

## **SETTLEMENT AGREEMENT CONCERNING OJAI BUNGALOWS PROJECT**

The parties to this Settlement Agreement (“Agreement”) are the City of Ojai (“City”) and Ojai Bungalows LP (“Bungalows Owners” or “Developer”). The City and Bungalows Owners are referred to individually as “Party” and collectively as “Parties”.

### **RECITALS**

A. Bungalows Owners own property at 312 W. Aliso Street known as Cottages Among the Flowers (“Cottages”), 412 Mallory Way known as Mallory (“Mallory”), 304 South Montgomery (“Montgomery”), and 510 E. Ojai.

B. Bungalows Owners received approval of a Design Review Permit (DRP 05-01), Tentative Tract Map (TTM 5587), and Tree Permit (T 07-22) from the City Council upon the recommendation of the Planning Commission on November 27, 2007 and a final tract map for Tract 5587 was approved by the City Council on December 8, 2009 and subsequently recorded (“Cottages Project”). The Cottages Project time extensions on the Design Review Permit (DRP 05-01) were approved May 4, 2011, June 15, 2016, August 17, 2016 (which included approved revisions), and October 4, 2017; however, the building permit was not ready to issue until October 24, 2018. On April 3, 2019, the City Planning Commission approved a retroactive one-year time extension (“Cottages Time Extension Application”), which the City Council appealed to itself on April 9, 2019 and which has remained pending since the City Council’s appeal.

C. Bungalows Owners received approval of a Design Review Permit (DRP 11-10), Tentative Tract Map (TTM 11-01), and Tree Permit (T 11-30412) from the City Council on June 12, 2012 (“Mallory Project”). The Mallory Project received an automatic time extension under state law and requested a time extension from the City on May 14, 2017 (“Mallory Time Extension Application”). The City, however, did not schedule action on the Mallory Time Extension Application until February 20, 2019, when the Planning Commission recommended that the City Council approve the time extension. The City Council considered the Planning Commission’s recommendation on April 3, 2019. The City Council continued the item for 60 days but has not yet taken final action on the Mallory Time Extension Application.

D. A dispute arose between the City and the Bungalows Owners related to the applicability of the City's 2013 Replacement Housing Ordinance (Ojai Municipal Code, § 10-2.904) to both the Cottages and Mallory Extension Applications.

E. After years of negotiation, the dispute was resolved through a Development Agreement, involving the Cottages, Mallory and Montgomery properties, which was approved by the City in October 2022 on a 4-1 vote.

F. That Development Agreement was challenged through a referendum, which the City had submitted for consideration by the City's voters on March 5, 2024, and after a series of actions, Bungalows Owners rescinded the Development Agreement on August 11, 2023, and asked the City to schedule the Extension Applications for Cottages and Mallory for a hearing.

G. Additionally, after the referendum qualified for a public vote to rescind the Development Agreement, Bungalows Owners submitted alternate applications for development at on the Montgomery and 510 E. Ojai properties. The proposed development on the Montgomery property was consistent with the development proposed in the Development Agreement; and the proposed development on 510 E. Ojai is consistent with the City's adopted Housing Element and the City's Special Housing ("SPL") Overlay.

H. On November 21, 2023, Bungalows Owners filed a complaint/petition to the action entitled *Ojai Bungalows, LP v. City of Ojai, City of Ojai City Council, and Weston Montgomery in his official capacity as Interim Deputy City Clerk for the City of Ojai and Does 1 through 20*, (Ventura County Superior Court, Case No. 2023CUWM016948) to require the City to hold a hearing on the Cottages and Mallory Extension Applications. Bungalows Owners did so despite the fact the City had offered three potential hearing dates (pending confirmation by the City Council) because Bungalows Owners wanted to ensure the City's commitment to hold a hearing would be subject to Court order. On December 9, 2023, the Court approved a Stipulation to Hold Administrative Hearing and Stay Proceedings in which the City agreed to hold a hearing on the Cottages and Mallory Extension Applications on December 18, 2023.

I. To avoid the time, inconvenience, expenses and uncertainty of any potential litigation, the parties entered into this Agreement.

**TERMS OF AGREEMENT**

1. If the City approves the Cottages Time Extension on December 18, 2023, Developers agree to the following.

*a.* Developer will provide the following additional tenant protections to anyone living in Cottages on December 18, 2023.

