

**CITY MANAGER'S OFFICE  
MEMORANDUM 17-10**

DATE: February 13, 2017

TO: Honorable Mayor and City Council

COPY: Northglenn Urban Renewal Authority Board

FROM: James A. Hayes, AICP, City Manager   
Debbie Tuttle, NURA Executive Director & Economic Development Manager 

SUJECT: **Response to Citizen Inquiry - Huron Center Redevelopment Update**

**PURPOSE**

The purpose of this memorandum is to provide an update to address public concerns voiced at the January 23, 2017 City Council meeting regarding the status of the Huron Center Redevelopment project at 104<sup>th</sup> & Huron Center.

**BACKGROUND**

There are two property owners of the Huron Center. The Northglenn Urban Renewal Authority (NURA) owns the former Albertson's/Rite Aid building; and Impala Capital, LLC owns the east and west wings, and the pads in front of the property – See **Attachment 1**. Evergreen 104<sup>th</sup> and Huron, LLC has entered into a Sales and Purchase Agreement with NURA to purchase the anchor building – See **Attachment 2**. Evergreen's purchase of the NURA-owned portion of the Huron Center is contingent upon approvals of certain agreements related to the redevelopment of the Huron Center listed below, finalizing leasing for the building and restaurant pad, and other related items.

The below information provides background on the project subsequent to the City Council approval of CR-80 on July 13, 2015 authorizing NURA to use eminent domain on the Impala property if Impala was not willing to work with NURA to redevelop the Huron Center. Colorado condemnation laws require that the acquiring party negotiate in good faith with the property owner before seeking to condemn property.

Substantial work has been undertaken to redevelop the Huron Center. Some of the major milestones are listed below.

- Agreement from Impala to work with NURA and Evergreen on joint redevelopment project.
- Inspect all properties to determine scope of redevelopment, including the scope of construction of existing interior spaces.
- Develop and agree upon estimated exterior construction and infrastructure plans.
- Obtain construction estimates for project.
- Negotiate and agree upon estimated construction costs, and cost-sharing of the project.
- Develop architectural and engineering (A&E) plan, and drawings based on estimated construction estimates.
- Engineering, traffic, drainage, storm water and other studies completed to determine additional costs and construction required.
- Additional drainage study needed to identify off-site infrastructure requirements.
- Develop A&E plan, drawings, and costs related to off-site infrastructure requirements.

- City evaluated several proposed off-site options, and came to agreement of the best solution for improvements.
- NURA agrees to pay for off-site infrastructure improvements.
- Arby's Restaurant incentive approved by NURA to construct a new restaurant pad on the frontage of 104<sup>th</sup> & Huron (contingent upon all Agreements finalized).
- New anchor tenants identified and leases negotiated with Evergreen (contingent upon all Agreements finalized).
- Plans reviewed by the city Development Review Committee.
- Final negotiations of the Redevelopment Agreements (RDA), License Agreement, and Reciprocal Easement Agreement (REA) have been drafted and are under negotiation between all three parties.

### **PROJECT UPDATE**

In late December 2016, NURA, Impala, and Evergreen drafted and started negotiating the three final agreements. As of February 6, 2017, the parties are negotiating the final terms.

### **BUDGET IMPLICATIONS**

There are no budget implications for the city. However, if all agreements are approved, NURA will be making substantial investments in the redevelopment and off-site storm water and detention costs related to the project.

### **NEXT STEPS**

The following next steps need to occur to move forward on this project:

- Approval of the development-related agreements.
- Once agreements are finalized and approved, then entitlements, city approvals, and construction could begin.

### **STAFF REFERENCE**

If you have any comments or questions, please contact Debbie Tuttle, Economic Development Manager and NURA Executive Director, at [dtuttle@northglenn.org](mailto:dtuttle@northglenn.org) or call 303-450-8743 or James A. Hayes, AICP, City Manager at [jhayes@northglenn.org](mailto:jhayes@northglenn.org) or 303-450-8706.

### **ATTACHMENTS**

Attachment 1 – Huron Site Map

Attachment 2 - Evergreen Sales & Purchase Agreement & Addendum



NORTHGLENN URBAN RENEWAL AUTHORITY

RESOLUTION NO.

N/17-4  
Series of 2017

**A RESOLUTION APPROVING A FIRST AMENDMENT TO THE PURCHASE AND SALE AGREEMENT BETWEEN THE NORTHGLENN URBAN RENEWAL AUTHORITY AND EVERGREEN-104<sup>TH</sup> & HURON, L.L.C.**

WHEREAS, on June 8, 2016, the Board entered into a Purchase and Sale Agreement with Evergreen-104<sup>th</sup> & Huron, L.L.C.; and

WHEREAS, the Board desires to revise the Agreement to delete in its entirety and replace Section 2(d) to extend the Contingency Period effective date to December 31, 2017.

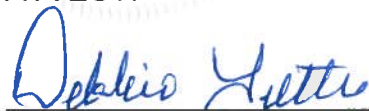
**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE NORTHGLENN URBAN RENEWAL AUTHORITY, THAT:**

Section 1. The First Amendment to the Incentive Agreement between the Northglenn Urban Renewal Authority and Evergreen-104<sup>th</sup> & Huron, L.L.C. attached as **Exhibit A**, is hereby approved and the Chair is authorized to execute same on behalf of the Authority.

