TAKING RELATED ACTIONS

A. RECITALS:

(i) Pursuant to AB X1 26 (enacted in June 2011) and the California Supreme Court's decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, 53 Cal. 4th 231 (2011), the former Brea Redevelopment Agency (the "Former Agency") was dissolved as of February 1, 2012, the Successor Agency to the Brea Redevelopment Agency (the "Successor Agency") was constituted as the successor entity to the Former Agency, and an oversight board of the Successor Agency (the "Oversight Board") was established;

(ii) AB X1 26 added Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of the California Health and Safety Code ("HSC") (such Parts 1.8 and 1.85, including amendments and supplements thereto enacted after AB X1 26, being referred to herein as the "Dissolution Act");

(iii) Pursuant to HSC Section 34175(b), all real properties (and interests in real properties) of the Former Agency, transferred to the control of the Successor Agency by operation of law;

(iv) Pursuant to HSC Section 34191.5(b), the Successor Agency prepared a Long Range Property Management Plan which addresses the disposition and use of the real properties (and interests in real property) of the Former Agency;

(v) The Oversight Board previously adopted Resolution No. OB 2013-09 (on December 3, 2013), Resolution No. OB 2015-01 (on January 20, 2015), Resolution No. OB 2015-04 (on April 20, 2015), Resolution No. OB 2015-9 (on November 19, 2015) and Resolution No. OB 2015-10 (on December 21, 2015), approving the Successor Agency's Long Range Property Management Plan and four amendments thereto (as so amended, the "LRPMP");

(vi) The California State Department of Finance (the "DOF") issued an approval letter on December 29, 2015, indicating that the DOF has reviewed and approved the LRPMP;

(vii) Pursuant to HSC Section 34191.3(a), the DOF-approved LRPMP shall govern, and supersede all other provisions relating to, the disposition and use of all real property assets of the Former Agency;

(viii) The LRPMP, as approved by the DOF, contemplates the sale of a property (the "Property") located at 323 n Brea Boulevard, Brea – identified in the LRPMP as Property No. 2;

(ix) In order to implement the LRPMP, the Successor Agency retained a broker to determine an estimate for the sale price of the Property based on comparables and to facilitate the sale;

(x) The Successor Agency received multiple offers for the Property, among which the highest offering price was \$950,000 (which was above the estimate based on the comparables), for the sale of the Property to Better Blocks, LLC (the "Buyer");

(xi) Attached to this Resolution as Attachment A is the form of a Purchase and Sale Agreement and Joint Escrow Instructions (the "Sale Agreement"), to be entered by and between the Successor Agency and the Buyer;

(xii) The Oversight Board has received a copy of Resolution No. SA 2017-03, adopted by the City Council of the City of Brea, acting as the Successor Agency on March 7, 2017, requesting the Oversight Board to approve the Successor Agency's execution and delivery of the Sale Agreement and the sale of Property pursuant to the terms of the Sale Agreement;

(xiii) Notice of the proposed action presented in this Resolution was posted beginning on March 2, 2017;

(xiv) Pursuant to HSC Section 34191.5(f), this Resolution (pertaining to actions to implement the LRPMP) will become effective upon adoption without any requirement for submission to the DOF for additional review;

B. RESOLUTION:

NOW, THEREFORE, be it found, determined and resolved by the Oversight Board of the Successor Agency to the Brea Redevelopment Agency, as follows:

1. The above recitals are true and correct and are a substantive part of this Resolution.

2. This Oversight Board hereby approves and directs the Successor Agency's execution and delivery of the Sale Agreement and the sale of the Property pursuant to the terms of the Sale Agreement.

3. The officers of the Successor Agency are hereby authorized, jointly and severally, to do all things which they may deem necessary or proper to effectuate the purposes of this Resolution and the Sale Agreement, and any such actions previously taken are hereby ratified and confirmed.

4. This Resolution has been reviewed with respect to the applicability of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"). Pursuant to the State CEQA Guidelines (14 Cal Code Regs 15000 et seq.) (the "Guidelines"), the Oversight Board has determined that the actions taken under this Resolution are not a project pursuant to CEQA and is exempt therefrom because it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment (Guidelines Section 15378(b)(5)). Staff of the Successor Agency, is hereby authorized to prepare and post a notice of exemption pursuant to Guidelines Section 15062.

APPROVED AND ADOPTED this 31ST day of March, 2017

Bill Gallardo, Chair

ATTEST: _____
Lillian Harris-Neal, City Clerk

I, Lillian Harris-Neal, City Clerk of the City of Brea, do hereby certify that the foregoing Resolution was passed at a special meeting of the Oversight Board for the Successor Agency to the Brea Redevelopment Agency, held on the 31st day of March, 2017, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

DATE: March 31, 2017

Lillian Harris-Neal, City Clerk

ATTACHMENT A

Purchase and Sale Agreement and Joint Escrow Instructions
(substantial final form)

**AGREEMENT FOR PURCHASE AND SALE
AND JOINT ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS (this "Agreement") is dated as of March 8, 2017, and is entered into by and between the SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY, a California public entity ("Seller"), and BETTER BLOCKS LLC, a California limited liability company ("Buyer").

RECITALS

- A. Seller is the owner of the land described on Exhibit "A" (the "Property").
- B. Buyer desires to purchase the Property, and Seller desires to sell the Property to Buyer.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual terms and covenants set forth therein and herein, other consideration, the sufficiency of which is hereby acknowledged, Buyer and Seller agree as follows:

1. **OVERSIGHT BOARD CONDITION; PURCHASE PRICE; DEPOSIT.**

1.1 **OB Condition.** The obligation of Seller to sell the Property is conditioned upon the approval of this Agreement by the Oversight Board of Seller. The date on which such condition is satisfied is hereinafter referred to as the "Effective Date".

1.2 **Sale and Purchase.** Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, upon the terms and conditions hereinafter set forth.

1.3 **Purchase Price.** The purchase price for the Property shall be Nine Hundred Fifty Thousand and No/100 Dollars (\$950,000.00) ("Purchase Price").

