

# Beaumont Pointe Partners LLC

Beaumont Pointe Draft  
3/15/24

DELIVERED VIA EMAIL

March \_\_, 2024

**Attention:** \_\_\_\_\_

**City of Beaumont Civic Center  
550 E. 6<sup>th</sup> Street  
Beaumont, CA 92223**

**Re: Sale, Leaseback and Development of Real Property Consisting of a Commercial Parcel of Land Located in Beaumont, California (the "Property")**

Gentlemen:

This letter of intent ("**Letter of Intent**") sets forth certain material terms and conditions under which **Beaumont Pointe Partners LLC**, a Delaware limited liability company or its permitted assignee ("**Beaumont Pointe**"), would consider the sale, leaseback, and development of a commercial project (the "**Project**") at the Property (collectively, the "**Transactions**") for the benefit of the City of Beaumont, California (the "**City**") in connection with the City's approval of various applications for the Beaumont Pointe Project ("**Beaumont Pointe Project**"). This non-binding Letter of Intent also serves as the basis for negotiating a definitive lease agreement for the long-term leaseback of the Property by the City to Beaumont Pointe as described herein (the "**Ground Lease**").

1. PROPERTY / PURCHASE AGREEMENT. The Property is more particularly described and depicted on Exhibit A attached hereto and made a part hereof and is comprised of approximately eighteen (18) net acres designated as the Commercial Parcel. The size of the Commercial Parcel will be contingent on engineering and Final Parcel Map for the Project being approval by the City. Beaumont Pointe is the fee owner of the Property and would convey the Property to the City pursuant to a Purchase and Sale Agreement (the "**PSA**"). The City would purchase the Property from Beaumont Pointe at the price of \$1,000.00 (the "**Purchase Price**"), subject to the lease of the Property by Beaumont Pointe or an affiliate entity managed by Beaumont Pointe. The initial drafts of the Lease and PSA would be prepared by Beaumont Pointe. A Memorandum of the Ground Lease would be recorded at the Closing. Following the "**Effective Date**" of the PSA, the City would have sixty (60) days to complete its due diligence investigation of the Property, including without limitation, the condition of title to the Property and any environmental issues. The Lease would be agreed to, executed by the parties, and put into the escrow for the Transaction no later than thirty (30) days prior to the "**Closing**" under the PSA. The Lease would be effective immediately prior to the Closing, so that the City would be purchasing

# Beaumont Pointe Partners LLC

the Property already subject to the Lease. Prior to the Closing, Beaumont Pointe and the City would work exclusively in good faith and diligent efforts to consummate the Transactions contemplated herein.

2. PROPERTY/BEAUMONT POINTE'S USE. The Project would be developed and used for commercial purposes as provided in the Specific Plan for the Property approved by the City, subject to local, state and federal laws and zoning ordinances, conditional use permits and building codes, including, but not limited to, the existing covenants, conditions and restrictions applicable to the surrounding area in which the Project is located. Beaumont Pointe would apply for the approval of annexation from the LAFCO for the Beaumont Pointe Project within 9-12 months of the City's approval of the Beaumont Pointe Project. Beaumont Pointe would use reasonable good faith efforts to sublease, develop and cause the construction of the buildings on the Property. If Beaumont Pointe or a third party developer does not either pull building permits and cause construction of a building on the Project or negotiate and execute a binding lease with a third-party tenant for space in the Project, prior to the tenth (10<sup>th</sup>) anniversary of the Lease Commencement Date (as defined below), the Lease may be terminated at the City's option, in which event the City would retain the fee simple interest in the Property, after reimbursement to Beaumont Pointe for all of its Project Costs (as defined below) (in an amount not to exceed \$10,000,000), Carry Costs (as defined below) and Interest (as defined below).
3. LEASE TERM AND RENT COMMENCEMENT. The "**Term**" of the Ground Lease would be for fifty-five (55) years and would commence prior to the Closing and thirty (30) days after the later of LAFCO annexation approval of, and the recordation of the final Parcel Map for, the Beaumont Pointe Project (the "**Lease Commencement Date**"). At the end of the Term, the City would convey the fee interest in the Property back to Beaumont Pointe in consideration of the payment by Beaumont Pointe to the City of the fair market value of the graded and improved pad at the Property, exclusive of the value of the vertical improvements constructed thereon.
4. BEAUMONT POINTE'S BASE RENT AND ESCALATIONS. Prior to the completion of the Project and occupancy by third-party tenants, the Base Rent would be \$100.00 per year. The Base Rent would be triple net and paid by Beaumont Pointe on the 1<sup>st</sup> day of every calendar year. Beaumont Pointe would directly pay the property or possessory interest taxes, as applicable, insurance and maintenance costs required to reasonably maintain the Property. Once the Project is completed and occupied by one or more third-party tenants under subleases with Beaumont Pointe, Base Rent under the Ground Lease would equal fifty percent (50%) of all net rent and other income generated by the Project actually received ("**Net Rent**") by Beaumont Pointe, after Beaumont Pointe first is reimbursed in full for all of its Project Costs, Carry Costs and accrued interest on both, at the rate of eight percent (8%) per annum from the date of the applicable date of expenditures ("**Interest**"), and debt service on any mortgages encumbering the vertical improvements at the Property and capital contributed by Beaumont Pointe's equity partners, together with a return thereon (collectively, the "**BPP Costs**").

