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WHEN RECORDED, RETURN TO:

PMH Investors LLC  
529 E South Temple  
Salt Lake City, UT 84102  
Attention: Patrick Egbert

ENT 53162:2024 PG 1 of 15  
ANDREA ALLEN  
UTAH COUNTY RECORDER  
2024 Aug 8 11:31 AM FEE 0.00 BY NG  
RECORDED FOR PROVO CITY

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Affecting Parcel No. 04:063:0046

**PARKING STRUCTURE USE, MAINTENANCE,  
AND OPERATION AGREEMENT**

THIS PARKING STRUCTURE USE, MAINTENANCE, and OPERATION AGREEMENT (the "Agreement") is made by and between PMH Investors, LLC, a Utah limited liability company ("PMH), and Provo City Redevelopment Agency, a Utah Community Reinvestment Agency ("RDA"). PMH and RDA are sometimes herein referred to individually as a "Party" and collectively as the "Parties." The effective date of the Agreement is the date set forth below as the date of execution of the Agreement.

**RECITALS**

A. PMH now purchases from RDA (see the Real Estate Purchase Contract "REPC" attached to this agreement as Exhibit B) an existing parking structure (the "Parking Structure") located at 77 North 100 West, Provo, Utah, on property with a Parcel No. 04:063:0046 and legally described on Exhibit A attached hereto and incorporated herein by this reference. PMH owns and operates a hotel adjacent to the Parking Structure.

B. RDA, as part of its economic development efforts, seeks to ensure adequate parking downtown near the Parking Structure.

C. The Parties have agreed to allocate sixty (60) parking passes for parking stalls in the three hundred and fifty-four (354) stall Parking Structure to the RDA for their parking purposes.

D. The Parties acknowledge that PMH shall be responsible for the maintenance and operation of the Parking Structure.

E. The Parties, therefore, desire to enter into this Agreement to, among other things, set forth the Parties' obligations with respect to the Parking Structure.

## AGREEMENT

For good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Termination of Prior Agreements. The Parties acknowledge that they or their predecessors may have entered into agreements, both oral and written, relative to the use and maintenance of the Parking Structure. The Parties hereby acknowledge that any such agreements are deemed terminated and are replaced with this Agreement.
2. Parking Passes. For the term of this Agreement, PMH will make available to RDA sixty (60) parking passes for the Parking Structure. RDA may issue those parking passes to other entities and individuals as it sees fit. PMH guarantees that the holder of such a pass will have 24/7 physical access to enter the Parking Structure and will be allowed to park free of charge in any open parking space in the Parking Structure. PMH and RDA will coordinate on the form and logistics of the use of these passes. PMH will provide replacement passes whenever RDA requests, but RDA is not entitled to have more than sixty (60) passes in use at any given time and will cooperate with PMH in ensuring that excess passes are not in use.
3. Maintenance and Operation.
  - a. *Allocation of Costs.* PMH shall be responsible to operate, maintain and repair the Parking Structure. PMH shall be responsible for 100% of the costs of such operations, maintenance, and repair.
  - b. *Costs Related to Guest Damage.* To the extent damage is caused to the Parking Structure by a Party, its guests, invitees, licensees, agents, employees, contractors, or trespassers, either with or without such Party's consent (collectively, "Guests"), and such damage is not covered by insurance, then such Party shall be responsible for all of the costs and expenses related to PMH repairing the Parking Structure to its condition prior to the damage caused thereto. Should such repairs be the responsibility of RDA under this Agreement, then PMH shall bill, and RDA shall pay, such costs as set forth above in subsection (b).
  - c. *Use Fees.* PMH may charge users of the Parking Structure, excluding those using stalls allocated to RDA under this Agreement, use fees. PMH may set the fees and make decisions regarding the use of any such fees collected, in PMH's sole discretion. RDA shall have no claim to any fees or revenues collected by PMH from the use of the Parking Structure.
4. Term. The term of this Agreement shall be for twenty (20) years and shall automatically end at the end of the term.
5. Conditional Upon Sale. The Parties enter into this Agreement based upon the execution of the REPC referenced in the Recitals. This Agreement is conditioned upon the execution of that REPC and upon the successful completion of a closing and transfer of the Parking Structure to PMH as contemplated in that REPC. If a REPC is not entered into between

the Parties, or if a successful closing and transfer of ownership does not take place as provided in the REPC, this Agreement is null and void.