DATED this 11<sup>th</sup> day of January, 2017

  
\_\_\_\_\_  
Rosie Garner  
Chair

ATTEST:

  
\_\_\_\_\_  
Debbie Tuttle  
Executive Director

APPROVED AS TO FORM

  
\_\_\_\_\_  
Jeff Parker  
Board Attorney

**FIRST AMENDMENT TO AGREEMENT OF PURCHASE AND SALE**

This First Amendment to Agreement of Purchase and Sale (this "Amendment") is made as of the 1<sup>st</sup> day of January 2016 (the "Effective Date"), by and between the EVERGREEN-104<sup>TH</sup> & HURON, L.L.C., an Arizona limited liability company ("Buyer") and the NORTHGLENN URBAN RENEWAL AUTHORITY, a Colorado Urban Renewal Authority ("Seller").

**WHEREAS**, Buyer and Seller entered into an Agreement of Purchase and Sale dated June 8, 2016 (the "Initial Agreement") pursuant to which Buyer and Seller established terms and conditions for the purchase and sale of a parcel of real property situated in the City of Northglenn, County of Adams, State of Colorado, legally described on **Exhibit A**; and

**WHEREAS**, Buyer and Seller desire to amend the date of the expiration of the Contingency Period.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Buyer and Seller agree as follows:

1. Section 2(d) of the Initial Agreement is hereby deleted in its entirety and replaced with the following:

For purposes hereof, the "Contingency Period" shall commence on the Effective Date and shall expire at 5:00 p.m. local Colorado time, on the earlier of (i) December 31, 2017; or (ii) the date that Buyer receives all building permits for the redevelopment of the Property and any adjacent real property, unless otherwise extended by mutual agreement of Buyer and Seller.

2. All other provisions of the Initial Agreement shall remain in full force and effect.

3. IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date and year first above written.

*[Remainder of page intentionally left blank. Signatures on following page.]*

**BUYER:**

EVERGREEN-104th & Huron, L.L.C.

By: Evergreen Development Company-2016,  
L.L.C.  
Its: Manager

By: Evergreen Devco, Inc.  
Its: Manager

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

Name: Tyler Carlson

Title: Principal

**SELLER:**

NORTHGLENN URBAN RENEWAL  
AUTHORITY

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

Name: Rosie Garner

Title: Chair

**LIST OF EXHIBITS**

EXHIBIT A	LEGAL DESCRIPTION – NURA Property
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## EXHIBIT A

### LEGAL DESCRIPTION – NURA PROPERTY

#### LOT 3

AMENDED PLAT OF A PORTION OF BLOCK 34, HEFTLER HOMES—HILLCREST SIXTH FILING, TOGETHER WITH THAT PORTION OF LOT 2 OF SAID AMENDED PLAT OF A PORTION OF BLOCK 34, HEFTLER HOMES—HILLCREST SIXTH FILING AS SET FORTH IN THE DEED RECORDED IN BOOK 2196 AT PAGE 394, BUT EXCEPTING THEREFROM, THOSE PORTIONS DESCRIBED IN BOOK 2195 AT PAGE 389, AND IN BOOK 3076 AT PAGE 45, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PART OF LOT 3, AMENDED PLAT OF A PORTION OF BLOCK 34, HEFTLER HOMES—HILLCREST SIXTH FILING, AS PER THE PLAT THEREOF RECORDED SEPTEMBER 22, 1977 AT RECEPTION NO. B094588, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN;

THENCE SOUTH 89°46'40" WEST ALONG THE NORTH LINE OF SAID SECTION 16 A DISTANCE OF 250.39 FEET;

THENCE SOUTH A DISTANCE OF 100.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 104TH AVENUE, AND THE NORTHEAST CORNER OF SAID LOT 3, WHICH POINT IS THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED;

THENCE SOUTH 89°46' 40" WEST ALONG THE SOUTH LINE OF SAID 104TH AVENUE WHICH IS 100.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID SECTION 16, A DISTANCE OF 334.78 FEET TO THE NORTHWEST CORNER OF SAID LOT 3;

THENCE SOUTH 00°13'20" EAST A DISTANCE OF 176.00 FEET;

THENCE SOUTH 89°46'40" WEST A DISTANCE OF 140.00 FEET TO A POINT WHICH IS 175.00 FEET EASTERLY OF THE EAST RIGHT OF WAY LINE OF CROKE DRIVE AS MEASURED AT RIGHT ANGLES THERETO;

THENCE SOUTH 00°13'20" EAST A DISTANCE OF 164.00 FEET;

THENCE NORTH 89°46'40" EAST A DISTANCE OF 133.30 FEET;

THENCE SOUTH A DISTANCE OF 155.00 FEET;

THENCE SOUTH 89° 46'40" WEST A DISTANCE OF 308.19 FEET TO A POINT OF THE EAST RIGHT OF WAY LINE OF CROKE AVENUE AND A POINT ON THE WEST LINE OF SAID LOT 3;

THENCE SOUTHERLY ALONG THE EAST LINE OF CROKE DRIVE ALONG A CURVE TO THE RIGHT, THE CHORD OF WHICH BEARS SOUTH 02°18'33" WEST, SAID CURVE HAVING A CENTRAL ANGLE OF 01°47'03" AND A RADIUS OF 1204.90 FEET, AN ARC DISTANCE OF 37.52 FEET TO A POINT ON THE SOUTHWEST CORNER OF SAID LOT 3;