1.4 **Deposit; Liquidated Damages.** Within five (5) days following the opening of Escrow under Section 4.2 below, Buyer shall deliver funds, by check, wire transfer or other means, in the amount of One Hundred Thousand and No/100 Dollars (\$100,000.00) to Escrow Holder (as defined in Section 4.2) to be deposited in an interest-bearing account and held as an earnest money deposit under the Escrow pursuant to the terms and provisions hereof (which earnest money deposit, together with the interest thereon, is herein called the "**Deposit**"). The Deposit shall be: (i) applicable to the Purchase Price; (ii) refunded to Buyer if the Close of Escrow does not occur due to a failure of a condition to closing or if the Seller defaults; and (iii) retained by the Seller as liquidated damages in accordance with the following. In the event Buyer terminates this Agreement at any time prior to the expiration of the Inspection Deadline or any other contingency periods, or as a result of Seller's default hereunder, the Deposit, together with all interest accrued thereon, shall be refundable to Buyer in full. If Seller fails or refuses to close Escrow, Buyer shall have the right to seek all available remedies to Buyer by law, including specific performance.

If Buyer breaches any obligation hereunder which Buyer is to perform prior to the Close of Escrow, and Buyer fails to cure such breach within ten (10) days after delivery of written notice from Seller, then Seller may terminate this Agreement and the Escrow by giving written notice of such termination to Buyer and Escrow Holder, and the Deposit shall then be retained by Seller as liquidated damages for Buyer's uncured default, as Seller's sole and exclusive remedy for Buyer's uncured default.

IF SELLER TERMINATES THIS AGREEMENT BECAUSE OF BUYER'S UNCURED DEFAULT, SELLER WILL BE DAMAGED AND WILL BE ENTITLED TO COMPENSATION FOR THOSE DAMAGES, BUT SUCH DAMAGES WILL BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN. BUYER DESIRES TO LIMIT THE AMOUNT OF DAMAGES FOR WHICH BUYER MIGHT BE LIABLE SHOULD BUYER BREACH THIS AGREEMENT. BOTH BUYER AND SELLER WISH TO AVOID THE COSTS AND LENGTHY DELAYS THAT WOULD RESULT IF SELLER FILED A LAWSUIT TO COLLECT ITS DAMAGES FOR A BREACH OF THIS AGREEMENT. IF CLOSING FAILS TO OCCUR BECAUSE OF BUYER'S UNCURED DEFAULT, THEN THE DEPOSIT SHALL BE DEEMED TO CONSTITUTE A REASONABLE AND FINAL ESTIMATE OF SELLER'S DAMAGES AND SHALL BE RETAINED BY SELLER AS LIQUIDATED DAMAGES AS SELLER'S SOLE AND EXCLUSIVE REMEDY. SELLER AND BUYER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE PROVISIONS OF THIS SECTION AND BY THEIR INITIALS IMMEDIATELY BELOW AGREE TO BE BOUND BY ITS TERMS.

THE PARTIES ACKNOWLEDGE THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.


BUYER'S INITIALS


SELLER'S INITIALS

2. TITLE.

2.1 General. Title to the Property shall be conveyed by a grant deed in the form attached hereto as Exhibit "B", and shall be evidenced by a CLTA Standard Coverage Form of Owner's Policy of Title Insurance, or an ALTA Extended Coverage Form Policy if Buyer elects such coverage as provided in Section 2.3 hereof, with the extra cost of any such ALTA coverage borne by Buyer. Title Policy shall be issued by Commonwealth Land Title Company, 4100 Newport Place Drive, Suite 120, Newport Beach, CA 92660, Title officer: Chris Maziar ("Title Company"), with liability in the full amount of the applicable purchase price, insuring title to the Property as vested in Buyer, free and clear of all liens and encumbrances and other matters affecting title, except the following (which shall constitute "Approved Title Exceptions"):

2.1.1 Assessments not yet due; and

2.1.2 Such other matters as are expressly approved in writing by Buyer under Section 2.3 below.

2.2 Acts After Date of Agreement. During the period from the date of this Agreement through the earlier of the termination of this Agreement or the sale of the Property to Buyer under this Agreement, Seller shall not alter, improve or further encumber the Property.

2.3 Title Review. Promptly after the Effective Date (or earlier if desired by Buyer), Buyer shall obtain a current title report from Title Company for the Property and copies of the title exception documents. Buyer shall have the right to disapprove the title report and title exceptions (other than Approved Title Exceptions) and terminate this Agreement in its entirety, based on such disapproval by written notice to Seller given within fifteen (15) business days after receipt of the title report and exception documents. If Buyer desires ALTA title insurance, Buyer shall conduct a survey within thirty (30) days after receipt of the title report, and shall deliver it to the Title Company, and shall have the right to disapprove matters disclosed by the survey and terminate this Agreement by written notice to Seller given within ten (10) days after receipt from the Title Company of any updated title report showing survey exceptions.

3. RIGHTS OF ENTRY; INSPECTIONS.

3.1 Seller hereby grants Buyer and its agents, employees, contractors and subcontractors (collectively "Representatives") the right to enter the Property for the purpose of conducting soils and geological investigation, testing for toxic or hazardous substances and other contamination, and other inspections. Such investigations shall be at Buyer's expense, and, if Buyer elects to terminate this Agreement under Section 2.3 above or this Section, Buyer shall reasonably restore any areas affected by the inspections. Additionally, Seller shall make available to Buyer copies of any non-privileged documents in Seller's actual possession (such as zoning and other land use matters relating to the Property) which relate to the operation or condition of the Property and which are specifically requested by Buyer in writing. If Buyer desires to terminate this Agreement as a result of its inspections, Buyer may do so in its sole and absolute discretion by written notice to Seller given on or before the date that is thirty (30) days after the Effective Date (the "Inspection Deadline").

3.2 Buyer shall defend, indemnify, and hold Seller harmless from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever ("Claims"), including fees of accountants, attorneys, expert witnesses, or other professionals, and all costs associated therewith, arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to any act, failure to act, error, or omission of Buyer or any of its consultants or contractors arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to entry upon the Property pursuant to this Section, except for that portion or percentage of a Claim against Seller based on the comparative negligence or willful misconduct of Seller.

4. ESCROW.

4.1 Agreement to Constitute Escrow Instructions. This Agreement shall constitute escrow instructions, and a copy hereof shall be deposited with the Escrow Holder for that purpose; however, the parties shall execute such further instructions as Escrow Holder reasonably requires in order to clarify the duties and responsibilities of Escrow Holder. Additionally, each party may send unilateral closing instructions to the Escrow holder to facilitate closing.

