



May 23, 2019

David Carmany
Interim City Manager
City of West Covina
West Covina City Hall
City Manager's Office, Room 305
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Re: Development Opportunity Site – 218 Acres at the Former BKK Landfill Site

Ladies and Gentlemen:

To facilitate the preparation of a Purchase and Sale Agreement (“**PSA**”) and a Development Agreement (“**DA**”), this non-binding Letter of Intent (hereinafter “**Letter**”) is intended to set forth the general terms and conditions upon which SINGPOLI GROUP, LLC, as Buyer, or on behalf of an entity formed or to be formed (“**Buyer**”), would be willing to purchase from the CITY OF WEST COVINA, a California Municipal Corporation, (“**Seller**”) the property described below. Buyer’s willingness to purchase the property would be subject to the signing and delivery by the Seller and Buyer of a PSA and DA, approved by the City Council, in form and substance mutually satisfactory to both parties. This Letter is not intended to express all of the terms and conditions to be included in those documents.

PROPERTY: The site which is the subject of this Letter (“**Property**”) consists of seven (7) individual tracts of land, collectively comprising of seven parcels with APNs: 8735-001-919, 8735-001-920, 8735-001-921, 8735-001-931, 8735-002-906, 8735-002-909, 8735-002-910, of approximately 134 acres, located in the City of West Covina, CA. The Property is shown on attached Exhibit “A.” The Property includes all the improvements, personal property, and related rights and interests of Seller relating to the Property. It is Buyer’s understanding that Seller is the fee owner of the Property.

PURCHASE PRICE: The minimum Purchase Price will be \$13,500,000, subject to further negotiation between the parties as to the appropriate land values, which Purchase Price is apportioned among the individual tracts of the Property. If the parties determine, as part of the discretionary entitlement process for the Proposed Development (as defined below), that the amount of land changes from the current assumptions, then the purchase price for this land would be modified accordingly.

EARNEST MONEY: Buyer shall deliver \$270,000.00 (the “**Earnest Money**”) to Chicago Title Insurance Company (the “**Escrow Agent**”), within ten (10) days after the latter to occur of the execution of this Letter and the execution of an escrow agreement and instructions to the Escrow Agent (“**Escrow Agreement and Instructions**”). The Earnest Money would be held in

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escrow and disbursed by the Escrow Agent in accordance with the terms and conditions the Escrow Agreement and Instructions to be executed by Buyer and Seller. Buyer agrees that the funds in escrow shall be disbursed to reimburse the Seller for staff time, legal fees and consultants associated with the sale and license of the Seller' assets to the Buyer; any unused amounts shall be returned to Buyer.

CLOSING: The Closing would occur at a mutually agreed upon time which is not later than thirty (30) days after the receipt of the Legislative Approvals (defined below) necessary for the development of the project in accordance with the development proposal and preliminary concept plan as shown on the attached Exhibit "B" ("**Proposed Development**") and the satisfaction of all other Closing Conditions (defined below), and any extensions thereof. "**Legislative Approvals**" would include all final legislative governmental approvals including, without limitation, any general plan amendments, specific plan, code amendments, rezoning, development agreement, and any related clearances under California Environmental Quality Act ("CEQA"). Seller would convey the Property to Buyer via grant deed, free and clear of all monetary liens (except for non-delinquent real property taxes and assessments) and subject only to those exceptions agreed to by Buyer during the Inspection Period ("Permitted Exceptions".)

INSPECTION: Buyer would have one hundred and twenty (120) days ("**Inspection Period**") after the execution of the PSA and receipt of Seller's Property Documents (defined below) to review matters of title, inspect the physical conditions of the Property, perform inspections, environmental, soil and other testing, review contracts relating to the Property, evaluate the market, analyze the financial results of operation of the Property, and conduct other such due diligence as the Buyer determines, in its sole discretion, to be appropriate. Buyer would be required to exercise reasonable efforts to cause all inspections to be conducted with as little disruption to the operation of the Property as is reasonably feasible under the circumstances. If Buyer is not satisfied with its due diligence for any reason, the Earnest Money would be returned to Buyer in accordance with the PSA, less any funds expended for legal fees, staff time and consultant costs previously disbursed or authorized to be disbursed from the escrow account.

Buyer may, in its sole discretion, extend the Inspection Period for up to two 30-day periods by notifying Seller in writing, prior to the expiration of the Inspection Period, with a copy to the Escrow Agent.