6. Notices and Communications. All notices, approvals and other communications provided for herein or given in connection herewith shall be validly given, made, delivered or served, if in writing, and delivered personally, transmitted by facsimile, or sent by nationally recognized overnight courier (e.g., Federal Express, Airborne, UPS), to:

PMH: PMH Investors, LLC  
P.O. Box 4902  
Jackson, WY 83001  
Facsimile: (801) 521-1027  
Email: [patrick@cummingcapital.com](mailto:patrick@cummingcapital.com)  
Attention: Patrick Egbert

RDA: Provo City Redevelopment Agency  
City Center Building  
445 W. Center Street  
Provo, UT 84601  
  
Email: [kmorey@provo.org](mailto:kmorey@provo.org)  
Attention: Keith Morey

or to such other addresses as any party hereto may from time to time designate in writing and deliver in a like manner. Notices, approvals, and other communications provided for herein shall be deemed delivered upon personal delivery, or upon receipt of facsimile, or the next business days following deposit with a nationally recognized overnight courier, as hereinabove provided, prepaid and addressed as set forth above.

7. Attorney Fees. In the event any party finds it necessary to bring any action at law or other proceeding against any other party hereto to enforce any of the terms, covenants or conditions hereof, each party shall be responsible for their own attorneys' fees.

8. Further Acts. Each of the parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

9. No Partnership; Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any owner-contractor, contractor-subcontractor, employer-employee, partnership, joint venture, or other arrangement between or among any or all of the parties hereto. No term or provision of this Agreement is intended to, or shall be, for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

10. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations, and understandings of the parties, oral or written, are hereby superseded and merged herein. No change or addition is to be made to this Agreement except by written amendment executed by the parties hereto.

11. Good Standing; Authority. The parties hereby represent and warrant to one another as follows: (i) each of the Parties is duly formed and validly existing under the laws of its state of organization; and (ii) the individuals executing this Agreement on behalf of the respective Parties are authorized and empowered to bind the Party on whose behalf each such individual is signing.

12. Governing Law. This Agreement shall be construed and interpreted under the laws of the State of Utah.

13. Severability. It any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement.

14. Successors and Assigns. The burdens of this Agreement are binding on, and the benefits of this Agreement shall inure to the benefit of, the Parties and all of their assigns and successors in interest. RDA may not assign its rights under this Agreement without the prior written approval from PMH. PMH may, without approval of RDA, assign this Agreement to any affiliate or in connection with a transfer of the property on which the Parking Structure is sold.

15. Recitals. The above Recitals are incorporated herein and made a part of this Agreement.

16. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all parties may be physically attached to a single document.

[Signature and acknowledgment page to follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of August 7th, 2024.

PMH INVESTORS, LLC, a Utah limited liability company,

By: [Signature]  
Name: Colby Rollins  
Its: Managers

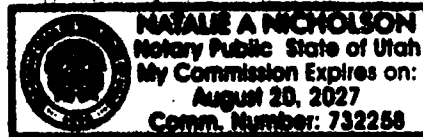
STATE OF UTAH )

) ss.

COUNTY OF ~~UTAH~~  
Salt Lake

This instrument was acknowledged before me on this 7th day of August, 2024, by Colby Rollins as managers of PMH Investors, LLC, a Utah limited liability company.

[Signature]  
\_\_\_\_\_, Notary



My commission expires: August 20, 2027

PROVO CITY REDEVELOPMENT AGENCY,  
a Utah Community Reinvestment Agency

By: *Michelle Kaufusi*  
Name: Michelle Kaufusi  
Its: Chief Executive Officer

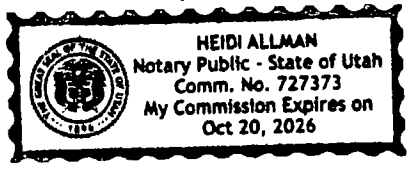
STATE OF UTAH )

) ss.

COUNTY OF UTAH )

This instrument was acknowledged before me on this 1 day of August, 2024, by Michelle Kaufusi as Chief Executive Officer of Provo City Redevelopment Agency.

*Heidi Allman*  
Heidi Allman, Notary



My commission expires: Oct 20, 2026

**EXHIBIT A**

Legal Description of the property containing the Parking Structure

Parking Garage

COM AT NE COR. BLK 68, PLAT A, PROVO CITY SURVEY.; S 0 DEG 2' 2" E 266.7 FT; S 89 DEG 57' 58" W 100.71 FT; N 0 DEG 21' 7" W 12.39 FT; S 89 DEG 38' 53" W 5.03 FT; N 0 DEG 21' 7" W 18.28 FT; S 89 DEG 38' 53" W 14.09 FT; N 0 DEG 2' 2" W 236.14 FT; N 89 DEG 57' 58" E 120 FT TO BEG. AREA 0.723 AC.

**EXHIBIT B**

Real Estate Purchase Contract Signed by the Parties



### REAL ESTATE PURCHASE CONTRACT

This is a legally binding Real Estate Purchase Contract ("REPC"). Utah law requires real estate licensees to use this form. Buyer and Seller, however, may agree to alter or delete its provisions or to use a different form. If you desire legal or tax advice, consult your attorney or tax advisor.

