

AGR-7850

Initial
LT

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (this “MOU”) is entered into as of July 22, 2025 (the “Reference Date”) by MILAN REI X, LLC, a California limited liability company (“Developer”), and the CITY OF ORANGE, a California municipal corporation (“City”). Developer and City are sometimes referred to herein, individually, as a “Party” and, collectively, as the “Parties”.

RECITALS

A. Developer owns the following real property located in the City and identified as: (i) TTM 0050-20 property (the “TTM Property”); (ii) Sully Miller property (the “Sully Miller Property”); and (iii) 6146 E. Santiago Canyon Road (the “Residential Property”).

B. Among other things, the Parties desire to work toward the eventual development of the Sully-Miller Property as public open space, providing a substantial environmental and land use benefit to City residents and surrounding communities.

C. In August 2020, the City approved a tract map for the development of 22 single family homes on the TTM Property (the “TTM Project”). The Developer is currently pursuing ministerial permits for the TTM Project.

D. In 2023, the Developer submitted applications for “Builder’s Remedy” residential projects on the Sully Miller and Residential properties (the “Builder’s Remedy Applications”). Due to disagreements regarding the Builder’s Remedy Applications and a desire to work toward a potential agreement regarding development of the Sully Miller and Residential properties, the City and the Developer entered into tolling agreements (the “Tolling Agreements”) regarding the Builder’s Remedy Applications, which tolling agreements are still in effect.

E. The Parties desire to set forth the terms of an agreement that would address development of the Sully Miller and Residential properties while Milan moves forward with the ministerial development of the TTM Property. The Parties acknowledge that all components of the agreement are necessary for the Developer to move forward, and that absent development of the TTM, Sully Miller, and Residential properties as set forth below, the Developer will pursue the Builder’s Remedy Applications.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1.1 Residential Property Project Submission and Approval. Developer plans to submit plans to the City for a 30-unit residential project on the Residential Property (the “Residential Project”). The Residential Project shall consist of the necessary applications for the 30-unit project, utilizing state Density Bonus law, an application for a tract map under the Subdivision Map Act, and any submissions necessary for the City to undertake CEQA review of the tract map application. Developer shall submit all necessary applications for the Residential Project by August 1, 2025, and City commits to review the applications for the Residential Project and, if appropriate under relevant code, use its best efforts to approve them by July 1, 2026. In the event Developer does not submit required applications for the Residential Project by August 1, 2025, the City’s time to approve the submitted applications shall be extended by the number of days

beyond August 1, 2025, that Developer submits the required applications. During the City review process, the City commits to expeditiously review Developer submissions, and Developer commits to expeditiously respond to City application comments. Specifically, Developer commits to respond to City comments within 30 days of receipt.

1.2 Sully Miller Property Utilization. Developer anticipates entering into access agreements with Landify, a company that possesses the capacity to develop the Sully Miller site into public open space (the “Open Space Project”). Upon completion these agreements will allow Landify to conduct such studies and investigations as may be necessary to develop an appropriate open space vision for the Sully-Miller Property and a feasible plan for achieving that vision. Developer and the City understand that Landify will need the City’s full cooperation in this planning and implementation process. City commits to providing such cooperation, including expeditious review and, if appropriate under relevant code, approval of any of the required applications for the Open Space Project.

1.3 Divestment of Sully Miller Property. The Parties agree that the objective of the Open Space Project, whether undertaken by Landify or a comparable third party, is to put Milan in a position to divest itself of the Sully Miller Property. Milan has indicated that it may engage a third party to develop the open space project and once complete transfer ownership to the City for a nominal sum. Milan intends to divest itself of the property either through the sale of the property to the City for a nominal sum or, alternatively, to Landify or a third party for a nominal sum, with the needed restoration then completed and ownership can be transferred to the City. The Parties recognize that Milan’s ability to execute such divestment is a material term of this agreement for Milan, and that prior to divestment, Milan will obtain any required clearance of the Sully Miller Property from applicable regulatory agencies. The City’s acceptance of the property is contingent upon the property’s clearance from all applicable regulatory agencies.

1.4 Tolling Agreement Extension. The City and Developer agree to extend the Builder’s Remedy Tolling Agreements for one year from the Reference Date, subject to the timing of approval of ministerial TTM Project permits, discussed below. If the City issues the ministerial permits for the TTM Project by August 1, 2025, and approves (i) the Residential Project, and (ii) the Open Space Project (collectively, the “Required Developer Approvals”) by July 1, 2026, Developer shall withdraw the Builder’s Remedy Applications, provided Developer has obtained any required regulatory clearance of the Sully Miller Property. In the event the City has not issued the ministerial permits for the TTM Project by August 1, 2025, or if the City is still reviewing/processing the Required Developer Approvals beyond July 1, 2026, Developer reserves the right to move forward with the Builder’s Remedy Applications. In the event Developer moves forward with the Builder’s Remedy Applications due to the City not issuing the ministerial TTM Project permits by August 1, 2025, or not issuing the Required Developer Approvals by July 1, 2026, any extension of the Builder’s Remedy Tolling Agreements still in effect shall terminate. Developer also reserves the right to extend the Tolling Agreements, and the City, upon finding that extension of the Tolling Agreements is in the City’s best interest, shall extend the Tolling Agreements for at least six months (the “Tolling Agreements Extension”). During the Tolling Agreements Extension, the City shall continue to expeditiously process the Required Developer Approvals.

1.5 Ministerial TTM Project Permits. Developer has and will submit ministerial plans for the TTM Project, including but not limited to grading and haul route permit applications. In the event Developer does not make all necessary submissions for the ministerial TTM Project by June 1, 2025, the August 1, 2025, date for City approval of the permits for the TTM Project shall be extended beyond August 1, 2025, by the number of days beyond June 1, 2025, the Developer makes all necessary submissions.

MISCELLANEOUS

1.6 Representations and Warranties. Each Party represents and warrants to the other Party as of the Reference Date that (i) the execution and delivery of this MOU and the consummation of the transactions contemplated hereby have been duly authorized by such Party, including by obtaining all required internal consents and approvals, and do not violate the formation documents of such Party, any agreement by which such Party is bound or applicable law and (ii) such Party is duly organized and existing in good standing under the laws of the state of its incorporation and authorized to do business in California.

1.7 Assignment. Neither Party shall assign or otherwise transfer all or any interest in this MOU without the prior written consent of the other Party.

1.8 Further Assurances. In addition to the actions recited herein and contemplated to be performed, executed and/or delivered by the Parties, the Parties shall perform, execute and/or deliver any and all such further acts, instruments, deeds and assurances as may be reasonably required to effectuate the purposes of this MOU and the transactions contemplated hereby. Unless otherwise expressly stated in this MOU, each Party shall act reasonably in carrying out its rights and obligations under and taking any actions in connection with this MOU. Unless otherwise expressly stated in this MOU, any notice delivered by a Party hereunder shall be reasonable prior notice and no approval or consent by a Party to a matter presented hereunder shall be unreasonably withheld, conditioned or delayed.

1.9 Notices. Any notice required or authorized by this MOU shall be in writing and may be delivered personally, by registered mail, return receipt requested, or by reputable air or ground courier service, and shall be deemed to have been given and received upon the actual receipt by the person(s) to whom notices are to be sent at the addresses set forth below, which may be changed by a Party from time to time upon notice thereof to the other Party given in accordance herewith:

Milan Representative:

Christopher Nicholson, President
Milan Capital Management, Inc.
701 S. Parker Street, Suite 5200
Orange, CA 92868

For Legal Notice Copy to:

Alexander M. DeGood
Cox, Castle & Nicholson LLP
2029 Century Park East, Suite 2100
Los Angeles, CA 90067
adegood@coxcastle.com

City Representative:

City of Orange
City Manager
300 E. Chapman Avenue
Orange, CA 92866

For Legal Notice Copy to:

City of Orange
City Attorney
300 E. Chapman Avenue
Orange, CA 92866

1.10 Entire Agreement; Severability. This MOU, including all Exhibits attached hereto, contains the entire agreement between the Parties with respect to the subject matter hereof, and all prior communications or agreements between the Parties or their respective representatives with respect to the subject matter hereof, whether oral or written, are merged into this MOU and extinguished. No modification of this MOU shall be effective unless in writing and signed by the Parties. If any term or provision of this MOU or any application thereof is held unenforceable, the remainder of this MOU and any other application of such term or provision shall not be affected thereby, and each provision of this MOU shall be valid and enforceable to the fullest extent permitted by law.

1.11 No Waiver. Neither Party may waive any condition or breach of any term of this MOU except in a signed writing, and no such waiver shall be deemed a waiver of any other condition or any subsequent breach of the same or of any other term of this MOU.

1.12 Governing Law. This MOU is made under and shall be governed and construed in accordance with the laws of the State of California without regard to its conflict of law principles.

1.13 Time. Time is of the essence with respect to each provision of this MOU in which time is a factor.

1.14 Interpretation. The section headings of this MOU are for convenience of reference only and shall not be used to explain or otherwise affect the meaning of any provision hereof. Whenever the singular number is used the same includes the plural if required by the context, and the masculine gender includes the feminine and neuter genders. All references herein to "Section" or "Exhibit" reference the applicable Section of this MOU or Exhibit attached hereto; and all Exhibits attached hereto are incorporated into this MOU and made a part hereof. The Parties acknowledge and agree that this MOU represents a negotiated agreement, having been drafted, negotiated and agreed upon by the Parties and their respective legal counsel. Therefore, the Parties agree that the fact that a Party may have been primarily responsible for drafting or editing this MOU shall not, in any dispute over the terms of this MOU, cause this MOU to be interpreted against such Party.

1.15 Counterparts; Electronic Signatures. This MOU may be executed in any number of counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. Electronic signatures shall have the same legal effect as original signatures.

[Signatures appear on following page]

IN WITNESS WHEREOF, this MOU is hereby entered into by the Parties as of the Reference Date.

MILAN REI X, LLC, A California limited liability company

DocuSigned by:
By: Chris Nicheleson ^{DS}
810DC808580408
Christopher Nicheleson
President of its Managing Agent

CITY OF ORANGE, a municipal corporation

DocuSigned by:
By: Thomas C. Kisela
Thomas C. Kisela, Interim City Manager

ATTEST;

Signed by:
By: Pamela Coleman
Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Signed by:
By: Wayne W. Winthers
Wayne W. Winthers
Interim City Attorney

✓