(i) No current tenant will be evicted (other than for nonpayment of rent or breach of lease by a tenant, or otherwise in accordance with the Tenant Protection Act of 2019 and the Ojai Municipal Code for just-cause evictions) to commence construction on a Cottages unit unless at least an “equivalent sized” unit, as defined in Government Code Section 65915(c)(3)(D), is available in Cottages, Mallory, Montgomery, or 510 E. Ojai (“Cottages Displaced Tenant”) and Developer first provides right of first refusal to a Cottages Displaced Tenant to establish a residential tenancy at a unit located at Cottages, Mallory, Montgomery, or 510 E. Ojai Avenue at a rental amount not to exceed the rental rate that the tenant is paying at the time, and any future increase to rent for that tenant is limited by any applicable rent stabilization ordinance.

(ii) Developer will reimburse moving costs to the Cottages Displaced Tenant up to \$2,000. This amount must be paid within seven days of receiving proof of moving expenses (receipts). The Parties intend that the phasing of the construction will allow any Cottages Displaced Tenant to transition to new units.

*b.* Developer will submit applications for the following projects (together “Applications”). City agrees to process the Applications, in accordance with the Permit Streamlining Act and other applicable deadlines in state housing law and as described further below. For the purposes of the Agreement, references to a deed-restricted unit mean a unit deed restricted for 55 years at an affordable rental rate based on the qualifying income levels established under federal and state law. (See Heal. & Saf. Code, §§ 50079.5, 50093, 50105.)

(i) Developer will apply to add two accessory dwelling units (“ADUs”) to the Cottages Project over the existing garage (1 deed-restricted low income unit and 1 deed-restricted very low income unit). The City will process the applications for the two

ADUs consistent with State ADU Law within the applicable timelines through a ministerial process without discretionary review that triggers the California Environmental Quality Act (“CEQA”). The City will approve the building permits within 60 days consistent with State ADU Law.

(ii) Developer will continue to process the pending application for 15 units, with 12 deed-restricted moderate income units and 3 deed-restricted low income units, at Montgomery (“Montgomery Project”) pursuant to the existing application permissible under State Bonus Density and the City’s PDP ordinance. City will rely on same CEQA exemptions it applied during the Development Agreement as well as any other applicable CEQA exemptions under applicable law. City will issue building permits within 6 months of approval.

(iii) Developer will continue to process the pending application for 13 units, with 1 deed-restricted moderate income unit, 2 deed-restricted low income units, and 2 deed-restricted very low income units at 510 E. Ojai (“510 E. Ojai Project”) pursuant to the existing application, which conforms with the Housing Element and Special Housing (“SPL”) overlay. The City will process as a CEQA exempt, “use by right” development as allowed under the Housing Element and State law. City will issue building permits within 6 months of approval.

(iv) Mallory Housing Project

(a) Upon the approval of this Agreement, Developer’s Mallory Time Extension Application is automatically modified to an application for a project of up to 58 units, including 5 deed-restricted very-low income units and 5 deed-restricted moderate-income units, as part of which the Developer agrees not to demolish, but to only rehabilitate all 25 existing Mallory Way Bungalows units (however, Parties acknowledge that if in Developer’s sole discretion, a viable site plan necessitates relocating up to 4 existing units, that will be allowed as a part of the project, provided, at all times, Developer shall comply with all provisions of this section (1)(b)(iv) in its entirety) (“Modified Mallory Housing Project”).<sup>1</sup>

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<sup>1</sup> Within 60 days after the City’s conveyance of the Former City Lands in accordance with Section (1)(b)(iv)(d) of this Agreement, Developer will file an SB 330 Preapplication, followed in 180 days by a full application for the Modified Mallory Housing Project application, consistent with the terms set forth in this Agreement. The

(b) Developer agrees to propose and only build units that are approximately 500-600 square feet. Developer also agrees that the Modified Mallory Housing Project design will be internally consistent, with similar design and materials, as appropriate given the current nature of the 25 existing structures, with all units at the Modified Mallory Project not to exceed two stories. Developer also agrees to design a project that minimizes impacts to oak trees on the site, however, the City cannot use this contract term to reduce the Modified Mallory Housing Project density, size, bulk, or scale. Parties also acknowledge and agree that despite any language in this Agreement, the Parties must comply with State Law and the Ojai Municipal Code when processing and developing the Modified Mallory Housing Project.

