

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF COSTA MESA AND  
THE CITY OF IRVINE**

This MEMORANDUM OF UNDERSTANDING ("Agreement") is dated as of \_\_\_\_\_, 2026 ("Effective Date"), and entered by and among the City of Costa Mesa, a municipal corporation organized and existing under California law ("Costa Mesa") and the City of Irvine, which is a California charter city ("Irvine"), (cumulatively the "Parties," and at times individually a "Party"), with reference to and in consideration of the following:

**WHEREAS**, on April 9, 2019, Costa Mesa closed escrow on real property at 3175 Airway Avenue, in the City of Costa Mesa ("the Property" as more fully described in Section 2.10) for the purpose of developing a permanent shelter in the City of Costa Mesa;

**WHEREAS**, 12,285 square feet of the structure located on the Property is currently being used to operate a 100-bed emergency shelter (the "Costa Mesa Bridge Shelter" or "Shelter");

**WHEREAS**, the Costa Mesa Bridge Shelter provides temporary shelter and social services assistance with a "housing first" model of operation. The Shelter's goal is to assist individuals experiencing homelessness by providing them with temporary shelter while working with a client case manager to create and follow through on a housing plan that seeks to match them to permanent housing as soon as possible;

**WHEREAS**, Irvine is committed to a regional solution to address homelessness and, as such, has expressed a desire to partner with Costa Mesa to provide funding to operate the Shelter, as provided herein, in exchange for use of Costa Mesa beds, as available, in the Shelter, as more fully described in Section 4.3;

**WHEREAS**, the Parties desire to memorialize the terms and conditions by which Irvine will provide funding to support the operation of the Shelter and to agree on how Shelter beds will be accessible for Irvine; certain aspects of Shelter governance; how the Parties will share access to the capacity provided by the Shelter; how the Parties will share the costs and responsibilities associated with the operation of the Shelter; and other related matters in furtherance of their common purpose;

**WHEREAS**, each Party has caused this Agreement to be duly approved by its respective governing body, and by so doing, has found and determined that this Agreement furthers the health, safety, and general welfare of their respective residents.

**NOW THEREFORE**, in consideration of the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

**AGREEMENT**

**1. PURPOSE**

This Agreement establishes a memorandum of understanding for maintaining, providing, operating,

and facilitating the provision of temporary housing in the Shelter, and the provision of certain services to homeless and chronically homeless adults located within the boundaries of the Parties. This Agreement defines the respective rights and responsibilities of the Parties with respect to the financing, implementing, operating, and the provision of Services, as defined in Section 2.11, at the Shelter.

## **2. DEFINITIONS**

In addition to the other terms and phrases defined elsewhere in this Agreement, the following key capitalized terms and phrases used throughout this Agreement shall have the meaning assigned in this Section.

**2.1.** "Case Management Plan" shall mean the individual plan for each Shelter Resident that, among other things, sets forth details regarding how the Shelter Resident can reach the goal of obtaining long-term stable housing.

**2.2.** "Management and Operations Plan" shall mean and refer to the plan approved by Costa Mesa and the Shelter Operator, which details the terms, conditions, and standards by which Services are made available to Shelter Residents at the Shelter and shall require Services to meet or exceed industry standards.

**2.3.** "Operating Agreement" shall mean and refer to the contract between Costa Mesa and the Shelter Operator for the operation of the Shelter.

**2.4.** "Party Representative" shall mean and refer to the highest-ranking appointed executive official for each of the Parties, or his/or her duly authorized designee.

**2.5.** "Program" shall mean and refer to the Parties' cooperative financing and planning for the operation and the provision of Services at the Shelter.

**2.6.** "Program Area" shall mean and refer to the jurisdictional boundaries of the respective Parties.

**2.7.** "Property" shall mean the approximately 29,816 square foot building on a 1.34-acre parcel, located at 3175 Airway Avenue, Costa Mesa, CA (A.P.N. 427-091-12).

**2.8.** "Shelter" shall have the meaning ascribed in the Recitals above, and including but not limited to the operation, maintenance, repair of and/or provision of Services at the Shelter.

**2.9.** "Resident Transportation" shall mean how each Party shall arrange for its respective Shelter Residents to be transported to and from the Shelter and for appointments related to their Case Management Plan.