#### EARNEST MONEY DEPOSIT

On this 29 day of July, 2024 ("Offer Reference Date") PMH Investors LLC ("Buyer") offers to purchase from Provo City RDA ("Seller") the Property described below and agrees to deliver no later than four (4) calendar days after Acceptance (as defined in Section 23), an Earnest Money Deposit in the amount of \$100,000 in the form of Wire Transfer. After Acceptance of the REPC by Buyer and Seller, and receipt of the Earnest Money by the Brokerage, the Brokerage shall have four (4) calendar days in which to deposit the Earnest Money into the Brokerage Real Estate Trust Account.

#### OFFER TO PURCHASE

##### 1. PROPERTY: Existing Parking Garage located at (77 N 100 W)

City of Provo, County of Utah, State of Utah, Zip 84601 Tax ID No. 04:063:0046 (the "Property"). Any reference below to the term "Property" shall include the Property described above, together with the Included Items and water rights/water shares, if any, referenced in Sections 1.1, 1.2 and 1.4.

1.1 Included Items. Unless excluded herein, this sale includes the following items if presently owned and in place on the Property: plumbing, heating, air conditioning fixtures and equipment; solar panels; ovens, ranges and hoods; cook tops; dishwashers; ceiling fans; water heaters; water softeners; light fixtures and bulbs; bathroom fixtures and bathroom mirrors; all window coverings including curtains, draperies, rods, window blinds and shutters; window and door screens; storm doors and windows; awnings; satellite dishes; all installed TV mounting brackets; all wall and ceiling mounted speakers; affixed carpets; automatic garage door openers and accompanying transmitters; security system; fencing and any landscaping.

1.2 Other Included Items. The following items that are presently owned and in place on the Property have been left for the convenience of the parties and are also included in this sale (check applicable box):  washers  dryers  refrigerators  microwave ovens  other (specify) All existing improvements including elevator, parking equipment.

The above checked items shall be conveyed to Buyer under separate bill of sale with warranties as to title. In addition to any boxes checked in this Section 1.2 above, there  ARE  ARE NOT additional items of personal property Buyer intends to acquire from Seller at Closing by separate written agreement.

1.3 Excluded Items. The following items are excluded from this sale: Nothing excluded

1.4 Water Service. The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from this sale:

##### 2. PURCHASE PRICE.

2.1 Payment of Purchase Price. The Purchase Price for the Property is \$ 3,500,000. Except as provided in this Section, the Purchase Price shall be paid as provided in Sections 2.1(a) through 2.1(e) below. Any amounts shown in Sections 2.1(c) and 2.1(e) may be adjusted as deemed necessary by Buyer and the Lender (the "Lender").

- \$ 100,000 (a) Earnest Money Deposit. Under certain conditions described in the REPC, this deposit may become totally non-refundable.
- \$ (b) Additional Earnest Money Deposit (see Section 8.4 if applicable)
- \$ (c) New Loan. Buyer may apply for mortgage loan financing (the "Loan") on terms acceptable to Buyer: If an FHA/VA loan applies, see attached FHA/VA Loan Addendum.
- \$ (d) Seller Financing (see attached Seller Financing Addendum)
- \$ 3,400,000 (e) Balance of Purchase Price in Cash at Settlement
- \$ 3,500,000 PURCHASE PRICE. Total of lines (a) through (e)

2.2 Sale of Buyer's Property. Buyer's ability to purchase the Property, to obtain the Loan referenced in Section 2.1(c) above, and/or any portion of the cash referenced in Section 2.1(e) above [  ] IS [  ] IS NOT conditioned upon the sale of real estate owned by Buyer. If checked in the affirmative, the terms of the attached subject to sale of Buyer's property addendum apply.

##### 3. SETTLEMENT AND CLOSING.

3.1 Settlement. Settlement shall take place no later than the Settlement Deadline referenced in Section 24(d), or as otherwise mutually agreed by Buyer and Seller in writing. "Settlement" shall occur only when all of the following have been completed: (a) Buyer and Seller have signed

and delivered to each other or to the escrow/closing office all documents required by the REPC, by the Lender, by the title insurance and escrow/closing offices, by written escrow instructions (including any split closing instructions, if applicable), or by applicable law; (b) any monies required to be paid by Buyer or Seller under these documents (except for the proceeds of any Loan) have been delivered by Buyer or Seller to the other party, or to the escrow/closing office, in the form of cash, wire transfer, cashier's check, or other form acceptable to the escrow/closing office.

3.2 Closing. For purposes of the REPC, "Closing" means that: (a) Settlement has been completed; (b) the proceeds of any new Loan have been delivered by the Lender to Seller or to the escrow/closing office; and (c) the applicable Closing documents have been recorded in the office of the county recorder ("Recording"). The actions described in 3.2 (b) and (c) shall be completed no later than four calendar days after Settlement.

3.3 Possession. Except as provided in Section 6.1(a) and (b), Seller shall deliver physical possession of the Property to Buyer as follows:  Upon Recording;  \_\_\_\_\_ Hours after Recording;  \_\_\_\_\_ Calendar Days after Recording. Any contracted rental of the Property prior to or after Closing, between Buyer and Seller, shall be by separate written agreement. Seller and Buyer shall each be responsible for any insurance coverage each party deems necessary for the Property including any personal property and belongings. The provisions of this Section 3.3 shall survive Closing.