4.2 Escrow Holder. Escrow ("Escrow") shall be opened with Progressive Escrow, 400 West Lambert, Suite H, Brea, CA 92821, Escrow Officer: Barbara Waites ("Escrow Holder") within five (5) business days after the date of this Agreement by Buyer and Seller depositing an executed copy (or copies of executed counterparts) of this Agreement with Escrow Holder.

4.3 Close of Escrow. For the purposes of this Agreement, "Close of Escrow" shall be the date on which a grant deed in favor of Buyer is recorded in the Official Records of the Orange County Recorder's Office. Provided all of Seller's and Buyer's obligations to be performed on or before the Close of Escrow have been performed and all the conditions to the Close of Escrow set forth in this Agreement have been satisfied, the closing shall occur no later than sixty (60) days after the date of this Agreement ("Closing Date"). Possession of the Property shall be delivered to Buyer upon the Close of Escrow.

4.4 Seller Required to Deliver. Before the Close of Escrow, Seller shall deposit into escrow the following:

4.4.1 A grant deed conveying the Property to Buyer, in the form attached hereto as Exhibit "B", duly executed by Seller and acknowledged (the "Grant Deed");

4.4.2 Unless exempt, a California 593 certificate and a federal non-foreign affidavit (with respect to Seller);

4.4.3 Any other documents contemplated by this Agreement or required by Escrow Holder or the Title Company to be deposited by Buyer to carry out the escrow and this transaction.

4.5 Buyer Required to Deliver. On or before the Close of Escrow, Buyer shall deposit into escrow the following:

4.5.1 The Purchase Price (subject to the effect of Section 4.8 below) less the Deposit already in Escrow;

4.5.2 Net costs to be paid by Buyer under Section 4.9 below (subject to the effect of Section 4.8 below) for the applicable closing; and

4.5.3 Any other reasonable documents contemplated by this Agreement or required by Escrow Holder to be deposited by Buyer to carry out this escrow.

4.6 Conditions to the Close of Escrow. Escrow shall not close unless and until both parties have deposited with Escrow Holder all sums and documents required to be deposited as provided in this Agreement. Escrow Holder shall prepare a preliminary settlement statement showing all costs and prorations for execution by both parties.

Additionally, Buyer's obligation to proceed with the purchase of the Property is subject to the satisfaction of the following conditions precedent, which are for Buyer's benefit and may be waived only by Buyer, except as otherwise expressly provided in Section 4.6.4 below:

4.6.1 Seller shall have performed all agreements to be performed by Seller hereunder.

4.6.2 As of the Close of Escrow, there shall have been no material adverse changes in the physical condition of the Property since Buyer's inspection.

4.6.3 Title Company shall have issued or shall have committed to issue the Title Policy to Buyer, for the amount of the applicable Purchase Price, showing fee title to be vested in Buyer subject only to the Approved Title Exceptions.

If any of the conditions to a Close of Escrow are not timely satisfied for a reason other than a default of Buyer or Seller under this Agreement, and this Agreement is terminated, then upon termination of this Agreement, Escrow Holder shall promptly return to Buyer all funds (and all interest accrued thereon) and documents deposited by Buyer in escrow and return to Seller all funds and documents deposited by Seller in escrow and which are held by Escrow Holder on the date of the termination (less, in the case of the party otherwise entitled to funds, the amount of any cancellation charges required to be paid by such party under Section 4.11 below).

4.7 Recordation of Grant Deed; Delivery of Funds. Upon receipt of the funds and documents described in this Section 4, and satisfaction (or express written waiver) of the closing conditions, Escrow Holder shall cause the Grant Deed to be recorded in the office of the County Recorder of Orange County, California, and shall deliver the Purchase Price (less appropriate charges) to Seller.

4.8 Prorations. All assessments shall be prorated between Buyer and Seller as of the Close of Escrow based on the latest available tax information. Property tax prorationer shall take into account that Buyer is a tax exempt public entity, and Seller may apply for a refund of property taxes paid by Seller and allocable to the period after closing. All prorations shall be determined on the basis of a 360-day year.

4.9 Costs of Escrow.

4.9.1 Seller shall pay:

- (a) The premium for the CLTA Standard Title Policy;
- (b) One-half (1/2) of the escrow fees; and

- (c) Any other closing costs or charges not expressly provided for herein and customarily paid by a seller of real property in Orange County, California.

4.9.2 Buyer shall pay:

- (a) One-half (1/2) of the escrow fees;
- (b) The cost of recording the Grant Deed, if any;
- (c) The extra cost of an ALTA extended title policy if elected by Buyer; and
- (d) Any other closing costs or charges not expressly provided for herein and customarily paid by a buyer of real property in Orange County, California.

4.10 Broker's Commissions. Buyer and Seller represent to one another that except for Lee & Associates, who represents Seller, and CARR Healthcare Realty who represents Buyer, no broker or finder or salesperson has been engaged by it in connection with the transaction contemplated by this Agreement, or to its knowledge is in any way connected with such transaction. Seller will pay its broker a commission pursuant to a separate written agreement with its broker (it being understood that Buyer's broker will make arrangements with Seller's broker to share such commission). Each party shall indemnify, defend, protect and hold harmless the other party and its employees, agents, representatives, council members, attorneys, successors and assigns, from and against all claims of any agent, broker, finder or other similar party arising from or in connection with its (i.e., the indemnifying party's) communications or agreements with any broker, finder or salesperson other than the brokers named above.

4.11 Escrow Cancellation Charges. In the event that escrow shall fail to close by reason of the default of either party hereunder, the defaulting party shall be liable for any escrow and title cancellation charges. In the event that a closing shall fail to occur for any other reason, each party shall pay one-half (1/2) of all escrow and title cancellation charges.

5. SELLER'S REPRESENTATIONS AND WARRANTIES. Buyer acknowledges and agrees that Seller has made absolutely no prior representations or warranties regarding the Property, including, without limitation, its condition, its past use, or its suitability for Buyer's intended use thereof, and that Buyer is purchasing the Property on an "AS-IS" basis, except as otherwise provided herein and subject to the representations and warranties expressly made below. Notwithstanding the foregoing, Seller hereby makes the following representations and warranties to Buyer, which representations and warranties shall survive the recordation of the Grant Deed.