**2.10.** "Services" shall mean and refer to the provision of overnight shelter and other sanitation, nutritional, health, educational, supportive, and/or basic human services at the Shelter, as described in the Management and Operations Plan.

**2.11.** "Shelter Advisory Committee" shall mean any committee formed with local stakeholders to provide review of Shelter operations, enhance community relations, and provide information to the neighborhood surrounding the Shelter, local businesses, the Parties' respective staff or City Council of

either Party, and Shelter Operator and service providers.

**2.12.** "Shelter Operator" shall mean and refer to an experienced and qualified third-party contracted by Costa Mesa to provide comprehensive and day-to-day management and operation of the Shelter.

**2.13.** "Shelter Residents" shall mean and refer to homeless and chronically homeless adults located within the Program Areas of the respective Parties who receive services and reside at the Shelter.

### **3. TERM**

**3.1. General Term.** This Agreement shall be effective as of the date which the last of the Parties has executed the same, which shall be inserted as the Effective Date in the first paragraph above and shall remain in full force and effect through June 30, 2026. This Agreement may be earlier terminated in accordance with the provisions of this Agreement.

**3.2. Termination by Parties.** Either Party may terminate this Agreement without cause by giving the other Party 30-days written notice pursuant to Section 9.2 herein.

**3.3. Termination for Default.** Upon the occurrence of any default, and following written notice and expiration of the time to cure as provided in Section 7.1 herein, the non-defaulting Party may, at its option declare this Agreement null and void with respect to the defaulting Party, in which case the defaulting party shall not be entitled to the benefits and privileges of this Agreement or the Program following termination. Nothing herein shall be construed as the non-defaulting Party's exclusive remedy for the remediation of default by a Party, and the non-defaulting Party reserves the right to pursue any and all available rights and remedies at law or in equity.

**3.4. Continuing Enforceability.** Following the effective date of termination, the Parties shall have no further obligations or rights with respect to this Agreement, except as expressly provided otherwise herein.

### **4. IRVINE'S OBLIGATIONS**

**4.1. Irvine Per Diem Rate for Operations Costs.** Upon the Effective Date, Irvine shall, at Costa Mesa's sole discretion, have access to Costa Mesa beds for use by Irvine clients, at a cost of \$163.00 per bed, per day ("Per Diem Rate"). Irvine shall make monthly payments to Costa Mesa for actual use of Costa Mesa beds, to be paid within 30 days of the close of the preceding month. The Parties expressly agree that Irvine shall not be liable for any operational costs prior to the Effective Date.

**4.2. Irvine Outreach.** Irvine shall assign a designated staff member as the main point of contact for all Shelter related items, who will participate in the various weekly and monthly meetings. Irvine reserves the right to amend the designated staff member; provided Irvine shall give Costa Mesa advanced notice of any new designee. Irvine outreach providers shall provide potential client referrals and all required paperwork to Costa Mesa's Neighborhood Improvement Manager or their designee to

confirm bed availability and acceptance. Irvine will coordinate outreach within its jurisdiction and provide transportation to the shelter.

**4.3. Allocation of Beds.** Irvine will work collaboratively with Costa Mesa to ensure that the shelter beds addressed in this Agreement are prioritized to meet the greatest needs of both Parties. Irvine shall, at Costa Mesa's sole discretion, have access to Costa Mesa beds at the Per Diem Rate stated in Section 4.1.

**4.4. No Subletting.** Subletting of Beds will not be allowed. Irvine shall be allocated use of Costa Mesa beds to refer homeless individuals deemed by Irvine to be highest priority persons referred to the Shelter by Irvine over time.

## **5.0 COSTA MESA OBLIGATIONS**

**5.1. Operation of Shelter.** Costa Mesa shall act as the lead agency with respect to the operation of the Shelter. Costa Mesa shall provide to Irvine a copy of the Operating Agreement and Management and Operations Plan, which provides the Standards of Care for the Program, which meet or exceed industry standards. Costa Mesa shall ensure that Shelter Residents referred to the Shelter by either Costa Mesa or Irvine shall receive the same level of Services, as provided for in the Operating Agreement and Management and Operations Plan.