(c) No current tenant as of December 18, 2023 will be evicted (other than for nonpayment of rent or breach of lease by a tenant, or otherwise in accordance with the Tenant Protection Act of 2019 and the Ojai Municipal Code for just-cause evictions) to commence construction of a Mallory unit unless at least an equivalent sized unit, as defined in Government Code Section 65915(c)(3)(D), is available in Cottages, Mallory, Montgomery, or 510 E. Ojai (“Mallory Displaced Tenant” ) and Developer first provides right of first refusal to a Mallory Displaced Tenant to establish a residential tenancy at a unit located at Cottages, Mallory, Montgomery, or 510 East Ojai Avenue at a rental amount not to exceed the rental rate that the tenant is paying at the time, and any future increase to rent for that tenant is limited by any applicable rent stabilization ordinance. Developer will reimburse moving costs to the Mallory Displaced Tenant up to \$2,000. This amount must be paid within seven days of receiving proof of moving expenses (receipts). The Parties intend that the phasing of the construction will allow any Mallory Displaced Tenant to transition to new units.

(d) To facilitate the construction of the Modified Mallory Housing Project and to provide consideration for the Developer’s construction of Montgomery Project with all deed-restricted affordable units, the City will comply with the Surplus Land Act, applicable state law, and the Ojai Municipal Code, and, after the necessary public City Council approvals are made in the sole discretion of the City Council, convey the

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previously approved Mallory project was analyzed with an Environmental Impact Report (“EIR”). Parties agree that the Modified Mallory Housing Project will be analyzed by tiering off of the previously certified EIR, pursuant to Public Resources Code section 21166 and CEQA Guidelines 15162.

“paper street” adjacent to Mallory to the west, described in Tract No. 1443 in Exhibit 1 and depicted as the portion of the Mallory Way right of way north of Eucalyptus Street to the northern line of the Mallory Way project site, APN 0200071370 in Assessor’s Map No. 20-07, Exhibit 2, to Developer to be used to build the Modified Mallory Housing Project (“Former City Land”). Developer also agrees to develop an unpaved (decomposed granite or dirt), workable and standard size public trail primarily located on the Former City Land as part of the Mallory Housing Project. Developer agrees that a condition of approval of the Mallory Project will be to grant an Offer to Dedicate to the City for the benefit of the public for pedestrian ingress and egress over the trail. The parties also understand and agree that the Grant Deed will contain reversion language which will revert the land back to the City if Developer does not pursue the Modified Mallory Housing Project within twelve (12) months after the land is conveyed to the Developer or if the Developer submits a development application that is inconsistent with the Modified Mallory Housing Project. Developer further agrees to use the Former City Land for spreading the Modified Mallory Housing Project units in such way to maximize open space and not to create more density beyond the up to 58 units set forth in the Modified Mallory Housing Project.

(e) The Developer will file a landmark application and City will in good faith consider and in the City’s sole discretion, if appropriate after the necessary public hearings before the City Council and Historic Preservation Commission, approve a landmarking and Mills Act application on the existing property improvements.

2. The City will charge the 2019 building permit fees for Cottages. No other outstanding fees are due for Cottages. The existing building plans which were deemed permit ready do not need to be modified for Cottages. The City will issue building permits for Phase 1 of Cottages within 30 days. For Mallory, Montgomery and 510 E. Ojai, the City shall charge no more than \$696,000 (i.e., no more than \$11,047.62 per unit) in City fees, inclusive of all City processing and permitting fees, including planning, grading, City development impact fees, and building permit fees (“City Collected Fees”). In the event of any legal action, including but not limited to, challenges under Planning and Zoning Law or CEQA, instituted by any third party (not a Party to this Agreement), including, but not limited to, any person, organization, association, or federal, state or local governmental entity, challenging or affecting the validity,

enforceability or implementation of the entitlement or other approval approved or issued by City with respect to the Modified Mallory Housing Project, the City shall reduce the City Collected Fees by \$200,000 to reimburse Bungalows Owners solely for use of legal fees associated with the legal action.

3. The City agrees to process all Applications in accordance with applicable deadlines under state law. The City's processing of all Applications shall not exceed the following schedule: (a) hearing and action at a Planning Commission within 3 months from the date of the Settlement Agreement for Montgomery and 510 E. Ojai, and within 6 months from application submission for the Modified Mallory Housing Project; (b) hearing and action (as necessary) before the City Council within 60 days of the Planning Commission hearing. The City cannot make any promise as to the final timing of the approval and conveyance of the Former City Land because the process requires submission of the proposed exempt surplus land determination, if made by the City Council, to the state Department of Housing and Community Development. The City can, however, promise to submit the proposed street vacation, exempt surplus land determination, and land conveyance for City Council review and action within 60 days after this Agreement. In no case will the City hold more than five hearings on the Application in accordance with state law, except that the public hearings required for landmarking and Mills Act applications do not count as part of the five hearings as these proceedings are independent from land use entitlements. The City also agrees to expedite building permits for all the projects as set forth herein once each project is approved.

4. Parties agree that the City will not require any reimbursement agreement or indemnity agreement, except for a challenge based on the transfer of exempt surplus land for the Former City Land. In the event of any legal action, including but not limited to, challenges under Planning and Zoning Law, the Surplus Land Act or CEQA, instituted by any third party (not a Party to this Agreement), including but not limited to, any person, organization, association, or federal, state or local governmental entity, challenging or affecting the validity, enforceability or implementation of the entitlement or other approval approved or issued by City with respect to the Applications or this Agreement ("Third Party Action"), the Parties agree to in good faith defend said Third Party Action. The City shall have the right to settle or compromise any legal action, including but not limited to, challenges under Planning and Zoning Law, the Surplus Land Act or CEQA, instituted by any third party (not a Party to this Agreement),

including but not limited to any person, organization, association, or federal, state or local governmental entity, challenging or affecting the validity, enforceability or implementation of the entitlement or other approval approved or issued by City with respect to the Applications or this Agreement, provided that no such settlement or compromise shall terminate, modify, alter or amend (i) Bungalow Owners' rights set forth in this Agreement; or (ii) any of the entitlements or other approval issued by the City with respect to the Applications or this Agreement, without Bungalow Owners' prior written consent unless otherwise ordered by a court of competent jurisdiction.

5. Ojai Bungalows LP shall work in good faith to offer the units with a preference to local residents in accordance with the Ojai Municipal Code, and State and federal fair housing laws.

6. The Parties agree to prepare language for a Joint Press Release within 48 hours of approval of the Settlement Agreement.

7. The Parties agree that the Court shall retain jurisdiction to enforce future performance of the terms of this Agreement pursuant to Code of Civil Procedure Section 664.6. To that end, the Parties shall submit an Order of Dismissal to the Court with the Agreement attached, asking the Court to dismiss the case and retain jurisdiction pursuant to Code of Civil Procedure Section 664.6. In any future proceeding to enforce the terms of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs incurred solely in connection with such future proceeding.

8. The Parties agree to cooperate in the dismissal of the pending lawsuit, captioned *Simply Ojai v. City of Ojai* (Ventura County Superior Court, Case No. 56-2022-00572740-CU-WM-VTA), which is moot with the withdrawal of the development agreement from City consideration.

9. Miscellaneous Terms/Exclusions

*a.* The Parties shall, at all times, act in good faith in a timely manner to satisfy their respective obligations under the terms of this Agreement and further actions reasonably necessary to effectuate this Agreement.

*b.* Each Party shall bear its own costs, expenses, expert and consultant fees, and attorneys' fees related to the negotiation and drafting of this Agreement.



*c.* The Parties hereto each expressly recognize and agree that the terms in this Agreement constitute an accord and satisfaction of contested matters and neither the offer nor the acceptance of the terms and conditions hereof, represent an admission of liability or responsibility on the part of any Party; each Party hereto expressly disclaiming any such liability.

10. Representations and Warranties of All Parties

Each Party hereby represents, warrants, and agrees as follows:

*a.* The Party's authorized representatives have duly authorized, approved and executed this Agreement, which is a legal, valid, and binding obligation of each Party executed without duress or undue influence.

*b.* The Party has received independent legal advice from its attorneys throughout all negotiations which preceded the execution of this Agreement, with respect to the advisability of executing this Agreement.