5.1 Subject to Section 1.1 above, Seller has the legal right, power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Agreement have been duly authorized and no other action by Seller is requisite to the valid and binding execution, delivery and

performance of this Agreement. All persons executing this Agreement on behalf of Seller represent and warrant that they have the authority to bind Seller.

5.2 To the actual knowledge of the City Manager, without investigation or inquiry, no attachments, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings are pending or threatened against Seller, nor are any of such proceedings contemplated by Seller.

5.3 During the term of this Agreement, Seller shall continue to manage and maintain, or cause to be managed and maintained, the Property in such condition so that the Property shall be in the same condition, normal wear and tear and casualty excepted, on the Close of Escrow as on the date hereof.

5.4 To the actual knowledge of the City Manager, without investigation or inquiry, there are no contracts or agreements entered into by Seller against or leases on or relating to the Property which will prohibit Buyer's permitted use thereof.

5.5 To the actual knowledge of the City Manager, without investigation or inquiry, there are no actions, suits or proceedings pending, or to Seller's best knowledge, threatened, before any court, commission, board, council, bureau, agency, or tribunal that will materially affect the Property or any portion thereof or the right to occupy or utilize the same for Buyer's expressed intended purpose.

5.6 To the actual knowledge of the City Manager, without investigation or inquiry, Seller has not received, and is not aware of, any written notice from the County of Orange, State of California, or any Federal, State or local governmental agency, of any intent to condemn all or any portion of the Property.

5.7 To the actual knowledge of the City Manager, without investigation or inquiry, Seller has not received, and is not aware of, any written notice from the Building Department, Fire Department, Health or Safety Department, Planning Department, Environmental Department or other equivalent County, State or Federal governmental authority having jurisdiction, of any violation of law that has not been cured on or relating to the Property.

5.8 To the actual knowledge of the City Manager, without investigation or inquiry, no hazardous waste, toxic waste or solid waste substances have been treated, stored, released or disposed of on the Property, no condition on the Property that could give rise to environmental liability, no asbestos containing material is located on the Property and the Property does not now contain or has it in the past contained an underground storage tank, as that term is defined in California Statute § 116.46, Subd.8.

5.9 Seller is not a "foreign person", "foreign partnership", "foreign trust" or "foreign estate" as those terms are defined in Section 1445 of the Internal Revenue Code.

6. ATTORNEYS' FEES. In any action between Buyer and Seller seeking enforcement of any of the terms and provisions of this Agreement, the prevailing party in such action shall be awarded, in addition to damages, injunctive or other relief, its reasonable costs

and expenses, not limited to taxable costs, reasonable attorneys' fees and reasonable fees of expert witnesses.

7. NOTICES. All notices, requests, demands and other communication given or required to be given hereunder shall be in writing and sent by overnight (for next business day delivery) or certified mail, postage prepaid, return receipt requested, or sent overnight (for next day business delivery) by a nationally recognized courier service such as Federal Express, duly addressed to the parties as follows:

To Buyer: Better Blocks LLC
257 W. Skyline Drive
La Habra Heights, CA 90631
Attn: Bruno Boval

To Seller: City of Brea
One Civic Center Circle
Brea, California 92801
Attention: Community Development Director

Delivery of any notice or other communication hereunder shall be deemed made on the date indicated in the return receipt or courier's records as the date of delivery or first attempted delivery. Any party may change its address for purposes of this Section by giving notice to the other party as herein provided.

8. ASSIGNMENT. Neither this Agreement nor any interest herein may be assigned by either party without the prior written consent of the other party.

9. ENTIRE AGREEMENT. This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein, and all prior or contemporaneous agreements or understandings, oral or written, pertaining to any such matters are merged herein and shall not be effective for any purpose.

10. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

11. EMAIL DELIVERY. This executed Agreement (and executed counterparts of this Agreement), may be delivered by email (PDF). Emails to City shall be sent to kathied@cityofbrea.net. Emails to Buyer shall be sent to alonboval@hotmail.com.

12. TIME OF THE ESSENCE. Time is of the essence of every provision of this Agreement in which time is a factor.

13. THIRD PARTIES. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

14. SEVERABILITY. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, unless such invalidity, illegality or unenforceability materially affects the economic terms of the transactions contemplated by this Agreement or the ability of either party to perform its obligations under this Agreement. In such case, either party may terminate this Agreement and the escrow upon written notice to the other party given no later than ten (10) business days after the party giving such notice becomes aware of such invalidity, illegality or unenforceability. In the event of such termination, all funds deposited with Escrow Holder by Buyer and any interest accrued thereon shall be returned to Buyer.

15. ADDITIONAL DOCUMENTS. Each party hereto agrees to perform any further acts and to execute, acknowledge and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

16. AUTHORITY OF CITY MANAGER/EXECUTIVE DIRECTOR OF SELLER. The City Manager/Executive Director of Seller may: (i) give any and all notices, waivers, consents and terminations hereunder on behalf of Seller provided they are in writing; and (ii) amend this Agreement provided the amendment(s) are in writing.


17. AUTHORITY OF BUYER. The Manager of Buyer may: (i) give any and all notices, waivers, consents and terminations hereunder on behalf of Buyer provided they are in writing; and (ii) amend this Agreement provided the amendment(s) are in writing.

18. CONDEMNATION PRIOR TO CLOSING. Seller shall promptly notify Buyer of any condemnation proceeding with respect to the Property commenced or contemplated prior to the Close of Escrow (to the extent Seller obtains actual knowledge of either such events). If any such proceeding relates to a material portion of the Property, Buyer may terminate this Agreement by written notice to Seller given prior to the Close of Escrow. If Buyer does not so terminate this Agreement, Buyer shall be entitled to all compensation, awards or other payments or relief from such condemnation proceeding.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.


BUYER:

BETTER BLOCKS LLC,
a California limited liability company

By: 
Print Name: Bruno Bova
Title: PRESIDENT

SELLER:

SUCCESSOR AGENCY TO THE BREA
REDEVELOPMENT AGENCY

By: 
Print Name: Cecilia Hupp
Title: MAYOR



Attest:

Lillian Harms-Neal

City Clerk, *Lillian Harms-Neal*

APPROVED AS TO FORM:

J2m

James Markman, City/SA Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

The land situated in the State of California, County of Orange, described as follows:

LOTS 2 AND 3 IN BLOCK A OF THE TOWN OF BREA, IN THE CITY OF BREA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 7, PAGES 2 AND FOLLOWING OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. EXCEPT ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES AND ALL MINERALS WHICH MAY BE SITUATED IN OR UNDER SAID LAND.

EXHIBIT "B"

FORM OF GRANT DEED

(Attached.)

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO,
AND SEND TAX STATEMENTS TO:

Better Blocks LLC
257 W. Skyline Drive
La Habra Heights, CA 90631
Attn: Bruno Boval

APN: 296-301-02

[SPACE ABOVE FOR RECORDER'S USE ONLY]

GRANT DEED

THE UNDERSIGNED GRANTOR DECLARES AS FOLLOWS:

The undersigned declares that this Grant Deed is exempt from Recording Fees pursuant to California Government Code Section 27383.

Documentary Transfer Tax is \$_____.

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged the SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY ("Grantor") hereby grants to BETTER BLOCKS LLC, a California limited liability company ("Grantee"), the land located in the County of Orange, State of California, more particularly described on Exhibit A attached hereto and incorporated herein by reference and all improvements thereon.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of the date set forth below.

Dated: _____, 2017

SUCCESSOR AGENCY TO THE BREA
REDEVELOPMENT AGENCY

By: _____
Print Name: _____
Title: _____

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

State of California)
County of Orange)

On _____, 2017, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit A
to Grant Deed

LEGAL DESCRIPTION

The land situated in the State of California, County of Orange, described as follows:

LOTS 2 AND 3 IN BLOCK A OF THE TOWN OF BREA, IN THE CITY OF BREA,
COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED
IN BOOK 7, PAGES 2 AND FOLLOWING OF MISCELLANEOUS MAPS, IN THE OFFICE
OF THE COUNTY RECORDER OF SAID COUNTY. EXCEPT ALL OIL, GAS AND
OTHER HYDROCARBON SUBSTANCES AND ALL MINERALS WHICH MAY BE
SITUATED IN OR UNDER SAID LAND.

RESOLUTION NO. SA 2017-03

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BREA, ACTING AS THE SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY, AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT REGARDING THE SUCCESSOR AGENCY'S SALE OF A PROPERTY LOCATED AT 323 N BREA BOULEVARD AND TAKING RELATED ACTIONS

A. RECITALS:

(i) Pursuant to AB X1 26 (enacted in June 2011) and the California Supreme Court's decision in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, 53 Cal. 4th 231 (2011), the former Brea Redevelopment Agency (the "Former Agency") was dissolved as of February 1, 2012, the Successor Agency to the Brea Redevelopment Agency (the "Successor Agency") was constituted as the successor entity to the Former Agency, and an oversight board of the Successor Agency (the "Oversight Board") was established;

(ii) AB X1 26 added Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of the California Health and Safety Code ("HSC") (such Parts 1.8 and 1.85, including amendments and supplements thereto enacted after AB X1 26, being referred to herein as the "Dissolution Act");

(iii) Pursuant to HSC Section 34175(b), all real properties (and interests in real properties) of the Former Agency, transferred to the control of the Successor Agency by operation of law;

(iv) Pursuant to HSC Section 34191.5(b), the Successor Agency prepared a Long Range Property Management Plan which addresses the disposition and use of the real properties (and interests in real property) of the Former Agency;

(v) The Oversight Board previously adopted Resolution No. OB 2013-09 (on December 3, 2013), Resolution No. OB 2015-01 (on January 20, 2015), Resolution No. OB 2015-04 (on April 20, 2015), Resolution No. OB 2015-9 (on November 19, 2015) and Resolution No. OB 2015-10 (on December 21, 2015), approving the Successor Agency's Long Range Property Management Plan and three amendments thereto (as so amended, the "LRPMP");

(vi) The California State Department of Finance (the "DOF") issued an approval letter on December 29, 2015, indicating that the DOF has reviewed and approved the LRPMP;

(vii) Pursuant to HSC Section 34191.3(a), the DOF-approved LRPMP shall govern, and supersede all other provisions relating to, the disposition and use of all real property assets of the Former Agency;

(viii) The LRPMP, as approved by the DOF, contemplates the sale of a property (the "Property") located at 323 N Brea Boulevard, Brea – identified in the LRPMP as Property No. 3;

(ix) In order to implement the LRPMP, the Successor Agency retained a broker to determine an estimate for the sale price of the Property based on comparables and to facilitate the sale;

(x) The Successor Agency received multiple offers for the Property, among which the highest offering price was \$950,000 (which was above the estimate based on the comparables), for the sale of the Property to Better Blocks LLC (the "Buyer");

(xi) Attached to this Resolution as Attachment A is the form of a Purchase and Sale Agreement and Joint Escrow Instructions (the "Sale Agreement"), to be entered by and between the Successor Agency and the Buyer;

B. RESOLUTION:

NOW, THEREFORE, be it found, determined and resolved by the City Council of the City of Brea, acting as the Successor Agency to the Brea Redevelopment Agency, as follows:

1. The above recitals are true and correct and are a substantive part of this Resolution.

2. The Sale Agreement, in the form attached hereto as Exhibit A, and the sale of the Property pursuant to the terms of the Sale Agreement are hereby approved, subject to the proviso set forth in Section 4 below.

3. The Successor Agency is hereby requested to approve the Successor Agency's execution and delivery of the Sale Agreement and the sale of Property pursuant to the terms of the Sale Agreement. The City Clerk is hereby directed to transmit this Resolution to the Oversight Board for consideration at the earliest possible date.

4. Each of the Mayor of the City (or, in the Mayor's absence, the Mayor Pro Tem of the City) and the City Manager, who is appointed the Successor Agency's Executive Director (together, the "Authorized Officers), acting individually, is hereby authorized, for and in the name and on behalf of the Successor Agency, execute and deliver the Sale Agreement in substantially said form, with such changes therein as the Authorized Officer executing the same may require or approve (such approval to be conclusively evidenced by the execution and delivery thereof); provided that such execution shall occur after the Oversight Board's adoption of its resolution approving the execution and delivery of the Sale Agreement.

5. This Resolution has been reviewed with respect to the applicability of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"). Pursuant to the State CEQA Guidelines (14 Cal Code Regs 15000 et seq.) (the "Guidelines"), the Successor Agency has determined that the actions taken under this Resolution are not a project pursuant to CEQA and is exempt therefrom because it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment (Guidelines Section 15378(b)(5)). Staff of the Successor Agency, is hereby directed to prepare and post a notice of exemption pursuant to Guidelines Section 15062.