CONDITIONS TO CLOSING: If the following conditions are not satisfied or waived within two years ("**Conditions to Closing**") from the date that escrow is opened, subject to any extensions provided for in the PSA, Buyer may elect to terminate the PSA:

- A. Governmental Approvals and Permits: City would have granted or issued all Legislative Approvals.
- B. Title: Title Insurer would be prepared to issue or be unconditionally and irrevocably committed to issue to Buyer the Title Policy (defined below). "**Title Policy**" means an ALTA Owner's policy of title insurance with extended coverage, with survey modification coverage, and such additional endorsements as may be reasonably requested by Buyer, issued by Chicago Title Insurance Company ("**Title Insurer**") to Buyer at the Closing. The Title Policy would be dated not earlier than the date of recordation of the grant



deed(s) from Seller to Buyer, will name Buyer as the insured, and would insure Buyer's fee simple title to the Property (including all easements and appurtenances thereto), subject only to the Permitted Exceptions, in an amount equal to at least the Purchase Price plus the reasonable, anticipated costs of Buyer's planned improvements (or some portion thereof as Buyer may elect). The Title Policy would also ensure that the transfer is in accordance with the Subdivision Map Act. Such title insurance shall be paid for by Buyer.

- C. No City Default: City would not be in default of any its obligations under the PSA.
- D. Representations and Warranties: Each of Seller and Buyer would represent due incorporation, qualification, and authority and such other appropriate representations and warranties, including a confirmation that the same are true and correct in all material respects as of the date made and as of the Closing with the same effect as if those representations and warranties were made at and as of the Closing.
- E. No Moratorium: There would be no moratorium, prohibition or any other measure, rule, regulation or restriction that was not in force as of the effective date of the PSA and whose effect would be to preclude the construction of, or use of the Property for, the Proposed Development, or any pending action or proceeding before the City or other governmental authority to enact such prohibition.

If the Conditions to Closing are not satisfied or waived (if waivable) before the expiration of two years from the date escrow is opened, Buyer would have the right to cancel the PSA or extend the period in which to complete all items required for the Conditions to Closing for up to two thirty-day periods. In addition, the PSA would include other typical mutually acceptable extension provisions to cover specific circumstances (e.g., litigation, force majeure, etc.).

SURVEY: Buyer would obtain at Buyer's expense a staked topographical survey, which survey shall comply with current standard for ALTA surveys (with all items of Table A included) and would reflect whether the Property is located in a designated flood zone area and the acreage after deducting flood ways, rights-of-way and easements, and zoning of the Property.

BROKER(S): Buyer and Seller would each represent and warrant to each other that it has not incurred any claims for brokerage commissions or finder's fees in connection with the transaction contemplated herein and would agree to indemnify, defend and hold each other harmless from and against any and all claims, costs, expenses and liabilities for any broker's or agent's commission, finder's or similar fees arising out of or in connection with the negotiation of or consultation for the transaction contemplated hereby and resulting from the act of the indemnifying party.

PROPERTY DOCUMENTS: In order to facilitate Buyer's review of the Property, Seller would, within 30 days of the execution of this Letter of Intent, forward the following to Buyer:

- Copies of existing surveys, existing environmental reports and all pertinent information on the Property.
- Copy of existing title policy and any leases, licenses or service contracts on the Property.

ACCESS TO PROPERTY: Upon entering into an Access Agreement between Seller and Buyer, until the effective date of the PSA and the DA, Buyer and its Agents, Engineers, Consultants and Representatives ("**Buyer's Agents**") would have the right to enter upon the Property to perform reasonable non-destructive inspections and tests of the Property and make investigations with regard to zoning, building code and other legal requirements. Buyer would protect Seller against any damage to person or property resulting from its access to the Property.

EXCLUSIVE DEALING: For a period of 180 days from the effective date of this Letter, Seller and its employees, agents and representatives a) will not, except as required by law, initiate, encourage the initiation by others of discussions or negotiations with third parties, or respond to solicitations by third parties relating to the sale or lease of the Property in whole or in part; b) will immediately notify Buyer if a third party attempts to initiate any such solicitations, discussions, or negotiations with Seller; and c) will not enter into an agreement with respect thereto with any third party. Seller acknowledges that it has received good and valuable consideration for the giving of this exclusive dealing period.

CLOSING COSTS: Except as otherwise provided herein to the contrary, closing costs shall be handled pursuant to Los Angeles County custom.

