

**CITY OF LANCASTER**  
**EXCLUSIVE NEGOTIATION AGREEMENT**

THIS EXCLUSIVE NEGOTIATION AGREEMENT (“Agreement”), effective \_\_\_\_\_, 2024 (“Effective Date”), is between the City of Lancaster, a California municipal corporation (“City”), and Habitat for Humanity of Greater Los Angeles, a California non-profit corporation (“Habitat”), and USA Properties Fund, Inc., a California corporation (“USA”). The City, Habitat, and USA are sometimes referred to in this Agreement individually each as a “Party” and collectively as the “Parties.” This Agreement is entered into by the Parties with reference to the following recited facts:

**RECITALS**

- A. The City owns approximately 35 acres of real property located at the intersection of East Avenue I and Division Street in Lancaster, California [Assessor’s Parcel Nos. 3176-005-915, -916, -918, -919, -921, -930] (“Property”).
- B. Habitat and USA are each interested in acquiring all or portions of the Property from City, and thereafter, securing all necessary entitlements to redevelop the Property with approximately 110 units of affordable workforce for-sale housing (the “Habitat Project”) and approximately 272 units of affordable rental housing (the “USA Project”) and a to be determined commercial/retail project (the “Commercial/Retail Project”).
- C. The Pinyon Group LLC, a California limited liability company (“TPG”), will act as a co-developer of the USA Project.
- D. Habitat is interested in developing the Habitat Project and USA is interested in developing the USA Project as part of a proposed 35-acre mixed-use project in the City located at East Avenue I & Division Street (HNR-3), commonly referred to as Antelope Valley Village.
- E. The Commercial/Retail Project is anticipated to be developed by one or more of Habitat, USA, TPG, or third-party developers (“Commercial/Retail Developers”) in cooperation with Habitat and USA.
- F. The intent of the Parties in entering into this Agreement is to establish a specific, limited period of time to negotiate the terms of a future agreement between the Parties governing the potential disposition and development of the Property (“DDA”).

**NOW, THEREFORE**, in view of the goals and objectives of the City relating to the development of the Property, and the promises of the Parties set forth in this Agreement, the Parties agree, as follows:

### **AGREEMENT**

**1. Terms of Agreement.** The Parties shall have 120 days from the Effective Date, or such extended date as may be mutually agreed upon in writing by the Parties (as may be so extended, the “Term Sheet Deadline”), to agree on a term sheet for the DDA (the “DDA Term Sheet”). If the Parties are unable for any reason to reach agreement on the DDA Term Sheet by the Term Sheet Deadline, this Agreement shall expire automatically without any further obligation of the Parties hereunder. If the Parties agree on a DDA Term Sheet before or on the Term Sheet Deadline, this Agreement shall continue to be of full force and effect, and the Parties shall have up to 12 months from the date of the Parties’ execution of the DDA Term Sheet to negotiate and execute the DDA according to the Schedule of Performance set forth in the DDA Term Sheet. The initial 120-day period and any extension, if applicable, together with the 12-month period are the “Negotiation Period.”

**2. Negotiation of DDA.** During the Negotiation Period, the Parties will attempt to diligently and in good faith negotiate a DDA Term Sheet and a DDA. It is anticipated by the Parties that the items and terms to be addressed in such negotiations will include: (1) the physical and land title conditions of the Property at the time of transfer from the City to Habitat and to USA for their individual Projects; (2) the land uses to be included in the Habitat Project, the USA Project, and the remainder of the AVV Project, (3) the CEQA review and land use entitlements (and timing thereof) necessary for the Habitat Project, the USA Project and the remainder of the AVV Project; (4) the Habitat Project development schedule, and phasing plan if applicable; (5) the USA Project development schedule, and phasing plan if applicable; (6) conditions of any financing for the Habitat Project; (7) conditions of any financing for the USA Project; (8) the purchase price and other terms and conditions of sale for the Property and the allocation thereof between the individual Projects; (9) adequacy of, or need for, infrastructure facilities and improvements to serve the Habitat Project and/or the USA Project; (10) coordination between the Habitat Project, the USA Project and the balance of the AVV Project; and (11) and such other matters that the Parties deem appropriate. Nothing in this Agreement shall bind any of the Parties to reach an agreement on a DDA and in the event the Parties are unable for any reason to reach agreement on a DDA by the Outside DDA Date, this Agreement shall expire automatically without any further obligation of the Parties hereunder. The Parties agree and acknowledge that (i) the City and one or both of Habitat and USA may enter into separate terms sheets and DDAs for the Habitat Project, the USA Project, and the balance of the AVV Project and (ii) a Commercial/Retail Developer reasonably acceptable to the Parties may be a party to a term sheet or DDA addressing the portion of the AVV Project that is not included in the Habitat or USA Project.

**3. Each Party to Pay Its Respective Costs and Expenses.** Each Party is responsible for its own expenses in connection with this Agreement and the DDA negotiation.

**4. Appraisal of Property.** During the Negotiation Period, any Party may, at its sole expense, obtain an appraisal of the Property to determine its fair market value to aid the Parties in negotiating a purchase price as part of the DDA; provided that such Party shall share a copy of such appraisal with the other Parties, and provided further that nothing herein shall obligate the Parties to utilize such appraised value as the final purchase price for the Property.

**5. CEQA.** The City is by law required to exercise discretion in various ways concerning development of the Property, including but not limited to in considering entitlements and permits for the development, as well as adoption of any amendments to City ordinances, regulations, or planning or policy documents. The Parties recognize that execution of this preliminary Exclusive Negotiation Agreement does not constitute “approval” of a “project,” as those terms are defined by CEQA, and does not limit the ability of the City to consider alternatives or mitigation measures for any project that might arise and be subject to CEQA. Nothing herein waives any right or obligation that any Party may have under any state or local density bonus law.

