First Amendment to
Purchase and Sale Agreement
and Joint Escrow Instructions

This First Amendment to Purchase and Sale Agreement and Joint Escrow Instructions (this “**Amendment**”) is dated June \_\_\_, 2024, by and between Ambrose Recreation & Park District, a California special district (“**Seller**”), and Alliant Strategic Development, LLC, a Delaware limited liability company (“**Buyer**”).

RECITALS:

A. Seller and Buyer are parties that that certain Purchase and Sale Agreement and Joint Escrow Instructions dated December 14, 2021 (the “**Agreement**”).

B. Seller and Buyer desire to amend the Agreement on the terms and conditions set forth in this Amendment.

AGREEMENT:

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

# Defined Terms. All capitalized terms used and not defined herein shall have the meanings given to them in the Agreement unless expressly provided otherwise in this Amendment.

# Amendments. Effective as of the date hereof, the Agreement is amended as provided below.

# Section 2.2.1 of the Agreement is hereby restated in its entirety to read as follows:

# **2.2.1** Delivery of Deposit. Buyer shall, within three (3) Business Days (defined below) of the Effective Date, deposit into escrow with First American Title Insurance Company, 777 S. Figueroa Street, Suite 400, Los Angeles, CA, Attn: Gloria Neri, Senior Vice President, (Phone: 213-926-9894, E-mail: gneri@firstam.com) (in its capacity as escrow holder, “***Escrow Holder***” and as title insurer, the “***Title Company***”) immediately available funds in the amount of **Fifty Thousand Dollars ($50,000.00)** (together with any and all interest accrued thereon, if any, the “***Initial Deposit***”, and together with any Extension Deposit(s) (defined below) and the Additional Deposit (defined below), the “***Deposit****”*) (the date that the Initial Deposit is delivered into escrow with the Title Company is the “***Opening of Escrow***”). Upon expiration of the Due Diligence Period (as described below), Twenty-Five Thousand and No/100 Dollars ($25,000.00) of the Initial Deposit shall become non-refundable, except as otherwise provided in this Agreement. Upon expiration of the Approval Contingency Period (defined below), the remaining Twenty-Five Thousand and No/100 Dollars ($25,000.00) of the Initial Deposit shall become non-refundable, except as otherwise provided in this Agreement. Escrow Holder shall invest the Deposit in one or more notes, bonds, treasury bills or other securities constituting direct obligations of the United States, as directed by Buyer and reasonably approved by Seller. On the date thirty (30) days after the First Amendment Date (as defined below), Buyer shall deposit with Escrow Holder immediately available funds in the amount of **One Hundred Thousand Dollars ($100,000.00)** (the “***Additional Deposit***”). Notwithstanding any other provision of the Agreement and except as stated herein, all Deposits made by Buyer are nonrefundable (except if the sale of the Property does not occur because of a default by Seller) and applicable to the Purchase Price. The “***First Amendment Date***” shall mean the date on which the First Amendment to this Agreement is fully executed by Buyer and Seller

# A new Section 4.1.2 is hereby added to the Agreement to read as follows:

# **4.1.2** Progress Reports. Buyer shall send a written update on the progress of the Project, which update may be by email, by no later than the fifth (5th) day of each month until the Closing Date or the date of termination of the Agreement. The written update shall include a detailed summary of Buyer’s efforts to obtain funding for the Project and for the payment of the Purchase Price, the anticipated date of the closing of such financing and any requirements to obtain such funding that Buyer may have difficulty satisfying. If Buyer does not send such a written update, Buyer shall provide such written update within 5 business days of written notice from Seller. If Buyer does not send such a written update within such 5 business days after such written notice from Seller, then Buyer shall provide such written update within 5 business days of a second written notice from Seller. Buyer shall not be in default under this Section 4.1.2 unless it fails to provide the written update within 5 business days after such second written notice from Seller.

##  (c) A new Section 7.1.6 is hereby added to the Agreement to read as follows:

##  **7.1.6** Seller shall have delivered to Escrow Agent the duly executed and acknowledged Agreement Containing Covenants Affecting Real Property, the form of which is attached hereto as **Exhibit “K”** and incorporated herein.

## (d) A new Section 7.2.5 is hereby added to the Agreement to read as follows:

##  **7.2.5** Buyer shall have delivered to Escrow Agent the duly executed and acknowledged Agreement Containing Covenants Affecting Real Property.

##  (e) A new Section 9.2.7 is hereby added to the Agreement to read as follows:

##  **9.2.7** An original executed and acknowledged Agreement Containing Covenants Affecting Real Property.

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# (f) Section 11 of the Agreement is hereby restated in its entirety to read as follows:

# The purchase and sale contemplated herein will close on or before the date one hundred seventy-five (175) days after the First Amendment Date (the “***Closing Date***”). As used herein, the terms “***Closing***” and “***Closing Date***” are used interchangeably and mean the date and time that the Deed is recorded in the Official Records of Contra Costa County, California (the “***Official Records***”).

## (g) Section 16.4.1 of the Agreement is hereby restated in its entirety to read as follows:

###  For Recording: Record, in the Official Records of Contra Costa County, an original of the Deed and an original of the Agreement Containing Covenants Affecting Real Property.

### (h) Section 16.4.2 of the Agreement is hereby restated in its entirety to read as follows:

###  To Buyer: Deliver to Buyer, (i) conformed copies of the Deed and Agreement Containing Covenants Affecting Real Property; (ii) an original of the Bill of Sale, if applicable; (iii) an original of the Certificate of Non-Foreign Status; (iv) any funds deposited by Buyer, and any interest earned thereon, in excess of the amount required to be paid hereunder; (v) the Title Policy issued by Title Company to Buyer; and (vi) copies of all other closing documents.

### (i) Section 16.4.3 of the Agreement is hereby restated in its entirety to read as follows:

###  To Seller: Deliver to Seller, (i) the balance of the Purchase Price, minus the Closing costs, prorations and adjustments to be paid by Seller pursuant to Section 10 and Section 12, respectively; (ii) conformed copies of the Deed and Agreement Containing Covenants Affecting Real Property; (iii) an original of the Bill of Sale, if applicable; and (iv) copies of all other closing documents.

### (j) The List of Exhibits of the Agreement is hereby amended to include the following as Exhibit K:

### EXHIBIT K: Agreement Containing Covenants Affecting Real Property.

### The form of the Agreement Containing Covenants Affecting Real Property is attached hereto as Attachment No. 1.

# Conditions Precedent. This Amendment shall be effective upon execution and delivery by Seller and Buyer.

# Conflict. If any provision of this Amendment conflicts with any provision of the Agreement, such provision of this Amendment shall prevail and govern for all purposes and in all respects.

# No Further Modification. Except as specifically set forth in this Amendment, all of the terms and provisions of the Agreement shall remain unmodified and in full force and effect. Buyer and Seller hereby agree that the Agreement is in full force and effect and has not been terminated or deemed terminated as of the date hereof, notwithstanding anything to the contrary in the Agreement.

# Counterparts; Facsimile or PDF. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement. Signatures of the parties transmitted by electronic mail PDF format shall be deemed to constitute originals and may be relied upon, for all purposes, as binding the transmitting party hereto. The parties intend to be bound by the signatures transmitted by electronic mail PDF format, are aware that the other party will rely on such signature, and hereby waive any defenses to the enforcement of the terms of this Amendment based on the form of signature.

# [SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed as of the day and year first above written.

**Seller:**

Ambrose Recreation & Park District,

a California special district

By:

Doug Long, General Manager

Date: , 2024

**Buyer:**

Alliant Strategic Development, LLC,
a Delaware limited liability company

By:

Name:

Title:

Date: , 2024

ATTACHMENT NO. 1

Form of Agreement Containing Covenants Affecting Real Property

[Attached hereto]