THENCE ALONG THE SOUTH LINE OF SAID LOT 3, SOUTH 74°30'00" EAST A DISTANCE OF 150.63 FEET;

THENCE CONTINUING ALONG THE SOUTH LINE OF SAID LOT 3 ON A CURVE TO THE LEFT BEING TANGENT TO THE LAST DESCRIBED COURSE HAVING A CENTRAL ANGLE OF 10°48'40" AND A RADIUS OF 2262.85 FEET AN ARC DISTANCE OF 426.98 FEET TO A POINT WHICH IS 285.00 FEET WEST OF THE WEST RIGHT OF WAY LINE OF HURON STREET AS MEASURED AT RIGHT ANGLES THERETO, AND ALSO BEING A POINT ON THE SOUTH LINE OF SAID LOT 3, WHICH POINT IS 5.01 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 3;

THENCE NORTH ALONG A LINE 285.00 FEET WEST OF AND PARALLEL TO THE WEST RIGHT OF WAY LINE OF SAID HURON STREET A DISTANCE OF 309.65 FEET;

THENCE NORTH 89°46'40" EAST A DISTANCE OF 85.00 FEET; THENCE NORTH A DISTANCE OF 340.00 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF ADAMS, STATE OF COLORADO.

Also known as street and number 1000 104<sup>th</sup> Avenue, Northglenn, Colorado

[Note: Legal Description to be verified by Title Commitment/ALTA Survey and if different than set forth herein, this Exhibit A to be revised.]

## AGREEMENT OF PURCHASE AND SALE

This Agreement of Purchase and Sale (this "Agreement") is made as of the 8<sup>th</sup> day of June, 2016 (the "Effective Date"), by and between the EVERGREEN-104<sup>TH</sup> & HURON, L.L.C., an Arizona limited liability company ("Buyer") and the NORTHGLENN URBAN RENEWAL AUTHORITY, a Colorado Urban Renewal Authority ("Seller").

1. Purchase and Sale. Buyer hereby agrees to purchase, and Seller agrees to sell, that certain parcel of real property situated in the City of Northglenn, County of Adams, State of Colorado, legally described on Exhibit A attached, together with all improvements, water rights, mineral rights, reversions, remainders, rights, privileges, easements, rights-of-way, appurtenances, licenses, tenements and hereditaments appertaining to or otherwise benefiting or used in connection with such real property and any FF&E (as defined hereinbelow) (collectively, the "Property"). Buyer and Seller shall delivery a copy of the fully executed Agreement to Alix Graham, First American Title Insurance Company, 2425 E. Camelback Road, Suite 300, Phoenix, AZ 85016, agraham@firstam.com, (602) 567-8141, Senior Commercial Escrow Officer ("Title Company")

(a) Consideration. The purchase price for the Property (the "Purchase Price") shall be Eighty-Two Thousand Dollars and No Cents (\$82,000.00) and shall be paid as adjusted by prorations as provided for herein in certified funds or by immediately available wire transfer at Closing.

2. Review of Property.

(a) Seller shall, within seven (7) calendar days following the Effective Date, to the extent not previously delivered to Seller, deliver to Buyer copies of all plans, drawings, reports, investigations, tests, surveys, leases, and information pertaining to the Property's physical, environmental, operating, title and financial condition which are in Seller's possession (the "Diligence Information"). Seller expressly disclaims any warranty for the accuracy or completeness of any Diligence Information prepared by third parties and delivered to or made available to Buyer in accordance with this provision; however, Seller has no knowledge that any such information is inaccurate or incomplete. From and after the Effective Date until the earlier of the Closing or the earlier termination of this Agreement, Seller agrees to forward to Buyer at Buyer's office at the addresses set forth for notices herein, for review by Buyer, copies of any notices of the type described in Section 7(f), below.

(b) During the Contingency Period (as defined below), and unless this Agreement is terminated as provided herein, as reasonably necessary thereafter, Seller hereby grants Buyer and its agents and consultants access to the Property at reasonable times and in a reasonable manner, to inspect, examine and test each and every part thereof, at Buyer's sole risk, cost and expense, and to evaluate the suitability of the Property for Buyer's intended use. Such right of review shall include, without limitation, examination of title and survey matters, availability of utilities and other services, financial feasibility, soil and subsoil conditions, purposes to which the Property is suited, drainage, access to public roads, hazardous or toxic waste or conditions or the effect on the Property and adjacent areas of any state or federal environmental protection laws or regulations. All entry onto the Property by or on behalf of



Buyer at any time prior to the Closing shall be upon prior telephonic notice to Seller, subject to such rules as Seller may reasonably impose to avoid interference with Seller's ongoing use of the Property. Buyer agrees to conduct all examinations and tests of the Property in a safe and workmanlike manner, repair any damage or disturbance it causes to the Property in the event this Agreement is terminated or fails to close in accordance with its terms. Buyer shall have no obligation to Seller with respect to any claims arising from or related to pre-existing conditions of the Property or the willful or negligent acts or omissions of Seller. The obligations of Buyer under this Section 2(b) shall survive the Closing or the termination of this Agreement.

(c) On or before expiration of the Contingency Period, Buyer shall determine in its sole discretion whether the Property is acceptable to Buyer and whether Buyer has the ability to finance the purchase of the Property on terms and conditions acceptable to Buyer in its sole and absolute discretion. If Buyer concludes that the Property is not acceptable to it, for any reason whatsoever, Buyer shall notify Seller in writing on or before the end of the Contingency Period that Buyer is electing to terminate this Agreement (the "Termination Notice"). If Buyer does not deliver the Termination Notice to Seller on or before the end of the Contingency Period, Buyer shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 2(c), and this Agreement shall remain in full force and effect. If Buyer timely delivers the Termination Notice, then both parties shall be relieved from all further obligations under this Agreement, except for the obligations of Buyer or Seller that expressly survive the termination of this Agreement, all of which shall continue in full force and effect. Buyer shall return to Seller all documents and materials provided to Buyer by Seller, shall provide Seller with copies of any survey, environmental reports, and other reports or documentation commissioned by Buyer regarding the Property, and shall assign to Seller Buyer's rights in all such work product, documents, and materials at no cost to Seller.

(d) For purposes hereof, the "Contingency Period" shall commence on the Effective Date and shall expire at 5:00 p.m. local Colorado time, on the One Hundred Eightieth (180<sup>th</sup>) calendar day following the Effective Date. Buyer shall have the right to three (3) thirty (30) day extensions of the Contingency Period by providing Seller with written notice prior to the expiration of the current Contingency Period.

### 3. Title.

(a) Seller shall, within seven (7) business days following the Effective Date, to the extent not previously delivered, cause to be delivered to Buyer, at Buyer's expense: (i) a current ALTA extended coverage owners title insurance commitment on the Property issued by the Title Company; (ii) legible copies of all matters of record referenced in Schedule B-II of the Commitment; (iii) a current certificate of taxes due for the Land issued by the County assessor's office, if any, (the documents identified in clauses (i), (ii) and (iii) hereof being collectively referred to as the "Title Commitment"); and (iv) a copy of any existing survey of the Land in Seller's possession ("Existing Survey").

(b) Buyer shall have the option, at its expense, during the Contingency Period, to obtain a survey for the Property in form acceptable to Buyer and sufficient to permit Title Company to delete standard survey exceptions (the "Survey"). If obtained by Buyer, Buyer shall deliver a copy of the Survey to Seller and to Title Company, and the Survey shall be in a form

reasonably satisfactory to Title Company as having been made in compliance with applicable law and land survey standards and ALTA requirements for extended coverage owner's title insurance, certified to Buyer, Seller, Title Company and any other parties specified by Buyer. Any additional expense related to the Survey shall be at the expense of Buyer. In the event Buyer does not elect to obtain the Survey, Buyer shall have no right to object to any matter on the Title Commitment that would be removed upon delivery of a Survey meeting the requirements specified herein.

(c) Buyer shall have until 5:00 p.m. on the One Hundred Fiftieth (150<sup>th</sup>) day following the Effective Date (the "Title Objection Period") to notify Seller in writing ("Title Objection Notice") of any objection Buyer may have to any matter contained in the Title Commitment or shown on the Survey ("Objection"). All matters shown in the Title Commitment and/or the Survey that are not objected to in a Title Objection Notice prior to expiration of the Title Objection Period shall be deemed "Permitted Exceptions"; provided, however, that Buyer shall not be required to object to, and Seller shall be obligated to remove at or before Closing, any monetary liens attributable to Seller's activities shown on the Title Commitment or any update thereto. Current real property taxes and assessments not yet due and payable, government liens for special improvements not installed as of the Effective Date, if any, and all other matters which may be caused by Buyer or agreed to by Buyer in writing shall also be Permitted Exceptions. Seller shall have five (5) days from receipt of the Title Objection Notice (the "Title Response Time") to notify Buyer in writing of its election either to cure the Objections so specified, or to take no action (a "Title Response Notice"). If Seller does not deliver a Title Response Notice to Buyer prior to expiration of the Title Response Time, Seller shall be deemed to have elected to take no action with respect to the Objections. If Seller elects (or is deemed to have elected) to take no action with respect to any Objection, then Buyer shall have, as its exclusive remedy, the right to terminate this Agreement or to waive such Objections and close with no reduction in the Purchase Price. If, in such event, Buyer fails to notify Seller within five (5) days after the expiration of Title Response Time that Buyer elects to terminate this Agreement, then Buyer shall be deemed to have elected to close the transaction evidenced by this Agreement and to waive such Objections, with no reduction in the Purchase Price, and in such event the Objections shall be deemed Permitted Exceptions. If Buyer timely elects to terminate this Agreement in accordance with the provisions of this Section 3(c), then both parties shall be relieved from all further obligations under this Agreement, except for the obligations of Buyer or Seller that expressly survive the termination of this Agreement, all of which shall continue in full force and effect. Seller shall have no obligation to agree to cure any Objection, but if Seller elects to cure an Objection, Seller shall use its commercially reasonable efforts and diligently pursue any cure.

(d) If any update of the Title Commitment or Survey prior to Closing contains any new exception, new title or survey matter or any additional requirements not previously shown in the Title Commitment or Survey, Buyer shall have five (5) days thereafter to give Seller written notice of Buyer's objections thereto (an "Additional Objection"). Any Additional Objection shall be treated in the same manner as an Objection under Section 3(c).

4. Additional Conditions

This Agreement shall terminate with no further obligation or cost to either party if the following conditions are not satisfied on or before expiration of the Contingency Period:

(a) Execution of a redevelopment agreement for the Property with terms mutually acceptable to both Buyer and Seller in their sole and absolute discretion; and

(b) Execution of a redevelopment agreement between Seller and the third-party owner (Impala Capital, LLC) of additional real property located adjacent to the Property in the same commercial shopping center commonly referred to as the Huron Center, which has a legal description set forth in **Exhibit B**, which is satisfactory to both Buyer and Impala Capital, LLC in their sole and absolute discretion.

5. Closing/Prorations.

(a) The purchase and sale shall close (herein referred to as the “Closing”) at the office of the Title Company on the Closing Date (as hereafter defined), at such time as the parties may mutually agree. The Closing may, at either party’s option, be accomplished through escrow with the Escrow Holder in accordance with the general provisions of the usual form of escrow agreement used in similar transactions by the Escrow Holder, amended as may be appropriate to conform to the terms of this Agreement, provided that any such escrow agreement shall be executed by Buyer, Seller, and the Escrow Holder as of the date and time scheduled for Closing. For purposes hereof, the “Closing Date” shall be thirty (30) days following expiration of the Contingency Period.

(b) All general real estate taxes and assessments (“Taxes”) for all calendar years prior to the date of Closing, if any, shall be paid by Seller on or before Closing. All Taxes for the calendar year in which the Closing shall occur, which are not due and payable as of Closing, shall be prorated to the Closing Date based on the actual Taxes for the year of closing, if known, and if not known, based on the most recent assessed valuations and most recent mill levy available, which proration shall be deemed a final settlement between the parties.

(c) All title charges for the base premium for the Owner’s policy of title insurance in the amount of the Purchase Price, including any endorsements thereto shall be paid by Buyer. The recording fee for the deed of conveyance, documentary fee and transfer taxes, if any, and the premium for any title endorsements or coverage amounts above the coverage agreed to be provided by Seller shall be paid by Buyer. All other closing costs imposed by the Title Company or Escrow Holder, including but not limited to the escrow and closing fee of the Escrow Holder, shall be paid by Buyer.

(d) Possession of the Property, subject to Permitted Exceptions, shall be delivered to the Buyer on the date of Closing.

(e) As part of the Closing, Seller shall deliver to Buyer or Escrow Holder, as applicable, the following:

(i) a special warranty deed in the statutory form;

(ii) the unconditional commitment of the Title Company to issue the Title Policy as required under the Agreement;

(iii) a bill of sale without warranties conveying to Buyer the personal property belonging to Seller and used in connection with the operation of the Property, if any, together with the "FF&E" (as defined in Section 10 below);

(iv) an affidavit, as required by the Title Company, necessary to delete the standard printed title exceptions; and

(v) evidence, as required by the Title Company, that those acting for the Seller have full authority to consummate this transaction in accordance with the terms of this Agreement; and

(vi) such other documents, including affidavits, as may be reasonably required in order for the Title Company to issue the title policy contemplated by this Agreement and for the parties to close the transactions evidenced hereby.

(f) As part of Closing, Buyer shall deliver to the Seller or Escrow Holder, as applicable, the following:

(i) the Purchase Price in the amount and form as stated herein;

(ii) evidence, as required by the Title Company, that those acting for the Buyer have full authority to consummate this transaction in accordance with the terms of this Agreement; and

(iii) such other documents, including affidavits, as the Title Company may reasonably require in order to issue the title policy contemplated by this Agreement and close the transactions evidenced hereby.

#### 6. Default.

(a) If Seller fails to pay or perform when due any act or obligation required by this Agreement, which failure continues uncured after fifteen (15) days' written notice from Buyer to Seller, Seller is in default, in which event Buyer may, at its election and as its sole and exclusive remedies, either (i) terminate this Agreement by written notice to Seller and Escrow Agent and be returned all Earnest Money, and/or bring an action against Seller for Buyer's actual damages, including attorneys' fees and costs of collection (such damages to in no event exceed a maximum of \$100,000), or (ii) bring an action for specific performance of this Agreement not later than ninety (90) days following Seller's default.

(b) If Buyer shall fail to perform any of its obligations hereunder for any reason except for (i) a force majeure event; or (ii) Seller's default hereunder, and Buyer's failure to perform is not cured within fifteen (15) days following written notice from Seller describing in reasonable detail the default hereunder, Seller shall have the right to terminate this Agreement, which shall be Seller's exclusive remedy. Any and all other remedies otherwise available to Seller under applicable law are expressly waived.

7. Representations of Seller.

(a) Seller is not a “foreign person” as defined in §1445(f)(3) of the Internal Revenue Code and regulations promulgated thereunder.

(b) There are no pending proceedings and Seller has not received any written notice of any threatened proceeding against Seller or to which Seller is a party or relating to the Property.

(c) All service contracts affecting the Property may be canceled on thirty (30) days’ notice, and Seller has delivered or shall deliver to Seller copies of such contracts.

(d) Seller has been duly organized and is validly existing and in good standing as a quasi-municipal special district organized and existing pursuant to the provisions of Title 32 of the Colorado Revised Statutes. Seller has the full power and authority to enter into this Agreement and to perform all of its obligations hereunder. The execution and delivery of this Agreement requires no further action or approval in order to constitute this Agreement as binding and enforceable obligations of Seller. The person signing this Agreement on behalf of Seller is authorized to do so.

(e) There are no contracts or agreements in effect with any party for the management or leasing of the Property that shall be binding on Buyer, and any such agreements shall be terminated by the parties thereto without a fee, penalty or liability to Buyer.

(f) Seller has not received any written notice of any violations (that remain uncured) of law, statutes, rules, governmental ordinances, orders or requirements noted or issued by any governmental or quasi-governmental authority having jurisdiction over or affecting the Property, including, without limitation, violations of safety, accessibility, ADA, health, environmental, fire, zoning or subdivision laws, ordinances, codes and regulations.

(g) Seller has not (i) made a general assignment for the benefit of its creditors, (ii) instituted, or been the subject of, any proceeding to be adjudicated bankrupt or insolvent or consented to the institution of bankruptcy or insolvency proceedings against it, (iii) filed a petition, answer or consent seeking reorganization or relief under any applicable Federal or state bankruptcy law or consented to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee, sequestrator or other similar official of it or of any part of its property, or (iv) admitted in writing its inability to pay its debts generally as they become due.

8. General Matters.

(a) This Agreement can be amended only in writing by both parties and supersedes any and all agreements between the parties hereto regarding the Property which are prior in time to this Agreement.

(b) If any portion of the Property is taken by eminent domain or condemnation or any transfer in lieu of eminent domain or condemnation, or if the Building is destroyed or materially damaged prior to the Closing to the extent that repairs would reasonably be expected to cost in excess of \$10,000, Buyer may (i) terminate this Agreement in writing on

or before the Closing Date, or (ii) complete the purchase of the Property without reduction in the Purchase Price but (y) in the event of any taking by eminent domain or condemnation or any transfer in lieu of eminent domain or condemnation, Buyer shall be entitled at Closing and Seller shall at Closing assign to Buyer all condemnation awards and settlements with respect thereto; or (z) in the event of the destruction or material damage to the improvements on the Property, Buyer shall be entitled at Closing and Seller shall at Closing assign to Buyer all insurance proceeds with respect thereto. In the event Buyer terminates this Agreement under this Section 8(b), all documents and any other funds in the possession of the Escrow Holder shall be returned immediately to the party having deposited the same and both parties shall be relieved of their respective obligations under this Agreement except for those which expressly survive the expiration or termination of this Agreement.

(c) Time is of the essence of this Agreement.

(d) Unless otherwise expressly provided herein, all tenders and notices required hereunder shall be made and given in writing by confirmed facsimile transmission to the parties hereto and their counsel at the facsimile numbers herein set forth and shall be effective as of the date of transmission; or by personal delivery (which shall be effective as of the date of delivery); or by mailing by U.S. certified mail, return receipt requested (which shall be effective as of the 3rd business day after deposit); or by private contract carrier (which shall be effective as of the date of delivery). Facsimile numbers and addresses for notice are:

To the Purchaser: EVERGREEN-104th & Huron, L.L.C.  
2390 E. Camelback Road, STE 410,  
Phoenix, AZ 85016  
Attn: Bruce Pomeroy  
Tel: 602-808-8600  
Fax: 602-808-9600

With a copy to: Evergreen Devco, Inc.  
1873 S. Bellaire Street, STE 1106  
Denver, CO 80220  
Attn: Tyler Carlson  
Tel: 602-808-8600  
Fax: 602-808-9600

If to Seller: Northglenn Urban Renewal Authority  
Attn: Executive Director  
11701 Community Center Drive  
Northglenn, Colorado 80233-8061  
303-450-8743  
303-450-8798

With a Copy to: Jeff Parker  
Hoffmann, Parker, Wilson & Carberry, PC  
511 Sixteenth Street, Suite 610  
Denver, Colorado 80202  
Telephone: (303) 825-6444  
Facsimile: (303) 825-1269

(e) As specifically limited herein, this Agreement shall be binding upon and inure to the benefit of the heirs, successors, and permitted assigns of the parties hereto.

(f) The performance and interpretation of this Agreement shall be controlled by the laws of the state in which the Property is located.

(g) Between the Effective Date of this Agreement and the Closing, Seller shall continue to operate the Property in the normal and ordinary course in accordance with its usual custom. Seller shall not, after the Effective Date, sell, convey, option, mortgage, encumber, lease, contract to do any of the foregoing, or otherwise convey, abandon, relinquish, cloud, or encumber title to the Property or any part thereof or interest therein in any manner which would in Seller's reasonable judgment, interfere with Seller's ability to close in accordance with the terms of this Agreement.

(h) Buyer acknowledges Seller's disclosure that the property may be located in a special taxing district. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYER SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL LEVIES.

(i) The delivery of electronic or facsimile copies of any parties' signature hereon, or on any other agreement or instrument to be delivered in connection herewith shall be valid and binding for all purposes. Upon request, either party will deliver to the other the original of the agreement or instrument delivered by electronic mail or facsimile, however failure to furnish an executed original shall not affect the effectiveness of any execution evidenced by a facsimile signature. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

9. Dates. If any date set forth in this Agreement for the delivery of any document or the happening of any event should, under the terms hereof, fall on a weekend or holiday, then such date shall be automatically extended to the next succeeding weekday that is not a holiday (a "business day").



Furniture, Fixtures and Equipment.

(a) Seller shall convey to Buyer at Closing all furniture, furniture systems, fixtures and equipment currently located in the Building (the “FF&E”). The Purchase Price includes the FF&E together with the remainder of the Property, and upon either party’s request, Buyer and Seller shall reasonably allocate the Purchase Price among the FF&E and the remainder of the Property during the Contingency Period.

(b) The FF&E shall be conveyed by Bill of Sale and is to be delivered in place as of the date of Closing. Seller shall be responsible for payment of any personal property, sales or uses taxes incurred or imposed with respect to any period of time prior to the date of Closing. Buyer shall be responsible for any sales or use taxes incurred and/or imposed with respect to the purchase and sale of the FF&E in connection with this transaction.

10. Brokers’ Fees. It is agreed and warranted by each party that no agent, person, or entity whatsoever is due any real estate commission for services performed in relation to this Agreement and Property described therein.

11. Assignment and 1031 Exchange. At any time prior to the Closing, Buyer may nominate and assign its rights under this Agreement to a company under substantially the same ownership as Evergreen (at least 90% common ownership interests) or managed or controlled by Evergreen. Upon the assumption in writing by any such assignee of the obligations of Buyer hereunder, the original-named Buyer is released from all obligations and liabilities under this Agreement, and Seller agrees to look solely to such assignee for the performance of all of Buyer’s obligations hereunder. Additionally, each party may assign its rights under this Agreement to an “accommodator” for purposes of effectuating a like-kind exchange under Section 1031 of the Code. Each party agrees to reasonably cooperate with the other and to execute all documents reasonably necessary to accomplish such exchange, provided that the cooperating party’s obligations and liabilities upon consummation of such exchange do not exceed its obligations under this Agreement. In no event is the cooperating party obligated to take title to any real property other than the Property. Seller may not otherwise assign this Agreement without the prior written consent of Buyer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for Sale and Purchase of Land the date and year first above written.

*[Remainder of page intentionally left blank. Signatures on following page.]*

**BUYER:**

EVERGREEN-104th & Huron, L.L.C.

By: Evergreen Development Company-2016,  
L.L.C.

Its: Manager

By: Evergreen Devco, Inc.

Its: Manager

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

Name: Tyler Carlson

Title: Principal

**SELLER:**

NORTHGLENN URBAN RENEWAL  
AUTHORITY

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

Name: Rosie Garner

Title: Chair

**LIST OF EXHIBITS**

EXHIBIT A

LEGAL DESCRIPTION – NURA Property

EXHIBIT B

LEGAL DESCRIPTION – Impala Property

## EXHIBIT A

### LEGAL DESCRIPTION – NURA PROPERTY

#### LOT 3

AMENDED PLAT OF A PORTION OF BLOCK 34, HEFTLER HOMES–HILLCREST SIXTH FILING, TOGETHER WITH THAT PORTION OF LOT 2 OF SAID AMENDED PLAT OF A PORTION OF BLOCK 34, HEFTLER HOMES–HILLCREST SIXTH FILING AS SET FORTH IN THE DEED RECORDED IN BOOK 2196 AT PAGE 394, BUT EXCEPTING THEREFROM, THOSE PORTIONS DESCRIBED IN BOOK 2195 AT PAGE 389, AND IN BOOK 3076 AT PAGE 45, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PART OF LOT 3, AMENDED PLAT OF A PORTION OF BLOCK 34, HEFTLER HOMES–HILLCREST SIXTH FILING, AS PER THE PLAT THEREOF RECORDED SEPTEMBER 22, 1977 AT RECEPTION NO. B094588, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN;

THENCE SOUTH 89°46'40" WEST ALONG THE NORTH LINE OF SAID SECTION 16 A DISTANCE OF 250.39 FEET;

THENCE SOUTH A DISTANCE OF 100.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF 104TH AVENUE, AND THE NORTHEAST CORNER OF SAID LOT 3, WHICH POINT IS THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED;

THENCE SOUTH 89°46' 40" WEST ALONG THE SOUTH LINE OF SAID 104TH AVENUE WHICH IS 100.00 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID SECTION 16, A DISTANCE OF 334.78 FEET TO THE NORTHWEST CORNER OF SAID LOT 3;

THENCE SOUTH 00°13'20" EAST A DISTANCE OF 176.00 FEET;

THENCE SOUTH 89°46'40" WEST A DISTANCE OF 140.00 FEET TO A POINT WHICH IS 175.00 FEET EASTERLY OF THE EAST RIGHT OF WAY LINE OF CROKE DRIVE AS MEASURED AT RIGHT ANGLES THERETO;

THENCE SOUTH 00°13'20" EAST A DISTANCE OF 164.00 FEET;

THENCE NORTH 89°46'40" EAST A DISTANCE OF 133.30 FEET;

THENCE SOUTH A DISTANCE OF 155.00 FEET;

THENCE SOUTH 89° 46'40" WEST A DISTANCE OF 308.19 FEET TO A POINT OF THE EAST RIGHT OF WAY LINE OF CROKE AVENUE AND A POINT ON THE WEST LINE OF SAID LOT 3;

