

AGREEMENT REGARDING SETTLEMENT, RELEASE AND WAIVER OF CLAIMS AND TERMINATION OF OWNER PARTICIPATION AGREEMENT

This AGREEMENT REGARDING SETTLEMENT, RELEASE AND WAIVER OF CLAIMS AND TERMINATION OF OWNER PARTICIPATION AGREEMENT (hereinafter, "Agreement") is entered into by and among the City of Lancaster (the "City"), acting on its own behalf and as Agent for the Successor Agency for the Lancaster Redevelopment Agency (the "Successor Agency"), on the one hand, and Frank B. Maga, Trustee of the Maga Family Trust dated October 3, 1995 ("Maga") on the other hand. The City, the Successor Agency and Maga are collectively referred to herein as the "Parties" or individually as a "Party."

RECITALS

A. The Lancaster Redevelopment Agency ("LRA") and Maga, entered into that certain Owner Participation Agreement dated February 27, 1997 (the "OPA"), through which LRA provided Maga a loan to make certain improvements to real property, located at 539-549 West Lancaster Blvd., and 44907-44913 Beech Ave., Lancaster CA. (the "OPA Property").

B. Among other things, pursuant to the terms of the OPA, Maga granted LRA a parking easement over a portion of the OPA Property (sometimes referred to as the "Parking Easement"), in exchange for LRA maintaining parking improvements in the parking easement area.

C. On or about August 8, 2023, Maga alleged that the City, as successor-in-interest to LRA breached the OPA, by failing to maintain the parking easement area.

D. The City denies Maga's allegations.

E. The Parties desire to terminate the OPA and settle claims relating to the OPA and the Parking Easement.

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement, and for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Consent to Termination of the OPA.** Effective as of the date all Parties have signed this Agreement, each of the Parties hereby agrees that the OPA is hereby terminated in full, and shall have no further force or effect against any Party, and shall no longer encumber or restrict any of the OPA property.

2. **Termination of Parking Easement.** Within five (5) days of the full execution of this Agreement, the City shall record a Termination of Parking Easement, a form of which is attached hereto as Exhibit 'A.'

3. **Release and Waiver of Claims.**

(a) Maga, on behalf of himself and his predecessors, successors, assigns, agents, relatives, heirs, beneficiaries, affiliates, attorneys, insurers and all others claiming by and through Maga, does hereby release, discharge and covenant not to sue the City or the Successor Agency, or the members of the City Council or the Successor Agency Board, or any officials, staff, officers, directors, partners, employees, members, managers, subsidiaries, parent and related entities, agents,

representatives, attorneys, successors, assigns, administrators, executors, beneficiaries, trustees, insurers and predecessors and successors-in-interest of the City or Successor Agency, from and for all actions, claims, charges, liabilities, obligations, benefits, compensation, damages, fees, expenses, or suits (collectively, "Claims") of any kind whatsoever, known or unknown, which Maga now has, or may ever have had, arising out of, or relating to, the OPA (including any and all transactions accomplished under the OPA) or the Parking Easement.

(b) The City and Successor Agency each, on behalf of themselves and their predecessors, successors, assigns, agents, relatives, heirs, beneficiaries, affiliates, attorneys, insurers and all others claiming by and through the City or Successor Agency, do hereby release, discharge and covenant not to sue Maga, or any predecessors, agents, representatives, attorneys, successors, assigns, administrators, executors, beneficiaries, trustees, and insurers of Maga, from and for all Claims of any kind whatsoever, known or unknown, which the City and/or Successor Agency now have, or may ever have had, arising out of, or relating to, the OPA (including any and all transactions accomplished under the OPA) or the Parking Easement.

(c) Waiver of Civil Code Section 1542. Each Party acknowledges and understands that the matters released herein may involve facts and circumstances currently unknown to him/her, but, nevertheless, each Party intends that the releases provided herein shall be general releases, and that they shall effectively release all actions, claims, charges, liabilities, obligations, benefits, compensation, damages, fees or suits of any kind whatsoever in connection with, arising out of, or relating to, the OPA or the Parking Easement, even if they involve unknown facts and circumstances. Each Party hereby acknowledges that he/she has been fully advised of the contents of Section 1542 of the Civil Code of the State of California, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Each Party hereby expressly waives and relinquishes any and all rights and benefits under Civil Code Section 1542 and any law or legal principle of similar effect in any jurisdiction with respect to the releases granted in this Section.

Maga _____ (Initial)

City of Lancaster _____ (Initial)

Successor Agency to the Lancaster
Redevelopment Agency _____ (Initial)

(d) Full Defense. The provisions of this Section may be pleaded as a full and complete defense to, and may be used as the basis for any injunction against, any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement.