CONFIDENTIALITY: Seller and Buyer agree that all negotiations would remain strictly confidential and that no press or other publicity release or communication to the public in connection with the purchase and sale of the Property would be issued without the other party's prior written approval unless such communication is otherwise required by law. All information, studies and reports relating to the Property obtained by Buyer, either by the observations and examinations of Buyer's Agents, or disclosed to Buyer or Buyer's Agents by Seller, would remain strictly confidential, and would not be disclosed to anyone other than Buyer, Buyer's Agents or Buyer's prospective investors, partners or lenders directly involved in the purchase of the Property and would be used by Buyer solely to evaluate the purchase of the Property or to arrange financing in connection with the purchase of the Property. Buyer and Seller agree that this Letter itself is not confidential and is subject to disclosure under the California Public Records Act.

AUTHORITY: Buyer and Seller represent and warrant to each other that each has the full right, power and authority to enter into this Letter without the consent or approval of any other entity or person and each of them makes these representations knowing that the other party will rely thereon.

PURCHASE AGREEMENT: Seller and Buyer agree to negotiate in good faith to enter into a mutually acceptable conveyance instrument consistent with the terms and conditions of this Letter as soon as is reasonably practicable, with the goal of finalizing the PSA within 120 days of the effective date of this Letter. This agreement to negotiate in good faith, and the exclusive dealing period set forth above, will be binding on the Seller and Buyer, even though the obligation of the Seller and Buyer to consummate the transaction contemplated by this Letter is non-binding and subject to entering into a purchase agreement in form and substance mutually satisfactory to Seller and Buyer. Seller shall deliver a form of PSA to Buyer for Buyer's review. The terms and conditions of the PSA will be consistent with this Letter.



DEVELOPMENT AGREEMENT: Seller and Buyer agree to negotiate in good faith to enter into a mutually acceptable DA consistent with the terms and conditions of this Letter as soon as is reasonably practicable. The parties understand that it is expected that the DA, if approved, would only be approved after the completion of all required environmental review, and consideration by the Planning Commission and the City Council.

This agreement to negotiate in good faith, and the exclusive dealing period set forth above, will be binding on the Seller and Buyer, even though the obligation of the Seller and Buyer to consummate the transaction contemplated by this Letter and enter into a DA is non-binding and subject to entering into a DA in form and substance mutually satisfactory to Seller and Buyer. Seller shall deliver a form DA to Buyer for Buyer's review. The terms and conditions of the DA will be consistent with this Letter and will address the overall scope, design, timing, and financial considerations necessary for Buyer to obtain vested rights to build a project on the Property.

LICENSE AGREEMENT FOR THE TOP DECK: Buyer also desires to obtain a sublicense from Seller to develop, maintain and operate recreational facilities, including a park which will be open to the public, on the approximately 84 acres of land under license to Seller from BKK known as the Top Deck. The parties agree to negotiate in good faith a mutually agreeable sublicense agreement that will include payment to the City in an amount to be determined. In no event will such amount be less than 5% of the net operating profit generated from the sublicense site.

DISCLAIMER: This Letter does not constitute an offer, acceptance, or binding contract and is not intended as a final expression of any agreement of the parties, nor does it commit the City to any particular course of action. No contract, written agreement, modification or amendment shall exist or be binding on either party unless expressed in a formal written DA that has been executed and delivered by both Seller and Buyer and approved by the City Council. Neither Seller nor Buyer may claim any legal rights against the other by reason of the signing of this Letter or by taking any action in reliance thereon. Neither the expenditure of funds by either party, nor commitments made, nor actions taken to implement any of the concepts in this Letter (or the subsequent negotiations following this Letter) shall be regarded as partial performance of this Letter or otherwise alter or modify the provisions of this Disclaimer.

The Letter is not meant to be contractual in nature, but merely an outline of the terms and conditions under which Buyer proposes to purchase the Property. Nothing contained herein shall be binding upon either party unless and until the appropriate documents have been executed by both parties, and neither party shall have any obligation under this non-binding letter to continue negotiations concerning the sale and purchase of the Property, or any portion thereof. The understandings set forth herein are being used in making submittals to Buyer and acquisition specialists (collectively "**Committee**") and are subject to, among other things, Committee approval.

Buyer and Seller acknowledge and understand that this Letter of Intent, and the approval and execution of a conveyance instrument, do not, and cannot be considered an approval by the City Council, or the City Council's express intent to approve, Buyer's proposed development project and any land use entitlements related to Buyer's proposed development project. Buyer and Seller acknowledge and agree that land use entitlements cannot be approved until all applicable requirements of the California Environmental Quality Act have been completed and



all required public hearings have been conducted on the proposed development project and all public testimony for and against the project has been considered by the City Council.