4. PRORATIONS / ASSESSMENTS / OTHER PAYMENT OBLIGATIONS.

4.1 Prorations. All prorations, including, but not limited to, homeowner's association dues, property taxes for the current year, rents, and interest on assumed obligations, if any, shall be made as of the Settlement Deadline referenced in Section 24(d), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The provisions of this Section 4.1 shall survive Closing.

4.2 Special Assessments. Any assessments for capital improvements as approved by the homeowner's association ("HOA") (pursuant to HOA governing documents) or as assessed by a municipality or special improvement district, prior to the Settlement Deadline shall be paid for by:  Seller  Buyer  Split Equally Between Buyer and Seller  Other (explain) \_\_\_\_\_ The provisions of this Section 4.2 shall survive Closing.

4.3 Fees/Costs/Payment Obligations.

(a) Escrow Fees. Unless otherwise agreed to in writing, Seller and Buyer shall each pay their respective fees charged by the escrow/closing office for its services in the settlement/closing process. The provisions of this Section 4.3(a) shall survive Closing.

(b) Rental Deposits/Prepaid Rents. Rental deposits (including, but not limited to, security deposits, cleaning deposits and prepaid rents) for long term lease or rental agreements, as defined in Section 6.1(a), and short-term rental bookings, as defined in Section 6.1(b), not expiring prior to Closing, shall be paid or credited by Seller to Buyer at Settlement. The provisions of this Section 4.3(b) shall survive Closing.

(c) HOA/Other Entity Fees Due Upon Change of Ownership. Some HOA's, special improvement districts and/or other specially planned areas, under their governing documents charge a fee that is due to such entity as a result of the transfer of title to the Property from Seller to Buyer. Such fees are sometimes referred to as transfer fees, community enhancement fees, HOA reinvestment fees, etc. (collectively referred to in this section as "change of ownership fees"). Regardless of how the change of ownership fee is titled in the applicable governing documents, if a change of ownership fee is due upon the transfer of title to the Property from Seller to Buyer, that change of ownership fee shall, at Settlement, be paid for by:  Seller  Buyer  Split Equally Between Buyer and Seller  Other (explain) N/A The provisions of this Section 4.3(c) shall survive Closing.

(d) Utility Services. Buyer agrees to be responsible for all utilities and other services provided to the Property after the Settlement Deadline. The provisions of this Section 4.3(d) shall survive Closing.

(e) Sales Proceeds Withholding. The escrow/closing office is authorized and directed to withhold from Seller's proceeds at Closing, sufficient funds to pay off on Seller's behalf all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. The provisions of this Section 4.3(e) shall survive Closing.

5. CONFIRMATION OF AGENCY DISCLOSURE. Buyer and Seller acknowledge prior written receipt of agency disclosure provided by their respective agent that has disclosed the agency relationships confirmed below. At the signing of the REPC:

Seller's Agent(s) N/A \_\_\_\_\_, represent(s)  Seller  both Buyer and Seller as Limited Agent(s);

Seller's Agent(s) Utah Real Estate License Number(s): \_\_\_\_\_

Seller's Brokerage N/A \_\_\_\_\_, represents  Seller  both Buyer and Seller as Limited Agent;

Seller's Brokerage Utah Real Estate License Number: \_\_\_\_\_

Buyer's Agent(s) N/A \_\_\_\_\_, represent(s)  Buyer  both Buyer and Seller as Limited Agent(s);

Buyer's Agent(s) Utah Real Estate License Number(s): \_\_\_\_\_

Buyer's Brokerage N/A \_\_\_\_\_, represents  Buyer  both Buyer and Seller as a Limited Agent.

Buyer's Brokerage Utah Real Estate License Number: \_\_\_\_\_

6. TITLE & TITLE INSURANCE.

6.1 Title to Property. Seller represents that Seller has fee title to the Property and will convey marketable title to the Property to Buyer at Closing by general warranty deed. Buyer does agree to accept title to the Property subject to the contents of the Commitment for Title Insurance (the "Commitment") provided by Seller under Section 7, and as reviewed and approved by Buyer under Section 8.

(a) Long-Term Lease or Rental Agreements. Buyer agrees to accept title to the Property subject to any long-term tenant lease or rental agreements (meaning for periods of thirty (30) or more consecutive days) affecting the Property not expiring prior to Closing. Buyer also agrees to accept title to the Property subject to any existing rental and property management agreements affecting the Property not expiring prior to Closing.

The provisions of this Section 6.1(a) shall survive Closing.

(b) **Short-Term Rental Bookings.** Buyer agrees to accept title to the Property subject to any short-term rental bookings (meaning for periods of less than thirty (30) consecutive days) affecting the Property not expiring prior to Closing. The provisions of this Section 6.1(b) shall survive Closing.

6.2 **Title Insurance.** At Settlement, Seller agrees to pay for and cause to be issued in favor of Buyer, through the title insurance agency that issued the Commitment (the "Issuing Agent"), the most current version of the ALTA Homeowner's Policy of Title Insurance (the "Homeowner's Policy"). If the Homeowner's Policy is not available through the Issuing Agent, Buyer and Seller further agree as follows: (a) Seller agrees to pay for the Homeowner's Policy if available through any other title insurance agency selected by Buyer; (b) if the Homeowner's Policy is not available either through the Issuing Agent or any other title insurance agency, then Seller agrees to pay for, and Buyer agrees to accept, the most current available version of an ALTA Owner's Policy of Title Insurance ("Owner's Policy") available through the Issuing Agent.

7. **SELLER DISCLOSURES.** No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents in hard copy or electronic format which are collectively referred to as the "Seller Disclosures":

- (a) a written Seller property condition disclosure for the Property, completed, signed and dated by Seller as provided in Section 10.3;
- (b) a *Lead-Based Paint Disclosure & Acknowledgement* for the Property, completed, signed and dated by Seller (only if the Property was built prior to 1978);
- (c) a Commitment for Title Insurance as referenced in Section 6.1;
- (d) a copy of any restrictive covenants (CC&R's), rules and regulations affecting the Property;
- (e) a copy of the most recent minutes, budget and financial statement for the homeowners' association, if any;
- (f) a copy of any long-term tenant lease or rental agreements affecting the Property not expiring prior to Closing;
- (g) a copy of any short-term rental booking schedule (as of the Seller Disclosure Deadline) for guest use of the Property after Closing;
- (h) a copy of any existing property management agreements affecting the Property;
- (i) evidence of any water rights and/or water shares referenced in Section 1.4;
- (j) written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations;
- (k) In general, the sale or other disposition of a U.S. real property interest by a foreign person is subject to income tax withholding under the *Foreign Investment in Real Property Tax Act of 1980* (FIRPTA). A "foreign person" includes a non-resident alien individual, foreign corporation, partnership, trust or estate. If FIRPTA applies to Seller, Seller is advised that Buyer or other qualified substitute may be legally required to withhold this tax at Closing. In order to avoid closing delays, if Seller is a foreign person under FIRPTA, Seller shall advise Buyer in writing; and
- (l) Other (specify) \_\_\_\_\_

8. **BUYER'S CONDITIONS OF PURCHASE.**

8.1 **DUE DILIGENCE CONDITION.** Buyer's obligation to purchase the Property:  IS  IS NOT conditioned upon Buyer's Due Diligence as defined in this Section 8.1(a) below. This condition is referred to as the "Due Diligence Condition." If checked in the affirmative, Sections 8.1(a) through 8.1(c) apply; otherwise they do not.

(a) **Due Diligence Items.** Buyer's Due Diligence shall consist of Buyer's review and approval of the contents of the Seller Disclosures referenced in Section 7, and any other tests, evaluations and verifications of the Property deemed necessary or appropriate by Buyer, such as: the physical condition of the Property; the existence of any hazardous substances, environmental issues or geologic conditions; the square footage or acreage of the land and/or improvements; the condition of the roof, walls, and foundation; the condition of the plumbing, electrical, mechanical, heating and air conditioning systems and fixtures; the condition of all appliances; the costs and availability of homeowners' insurance and flood insurance, if applicable; water source, availability and quality; the location of property lines; regulatory use restrictions or violations; fees for services such as HOA dues, municipal services, and utility costs; convicted sex offenders residing in proximity to the Property; and any other matters deemed material to Buyer in making a decision to purchase the Property. Unless otherwise provided in the REPC, all of Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with Buyer's Due Diligence. Buyer agrees to pay for any damage to the Property resulting from any such inspections or tests during the Due Diligence.

(b) **Buyer's Right to Cancel or Resolve Objections.** If Buyer determines, in Buyer's sole discretion, that the results of the Due Diligence are unacceptable, Buyer may either: (i) no later than the Due Diligence Deadline referenced in Section 24(b), cancel the REPC by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller; or (ii) no later than the Due Diligence Deadline referenced in Section 24(b), resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence.

(c) **Failure to Cancel or Resolve Objections.** If Buyer fails to cancel the REPC or fails to resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence, as provided in Section 8.1(b), Buyer shall be deemed to have waived the Due Diligence Condition, and except as provided in Sections 8.2(a) and 8.3(b)(i), the Earnest Money Deposit shall become non-refundable.

8.2 **APPRAISAL CONDITION.** Buyer's obligation to purchase the Property:  IS  IS NOT conditioned upon the Property appraising for not less than the Purchase Price. This condition is referred to as the "Appraisal Condition." If checked in the affirmative, Sections 8.2(a) and 8.2(b) apply; otherwise they do not.

(a) **Buyer's Right to Cancel.** If after completion of an appraisal by a licensed appraiser, Buyer receives written notice from the Lender or the appraiser that the Property has appraised for less than the Purchase Price (a "Notice of Appraised Value"), Buyer may cancel the REPC by providing written notice to Seller (with a copy of the Notice of Appraised Value) no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

(b) **Failure to Cancel.** If the REPC is not cancelled as provided in this section 8.2, Buyer shall be deemed to have waived the Appraisal

Condition, and except as provided in Sections 8.1(b) and 8.3(b)(i), the Earnest Money Deposit shall become non-refundable.

8.3 FINANCING CONDITION. (Check Applicable Box)

(a)  No Financing Required. Buyer's obligation to purchase the Property IS NOT conditioned upon Buyer obtaining financing. If checked, Section 8.3(b) below does NOT apply.

(b)  Financing Required. Buyer's obligation to purchase the Property IS conditioned upon Buyer obtaining the Loan referenced in Section 2.1(c). This Condition is referred to as the "Financing Condition." If checked, Sections 8.3(b)(i), (ii) and (iii) apply; otherwise they do not. If the REPC is not cancelled by Buyer as provided in Sections 8.1(b) or 8.2(a), then Buyer agrees to work diligently and in good faith to obtain the Loan.

(i) Buyer's Right to Cancel Before the Financing & Appraisal Deadline. If Buyer, in Buyer's sole discretion, is not satisfied with the terms and conditions of the Loan, Buyer may, after the Due Diligence Deadline referenced in Section 24(b), if applicable, cancel the REPC by providing written notice to Seller no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon \$\_\_\_\_\_ of Buyer's Earnest Money Deposit shall be released to Seller without the requirement of further written authorization from Buyer, and the remainder of Buyer's Earnest Money Deposit shall be released to Buyer without further written authorization from Seller.

(ii) Buyer's Right to Cancel After the Financing & Appraisal Deadline. If after expiration of the Financing & Appraisal Deadline referenced in Section 24(c), Buyer fails to obtain the Loan, meaning that the proceeds of the Loan have not been delivered by the Lender to the escrow/closing office as required under Section 3.2, then Buyer shall not be obligated to purchase the Property and Buyer or Seller may cancel the REPC by providing written notice to the other party.

(iii) Earnest Money Deposit(s) Released to Seller. If the REPC is cancelled as provided in Section 8.3(b)(ii), Buyer agrees that all of Buyer's Earnest Money Deposit, or Deposits, if applicable (see Section 8.4 below), shall be released to Seller without the requirement of further written authorization from Buyer. Seller agrees to accept, as Seller's exclusive remedy, the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages. Buyer and Seller agree that liquidated damages would be difficult and impractical to calculate, and the Earnest Money Deposit, or Deposits, if applicable, is a fair and reasonable estimate of Seller's damages in the event Buyer fails to obtain the Loan.

8.4 ADDITIONAL EARNEST MONEY DEPOSIT. If the REPC has not been previously canceled by Buyer as provided in Sections 8.1, 8.2 or 8.3, as applicable, then no later than the Due Diligence Deadline, or the Financing & Appraisal Deadline, whichever is later, Buyer:  WILL  WILL NOT deliver to the Buyer's Brokerage, an Additional Earnest Money Deposit in the amount of \$\_\_\_\_\_. The Earnest Money Deposit and the Additional Earnest Money Deposit, if applicable, are sometimes referred to herein as the "Deposits". The Earnest Money Deposit, or Deposits, if applicable, shall be credited toward the Purchase Price at Closing.

9. ADDENDA. There  ARE  ARE NOT addenda to the REPC containing additional terms. If there are, the terms of the following addenda are incorporated into the REPC by this reference:  Addendum No. \_\_\_\_\_  Seller Financing Addendum  FHA/VA Loan Addendum  Other (specify) \_\_\_\_\_.

10. HOME WARRANTY PLAN / AS-IS CONDITION OF PROPERTY.

10.1 Home Warranty Plan. A one-year Home Warranty Plan  WILL  WILL NOT be included in this transaction. If included, the Home Warranty Plan shall be ordered by  Buyer  Seller and shall be issued by a company selected by  Buyer  Seller. The cost of the Home Warranty Plan shall not exceed \$\_\_\_\_\_ and shall be paid for at Settlement by  Buyer  Seller.

10.2 Condition of Property/Buyer Acknowledgements. Buyer acknowledges and agrees that in reference to the physical condition of the Property: (a) Buyer is purchasing the Property in its "As-Is" condition without expressed or implied warranties of any kind; (b) Buyer shall have, during Buyer's Due Diligence as referenced in Section 8.1, an opportunity to completely inspect and evaluate the condition of the Property; and (c) if based on the Buyer's Due Diligence, Buyer elects to proceed with the purchase of the Property, Buyer is relying wholly on Buyer's own judgment and that of any contractors or inspectors engaged by Buyer to review, evaluate and inspect the Property. The provisions of Section 10.2 shall survive Closing.