# Beaumont Pointe Partners LLC

5. PROJECT DEVELOPMENT AND COSTS. Beaumont Pointe would build the infrastructure improvements for the Project, including without limitation a rough-graded development pad on-site, and off-site all perimeter roads for the street surrounding the Property, sidewalks, gutters, storm drains, paving as required in the Specific Plan, and all wet and dry utilities located in the streets surrounding the Property (collectively, the "**Infrastructure Improvements**") and pay all costs related thereto, including, but not limited to all reasonable development fees, construction costs, project manager costs, legal fees, Carry Costs and other related soft costs incurred with respect to Infrastructure Improvements completed (collectively the "**Project Costs**"). The Project Costs are estimated to exceed \$10,000,000, and would be reimbursed to Beaumont Pointe as a first priority payment from rent, sale proceeds or other income generated by the Project, together with Carry Costs and Interest, in a maximum amount of \$10,000,000 (the "**Cap**"). The Cap would not include Carry Costs and Interest, which would be paid in the future as a first priority from rent and other income generated by the Project.
6. RIGHT OF FIRST OFFER TO PURCHASE THE PROPERTY. If, during the Term, the City intends to sell the Property (which would include all improvements made thereto that are owned by the City) (the "**Offered Property**"), and provided that no uncured event of default then exists under the Ground Lease, Beaumont Pointe would have the right of first offer under the Lease to purchase the Offered Property on the terms and conditions on which City proposes to sell the Offered Property to a third party, subject to all applicable law including, but not limited to the California Surplus Land Act, as well as the terms of the Ground Lease. The City would give Beaumont Pointe written notice of its intent to sell and indicate the terms and conditions (including the sale price) upon which the City proposes to sell the Offered Property to a third party. Beaumont Pointe would thereafter have thirty (30) days to elect in writing whether to purchase the Offered Property and execute a purchase and sale agreement with respect thereto and an additional sixty (60) days after Beaumont Pointe's election date to close on the acquisition of the Offered Property, all on the terms and conditions set forth in the notice provided by the City to Beaumont Pointe. Should Beaumont Pointe elect to purchase the Property, Beaumont Pointe would provide an earnest money deposit that is non-refundable (except in the event of a default by the City or a permitted Beaumont Pointe termination under the purchase agreement), to be held in escrow until closing, equal to three percent (3%) of the agreed purchase price for the Offered Property. If Beaumont Pointe does not elect to purchase the Offered Property, then the City would be free to sell the Offered Property to a third party; provided, however, that the purchase price offered to such third party would equal or exceed ninety-five percent (95%) of the purchase price offered to Beaumont Pointe. If either Beaumont Pointe or a third party purchases the Offered Property, the net proceeds from such sale would first be used to reimburse Beaumont Pointe in full for all BPP Costs, with the balance of the net proceeds divided equally between the City and Beaumont Pointe.
7. PROPERTY OPERATING EXPENSES, MAINTENANCE, AND REPAIRS. Under the Ground Lease, Beaumont Pointe would be responsible for the payment of absolutely all

# Beaumont Pointe Partners LLC

operating expenses associated with the Property and Project including, but not limited to, real property taxes or possessory interest taxes, if applicable, liability insurance, casualty insurance, general weed abatement, maintenance for vacant land, and all other items ("**Carry Costs**"). Beaumont Pointe would be responsible for all maintenance, repairs and day-to-day operations of the Project.