**6. Exclusivity.** During the Negotiation Period, the City and City staff may not solicit offers, negotiate, or enter into any agreement with any other person or entity concerning the disposition (sale, option, or lease) or development of the Property. The City may receive and retain unsolicited offers regarding the Property, but the City may not negotiate with the proponent of any such offer during the Negotiation Period. Any Party may disclose the fact that the such Party is a party to this Agreement.

**7. Due Diligence.** During the Negotiation Period, Habitat and USA may undertake certain due diligence activities to determine the feasibility of Habitat’s and USA’s purchase and development of the Property. Upon Habitat’s and/or USA’s written request, City shall provide or cause to be provided to Habitat and USA all documents relating to the physical or environmental condition of the Property (including, but not limited to, environmental, property physical condition, geological studies, engineering and structural analyses, and geotechnical reports and soil tests and analyses) to the extent reasonably known to be in City’s possession or control. If Habitat or USA desires to perform physical inspections of the Property, that Party and the City shall enter into a license agreement or similar instrument allowing that Party and its agents to enter the Property to conduct such inspections in form and substance reasonably acceptable to the Parties.

**8. Acknowledgments and Reservations.** If this Agreement expires or is terminated for any reason, or a future DDA is not approved and executed by all the Parties for any reason, no Party is under any obligation, nor shall any Party have any liability to any other Party or to any other person regarding the Property. No Party is bound by any statement, promise, or representation made by another Party’s staff or representatives during the course of negotiations of a future DDA. The Parties will only be legally bound after a complete DDA is approved and executed by all

Parties, each in its respective absolute discretion and, in the case of the City, following one or more duly noticed public hearings as required by law.

**9. Breach.** If a Party breaches this Agreement, and such breach is not cured in a reasonable period after written notice is delivered to the breaching Party of the alleged breach, the exclusive remedy of the Party who has not breached is to terminate this Agreement by serving written notice of termination on the breaching Party.

**10. Notice.** Any notice or instrument required to be delivered under this Agreement must be in writing and delivered at the addresses shown below. While the Parties are requested to provide courtesy copies as indicated below, a defect in providing a courtesy copy is not a defect in notice under this Agreement.

TO HABITAT:	<div data-bbox="824 707 1398 913"><p>Attn: Darrell Simien Habitat for Humanity of Greater Los Angeles</p><hr/><hr/></div> <div data-bbox="824 951 1421 1029"><p>Phone: 310-323-4663 ext. 202 Email: dsimien@habitatla.org</p></div> <div data-bbox="824 1066 1138 1102"><p>With a courtesy copy to:</p></div> <div data-bbox="824 1140 1409 1302"><p>Attn: David L. Preiss Holland &amp; Knight, LLP 560 Mission Street, Suite 1900 San Francisco, CA 94105</p></div> <div data-bbox="824 1350 1338 1428"><p>Phone: (415) 743-6914 Email: david.preiss@hklaw.com</p></div>
TO USA:	<div data-bbox="824 1478 1365 1682"><p>Attn: Steven Gall USA Properties Fund, Inc. 3200 Douglas Boulevard Suite 200 Roseville, California 95661</p></div> <div data-bbox="824 1719 1326 1797"><p>Phone: (916) 724-3825 Email: sgall@usapropfund.com</p></div> <div data-bbox="824 1835 1138 1871"><p>With a courtesy copy to:</p></div>

	<p>Attn: Jay Stark The Pinyon Group LLC 949 S Hope Street, Suite 100 Los Angeles, California 90015</p> <p>Phone: (310) 292-2807 Email: jstark@thepinyongroup.com</p> <p>And a courtesy copy to:</p> <p>Attn: Kyle Arndt Bocarsly Emden Cowan Esmail &amp; Arndt LLC 633 West 5th Street, Suite 5880 Los Angeles, CA 90071</p> <p>Phone: (213) 239-8048 Email: karndt@bocarsly.com</p>
TO CITY OF LANCASTER	<p>Attn: City Manager</p> <p>_____</p> <p>_____</p> <p>Phone: _____</p> <p>Email: _____</p>

**11. Counterpart Originals.** This Agreement may be delivered by facsimile, pdf attachment to email, or other electronic means. This Agreement may be signed electronically by any Party. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**12. No Third-Party Beneficiary; Assignees.** Nothing in this Agreement is intended to benefit any person or entity other than the City, Habitat, and USA. TPG is not a third-party beneficiary of this Agreement. Neither Habitat nor USA may assign its rights under this Agreement.

**13. Governing Law.** This Agreement is governed by exclusively by the laws of the State of California, without application of any conflict-of-laws principles or statutes. Venue for any dispute regarding the Agreement lies exclusively in the courts in Los Angeles County, California.

**14. Waivers.** No waiver of any breach of any term or condition contained in this Agreement may be deemed a waiver of any preceding or succeeding breach of such term or condition, or of any other term or condition contained in this Agreement. No extension of the time for performance of any obligation or act, no waiver of any term or condition of this Agreement, nor any modification of this Agreement is enforceable against either Party unless it is made in writing and executed by both Parties.

CITY:

CITY OF LANCASTER,  
a California municipal corporation

HABITAT:

Habitat for Humanity of Greater Los  
Angeles, a California non-profit corporation

By: \_\_\_\_\_  
[NAME], [TITLE]

By: \_\_\_\_\_  
[NAME], [TITLE]

USA

USA PROPERTIES FUND, INC.,  
a California corporation

By: \_\_\_\_\_  
[NAME], [TITLE]

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney





