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confidentiality agreement between seller and and recipient with brokerage relationship disclosure

THIS CONFIDENTIALITY AGREEMENT BETWEEN SELLER AND RECIPIENT WITH BROKERAGE RELATIONSHIP DISCLOSURE ("Agreement") is entered into by and between Colorado Housing and Finance Authority or its applicable subsidiary ("Seller") and _____ ("Recipient").

WHEREAS, the Seller is the owner of the following property:

Name _____

Address _____

City _____ ("Property"); and

WHEREAS, in connection with a potential sale of the Property, Seller may provide Recipient with information concerning the Property that is not available to the general public;

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

1. As used herein, "Confidential Information" means all data, including reports, interpretations, forecasts, projections, records and any other documents containing or otherwise incorporating information concerning the Property or Seller, whether provided orally or in writing, that Seller will provide or has previously provided to Recipient at any time, together with analyses, compilations, studies or other documents, whether prepared by Seller or others, that information; provided, however, the following will not constitute "Confidential Information" for the purpose of this Agreement:
 - a) Information that is provided to Recipient by a source other than Seller, provided that after investigation by Recipient such source is not reasonably believed by Recipient to be subject to a confidentiality agreement or obligation with, or to, the Seller, with respect to such information.
 - b) Information that is, or becomes, generally, available to the public other than as a result of a disclosure by Recipient or its directors, affiliates, officers, agents, employees, legal counsel, lenders, brokers, or tax advisors (collectively, the "Related Parties"), or any other person to whom Recipient or any Related Party provides such Confidential Information.
 - c) Information that becomes available on a non-confidential basis from a source other than Seller, provided that such source is not bound by a confidentiality agreement with or other similar obligation of confidentiality to Seller or another party.
2. Confidential Information will be held and treated by Recipient in confidence and will not be copied, distributed or disclosed to any other person or entity. No Confidential Information will be used by Recipient or its Related Parties other than in connection with the acquisition of the Property (the "Acquisition").
3. Except as required by law as advised in writing by counsel, or with Seller's prior written consent, Recipient and its Related Parties shall not disclose to any person or entity the fact that Confidential Information has been made available to Recipient, or the content or import of such information. Recipient may disclose Confidential Information only to its Related Parties who need to know the Confidential Information for purposes of evaluating the Acquisition and who will be advised by Recipient of this Agreement and will agree to act in accordance with its terms and Recipient will be satisfied that the Related Parties will act in accordance herewith. In the event that Recipient receives a request to disclose all or any part of the information contained in the Confidential Information under the terms of a valid subpoena or order issued by a court of competent jurisdiction or by a governmental body, Recipient shall: (i) notify Seller immediately of the existence, terms and circumstances of such a request; (ii) consult with Seller on the advisability of taking legally available steps to resist or narrow such request; and (iii) if disclosure of such information is required, Recipient shall exercise its best efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such portion of the disclosed information which Seller so designates. In any event, Recipient shall be responsible for any breach of this Agreement by its Related Parties, and any other person to whom Recipient or its Related Parties provide Confidential Information whether or not Confidential Information was provided in breach of this Agreement.
4. The written Confidential Information, except for that portion of the Confidential Information that may be found in analyses, compilations, studies or other documents prepared by Recipient and its Related Parties, will be returned to Seller if the Acquisition does not consummate or promptly upon request without retention of any copies thereof. That portion of the Confidential Information that may be found in analyses, compilations, studies, or other documents prepared by Recipient and its Related Parties and any written Confidential Information not so requested and returned will be held by Recipient and kept subject to the terms of this Agreement or destroyed and a certificate of

such destruction signed by Recipient will be delivered to Seller within five (5) days of such destruction. In addition, any oral Confidential Information will be held by Recipient and kept subject to the terms of this Agreement.

5. In the event that Recipient is requested or required (by oral questions, interrogatories, requests for information or documents, subpoenas, civil investigative demands or other processes) to disclose any Confidential Information, it is agreed that Recipient will provide Seller with prompt notice of any such request or requirement prior to disclosing such information, and will disclose such information only in accordance with this Agreement.
6. Recipient acknowledges that Seller nor any of its directors, affiliates, officers, agents, or employees makes any express or implied representation or warranty as to the accuracy or completeness of the Confidential Information, and each such party expressly disclaims any and all liability that may be based on the Confidential Information, errors therein or omissions therefrom.
7. Recipient acknowledges that monetary damages may be inadequate to protect Seller against breach of this Agreement, and Recipient hereby agrees that Seller shall be entitled to equitable relief including, without limitation, injunctions, temporary restraining orders on an ex parte basis, and specific performance as a remedy for any such breach.
8. It is expressly understood and agreed that Recipient's execution of this Agreement is a precondition to the Seller revealing the information to Recipient and providing the necessary access thereto. Recipient represents and warrants that it is receiving the information to evaluate the Property on its own behalf as a purchaser and not as a broker for an undisclosed purchaser.
9. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.
10. This Agreement contains the complete statement of all the agreements among the parties hereto with respect to the subject matter hereof, and all prior agreements among the parties hereto respecting the subject matter hereof, whether written or oral, are merged herein and shall be of no further force or effect. This Agreement cannot be changed, modified, discharged or terminated, except by an instrument in writing signed by the parties hereto.
11. Recipient acknowledges that prior to the execution of a purchase contract, the Property may be simultaneously offered for sale by Seller to any third party, in Seller's sole discretion. Seller reserves the right to remove the Property from the market, set an offer deadline, and negotiate and accept back-up letters of intent, at any time. This Agreement shall not provide Recipient with any other rights with respect to the Property, including, without limitation, a right of first refusal to purchase the Property or an option to purchase the Property.
12. Recipient acknowledges that it is a principal and not an agent of or acting on behalf of any other party in connection with the Acquisition. Recipient acknowledges that it has not had any discussions regarding the Property with any other broker or agent except as disclosed herein below. Recipient shall indemnify and hold Seller harmless from and against any claims, causes of action or attorneys' fees and court costs which may be incurred with respect to any claims for other real estate commissions, broker's fees or finder's fees in relation to, or in connection with, the Property to the extent claimed by, through or under Recipient.

13. BROKERAGE RELATIONSHIP DISCLOSURE

Recipient will will not be engaging the services of a broker as identified below:

Name _____
Company _____
Address _____
Phone _____
Email _____

Broker will be working in the capacity of transaction broker buyer's agent.

Broker will be compensated by Recipient

requests compensation by Seller subject to Seller's schedule of cooperating Brokers sales commission.

Recipient hereby represents and warrants that if Broker is requesting compensation by Seller, Broker is working solely as a third-party contractor and will not participate in the Recipient's ownership entity in Property to any extent without the prior written consent of Seller. Broker shall likewise be bound to the terms of this Agreement as an agent of Recipient and shall not disseminate any Confidential Information unless expressly authorized to do so by Seller.

Broker Acknowledgement:

By _____

Name _____

Title _____

Date _____

Executed as of the date indicated.

Recipient:

Company Name _____

By _____

Date _____

Name _____

Title _____

Please indicate your preference in receiving information: Email U.S. mail

Address _____

City, State, Zip _____

Email _____

Phone _____ Fax _____

Please review, complete, sign and return to:

Erik Robinson
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