

Purchase and Sale Agreement

This Purchase and Sale Agreement (the "Agreement") is made this ___ day of January, 2022 (the "Effective Date"), by and between Regency Realty Group, Inc., a Florida corporation with an address of One Independent Drive, Suite 114, Jacksonville, Florida 32202-5019, Attn: Legal Department ("Seller"), and the Town of Erie, a Colorado municipal corporation with an address of 645 Holbrook Street, P.O. Box 750, Erie, Colorado 80516 (the "Town") (each a "Party" and collectively the "Parties").

Whereas, Seller owns approximately 19.41 acres of vacant real property located in the Town of Erie, Boulder County, Colorado and more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Property"); and

Whereas, the Town wishes to purchase the Property from Seller under the terms and conditions set forth in this Agreement.

In consideration of the mutual promises, covenants, and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Conveyance. Seller hereby agrees to sell, convey and assign to the Town, and the Town hereby agrees to purchase and accept from Seller, at Closing and subject to the terms and conditions of this Agreement, the Property.
2. Purchase Price. The purchase price for the Property (the "Purchase Price") shall be \$4,000,000, and shall be paid by the Town to Seller at Closing in immediately available funds.
3. Title Company. The title and escrow company for all purposes under this Agreement shall be Capital Title, 13155 Noel Road, Suite 710, Dallas, Texas 75240, Attn: Jennifer McCormick (the "Title Company").
4. Condition of Property. The Town is purchasing the Property "as is", with all faults. The Town has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of Seller or of any Seller's agents or representatives, and Town hereby acknowledges that no such representations or warranties have been made except as expressly set forth herein. Except as expressly set forth herein, Seller expressly disclaims any warranty, representation or assurance to the Town with respect to the status of the title or the maintenance, condition or marketability of the Property, including without limitation any implied or express warranty of merchantability, any implied or express warranty of fitness for a particular purpose, and the compliance or lack thereof of the Property with governmental laws or regulations, including without limitation environmental laws or regulations. The Town further covenants and agrees not to sue Seller, and hereby releases Seller of and from and waive any claim or causes of action, including without limitation any strict liability claim or cause of action, that Town may have against Seller under any environmental law, now existing or hereinafter enacted or

promulgated, relating to environmental matters or environmental conditions in, on, under, about, or migrating from or onto the Property, or by virtue of any common law right, now existing, or hereafter created, related to environmental conditions or environmental matters in, on, under, about or migrating from or onto the Property. The terms and conditions of this Paragraph 4 will expressly survive the termination of this Agreement or the Closing, as the case may be, and will not merge with the provisions of any closing documents. Notwithstanding anything to the contrary set forth in this Agreement, the term "Property" shall not include any interests in oil, gas or minerals located under the surface of the Property.

5. Earnest Money. Upon execution of this Agreement, the Town shall deposit with Title Company the sum of \$100,000 (the "Earnest Money Deposit"). The Earnest Money Deposit, together with any interest earned thereon, shall be applied at Closing in partial satisfaction of the Purchase Price.

6. Inspection.

a. During the 45-day period after the Effective Date (the "Evaluation Period"), the Town and its authorized agents and representatives may enter the Property at all reasonable times during normal business hours to perform an inspection of the Property. The Town will provide to Seller at least 24 hours' advance notice of such entry. At Seller's option, representatives of Seller may be present for any such entry. When entering the Property, the Town will not interfere with the operation and maintenance of the Property, damage any part of the Property, injure or otherwise cause bodily harm to Seller or to any of their respective agents, guests, invitees, contractors and employees, or to any other person or entity, or cause or permit any liens to attach to the Property. Notwithstanding anything to the contrary contained herein, no physical testing or sampling shall be conducted during any such entry by the Town or any of its agents or representatives upon the Property without Seller's specific prior written consent, which consent will not be unreasonably withheld.

b. The Town will, and shall cause its agents and contractors to, maintain comprehensive general liability (occurrence) insurance on terms and in amounts reasonably satisfactory to Seller and, if required by applicable law, Workers' Compensation insurance in statutory limits, and, if the Town or any of its agents, contractors, or employees performs any physical inspection or sampling at the Property, the Town shall maintain (if applicable), and shall cause the relevant agents and contractors to maintain, errors and omissions insurance and contractor's pollution liability insurance on terms and in amounts acceptable to Seller. In each case (other than with respect to Worker's Compensation insurance), such policies shall insure Seller, the Town, and such other parties as Seller shall reasonably request, and the Town shall deliver to Seller evidence of insurance verifying such coverage prior to entry upon the Property. The Town shall also (i) promptly pay when due the costs of all of the Town's entry and inspections and examinations done with regard to the Property; (ii) cause any of the Town's inspections to be conducted in accordance with standards customarily employed

in the industry and in compliance with all laws; and (iii) restore the Property to the condition in which the same was found before any such entry upon the Property and inspection or examination was undertaken by the Town.

7. Title Commitment and Survey.

a. Within 10 days of the Effective Date, Seller shall cause the Title Company to furnish to the Town a preliminary title report or title commitment (the "Title Commitment"), in which the Title Company agrees to issue to the Town at Closing an owner's policy of title insurance (the "Title Policy") in the amount of the Purchase Price.

b. Within 10 days of the Effective Date, Seller shall deliver to the Town a copy of the most current survey of the Property. The Town, at the Town's sole cost and expense, may obtain an updated survey of the Property prior to the expiration of the Evaluation Period.

c. Prior to the expiration of the Evaluation Period, the Town shall notify Seller in writing of any matters appearing on the Title Commitment and the Survey that are objectionable to the Town (the "Title Objections"). If the Town does not so notify Seller of its Title Objections, the Town shall be deemed to have accepted all matters referenced in the Title Commitment.

d. If Seller receives any Title Objections, Seller may (but shall not be obligated to) elect to cure the Title Objections, and shall give the Town notice of its intention to cure within 10 days of receipt of the Title Objections. If Seller chooses not to cure any Title Objections, Seller shall so advise the Town and the Town shall have the right to terminate this Agreement and receive a refund of the Earnest Money Deposit or to waive such Title Objections and proceed to Closing.

8. Seller's Covenants. From the Effective Date until the Closing or termination of this Agreement, Seller shall:

a. Maintain in full force and effect all existing liability insurance policies and shall pay promptly when due all premiums thereon;

b. Not lease, sell, assign or convey all or any portion of the Property;

c. Operate and maintain the Property in substantially the same manner as it is now operated and maintained;

d. Promptly notify the Town of any material change in respect of the Property and its condition or any information furnished to the Town in respect of the Property, including without limitation, any change that would affect any representation, warranty or covenant of Seller set forth in this Agreement;

e. Advise the Town of any litigation, arbitration or administrative hearing before any governmental agency concerning or affecting the Property or its use which is instituted or threatened after the Effective Date; and

f. Not allow any lien to attach to the Property or any part thereof.

9. Seller's Representations and Warranties. Seller represents and warrants as follows, as of the Effective Date:

a. Seller is a corporation, duly organized and validly existing under the laws of the State of Florida;

b. The execution and delivery of this Agreement and the performance of Seller's obligations hereunder have been or will be duly authorized by all necessary action on the part of Seller, and this Agreement constitutes the legal, valid and binding obligation of Seller;

c. The execution and delivery of this Agreement by Seller and the consummation by Seller of the transactions contemplated hereby do not violate any judgment, order, injunction, decree, regulation or ruling of any court or Authority or conflict with, result in a breach of, or constitute a default under the organizational documents of Seller, any note or other evidence of indebtedness, any mortgage, deed of trust or indenture, or any lease or other material agreement or instrument to which Seller is a party or by which it is bound; and

d. No consent, waiver, approval or authorization is required from any person or entity (that has not already been obtained) in connection with the execution and delivery of this Agreement by Seller or the performance by Seller of the transactions contemplated hereby which, if not obtained or made, would reasonably be expected to prevent any delay in any material respect the consummation of this Agreement or any of the transactions contemplated by this Agreement or in the documents contemplated to be executed hereunder, or otherwise prevent the Town from performing hereunder in any material respect.

10. Town's Representations and Warranties. The Town represents and warrants as follows, as of the Effective Date:

a. The Town is duly organized and validly existing under the laws of the State of Colorado and is authorized to transact business in the State of Colorado;

b. The execution and delivery of this Agreement and the performance of the Town's obligations hereunder have been duly authorized by the Town and this Agreement constitutes the legal, valid and binding obligation of the Town;

c. The execution and delivery of this Agreement by the Town and the consummation by the Town of the transactions contemplated hereby will not violate any

judgment, order, injunction, decree, regulation or ruling of any court or authority, or conflict with, result in a breach of or constitute a default under the organizational documents of the Town, any note or other evidence of indebtedness, any mortgage, deed of trust or indenture, or any lease or other material agreement or instrument to which the Town is a party or by which it is bound; and

d. No consent, waiver, approval or authorization is required from any person or entity that has not already been obtained in connection with the execution and delivery of this Agreement by the Town or the performance by the Town of the transactions contemplated hereby which, if not obtained or made, would reasonably be expected to prevent any delay in any material respect the consummation of this Agreement or any of the transactions contemplated by this Agreement or in the documents contemplated to be executed hereunder, or otherwise prevent the Town from performing hereunder in any material respect.