**5.2. Intake.** Costa Mesa shall maintain oversight of the Shelter intake clearance process for a reservation at the Shelter, which requires clearance by either Party's Police Department or the Neighborhood Improvement Manager or their designee. Entry will not be approved for individuals with an active felony warrant, who are a registered sex offender and/or have been convicted of any arson offense, as reflected on their background check, as confirmed by Costa Mesa Police Department or Irvine Police Department prior to entry.

**5.3. Shelter Resident Outcomes.** The Parties agree to cooperate to build a system where outcomes related to family unification, employment opportunities, affordable housing placement and services for subpopulations (veterans, domestic violence, seniors and transitional age youth) are addressed through connections to the broader Countywide System of Care. The Parties agree that such system shall include provisions to exclude all non-emancipated minors from utilizing any of the Services or being housed at the Shelter.

**5.4. Service Contracts.** Costa Mesa will be the "contracting party" to any written agreements with qualified professional(s), service providers, and/or licensed contractor(s) ("Consultant") necessary for the development or operation of the Shelter consistent with this Agreement.

**5.5. Procurement Practices.** Costa Mesa shall follow its own procedural formalities and requirements for services, purchases and acquisitions relating to the Property and the Shelter.

**5.6. Provision of Documents.** Costa Mesa agrees to provide all relevant documents related to the Operating Agreement, Management and Operations Plan, and operating costs of the Shelter, within forty-five (45) days of request from Irvine. With respect to any additional documents, besides the aforementioned, each request will be evaluated on a case-by-case basis and may be provided at an additional administrative cost. Any document provided identified as confidential shall be maintained as such by Irvine and not released without the express written permission of Costa Mesa.

## 6. JOINT OBLIGATIONS

**6.1. Grants and other Third-Party Funding.** The parties shall work together in regional alignment on any applications for local, state, and federal funding. As the permanent Shelter on the Property is owned and operated by Costa Mesa, Costa Mesa will serve as the lead agency, working in concert with Irvine, on all applications, requests and solicitations for federal, state and/or county funding and grant opportunities, loans, and subsidies related to all costs associated with the Shelter. Irvine agrees to cooperate in the grant application process by providing any data necessary to improve the chances of securing grant funding. The Parties will work together cooperatively to augment shelter operational enhancements whenever advantageous, with Costa Mesa as lead applicant endorsing grant applications and partnerships.

**6.2. Security.** Costa Mesa shall ensure that adequate security measures and policies are incorporated into the operation of the Shelter. This includes the requirement that entry to the Shelter is controlled by referral only, with no walk-up admission. Both Parties shall ensure their outreach staff provide clear direction to potential Shelter Residents on requirements for accessing the Shelter and its services, including the prohibition of walk-ups. Irvine will abide by any reasonable intake procedures and protocols established by Costa Mesa.

**6.3. Long Term Housing.** Consistent with the purposes of this Agreement, Irvine agrees to cooperate with Costa Mesa in providing for a regional solution to the unsheltered homeless population within their respective Program Areas, with the goal of transitioning Shelter Residents from the emergency shelter to long-term housing.

**6.4. Community Coordination and Communication.** The Parties are committed to communication with neighbors on an ongoing basis. During the Term, the Parties and the Shelter Operator will work together cooperatively and in good faith to facilitate community partnerships, generate educational or outreach materials, and engage in similar activities to promote or further the purposes of the Program. The goal of such efforts will be to provide members of the community with opportunities to ask questions and receive information about the Shelter and the Program. Any printed or published materials relating to the Program shall be subject to approval by the Party Representatives.

**a) Complaints/ Inquiries.** Any community complaints and/or inquiries about the Program should be recorded and forwarded to the appropriate Party, or its designated point of contact, for prompt investigation. The Party Representatives and Shelter Operator shall work together to facilitate appropriate responses to customer service requests and prompt resolution of community complaints.

**b) Visitors / Tours.** Visits by members of the community and tours of the Shelter should be made reasonably available by Costa Mesa and will be coordinated by and through Costa Mesa Shelter staff and the Shelter Operator.