(e) Non-Parties. It is the express intention of the Parties that except as specifically provided in this Section, nothing in this Agreement is intended to release, waive or alter any right, claim or defense any Party may have against anyone who is not a party to this Agreement.

4. **Representations and Warranties.** Each Party represents, warrants and agrees that:

(a) such Party has read this Agreement, has had adequate time to consider it, understands the meaning and application of this Agreement, and signs this Agreement knowingly, voluntarily and of his/her/its own free will with the intent of being bound by it;

(b) such Party has reviewed, or has had the opportunity to review, this Agreement with independent legal counsel;

(c) such Party has not been subjected to any duress, undue influence or inequality of bargaining power in connection with the negotiation or execution of this Agreement;

(d) except for statements, representations and promises expressly set forth in this Agreement, such Party has not relied upon any statement, representation or promise of any other Party (or of any employee, attorney or other representative of any other Party or of any affiliated entity) in executing this Agreement, and no other Party has made any statements, representations or promises regarding a fact relied upon by it in entering into this Agreement;

(e) such Party has made such investigation of the facts pertaining to this Agreement as each Party deemed necessary or desirable; and

(f) such Party has the full right and authority to enter into this Agreement; and

(g) such Party has not assigned or transferred its rights pertaining to the subject matter hereof.

5. **Construction.** This Agreement shall be construed according to its fair meaning and as though no single Party drafted this Agreement. This Agreement shall be governed and construed in accordance with the laws of the State of California.

6. **Entire Agreement, Modification and Waiver.** This document contains the entire agreement among the Parties relating to the subject matter of this Agreement. This Agreement may not be altered, amended, or modified in any respect except by writing duly executed by the Party to be charged. No waiver shall be deemed given unless in writing, and one waiver shall not constitute a subsequent waiver.

7. **No Admission of Liability.** It is expressly understood, acknowledged and agreed to by the Parties, that by reason of entering into this Agreement, no Party admits, expressly or impliedly, any fact or liability of any type or nature with respect to any matter, whether or not referred to herein, or the sufficiency of any claims, allegations, assertions, or positions of any Party; no Party has made any such admissions; and this Agreement is entered into solely by way of compromise and settlement only.

8. **Non-Assignability.** Each Party covenants and agrees that he/she/it shall not assign or transfer its rights under this Agreement to any third party or entity.

9. **Severability.** Should any provision of this Agreement become invalid or unenforceable, the remainder of this Agreement shall be unaffected thereby.

10. **Authority to Execute.** By signature below, each signatory signifies that he or she is an authorized signatory of the Party on behalf of whom he or she executes this Settlement Agreement.

11. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same document. A facsimile or emailed signature shall be deemed an original signature.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the dates set forth below.

Dated: _____, 2024

CITY OF LANCASTER

By: _____

Name: _____

Title: _____

Dated: _____, 2024

**FRANK B. MAGA,
TRUSTEE OF THE MAGA FAMILY
TRUST DATED OCTOBER 3, 1995**

By: _____

Name: _____

EXHIBIT A

**Recording Requested By and
When Recorded Mail To:**

City of Lancaster
44933 Fern Avenue
Lancaster, California 93534
Attn: [NAME]

APN 3134-011-002 and -003

This document is exempt from the payment
of a recording fee pursuant to Government
Code Section 6103.

TERMINATION OF PARKING EASEMENT

WHEREAS, FRANK B. MAGA, as Trustee of the Frank B. Maga Family Trust dated October 3, 1995 (the “Grantor”) and the CITY OF LANCASTER, AS SUCCESSOR AGENCY FOR THE LANCASTER REDEVELOPMENT AGENCY, is the grantee (“Grantee”) under that certain Grant of Parking Easement (the “Easement”) recorded in the Official Records of the County of Los Angeles, State of California, on May 30, 1997, as Document No. 97-806562, with respect to certain real property in the County of Los Angeles, State of California, as further described in the Easement;

WHEREAS, in 1997, associated with the granting of the Easement, Grantor and Grantee’s predecessor-in-interest entered into an Owner Participation Agreement;

WHEREAS, the undersigned Grantee desires to terminate the Easement and release Grantor from the Easement; and

NOW THEREFORE, the undersigned Grantee does hereby terminate the Easement and release Grantor from any and all obligations under the Easement.

Dated: May __, 2024

“Grantee”

LANCASTER SUCCESSOR AGENCY, a public
entity acting as successor-in-interest to the Lancaster
Redevelopment Agency

By: _____

Executive Director

ATTEST:

Successor Agency Secretary