11. Closing. The Closing shall be held on a date mutually agreed to by the Parties, but in no event later than March 18, 2022. At the Closing:

- a. The Town shall deliver the Purchase Price to Seller;
- b. Seller shall deliver to the Town a special warranty deed in the form attached hereto as **Exhibit B** (the "Deed");
- c. Any proration of taxes shall be paid to the Town (if the prorations result in a net credit to the Town) by reducing the cash to be delivered by the Town in payment of the Purchase Price at the Closing;
- d. Seller shall pay the base premium for the Title Policy, 50% of any escrow fees, and the costs of recording the deed;
- e. The Town shall pay the premium for any endorsements to the Title Policy and 50% of any escrow fees;
- f. Any other costs and expenses of Closing shall be allocated between the Town and Seller equally; and
- f. Title and possession of the Property shall transfer to the Town.

12. Termination. If the Town determines not to proceed with the purchase of the Property for any reason or no reason prior to the expiration of the Evaluation Period, the Town may terminate this Agreement by providing written notice to Seller. If the Town terminates this Agreement prior to the expiration of the Evaluation Period, the Town shall receive a refund of the Earnest Money Deposit.

13. Default

a. *By Seller.* If the Closing and the consummation of the transactions contemplated herein do not occur as and when required by this Agreement by reason of any default of Seller, the Town may elect to terminate this Agreement, in which event the Town will receive a refund of the Earnest Money Deposit, or the Town may seek specific performance of this Agreement.

b. *By the Town.* If the Closing and the consummation of the transactions contemplated herein do not occur as and when required by this Agreement by reason of any default of the Town, the Parties agree it would be impractical and extremely difficult to fix the damages which Seller may suffer, that the Earnest Money Deposit is a reasonable estimate of Seller's damages, that such amount will be the full, agreed and liquidated damages for the Town's default, and that receipt of the Earnest Money Deposit will be Seller's sole and exclusive remedy.

14. Brokers. The Parties represent to each other that they have had no dealings, negotiations, or consultations with any broker, finder, representative, agent or other intermediary in connection with this Agreement or the sale of the Property.

15. Miscellaneous

a. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

b. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

c. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

d. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

e. *Notice.* Any notice under this Agreement shall be in writing, and shall be (i) directly presented, (ii) sent by overnight courier, or (iii) sent pre-paid, first class U.S. Mail to the Party at the address set forth on the first page of this Agreement. A copy of all notices to Seller shall be delivered to: (i) Regency Realty Group, Inc., 8080 N. Central Expressway, Suite 1650, Dallas, Texas 75206, Attn: Snowden Leftwich, Senior Vice President, and (ii) Bracewell LLP, 1445 Ross Avenue, Suite 3800, Dallas, Texas 75202, Attn: C. Robert Baird.

f. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

g. *Modification.* This Agreement is the final expression of, and contains the entire agreement between, the Parties with respect to the subject matter hereof, and supersedes all prior understandings between the Parties. This Agreement may only be modified upon written agreement of the Parties.

h. *Assignment.* Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

i. *Governmental Immunity.* The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

j. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

k. *Force Majeure.* No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.

l. *Time of the Essence.* Time is of the essence with respect to all time periods and dates for performance set forth in this Agreement.

m. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which, when assembled to include an original signature for each party contemplated to sign this Agreement, will constitute a complete and fully executed original. All such fully executed original counterparts will collectively constitute a single agreement.

In Witness Whereof, the Parties have executed this Agreement as of the Effective Date.

Town of Erie, Colorado

Jennifer Carroll, Mayor

Attest:

Heidi Leatherwood, Town Clerk

Regency Realty Group, Inc.,
a Florida corporation

Name: _____
Title: _____

State of Texas)
) ss.
County of Dallas)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 2022, by _____ as _____ of Regency Real Estate Group, Inc.

My commission expires:
(Seal)

Notary Public

Exhibit A
Legal Description

Exhibit B

Form of Special Warranty Deed

Special Warranty Deed

This Deed, made effective this day of _____, 2022__, from Regency Realty Group, Inc., whose address is One Independent Drive, Suite 114, Jacksonville, FL 32202-5019 ("Grantor"), to the Town of Erie, Colorado, whose address is 645 Holbrook Street, P.O. Box 750, Erie, Colorado 80516 ("Grantee"):

Witness, that Grantor, for and in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto Grantee, its successors and assigns forever, the real property, in the County of Boulder, and State of Colorado, to wit:

[Add Legal Description]

commonly known as:

To have and to hold the Property unto Grantee, its successors and assigns forever. Grantor, for itself and its successors and assigns, does covenant and agree that it shall and will warrant and forever defend the Property in the quiet and peaceable possession of Grantee, its successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under Grantor.

In Witness Whereof, Grantor has executed this Special Warranty Deed as of the date first above-written.

Grantor:

Regency Realty Group, Inc.,
a Florida corporation

By:
Name:
Title:

State of Texas)
) ss
County of Dallas)

This instrument was acknowledged before me on _____, 2022, by _____, of Regency Realty Group, Inc., a Florida corporation, on behalf of said corporation.

Notary Public, State of Texas

My commission expires: