

**EXCLUSIVE NEGOTIATING AGREEMENT BETWEEN THE CITY OF REDLANDS**  
**AND PACIFIC COMMUNITY REAL ESTATE, LLC**

This EXCLUSIVE NEGOTIATING AGREEMENT (this “Agreement”) is dated July 19, 2016, and is entered into by and between the City of Redlands, a California municipal corporation (the “City”), and ALN Redlands District, LLC. (the “Buyer”). The City and the Buyer are sometimes individually referred to herein as a “Party” and, together, as the “Parties.”

R E C I T A L S

A. The City is the owner of that certain real property located at 31 and 205 W. Stuart Avenue in the City of Redlands, San Bernardino County, State of California, known as Assessor’s Parcel Numbers at 0169-281-19 (31 W. Stuart Avenue) and 0169-281-23 (205 W. Stuart Avenue) (together, the “Property”). .

B. After considering the Buyer’s request, the City’s City Council has instructed its staff to prepare this Agreement with the Buyer to negotiate on an exclusive basis to establish the terms and conditions of a purchase and sale agreement between the City and the Buyer for the sale of the Property from the City to the Buyer, and one or more agreements and related documents (collectively, the “Project Agreements”) that would result in the Buyer’s purchase of the Property.

C. The Buyer understands and acknowledges that the City is not obligated to sell the Property if, in its sole discretion, the City Council determines that such sale is not in the public interest, not permitted by law, not consistent with the City of Redlands General Plan, or for any other reason. Further, the Buyer understands and acknowledges that the Parties are not obligated to reach agreement on the terms of the Project Agreements.

D. The Buyer and the City are willing to enter into this Agreement setting forth, among other things, the terms pursuant to which the City will negotiate with the Buyer on an exclusive basis for a limited period of time regarding the Project Agreements and Project.

E. The staff, consultants, and attorneys of the City will devote substantial time and effort in meeting with the Buyer and its representatives, reviewing proposals, plans and reports, and negotiating and preparing the Project Agreements.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree that the foregoing recitals are true and correct, and as follows:

1. The term of this Agreement shall commence on the date first written above and shall end on the earlier of: (i) six (6) months thereafter; (ii) the date on which the City and the Buyer terminate this Agreement as provided in Section 2 below, (iii) the date on which the Buyer terminates this Agreement as provided in Section 3 below or (iv) the date the Buyer acquires the Property (the “ENA Period”).

2. Subject to Buyer’s notice and cure rights hereinafter set forth, the City may terminate this Agreement if the Buyer fails to comply with or perform any provision of this

Agreement. The City shall provide written notice to the Buyer which specifies the failure of the Buyer to perform and the steps necessary for the Buyer to cure such failure. The City shall not terminate this Agreement if the Buyer cures the deficiencies specified by the City within ten (10) business days after such notice is given, if the deficiency is not commercially reasonable to be cured within ten (10) business days and the Buyer has commenced curing and is diligently working towards curing the time period shall be extended to allow the deficiency to be cured; however, in no event shall such cure period extend beyond the expiration of the ENA Period.

3. The Buyer may terminate this Agreement at any time, in its sole discretion, by providing not less than fourteen (14) calendar days advance written notice to the City. In the event of such a termination, Buyer shall be responsible for all costs incurred by the City, subject to Section 7 of this Agreement, prior to the date the City receives Buyer's written notice of termination. This provision shall survive any termination of this Agreement.

4. During the ENA Period: (i) the City shall not negotiate with any person or entity other than the Buyer for the sale, acquisition, lease or development of the Property; (ii) the City shall deliver any and all pertinent documents for the development and entitlement of the Property, including, but not limited to: engineering studies, environmental documents, preliminary title reports, easements, historic information, leases in its possession upon execution of this Agreement; (iii) the Buyer, shall not negotiate with any person or entity other than the authorized representative of the City for the purchase, lease or sublease of the Property from the City; (iv) Buyer shall prepare a design of a mixed-use (commercial retail residential and public parking) project (the "Project") on the Property; and (v) Buyer shall secure funding for the acquisition and development of the Property from a credible lending institution or private funding entity as approved by the City. Written documentation of funding shall be submitted to the reasonable satisfaction of the City. During the ENA period, the City and the Buyer shall work cooperatively to negotiate a purchase and sale agreement and the Project Agreements.

5. Throughout the ENA period, the Buyer shall supply to the City periodic updates regarding its progress in the design of the Property and securing funding. Throughout the ENA Period, the Buyer and the City shall use good faith efforts to make its staff reasonably available to meet to discuss the Project and the Project Agreements.

6. As an accommodation to the Buyer, and at the Buyer's specific request, the City shall expedite its environmental and planning review of the Project on a schedule to be negotiated between the Parties.

7. The Buyer shall also bear its own costs and expenses of any and all title, appraisal, environmental, physical, engineering, financial, and feasibility investigations, reports and analyses and other analyses or activities it or its consultants perform for the Project.

8. The Buyer and the City understand and agree that no Party is under any obligation whatsoever to enter into the Project Agreements. Additionally, the Buyer acknowledges that the City must in good faith review and consider any environmental impacts of the Project before deciding whether to approve the Project and the Project Agreements. In the event of the expiration or earlier termination of this Agreement, the City shall be free at the City's option to negotiate with any persons or entities with respect to the sale, lease and/or development of the Site.

9. This Agreement may not be assigned by the Buyer without the prior express written consent of the City in its sole and absolute discretion. In the event of any such assignment without such prior written consent, this Agreement shall immediately terminate.