**c) Coordination of Government Agencies.** The Program will be operated for the public good, and successful implementation will require the partnership of various stakeholders, including the Parties, the Shelter Operator, local school districts, and other local political subdivisions and community organizations. The Parties are, and the Shelter Operator shall be, committed to working cooperatively with numerous stakeholders to serve Shelter Residents in the Program Area. The Parties and the Operator will communicate and work collaboratively with local healthcare, housing, social services, and public safety departments through all stages of Program implementation, including but not limited to the implementation of the Management Operations Plan and Operating Agreement,

including ensuring compliance with intake and security procedures, implementation of Case Management Plans and placement in long term housing; however, Irvine shall have no obligations related to the Program not specifically addressed in the Operating Agreement, Management and Operations Plan and/or in this Agreement, unless expressly agreed to by Irvine.

**6.5. Cooperation.** The Parties agree to cooperate to the extent necessary in connection with ongoing administrative, grant funding, regulatory, and/or litigation proceedings, other than the Action, and similar matters which affect both Parties to this Agreement.

## **7. DEFAULTS, AND REMEDIES**

### **7.1. Defaults.**

**a) Notice and Time to Cure.** The failure by any Party to perform any of its obligations set forth in this Agreement shall constitute a default, except as provided in Section 9.4 hereof. Except as required to protect against further damages, the non-defaulting Party may not institute legal proceedings against the Party in default until the non-defaulting Party has provided the defaulting Party notice of the default and the cure period has expired. The cure period for any default shall be thirty (30) calendar days after the defaulting Party's receipt of written notice from the non-defaulting Party that such obligation was not performed. In the case of a default which cannot be cured within the cure periods set forth in this Section, the defaulting Party shall commence efforts to cure within such time periods and shall diligently thereafter pursue to cure the default to completion within a reasonable period of time.

**b) Cooperative Resolution.** During the cure period set forth in paragraph (a), and prior to pursuing any remedies described in this Section, the Parties will attempt, in good faith, to find a mutually agreeable resolution through communicating with each other and attempting to resolve any substantive problems arising under this Agreement, including challenges arising from funding difficulties, and/or any difficulty with effectively implementing the responsibilities detailed in this Agreement. Communication and attempts to resolve such problems and difficulties prior to pursuing remedies under this Agreement include, but are not limited to, meeting together, amending this Agreement, and/or seeking the assistance of a jointly agreed upon mediator.

**7.2. Remedies.** Upon the occurrence of any default, and following written notice and expiration of the time to cure, the non-defaulting Party may, at its option: declare this Agreement null and void with respect to the defaulting Party, in which case the defaulting party shall not be entitled to the benefits and privileges of this Agreement or the Program; or pursue damages or specific performance or other legal and equitable remedies the injured Parties may have against the non-defaulting Party in accordance with applicable law. Nothing herein shall be construed as the non-defaulting Party's exclusive remedy for the remediation of default by a Party, and the non-defaulting Party reserves the right to pursue any and all available rights and remedies at law or in equity.

**7.3. Non-refund of Contributions.** The payments made by all Parties pursuant to this Agreement shall be used for the Program in the manner described herein, and all Parties acknowledge and agree that the administration and operation of the Program, provides an immediate benefit to each Party and that no payments made pursuant to this Agreement shall be refunded for any reason other than as specifically authorized herein.

## **8. INDEMNITY AND INSURANCE**

**8.1. Indemnity / Hold Harmless.** Each Party shall hold harmless, indemnify, and defend the other Party, and its officers, employees, and agents, from and against any and all claims, suits, or actions of every kind brought for or on account of injuries to or death of any person or damage to any property of any kind whatsoever and to whomsoever belonging to the extent caused by a Party's failure to fulfill any obligation of such Party arising pursuant to the performance or nonperformance of the Party's covenants and obligations under this Agreement, and/or which result from the negligent or wrongful act of the Party, or its officers, employees, or agents. This provision requiring a Party to hold harmless, indemnify, and defend the other Party shall expressly not apply to claims, losses, liabilities, or damages arising solely from actions or omissions, negligent or otherwise, of any independent contractor providing services pursuant to a contract with any other Party. In the event of concurrent negligence of the Parties, their respective officers, or employees, then the liability for any and all claims for injuries or damages to persons and/or property or any other loss or cost which arises out of the terms, conditions, covenants or responsibilities of this Agreement shall be apportioned in any dispute or litigation according to the California theory of comparative negligence. Costa Mesa, in contracting following the Effective Date of this Agreement with third parties for design, development, construction, equipping, maintenance and repair of the Property, and operation of any aspect of the Shelter, shall require full indemnification and hold harmless clauses naming all Parties as provided for herein below. Irvine, in contracting following the Effective Date of this Agreement with any third parties relating to operation of any aspects of the Shelter, including, but not limited to, street outreach and transportation of Irvine referrals to and from the Shelter, shall require full indemnification and hold harmless clauses naming all Parties as provided for hereinbelow.