*c.* No other Party has made any representation to the Party regarding any fact relied upon in entering this Agreement, and the Party does not rely upon any such statement, representation or promise of any other Party in executing this Agreement except as expressly stated herein.

*d.* The Party has made such investigation of the facts and law pertaining to this Agreement and mutual general release and settlement, and of all the matters pertaining thereto, as it deems necessary.

*e.* The Party has read this Agreement and understands its contents.

*f.* This Agreement is intended to be and is final and binding regardless of any future allegations of misrepresentation, concealment of fact, mistake of fact or law, or of any other circumstance whatsoever. The Party shall not be entitled to any relief regarding such future allegations, including without limitation any alleged right or claim to set aside or rescind this Agreement.

*g.* The Parties agree that this Agreement addresses the City's processing of the Applications and other certain actions in accordance with State laws and the

Ojai Municipal Code under its police powers; accordingly, execution of this Agreement does not commit the City to a project necessitating environmental review under CEQA in accordance with *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116 and related jurisprudence.

11. Time Is of The Essence and Good Faith: Timely performance of the Parties' duties under this Agreement is of the essence. Failure to timely perform is a material breach of the Agreement.

12. Entire Agreement: This Agreement shall constitute the entire agreement between the Parties, and no prior understanding or representation preceding the date of this Agreement is binding on all Parties, except to the extent incorporated into this Agreement.

13. No Party Deemed To Be Drafter: The Parties acknowledge and agree that this Agreement is to be construed without regard to the identity of the persons who drafted its various provisions. The Parties further agree that each and every provision of this Agreement shall be construed as though all Parties participated equally in drafting of the same, and that any rule of construction (including section 1654 of the Civil Code) that the document is to be construed against the drafting Party shall not be applicable to this Agreement.

14. Changes to Agreement: Any change to this Agreement or additional obligation assumed by any Party in connection with this Agreement shall be binding only if evidenced in a signed writing by all Parties.

15. Enforcement of Agreement and Remedies for Breach: Each term of this Agreement is contractual and not merely a recital. Any Party shall have the right to enforce the terms of the Agreement by proceedings in the Ventura County Superior Court of the State of California. For purposes of remedies available through Judicial resolution, Parties agree that monetary damages are inadequate as a remedy, therefore, remedies shall be by specific performance and/or injunctive relief.

16. Choice of Law: This Agreement shall be construed and enforced in accordance with California law. If any provision of this Agreement is determined to be invalid or unenforceable, the remainder shall be construed and enforced so as to best effectuate the intention of the parties at the time this Agreement was entered into. This Agreement shall not be

interpreted against any Party on the basis that such party or its attorney drafted any of its provisions.

17. Execution in Counterparts: This Agreement may be executed in counterparts which when taken together constitute the Parties' entire agreement.

18. Effective Date: This Agreement shall become effective upon its execution by all Parties.

19. Notice: Notice required to be given pursuant to this Agreement shall be by certified mail to the following:

City  
City Manager  
401 South Ventura Street  
Ojai CA 93023

With a copy to:  
Matthew T. Summers  
Colantuono, Highsmith & Whatley, PC  
790 E. Colorado Blvd, Suite 850  
Pasadena CA 91101

Bungalows Owners  
Ojai Bungalows, LP  
c/o The Becker Group, Inc./Jeffrey R. Becker  
40 South Ash Street  
Ventura, CA 93001

With a copy to:  
Beth Collins  
Brownstein Hyatt Farber Schreck  
1021 Anacapa, 2<sup>nd</sup> Floor  
Santa Barbara, CA 93101

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

City

CITY OF OJAI

DocuSigned by:  
By: Betsy Stix 12/23/2023 | 7:40 AM PST  
238AA8D11870F402  
Betsy Stix, Mayor of City of Ojai

CITY OF OJAI

DocuSigned by:  
By: Matthew Summers 12/22/2023 | 7:25 PM PST  
04DF74093C6347D  
Matthew Summers, City Attorney  
*Approved as to form*

Ojai Owners

OJAI BUNGALOWS LP

DocuSigned by:  
By: Jeffrey Becker 12/22/2023 | 1:56 PM PST  
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Jeffrey Becker

OJAI BUNGALOWS LP

DocuSigned by:  
By: Willen Jonker 12/22/2023 | 3:13 PM PST  
068326816B7C460...  
Willen Jonker