10. Any notice, request, approval or other communication to be provided by one Party to the other shall be in writing and provided by personal service or a reputable overnight delivery service (such as Federal Express) and addressed as follows:

**If to the Buyer:**

Mr. Allen Lee Nunez  
Principal Owner  
ALN Redlands District LLC.  
4660 La Jolla Village Drive, Suite 1070  
San Diego, California, 92121

**If to the City:**

Oscar W. Orci  
Development Services Director  
City of Redlands  
35 Cajon Street  
Redlands, CA 92373

**With a copy to:**

Daniel J. McHugh  
City Attorney  
City of Redlands  
35 Cajon Street  
Redlands, CA 92373

11. For purposes of the negotiations contemplated by this Agreement, the Buyer's representative shall be Mr. Allen Lee Nunez and the City's representative shall be the City Manager or the City Manager's designee.

12. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof. There are no other agreements or understandings between the Parties with respect to the subject matter hereof or any related subject and no representations by either Party to the other have been made as an inducement to enter into this Agreement. All prior negotiations between the Parties are superseded by this Agreement.

13. This Agreement may not be altered, amended or modified except by a writing executed by the Parties.

14. If any Party should bring any legal action or proceeding relating to this Agreement or to enforce any provision hereof, or if the Parties agree to arbitration or mediation relating to this Agreement, the Party in whose favor a judgment or decision is rendered shall be entitled to recover reasonable attorneys' fees, costs and out-of-pocket expenses (including but not limited to the fees and costs of experts) from the other. The Parties agree that any legal action or proceeding or agreed-upon arbitration or mediation shall be filed in, and shall occur in, the county of San Bernardino.

15. The interpretation and enforcement of this Agreement shall be governed by the laws of the State of California, as if this Agreement was jointly drafted by the Parties.

16. Time is of the essence with regard to each and every provision of this Agreement.

17. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

18. The Buyer shall execute this Agreement first and shall then deliver this partially executed Agreement to the City for approval and execution by the City. The Buyer acknowledges and agrees that the City is under no obligation to consider or approve this Agreement until it has been executed by the Buyer.

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

[SIGNATURES ON FOLLOWING PAGE]

**BUYER:**

ALN Redlands District, LLC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY:**

By: \_\_\_\_\_  
Paul W. Foster, Mayor

ATTEST:

\_\_\_\_\_  
Sam Irwin, City Clerk

ATTACHMENT NO. 1

LEGAL DESCRIPTION OF PROPERTY

Assessors' Parcel Number: 0169-281-23

**An irregular shaped parcel of land in the City of Redlands, County of San Bernardino, State of California, being all those portions of Lots 18, 20, 21 to 26, inclusive and the 15 foot wide alley (now vacated) lying Southerly of said Lot 20, all being in Block "C" of the Central Townsite, as said Lots and alley are shown on Plat recorded in Book 8 of Maps, Page 57, records of said County, more particularly described as follows:**

**Beginning at a point in the Easterly line of said Lot 26, distant Northerly along said Easterly line 14.10 feet from the Southeasterly corner of said Lot 26;**

**thence Northerly along said Easterly line and its Northerly prolongation and along the Easterly line of said Lots 18 and 20, also being the Westerly line of Third Street, 54 feet wide, a distance of 168.90 feet to a point in a line that is parallel with and distant Northerly 3.00 feet, measured at right angles from the Northerly line of said Lot 20, said parallel line also being the Southerly line of Stuart Avenue;**

**thence Westerly along said parallel line, 122.00 feet;**

**thence Southwesterly in a direct line 22.63 feet to a point in the Westerly line of said Lot 20, said point being distant Southerly along said Westerly line 13.00 feet from the Northwesterly corner of said Lot 20;**

**thence Southerly along the Westerly line of said Lot 20 and its Southerly prolongation and along the Westerly line of said Lot 21, a distance of 152.90 feet to a point in a line that is parallel with and distant Northerly 14.10 feet, measured at right angles from the Southerly line of said Lots 21 to 26, inclusive;**

**thence Easterly along said parallel line 138.00 feet to the point of beginning.**

**Excepting and reserving all oil, hydrocarbon substances and minerals of every kind and character lying more than 500 feet below the surface of said land, together with the right to drill into, through, and to use and occupy all parts of said land lying more than 500 feet below the surface thereof for any and all purposes incidental to the exploration for and production of oil, gas, hydrocarbon substances or minerals from said or other lands but without, however, any right to use either the surface of said land or any portion of said land within 500 feet of the surface for any purpose or purposes whatsoever, as reserved by David F. Rettig, et al, in Deed recorded May 12, 1986, as Instrument No. 86-122368, Official Records.**

Assessor's Parcel Number: 0169-281-19

**Parcel No. 1:**

**The South 24.8 feet of Lot 17 and all of Lots 19, 27, 28, 29, 30, 31 and 32, of Block "C", Amended Map of Central Townsite, in the City of REDLANDS, County of SAN BERNARDINO, State of California, as per Map recorded in Book 8, Page 57, of Maps, in the office of the County Recorder of said County.**

**Parcel No. 2:**

**This 15 foot alley between Lot 19 of Block "C" on the North and Lots 27 to 32, inclusive, Block "C" on the South, as shown on Amended Map of Central Townsite, in the City of REDLANDS, County of SAN BERNARDINO, State of California, as per map recorded in Book 8, page(s) 57, of Maps, in the office of the County Recorder of said County.**