**8.2. Insurance.** Costa Mesa shall insure the Property and the Shelter, and shall require any Consultants, contractors or subcontractors operating or performing work at the Property, or for the Shelter, to hold policies of insurance with coverage and limits commensurate with industry standards and practices, which shall be agreed to by the Risk Managers of the Parties. Both Parties and their respective officers, employees and agents shall be named insureds on any liability coverage. Each Party shall provide for Workers' Compensation coverage for its own employees. Each party shall obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the other and their respective officers, agents, employees, and volunteers arising from this Agreement and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

**8.3. Insurance for Consultants.** Each Party shall require any Consultants engaged by them in conjunction with this Agreement to obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by each Party's Risk Manager:

a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.

b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.

c) Workers' compensation insurance as required by the State of California. Consultants shall be required to waive, and to obtain endorsements from their workers' compensation insurer(s) waiving subrogation rights under their workers' compensation insurance policy(ies) against each Party, its officers, agents, employees, and volunteers arising from work performed by Consultant for the Party and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultants shall obtain and maintain, said E&O liability insurance during the life of the Agreement and for three years after completion of the work thereunder.

e) In addition, the Shelter Operator shall be required to provide Sexual abuse/molestation coverage with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate and Cyber liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate covering: (i) all acts, errors, omissions, negligence, infringement of intellectual property; (ii) network security and privacy risks including, but not limited to, unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or negligence in the handling of confidential information, privacy perils including coverage for related regulatory defense and penalties; and (iii) data breach expenses payable whether incurred by the Parties or Shelter Operator including, but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for Costa Mesa and/or Irvine.

f) Endorsements. Unless otherwise agreed to by the Parties, all insurance referred to in this Section 8.3 shall contain or be endorsed to contain the following provisions:

(i) Additional insureds: "The City of Costa Mesa and the City of Irvine and their elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the respective city; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant." This endorsement requirement does not apply to Professional Errors and Omissions insurance required by subsection (d) of this Section 8.3.

(ii) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to the City of Costa Mesa and City of Irvine."

(iii) Other insurance: "The Consultant's insurance coverage shall be primary insurance, as respects the City of Costa Mesa, the City of Irvine and their officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa or the City of Irvine shall be excess and not contributing with the insurance provided by this policy."

g) Any failure to comply with the reporting provisions of the policies shall not affect coverage



provided to Costa Mesa, Irvine, or their respective officers, officials, agents, employees, and volunteers.

h) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

i) Deductible or Self-Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by the contracting party. No policy of insurance issued as to which the Parties are an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

**8.4. Certificates of Insurance.** Consultants shall be required to provide to each Party certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by the Parties, prior to performing any services under the agreement. The certificates of insurance shall be attached to any Consultant agreement.

**8.5. Non-limiting.** Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which any Consultants contracted by either Party may be held responsible for payments of damages to persons or property.

## 9. MISCELLANEOUS

**9.1. Approval by Party Representatives.** Any term or provision of this Agreement that calls for the direction, approval, or consent of the Parties or Party Representatives, shall mean and refer to the direction, approval, or consent of both of the Party Representatives; provided that, notwithstanding anything contrary in this Agreement, Costa Mesa shall have sole discretion to approve or disprove any such action that: directly relates to the operation, management, capacity, construction, location, design, or scale of the Shelter, so long as Irvine's ability to use its allocated beds is not unreasonably impaired thereby; or any other action that, in Costa Mesa's reasonable discretion, will have a reasonably foreseeable negative material impact on residents, business, or public facilities in the area surrounding the Shelter, materially increase the intensity of Shelter use or capacity, or materially increase burdens on public services provided to said area. Except as specifically provided herein, all actions reasonably necessary to effectuate the purpose of this Agreement and the Program may be performed by the Party Representatives except as may otherwise be prohibited by state or federal law.