8. BEAUMONT POINTE RIGHT TO SUBLEASE PREMISES/ASSIGN LEASE/REQUEST SUBDIVISION.

(a) Sublease. Beaumont Pointe would have the right to sublease all or any portion of the Premises with the City's prior written consent, not to be unreasonably withheld, conditioned or delayed. In considering such a consent, the City would only be permitted to consider the suitable tenant mix for the Project utilizing uses called for in the Specific Plan (excluding gas stations), as long as such mix is commercially viable, furthers the goals of the City enunciated in the General Plan, and is suitable for financing. No sublease would reduce or affect any of Beaumont Pointe's obligations under the Ground Lease. Upon the sublease of all or a portion of the Premises, as Base Rent under the Ground Lease, the City would have the right to one half of any sublease rents or income that might be afforded Beaumont Pointe as sublessor by way of any sublease, with Beaumont Pointe retaining the other half. Any such sums payable to the City would only be paid after reimbursement to Beaumont Pointe in full for the Project Costs, Carry Costs and Interest.

(b) Assignment of Ground Lease. Beaumont Pointe would also have the right to assign the Ground Lease to a third party having development experience and financial resources at least equal to that of Beaumont Pointe, determined as of the Lease Commencement Date, with the City's prior written consent, not to be unreasonably withheld, conditioned or delayed; provided that Beaumont Pointe would have, without the City's consent, after providing written notice to the City, to assign the Lease or sublet all or any portion of the Leased Premises to any Permitted Assignee (as hereinafter defined) if such Permitted Assignee's use of the Premises would comply with the terms and conditions of the Ground Lease, and the City approves, in the City's reasonable discretion, the financial condition of such Permitted Assignee. "**Permitted Assignee**" would be defined as (i) any parent company, subsidiary, affiliate or related corporate entity of Beaumont Pointe that controls, is controlled by, or is under common control with Beaumont Pointe, or (ii) an entity that purchases all of Beaumont Pointe's assets in the United States. The City's approval of any third-party assignee or Beaumont Pointe's assignment to a Permitted Assignee, would release Beaumont Pointe as primary obligor under the Ground Lease, provided that the Assignee or Permitted Assignee assumes in full the obligations of Beaumont Pointe thereunder.

(c) Subdivision and Sublease or Sale. Subject to applicable law, Beaumont Pointe would also have the right to request the City to approve the subdivision of the Property into two or more legal parcels and permit the sale thereof to one or more third parties, if

# Beaumont Pointe Partners LLC

such party(ies) makes an offer to purchase same that is approved by Beaumont Pointe and the City in its sole and absolute discretion and compliant with applicable law, including the California Surplus Land Act. The net proceeds from any such sale would be split evenly between the City and Beaumont Pointe under the Ground Lease, after Beaumont Pointe is reimbursed in full for its Project Costs, Carry Costs and Interest. Any and all licenses, permits, entitlements or environmental approvals for the Project (“**Approvals**”) would be subject to all applicable state and local laws and regulations, including the Beaumont Municipal Code. Nothing in this LOI may be interpreted to require that the City exercise its discretion with regard to the issuance of the Approvals in a manner different from the manner in which it ordinarily exercises such authority and discretion with respect to other developers and members of the public.

9. BROKERAGE COMMISSION. The City and Beaumont Pointe each represents and warrants to the other that it has not engaged any third-party broker in connection with the Transactions contemplated in this Letter of Intent, and that no commission is owed to any such party arising therefrom. The City and Beaumont Pointe would each indemnify and hold the other harmless from any and all liability, including court costs and attorneys’ fees, arising as a result of a breach of this representation.

10. CONFIDENTIALITY. Except as set forth otherwise in this Section 11, and subject to applicable law, Beaumont Pointe and the City acknowledge and agree that (a) this Letter of Intent and the terms and conditions contained herein and details of the ensuing negotiations would remain confidential between the parties; and (b) no proposals, Lease or PSA drafts or summaries of any kind would be distributed, copied or otherwise transmitted, orally or in writing, to any entity or person, except (i) on a confidential basis: to employees and agents of Beaumont Pointe, the City or their respective representatives, attorneys, advisors, accountants and applicable lenders and or current or potential capital partners who have the need for such copies and/or information in order to complete the transactions contemplated by this Letter of Intent, (ii) as required by applicable law or legal process, and (iii) as otherwise mutually agreed by the parties hereto.