THENCE SOUTHERLY ALONG THE EAST LINE OF CROKE DRIVE ALONG A CURVE TO THE RIGHT, THE CHORD OF WHICH BEARS SOUTH 02°18'33" WEST, SAID CURVE HAVING A CENTRAL ANGLE OF 01°47'03" AND A RADIUS OF 1204.90 FEET, AN ARC DISTANCE OF 37.52 FEET TO A POINT ON THE SOUTHWEST CORNER OF SAID LOT 3; THENCE ALONG THE SOUTH LINE OF SAID LOT 3, SOUTH 74°30'00" EAST A DISTANCE OF 150.63 FEET;

THENCE CONTINUING ALONG THE SOUTH LINE OF SAID LOT 3 ON A CURVE TO THE LEFT BEING TANGENT TO THE LAST DESCRIBED COURSE HAVING A CENTRAL ANGLE OF 10°48'40" AND A RADIUS OF 2262.85 FEET AN ARC DISTANCE OF 426.98 FEET TO A POINT WHICH IS 285.00 FEET WEST OF THE WEST RIGHT OF WAY LINE OF HURON STREET AS MEASURED AT RIGHT ANGLES THERETO, AND ALSO BEING A POINT ON THE SOUTH LINE OF SAID LOT 3, WHICH POINT IS 5.01 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 3;

THENCE NORTH ALONG A LINE 285.00 FEET WEST OF AND PARALLEL TO THE WEST RIGHT OF WAY LINE OF SAID HURON STREET A DISTANCE OF 309.65 FEET;

THENCE NORTH 89°46'40" EAST A DISTANCE OF 85.00 FEET; THENCE NORTH A DISTANCE OF 340.00 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF ADAMS, STATE OF COLORADO.

Also known as street and number 1000 104<sup>th</sup> Avenue, Northglenn, Colorado

[Note: Legal Description to be verified by Title Commitment/ALTA Survey and if different than set forth herein, this Exhibit A to be revised.]

## EXHIBIT B

### LEGAL DESCRIPTION – IMPALA CAPTIAL, LLC PROPERTY

#### PARCEL ONE:

ALL OF LOT 1 AND THAT PORTION OF LOT 3, AMENDED PLAT OF A PORTION OF BLOCK 34 HEFTLER HOMES–HILLCREST SIXTH FILING, DESCRIBE AS FOLLOWS:  
BEGINNING AT THE NORTHEAST CORNER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH P.M.;  
THENCE SOUTH 89°46'40" WEST ALONG THE NORTH LINE OF SAID SECTION 16, A DISTANCE OF 725.17 FEET;  
THENCE SOUTH 00° 13'20" EAST A DISTANCE OF 275.00 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED:  
THENCE NORTH 89°46'40" EAST A DISTANCE OF 140.00 FEET; THENCE SOUTH 00°13'20" EAST A DISTANCE OF 1.00 FEET;  
THENCE SOUTH 89°46'40" WEST A DISTANCE OF 140.00 FEET TO A POINT 175.00 FEET EASTERLY OF THE EAST RIGHT OF WAY LINE OF CROKE DRIVE;  
THENCE NORTH 00°13'20" WEST A DISTANCE OF 1.00 FEET TO THE TRUE POINT OF BEGINNING, ADAMS COUNTY, COLORADO. BEARING USED HEREIN BASED ON EAST LINE OF SECTION 16, ASSUMED TRUE NORTH AND SOUTH, COUNTY OF ADAMS, STATE OF COLORADO.

#### PARCEL TWO:

LOT 2, AMENDED PLAT OF A PORTION OF BLOCK 34 HEFTLER HOMES–HILLCREST SIXTH FILING, EXCEPT THAT PORTION OF SAID LOT 2 DEEDED TO ALBERSTON'S INC., A DELAWARE CORPORATION IN DEED RECORDED DECEMBER 8, 1977, IN BOOK 2196 AT PAGE 394, COUNTY OF ADAMS, STATE OF COLORADO.

#### PARCEL THREE:

LOT 4 AND THAT PORTION OF LOT 3, AMENDED PLAT OF A PORTION OF BLOCK 34 HEFTLER HOMES–HILLCREST SIXTH FILING, DESCRIBED AS FOLLOWS:  
BEGINNING AT THE NORTHEAST CORNER OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6TH P.M.;  
THENCE SOUTH ALONG THE CENTERLINE OF HURON STREET, A DISTANCE OF 758.33 FEET; THENCE WEST A DISTANCE OF 150.00 FEET;  
THENCE ALONG A CURVE TO THE RIGHT BEING TANGENT TO THE LAST DESCRIBED COURSE, HAVING A CENTRAL ANGLE OF 4°33'43" AND A RADIUS OF 2262.85 FEET AN ARC DISTANCE OF 180.17 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 0°07'37" AN ARC DISTANCE OF 5.01 FEET;  
THENCE NORTH A DISTANCE OF 149.65 FEET; THENCE NORTH 89°46' 40" EAST A DISTANCE OF 5.00 FEET;  
THENCE SOUTH A DISTANCE 150.07 FEET TO THE TRUE POINT OF BEGINNING;  
BEARING USED HEREIN BASED ON EAST LINE OF SECTION 16, ASSUMED TRUE NORTH AND SOUTH, COUNTY OF ADAMS, STATE OF COLORADO.