**9.2. Notice.** Any notice, demand, request, document, consent, approval, or communication either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail to the person(s) at the address below. Either Party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

CITY OF COSTA MESA

Cecilia Gallardo-Daly  
City Manager  
77 Fair Drive

CITY OF IRVINE

Sean Crumby  
City Manager  
1 Civic Center Plaza

Costa Mesa, CA 92626

Irvine, CA 92606

With a copy to:

Kimberly Hall Barlow  
City Attorney  
3777 N. Harbor Blvd.  
Fullerton, CA 92835

Name  
City Attorney  
Street Address  
City, State, Zip Code

**9.3. Parties as Independent Contractors.** Each Party is, and at all times shall be deemed to be, an independent contractor as to the other Party. Nothing herein is intended or shall be construed as creating the relationship of employer and employee, or principal and agent, between any Party, or any Party's agents or employees. Each Party shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of the Program pursuant to this Agreement. Each Party, and its agents and employees, shall not be considered to be employees of any other Party.

**9.4. Force Majeure.** In no event shall either Party be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond the control of the party obligated, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, epidemic, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Parties shall each use reasonable efforts to resume performance as soon as practicable under the circumstances.

**9.5. Survival of Terms at Termination.** The provisions of Sections 3.4, 7.1-7.3, 8.1, 8.2, 8.5, 9.2, 9.4-9.10, and 9.12 shall survive the termination of this Agreement.

**9.6. Governing Law and Venue.** This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction, located in Orange County, California, and the Parties agree to and hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

**9.7. Amendments/ Entire Agreement.** Amendments to this Agreement must be in writing and approved by the governing body of each Party. This Agreement, and the various Exhibits referenced herein which are incorporated fully by this reference, is the entire agreement among the Parties with respect to the subject matter hereof: and it supersedes any prior written or oral agreements with respect to the subject matter.

**9.8. Severability.** If any section, subsection, paragraph, term, or provision of this Agreement, or the application thereof: is held by a court of competent jurisdiction to be invalid, void or unenforceable, such section, subsection, paragraph, term, or provision, to the extent the same is valid and enforceable, and all other remaining provisions hereof, shall remain in full force and effect, to the fullest extent possible, and shall in no way be affected, impaired or invalidated thereby to the extent such are not rendered impractical to perform taking into consideration the purposes of this Agreement.

**9.9. Interpretation.** This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of its own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that it has not been influenced to any extent whatsoever in executing this Agreement by the other Parties, or by any person representing the other Parties, or both. Accordingly, any rule or law (including Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Agreement.

**9.10. Non-Waiver of Rights and Remedies.** No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

**9.11. Authority.** The Parties represent and warrant that this Agreement has been duly authorized by their respective governing boards, and executed by a duly authorized representative thereof, and constitutes the legally binding obligation of their respective Party, enforceable in accordance with its terms.

**9.12. Assignment.** Except as otherwise expressly provided for herein, no Party shall assign any of its obligations or rights hereunder without the consent of the other Party, and any such assignment without consent shall be null and void.

**9.13. Execution in Counterparts.** This Agreement may be executed in counterparts, each of which, when the Parties have signed this Agreement, shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

[SIGNATURE PAGE(S) TO FOLLOW]

**IN WITNESS WHEREOF**, the Parties to this Agreement have caused the same to be executed by each of their duly authorized officers as follows:

Dated: \_\_\_\_\_, 2026

CITY OF COSTA MESA

By: \_\_\_\_\_  
Cecilia Gallardo-Daly, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Kimberly Hall Barlow, City Attorney

Dated: \_\_\_\_\_, 2026

CITY OF IRVINE

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

APPROVED AS TO FORM:

\_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
City Clerk

EXHIBIT A.  
Legal Description

Parcel 4, in the City of Costa Mesa, County of Orange, State of California, as per map filed in book 34, page 13 of parcel maps, in the office of the county recorder of said county.

Except therefrom the minerals, oil, gas, and other hydrocarbon substances lying below the surface of said land.

APN/Parcel ID(s): 427-091-1.2

Commonly known as 3175 Airway Ave, Costa Mesa, California

Photographic depiction of the Property