11. NOTICES. All notices (including, without limitation, approvals, consents and exercises of rights or options) required or permitted to be given hereunder would be in writing and would be served on the parties at the addresses set forth below or to such other address as the party entitled to receive such notice may, from time to time hereinafter, designated by giving written notice pursuant hereto. Any such notice would be either (a) sent by personal delivery, in which case notice would be deemed delivered upon receipt, (b) sent by overnight delivery using a nationally recognized overnight courier (e.g., Federal Express), in which case notice would be deemed delivered one (1) business day after deposit with such courier, or (d) sent by electronic mail, in which case notice would be deemed delivered when sent, provided that the sender does not receive an auto-reply that the intended recipient is out of the office. Notices given by counsel to Beaumont Pointe would be deemed given by Beaumont Pointe, notices given by counsel to the City would be deemed given by the City, and notices given to a party’s counsel would be deemed given to the party:

# Beaumont Pointe Partners LLC

<b><i>To Beaumont Pointe:</i></b>	Beaumont Pointe Partners, LLC 501 East Los Olas Blvd. Suite 300 Fort Lauderdale, FL 33301 Attention: Philip W. Cyburt Email: <a href="mailto:pcyburt@cyburtholdings.com">pcyburt@cyburtholdings.com</a>
<b><i>With copy to:</i></b>	Akerman LLP 601 W. Fifth Street, Suite 300 Los Angeles, CA 90071 Attention: William D. Ellis, Esq. Email: <a href="mailto:william.ellis@akerman.com">william.ellis@akerman.com</a>
<b><i>To the City:</i></b>	The City of Beaumont Beaumont Civic Center 550 E. 6 <sup>th</sup> Street Beaumont, CA 92223 Attention: John O. Pinkney Email: <a href="mailto:pinkney@sbemp.com">pinkney@sbemp.com</a>
<b><i>With a copy to:</i></b>	Slovak Baron Emery Murphy & Pinkney LLP 1800 E Tahquitz Canyon Way Palm Springs, CA 92262 Attention: Robert L. Patterson Email: <a href="mailto:patterson@sbemp.com">patterson@sbemp.com</a>

12. **INTERPRETATION.** This LOI is separate and independent from the Entitlements and the Development Agreement and it is not intended to be a part of the Entitlements. To the extent of any inconsistency between the Entitlements and this LOI, the terms of this LOI shall control for purposes of interpreting this LOI.

# Beaumont Pointe Partners LLC

13. NON-BINDING. Except as set forth in the Sections above entitled "**CONFIDENTIALITY**" and "**INTERPRETATION**" (which would be binding), the parties hereto do not intend for this Letter of Intent to create or be construed as creating a binding contract between the parties, and is only intended to advance discussions between the parties concerning the transactions contemplated herein. Prior to executing this Letter of Intent, the City or Beaumont Pointe may, with or without notice to the other party, terminate discussions or negotiations regarding the matters in this Letter of Intent without obligation or liability whatsoever. Notwithstanding any written or oral communications to the contrary, the parties are not bound to the terms and conditions of the Lease, the PSA, the Transactions or otherwise until the parties hereto execute and deliver such agreements to each other.

**[Signature Page Follows]**

# Beaumont Pointe Partners LLC

Please note this Letter of Intent will expire automatically and be of no further force or effect at **5:00 p.m. PST on \_\_\_\_\_, 2024** if not executed and delivered by Beaumont Pointe prior to such deadline.

Sincerely,

**AGREED AND APPROVED**

<b>BEAUMONT POINTE:</b>  BEAUMONT POINTE PARTNERS LLC, a Delaware limited liability company  By: _____ Name: Philip W. Cyburt Title: _____ Date: _____	<b>THE CITY:</b>  THE CITY OF BEAUMONT, a municipal corporation  By: _____ Name: _____ Title: _____ Date: _____
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# Beaumont Pointe Partners LLC

## Exhibit A

Legal Description and Depiction of the Property

[To be attached]