10.3 Condition of Property/Seller Acknowledgements. Seller acknowledges and agrees that in reference to the physical condition of the Property, Seller agrees to: (a) disclose in writing to Buyer defects in the Property known to Seller that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent Buyer; (b) carefully review, complete, and provide to Buyer a written Seller property condition disclosure as stated in Section 7(a); (c) deliver the Property to Buyer in substantially the same general condition as it was on the date of Acceptance, as defined in Section 23, ordinary wear and tear excepted; (d) deliver the Property to Buyer in broom-clean condition and free of debris and personal belongings; and (e) repair any Seller or tenant moving-related damage to the Property at Seller's expense. The provisions of Section 10.3 shall survive Closing.

11. FINAL PRE-SETTLEMENT WALK-THROUGH INSPECTION. No earlier than seven (7) calendar days prior to Settlement, and upon reasonable notice and at a reasonable time, Buyer may conduct a final pre-Settlement walk-through inspection of the Property to determine only that the Property is "as represented," meaning that the items referenced in Sections 1.1, 1.2 and 8.1(b)(ii) ("the items") are respectively present, repaired or corrected as agreed. The failure to conduct a walk-through inspection or to claim that an item is not as represented shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented.

12. CHANGES DURING TRANSACTION. Seller agrees that except as provided in Section 12.5 below, from the date of Acceptance until the date of Closing the following additional items apply:

12.1 Alterations/Improvements to the Property. No substantial alterations or improvements to the Property shall be made or undertaken without prior written consent of Buyer.

12.2 Financial Encumbrances/Changes to Legal Title. No further financial encumbrances to the Property shall be made, and no changes in

the legal title to the Property shall be made without the prior written consent of Buyer.

**12.3 Property Management Agreements.** No changes to any existing property management agreements shall be made and no new property management agreements may be entered into without the prior written consent of Buyer.

**12.4 Long-Term Lease or Rental Agreements.** No changes to any existing tenant lease or rental agreements shall be made and no new long-term lease or rental agreements, as defined in Section 6.1(a), may be entered into without the prior written consent of Buyer.

**12.5 Short-Term Rental Bookings.** If the Property is made available for short-term rental bookings as defined in Section 6.1(b), Seller **MAY NOT** after the Seller Disclosure Deadline continue to accept short-term rental bookings for guest use of the property without the prior written consent of Buyer.

**13. AUTHORITY OF SIGNERS.** If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person signing the REPC on its behalf warrants his or her authority to do so and to bind Buyer and Seller.

**14. COMPLETE CONTRACT.** The REPC together with its addenda, any attached exhibits, and Seller Disclosures (collectively referred to as the "REPC"), constitutes the entire contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties whether verbal or otherwise. The REPC cannot be changed except by written agreement of the parties.

**15. MEDIATION.** Any dispute relating to the REPC arising prior to or after Closing:  SHALL  **MAY AT THE OPTION OF THE PARTIES** first be submitted to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and share equally in the cost of such mediation. If mediation fails, the other procedures and remedies available under the REPC shall apply. Nothing in this Section 15 prohibits any party from seeking emergency legal or equitable relief, pending mediation. The provisions of this Section 15 shall survive Closing.

**16. DEFAULT.**

**16.1 Buyer Default.** If Buyer defaults, Seller may elect one of the following remedies: (a) cancel the REPC and retain the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages; (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Buyer to specifically enforce the REPC; or (c) return the Earnest Money Deposit, or Deposits, if applicable, to Buyer and pursue any other remedies available at law.

**16.2 Seller Default.** If Seller defaults, Buyer may elect one of the following remedies: (a) cancel the REPC, and in addition to the return of the Earnest Money Deposit, or Deposits, if applicable, Buyer may elect to accept from Seller, as liquidated damages, a sum equal to the Earnest Money Deposit, or Deposits, if applicable; or (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Seller to specifically enforce the REPC; or (c) accept a return of the Earnest Money Deposit, or Deposits, if applicable, and pursue any other remedies available at law. If Buyer elects to accept liquidated damages, Seller agrees to pay the liquidated damages to Buyer upon demand.

**17. ATTORNEY FEES AND COSTS/GOVERNING LAW.** In the event of litigation or binding arbitration arising out of the transaction contemplated by the REPC, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under Section 15. This contract shall be governed by and construed in accordance with the laws of the State of Utah. The provisions of this Section 17 shall survive Closing.

**18. NOTICES.** Except as provided in Section 23, all notices required under the REPC must be: (a) in writing; (b) signed by the Buyer or Seller giving notice; and (c) received by the Buyer or the Seller, or their respective agent, or by the brokerage firm representing the Buyer or Seller, no later than the applicable date referenced in the REPC.