6. The Authorized Officers and other officers and Staff members of the Successor Agency are hereby authorized, jointly and severally, to do all things (including but not limited to the execution of any certificates or other instruments) which they may deem necessary or proper to effectuate the purposes of the Deed, the Assignment Agreement and this Resolution, and any such actions previously taken are hereby ratified and confirmed.

7. This Resolution will become effective upon adoption.

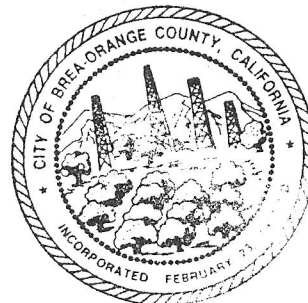
APPROVED AND ADOPTED this 7th day of March, 2017



Cecilia Hupp, Mayor

ATTEST: 

Lillian Harris-Neal, City Clerk



I, Lillian Harris-Neal, City Clerk of the City of Brea, do hereby certify that the foregoing Resolution was passed at a regular meeting of the City Council of the City of Brea, held on the 7th day of March, 2017, by the following vote:

AYES: COUNCIL MEMBERS: Hupp, Parker, Marick, Simonoff, Vargas

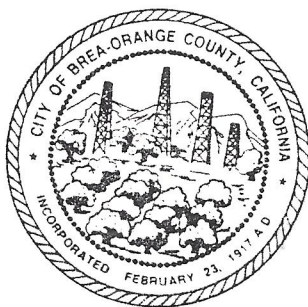
NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

DATE: March 7, 2017


Lillian Harris-Neal, City Clerk



ATTACHMENT A

Purchase and Sale Agreement and Joint Escrow Instructions

(substantial final form)

**AGREEMENT FOR PURCHASE AND SALE
AND JOINT ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS (this "Agreement") is dated as of _____, 2017, and is entered into by and between the SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY, a California public entity ("Seller"), and BETTER BLOCKS LLC, a California limited liability company ("Buyer").

RECITALS

- A. Seller is the owner of the land described on Exhibit "A" (the "Property").
- B. Buyer desires to purchase the Property, and Seller desires to sell the Property to Buyer.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual terms and covenants set forth therein and herein, other consideration, the sufficiency of which is hereby acknowledged, Buyer and Seller agree as follows:

1. **OVERSIGHT BOARD CONDITION; PURCHASE PRICE; DEPOSIT.**

1.1 **OB Condition.** The obligation of Seller to sell the Property is conditioned upon the approval of this Agreement by the Oversight Board of Seller. The date on which such condition is satisfied is hereinafter referred to as the "Effective Date".

1.2 **Sale and Purchase.** Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, upon the terms and conditions hereinafter set forth.

1.3 **Purchase Price.** The purchase price for the Property shall be Nine Hundred Fifty Thousand and No/100 Dollars (\$950,000.00) ("Purchase Price").

1.4 **Deposit; Liquidated Damages.** Within five (5) days following the opening of Escrow under Section 4.2 below, Buyer shall deliver funds, by check, wire transfer or other means, in the amount of One Hundred Thousand and No/100 Dollars (\$100,000.00) to Escrow Holder (as defined in Section 4.2) to be deposited in an interest-bearing account and held as an earnest money deposit under the Escrow pursuant to the terms and provisions hereof (which earnest money deposit, together with the interest thereon, is herein called the "**Deposit**"). The Deposit shall be: (i) applicable to the Purchase Price; (ii) refunded to Buyer if the Close of Escrow does not occur due to a failure of a condition to closing or if the Seller defaults; and (iii) retained by the Seller as liquidated damages in accordance with the following. In the event Buyer terminates this Agreement at any time prior to the expiration of the Inspection Deadline or any other contingency periods, or as a result of Seller's default hereunder, the Deposit, together with all interest accrued thereon, shall be refundable to Buyer in full. If Seller fails or refuses to close Escrow, Buyer shall have the right to seek all available remedies to Buyer by law, including specific performance.

4. ESCROW.

4.1 Agreement to Constitute Escrow Instructions. This Agreement shall constitute escrow instructions, and a copy hereof shall be deposited with the Escrow Holder for that purpose; however, the parties shall execute such further instructions as Escrow Holder reasonably requires in order to clarify the duties and responsibilities of Escrow Holder. Additionally, each party may send unilateral closing instructions to the Escrow holder to facilitate closing.

4.2 Escrow Holder. Escrow ("Escrow") shall be opened with Progressive Escrow, 400 West Lambert, Suite H, Brea, CA 92821, Escrow Officer: Barbara Waites ("Escrow Holder") within five (5) business days after the date of this Agreement by Buyer and Seller depositing an executed copy (or copies of executed counterparts) of this Agreement with Escrow Holder.

4.3 Close of Escrow. For the purposes of this Agreement, "Close of Escrow" shall be the date on which a grant deed in favor of Buyer is recorded in the Official Records of the Orange County Recorder's Office. Provided all of Seller's and Buyer's obligations to be performed on or before the Close of Escrow have been performed and all the conditions to the Close of Escrow set forth in this Agreement have been satisfied, the closing shall occur no later than sixty (60) days after the date of this Agreement ("Closing Date"). Possession of the Property shall be delivered to Buyer upon the Close of Escrow.

4.4 Seller Required to Deliver. Before the Close of Escrow, Seller shall deposit into escrow the following:

4.4.1 A grant deed conveying the Property to Buyer, in the form attached hereto as Exhibit "B", duly executed by Seller and acknowledged (the "Grant Deed");

4.4.2 Unless exempt, a California 593 certificate and a federal non-foreign affidavit (with respect to Seller);

4.4.3 Any other documents contemplated by this Agreement or required by Escrow Holder or the Title Company to be deposited by Buyer to carry out the escrow and this transaction.

4.5 Buyer Required to Deliver. On or before the Close of Escrow, Buyer shall deposit into escrow the following:

4.5.1 The Purchase Price (subject to the effect of Section 4.8 below) less the Deposit already in Escrow;

4.5.2 Net costs to be paid by Buyer under Section 4.9 below (subject to the effect of Section 4.8 below) for the applicable closing; and

4.5.3 Any other reasonable documents contemplated by this Agreement or required by Escrow Holder to be deposited by Buyer to carry out this escrow.