**Certificate Of Completion**

Envelope Id: 9E2F32B5D17D409593E6936C96399FAD

Status: Completed

Subject: Complete with DocuSign: Ojai Bungalows\_ Draft Settlement Agreement(26633423.15).pdf

Source Envelope:

Document Pages: 12

Signatures: 4

Envelope Originator:

Certificate Pages: 5

Initials: 0

Caitlin Malone

AutoNav: Enabled

675 15th Street

Envelopeld Stamping: Enabled

Suite 2900

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Denver, CO 80202

cmalone@bhfs.com

IP Address: 66.35.34.196

**Record Tracking**

Status: Original

Holder: Caitlin Malone

Location: DocuSign

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cmalone@bhfs.com

**Signer Events**

**Signature**

**Timestamp**

Betsy Stix

Betsy.Stix@ojai.ca.gov

Security Level: Email, Account Authentication (None)

DocuSigned by:

*Betsy Stix*  
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Signed: 12/23/2023 7:40:43 AM

Signature Adoption: Pre-selected Style

Using IP Address: 98.173.144.2

**Electronic Record and Signature Disclosure:**

Accepted: 12/23/2023 7:38:39 AM

ID: a113994e-f0ea-428b-a315-6c937d6d920d

Jeffrey Becker

jbecker@beckergrp.com

President

THE Becker Group, Inc.

Security Level: Email, Account Authentication (None)

DocuSigned by:

*Jeffrey Becker*  
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Sent: 12/22/2023 1:17:54 PM

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Signature Adoption: Pre-selected Style

Using IP Address: 71.94.137.33

**Electronic Record and Signature Disclosure:**

Accepted: 12/22/2023 1:55:15 PM

ID: 077ac4ba-ed14-4ed7-a34f-15c2a61d044d

Matt Summers

msummers@chwlw.us

Security Level: Email, Account Authentication (None)

DocuSigned by:

*M Summers*  
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Viewed: 12/22/2023 6:58:52 PM

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Signature Adoption: Drawn on Device

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**Electronic Record and Signature Disclosure:**

Accepted: 12/22/2023 6:58:52 PM

ID: 001f5303-ec0d-4e4e-a921-7007b0c1d92c

vim jonker

vim@topperspizzaplace.com

president

Security Level: Email, Account Authentication (None)

DocuSigned by:

*vim jonker*  
0853268A6B7C460...

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Signed: 12/22/2023 3:13:49 PM

Signature Adoption: Pre-selected Style

Using IP Address: 104.28.124.72

**Electronic Record and Signature Disclosure:**

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<b>In Person Signer Events</b>	<b>Signature</b>	<b>Timestamp</b>
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<b>Editor Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
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<b>Agent Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
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<b>Intermediary Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
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<b>Certified Delivery Events</b>	<b>Status</b>	<b>Timestamp</b>
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<b>Carbon Copy Events</b>	<b>Status</b>	<b>Timestamp</b>
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Beth Collins bcollins@bhfs.com Board member Security Level: Email, Account Authentication (None) <b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign	<div style="border: 2px solid blue; padding: 5px; display: inline-block;"><b>COPIED</b></div>	Sent: 12/22/2023 1:17:55 PM Viewed: 12/22/2023 1:37:10 PM
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<b>Witness Events</b>	<b>Signature</b>	<b>Timestamp</b>
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<b>Notary Events</b>	<b>Signature</b>	<b>Timestamp</b>
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<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
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Envelope Sent	Hashed/Encrypted	12/22/2023 1:17:56 PM
Certified Delivered	Security Checked	12/22/2023 3:12:12 PM
Signing Complete	Security Checked	12/22/2023 3:13:49 PM
Completed	Security Checked	12/23/2023 7:40:43 AM

<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>
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<b>Electronic Record and Signature Disclosure</b>
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## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, Brownstein Hyatt Farber Schreck, LLP (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

**How to contact Brownstein Hyatt Farber Schreck, LLP:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [lmcdonald@bhfs.com](mailto:lmcdonald@bhfs.com)

**To advise Brownstein Hyatt Farber Schreck, LLP of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [lmcdonald@bhfs.com](mailto:lmcdonald@bhfs.com) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

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