**19. NO ASSIGNMENT.** The REPC and the rights and obligations of Buyer hereunder, are personal to Buyer. The REPC may not be assigned by Buyer without the prior written consent of Seller. Provided, however, the transfer of Buyer's interest in the REPC to any business entity in which Buyer holds a legal interest, including, but not limited to, a family partnership, family trust, limited liability company, partnership, or corporation (collectively referred to as a "Permissible Transfer"), shall not be treated as an assignment by Buyer that requires Seller's prior written consent. Furthermore, the inclusion of "and/or assigns" or similar language on the line identifying Buyer on the first page of the REPC shall constitute Seller's written consent only to a Permissible Transfer.

**20. INSURANCE & RISK OF LOSS.**

**20.1 Insurance Coverage.** As of Closing, Buyer shall be responsible to obtain casualty and liability insurance coverage on the Property in amounts acceptable to Buyer and Buyer's Lender, if applicable.

**20.2 Risk of Loss.** If prior to Closing, any part of the Property is damaged or destroyed by fire, vandalism, flood, earthquake, or act of God, the risk of such loss or damage shall be borne by Seller; provided however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the Purchase Price referenced in Section 2, either Seller or Buyer may elect to cancel the REPC by providing written notice to the other party, in which instance the Earnest Money Deposit, or Deposits, if applicable, shall be returned to Buyer.

**21. TIME IS OF THE ESSENCE.** Time is of the essence regarding the dates set forth in the REPC. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in the REPC: (a) performance under each Section of the REPC which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" and "calendar days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (e.g. Acceptance). Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to the REPC, except as otherwise agreed to in writing by such non-party.

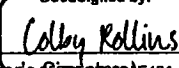
22. **ELECTRONIC TRANSMISSION AND COUNTERPARTS.** The REPC may be executed in counterparts. Signatures on any of the Documents, whether executed physically or by use of electronic signatures, shall be deemed original signatures and shall have the same legal effect as original signatures.

23. **ACCEPTANCE.** "Acceptance" occurs only when all of the following have occurred: (a) Seller or Buyer has signed the offer or counteroffer where noted to indicate acceptance; and (b) Seller or Buyer or their agent has communicated to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

24. **CONTRACT DEADLINES:** Buyer and Seller agree that the following deadlines shall apply to the REPC:

- (a) Seller Disclosure Deadline 10 days from acceptance (Date)
- (b) Due Diligence Deadline N/A (Date)
- (c) Financing & Appraisal Deadline N/A (Date)
- (d) Settlement Deadline On or before 30 days from acceptance (Date)

25. **OFFER AND TIME FOR ACCEPTANCE.** Buyer offers to purchase the Property on the above terms and conditions. If Seller does not accept this offer by: 5:00  AM  PM Mountain Time on August 9, 2024 (Date), this offer shall lapse; and the Brokerage shall return any Earnest Money Deposit to Buyer.

DocuSigned by:  
 7/29/2024 | 9:26 PM EDT  
 Buyer's Signature (Date) (Buyer's Signature) (Date)

**ACCEPTANCE/COUNTEROFFER/REJECTION**

**CHECK ONE:**

- ACCEPTANCE OF OFFER TO PURCHASE:** Seller Accepts the foregoing offer on the terms and conditions specified above.
- COUNTEROFFER:** Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified by the attached ADDENDUM No \_\_\_\_\_
- REJECTION:** Seller rejects the foregoing offer.

\_\_\_\_\_  
 (Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE SEPTEMBER 1, 2017. AS OF JANUARY 1, 2018, IT WILL REPLACE AND SUPERSEDE THE PREVIOUSLY APPROVED VERSION OF THIS FORM.

**ADDENDUM NO. 1  
TO  
REAL ESTATE PURCHASE CONTRACT**

THIS IS AN  ADDENDUM  COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of July 29, 2024, including all prior addenda and counteroffers, between PHM Investors, LLC as Buyer, and Provo City RDA as Seller, regarding the Property located at 77 N 100 W, Provo, UT 84601. The following terms are hereby incorporated as part of the REPC:

- This purchase contract is contingent upon approval by the Provo Redevelopment Agency Board.

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same.  Seller  Buyer shall have until 5:00  AM  PM Mountain Time on August 9, 2024 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC, unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

DocuSigned by:

*Colby Rollins*

7/29/2024 | 9:26 PM EDT

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Buyer  Seller Signature (Date) (Time)  Buyer  Seller Signature (Date) (Time)

**ACCEPTANCE/COUNTEROFFER/REJECTION**

CHECK ONE:

ACCEPTANCE:  Seller  Buyer hereby accepts the terms of this ADDENDUM.

COUNTEROFFER:  Seller  Buyer presents as a counteroffer the terms of attached ADDENDUM NO.   .

(Signature) (Date) (Time) Signature (Date) (Time)

REJECTION:  Seller  Buyer rejects the foregoing ADDENDUM.

(Signature) (Date) (Time) Signature (Date) (Time)