If Seller is interested in selling the Property based on the terms described in this Letter, please return one copy to us countersigned in the space provided below. This Letter may be executed in one or more counterparts (including a facsimile), each of which shall be an original and all of which shall constitute one and the same instrument.

This Letter and the terms herein shall automatically expire unless executed by Seller and returned to Buyer within fifteen (15) days after the date of this Letter.

Sincerely,

Singpoli Group LLC

By:  _____
Kin Hui, President

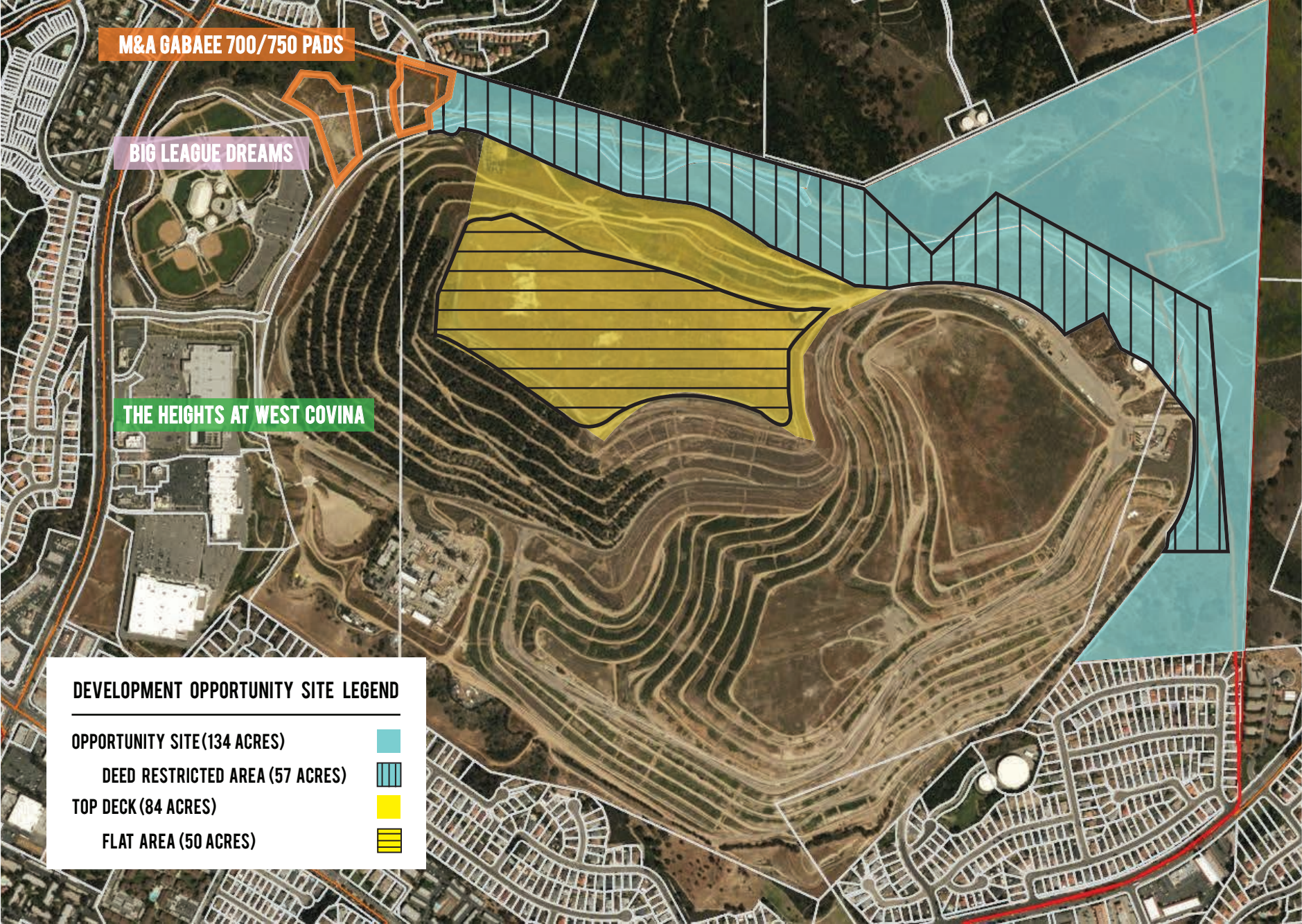
Accepted and Agreed by Seller on the 30 day of May, 2019.

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David Carmany, Interim City Manager

APPROVED AS TO FORM

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Scott E. Porter, City Attorney

DEVELOPMENT OPPORTUNITY SITE





CONCEPTUAL SITE PLAN