4.6 Conditions to the Close of Escrow. Escrow shall not close unless and until both parties have deposited with Escrow Holder all sums and documents required to be deposited as provided in this Agreement. Escrow Holder shall prepare a preliminary settlement statement showing all costs and prorations for execution by both parties.

Additionally, Buyer's obligation to proceed with the purchase of the Property is subject to the satisfaction of the following conditions precedent, which are for Buyer's benefit and may be waived only by Buyer, except as otherwise expressly provided in Section 4.6.4 below:

4.6.1 Seller shall have performed all agreements to be performed by Seller hereunder.

4.6.2 As of the Close of Escrow, there shall have been no material adverse changes in the physical condition of the Property since Buyer's inspection.

4.6.3 Title Company shall have issued or shall have committed to issue the Title Policy to Buyer, for the amount of the applicable Purchase Price, showing fee title to be vested in Buyer subject only to the Approved Title Exceptions.

If any of the conditions to a Close of Escrow are not timely satisfied for a reason other than a default of Buyer or Seller under this Agreement, and this Agreement is terminated, then upon termination of this Agreement, Escrow Holder shall promptly return to Buyer all funds (and all interest accrued thereon) and documents deposited by Buyer in escrow and return to Seller all funds and documents deposited by Seller in escrow and which are held by Escrow Holder on the date of the termination (less, in the case of the party otherwise entitled to funds, the amount of any cancellation charges required to be paid by such party under Section 4.11 below).

4.7 Recordation of Grant Deed; Delivery of Funds. Upon receipt of the funds and documents described in this Section 4, and satisfaction (or express written waiver) of the closing conditions, Escrow Holder shall cause the Grant Deed to be recorded in the office of the County Recorder of Orange County, California, and shall deliver the Purchase Price (less appropriate charges) to Seller.

4.8 Prorations. All assessments shall be prorated between Buyer and Seller as of the Close of Escrow based on the latest available tax information. Property tax prorationer shall take into account that Buyer is a tax exempt public entity, and Seller may apply for a refund of property taxes paid by Seller and allocable to the period after closing. All prorations shall be determined on the basis of a 360-day year.

4.9 Costs of Escrow.

4.9.1 Seller shall pay:

- (a) The premium for the CLTA Standard Title Policy;
- (b) One-half (1/2) of the escrow fees; and

- (c) Any other closing costs or charges not expressly provided for herein and customarily paid by a seller of real property in Orange County, California.

4.9.2 Buyer shall pay:

- (a) One-half (1/2) of the escrow fees;
- (b) The cost of recording the Grant Deed, if any;
- (c) The extra cost of an ALTA extended title policy if elected by Buyer; and
- (d) Any other closing costs or charges not expressly provided for herein and customarily paid by a buyer of real property in Orange County, California.

4.10 Broker's Commissions. Buyer and Seller represent to one another that except for Lee & Associates, who represents Seller, and CARR Healthcare Realty who represents Buyer, no broker or finder or salesperson has been engaged by it in connection with the transaction contemplated by this Agreement, or to its knowledge is in any way connected with such transaction. Seller will pay its broker a commission pursuant to a separate written agreement with its broker (it being understood that Buyer's broker will make arrangements with Seller's broker to share such commission). Each party shall indemnify, defend, protect and hold harmless the other party and its employees, agents, representatives, council members, attorneys, successors and assigns, from and against all claims of any agent, broker, finder or other similar party arising from or in connection with its (i.e., the indemnifying party's) communications or agreements with any broker, finder or salesperson other than the brokers named above.

4.11 Escrow Cancellation Charges. In the event that escrow shall fail to close by reason of the default of either party hereunder, the defaulting party shall be liable for any escrow and title cancellation charges. In the event that a closing shall fail to occur for any other reason, each party shall pay one-half (1/2) of all escrow and title cancellation charges.

5. SELLER'S REPRESENTATIONS AND WARRANTIES. Buyer acknowledges and agrees that Seller has made absolutely no prior representations or warranties regarding the Property, including, without limitation, its condition, its past use, or its suitability for Buyer's intended use thereof, and that Buyer is purchasing the Property on an "AS-IS" basis, except as otherwise provided herein and subject to the representations and warranties expressly made below. Notwithstanding the foregoing, Seller hereby makes the following representations and warranties to Buyer, which representations and warranties shall survive the recordation of the Grant Deed.

5.1 Subject to Section 1.1 above, Seller has the legal right, power and authority to enter into this Agreement and to consummate the transactions contemplated hereby, and the execution, delivery and performance of this Agreement have been duly authorized and no other action by Seller is requisite to the valid and binding execution, delivery and

performance of this Agreement. All persons executing this Agreement on behalf of Seller represent and warrant that they have the authority to bind Seller.

5.2 To the actual knowledge of the City Manager, without investigation or inquiry, no attachments, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings are pending or threatened against Seller, nor are any of such proceedings contemplated by Seller.

5.3 During the term of this Agreement, Seller shall continue to manage and maintain, or cause to be managed and maintained, the Property in such condition so that the Property shall be in the same condition, normal wear and tear and casualty excepted, on the Close of Escrow as on the date hereof.

5.4 To the actual knowledge of the City Manager, without investigation or inquiry, there are no contracts or agreements entered into by Seller against or leases on or relating to the Property which will prohibit Buyer's permitted use thereof.

5.5 To the actual knowledge of the City Manager, without investigation or inquiry, there are no actions, suits or proceedings pending, or to Seller's best knowledge, threatened, before any court, commission, board, council, bureau, agency, or tribunal that will materially affect the Property or any portion thereof or the right to occupy or utilize the same for Buyer's expressed intended purpose.

5.6 To the actual knowledge of the City Manager, without investigation or inquiry, Seller has not received, and is not aware of, any written notice from the County of Orange, State of California, or any Federal, State or local governmental agency, of any intent to condemn all or any portion of the Property.

5.7 To the actual knowledge of the City Manager, without investigation or inquiry, Seller has not received, and is not aware of, any written notice from the Building Department, Fire Department, Health or Safety Department, Planning Department, Environmental Department or other equivalent County, State or Federal governmental authority having jurisdiction, of any violation of law that has not been cured on or relating to the Property.

5.8 To the actual knowledge of the City Manager, without investigation or inquiry, no hazardous waste, toxic waste or solid waste substances have been treated, stored, released or disposed of on the Property, no condition on the Property that could give rise to environmental liability, no asbestos containing material is located on the Property and the Property does not now contain or has it in the past contained an underground storage tank, as that term is defined in California Statute § 116.46, Subd.8.

5.9 Seller is not a "foreign person", "foreign partnership", "foreign trust" or "foreign estate" as those terms are defined in Section 1445 of the Internal Revenue Code.

6. ATTORNEYS' FEES. In any action between Buyer and Seller seeking enforcement of any of the terms and provisions of this Agreement, the prevailing party in such action shall be awarded, in addition to damages, injunctive or other relief, its reasonable costs

and expenses, not limited to taxable costs, reasonable attorneys' fees and reasonable fees of expert witnesses.

7. NOTICES. All notices, requests, demands and other communication given or required to be given hereunder shall be in writing and sent by overnight (for next business day delivery) or certified mail, postage prepaid, return receipt requested, or sent overnight (for next day business delivery) by a nationally recognized courier service such as Federal Express, duly addressed to the parties as follows:

To Buyer: Better Blocks LLC
257 W. Skyline Drive
La Habra Heights, CA 90631
Attn: Bruno Boval

To Seller: City of Brea
One Civic Center Circle
Brea, California 92801
Attention: Community Development Director

Delivery of any notice or other communication hereunder shall be deemed made on the date indicated in the return receipt or courier's records as the date of delivery or first attempted delivery. Any party may change its address for purposes of this Section by giving notice to the other party as herein provided.

8. ASSIGNMENT. Neither this Agreement nor any interest herein may be assigned by either party without the prior written consent of the other party.

9. ENTIRE AGREEMENT. This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein, and all prior or contemporaneous agreements or understandings, oral or written, pertaining to any such matters are merged herein and shall not be effective for any purpose.

10. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

11. EMAIL DELIVERY. This executed Agreement (and executed counterparts of this Agreement), may be delivered by email (PDF). Emails to City shall be sent to kathied@cityofbrea.net. Emails to Buyer shall be sent to alonboval@hotmail.com.

12. TIME OF THE ESSENCE. Time is of the essence of every provision of this Agreement in which time is a factor.

13. THIRD PARTIES. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

14. SEVERABILITY. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, unless such invalidity, illegality or unenforceability materially affects the economic terms of the transactions contemplated by this Agreement or the ability of either party to perform its obligations under this Agreement. In such case, either party may terminate this Agreement and the escrow upon written notice to the other party given no later than ten (10) business days after the party giving such notice becomes aware of such invalidity, illegality or unenforceability. In the event of such termination, all funds deposited with Escrow Holder by Buyer and any interest accrued thereon shall be returned to Buyer.

15. ADDITIONAL DOCUMENTS. Each party hereto agrees to perform any further acts and to execute, acknowledge and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

16. AUTHORITY OF CITY MANAGER/EXECUTIVE DIRECTOR OF SELLER. The City Manager/Executive Director of Seller may: (i) give any and all notices, waivers, consents and terminations hereunder on behalf of Seller provided they are in writing; and (ii) amend this Agreement provided the amendment(s) are in writing.


17. AUTHORITY OF BUYER. The Manager of Buyer may: (i) give any and all notices, waivers, consents and terminations hereunder on behalf of Buyer provided they are in writing; and (ii) amend this Agreement provided the amendment(s) are in writing.

18. CONDEMNATION PRIOR TO CLOSING. Seller shall promptly notify Buyer of any condemnation proceeding with respect to the Property commenced or contemplated prior to the Close of Escrow (to the extent Seller obtains actual knowledge of either such events). If any such proceeding relates to a material portion of the Property, Buyer may terminate this Agreement by written notice to Seller given prior to the Close of Escrow. If Buyer does not so terminate this Agreement, Buyer shall be entitled to all compensation, awards or other payments or relief from such condemnation proceeding.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

BUYER:

BETTER BLOCKS LLC,
a California limited liability company

By: 
Print Name: BRUNO BOVAL
Title: PRESIDENT

SELLER:

SUCCESSOR AGENCY TO THE BREA
REDEVELOPMENT AGENCY

By: _____
Print Name: _____
Title: _____

Attest:

City Clerk

APPROVED AS TO FORM:

James Markman, City/SA Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

The land situated in the State of California, County of Orange, described as follows:

LOTS 2 AND 3 IN BLOCK A OF THE TOWN OF BREA, IN THE CITY OF BREA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 7, PAGES 2 AND FOLLOWING OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. EXCEPT ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES AND ALL MINERALS WHICH MAY BE SITUATED IN OR UNDER SAID LAND.

EXHIBIT "B"

FORM OF GRANT DEED

(Attached.)

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO,
AND SEND TAX STATEMENTS TO:

Better Blocks LLC
257 W. Skyline Drive
La Habra Heights, CA 90631
Attn: Bruno Boval

APN: 296-301-02

[SPACE ABOVE FOR RECORDER'S USE ONLY]

GRANT DEED

THE UNDERSIGNED GRANTOR DECLARES AS FOLLOWS:

The undersigned declares that this Grant Deed is exempt from Recording Fees pursuant to California Government Code Section 27383.

Documentary Transfer Tax is \$ _____.

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged the SUCCESSOR AGENCY TO THE BREA REDEVELOPMENT AGENCY ("Grantor") hereby grants to BETTER BLOCKS LLC, a California limited liability company ("Grantee"), the land located in the County of Orange, State of California, more particularly described on Exhibit A attached hereto and incorporated herein by reference and all improvements thereon.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of the date set forth below.

Dated: _____, 2017

SUCCESSOR AGENCY TO THE BREA
REDEVELOPMENT AGENCY

By: _____
Print Name: _____
Title: _____

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

State of California)
County of Orange)

On _____, 2017, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit A
to Grant Deed

LEGAL DESCRIPTION

The land situated in the State of California, County of Orange, described as follows:

LOTS 2 AND 3 IN BLOCK A OF THE TOWN OF BREA, IN THE CITY OF BREA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 7, PAGES 2 AND FOLLOWING OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. EXCEPT ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES AND ALL MINERALS WHICH MAY BE SITUATED IN OR UNDER SAID LAND.

