

PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

This Purchase and Sale Agreement and Joint Escrow Instructions (“Agreement”) is entered into as of _____ (“Effective Date”) by and between the County of San Diego, a political subdivision of the State of California, as seller, (“County”) and _____, as buyer, (“Buyer”) with reference to the following facts:

RECITALS

A. County is the owner of real property (“Property”) located at _____ [Assessor’s Parcel No. ____ - ____ - ____], as described in the attached EXHIBIT “A” LEGAL DESCRIPTION OF PROPERTY and as shown on the map attached as EXHIBIT “B” LOCATION MAP.

B. Buyer desires to purchase the Property from County and County desires to sell the Property to Buyer for the price and under the terms and conditions specified in this Agreement.

C. This Agreement constitutes a Purchase and Sale Agreement and Joint Escrow Instructions to the Escrow Agent identified in this Agreement.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and Buyer agree as follows:

ARTICLE 1 DEFINITIONS

As used in this Agreement, the following terms shall have the following definitions:

“Buyer” is defined in the preamble of this Agreement.

“Close of Escrow” is defined in Section 3.4 of this Agreement.

“Closing Date” is defined in Section 3.4 of this Agreement.

“Closing Date Deadline” is defined in Section 3.4 of this Agreement.

“County” is defined in the preamble of this Agreement.

“Deposit” is defined in Section 2.3 of this Agreement.

“Due Diligence Investigation” is defined in Section 7.1 of this Agreement.

“Effective Date” is defined in the preamble of this Agreement.

“Escrow Agent” and “Title Insurer” mean:

North American Title Company
Attention: Maria Jacobsen, Escrow Officer
6 Hutton Centre Drive
Suite 550
Santa Ana, California 92707
Telephone: 714-546-3100
Direct Telephone: 949-419-9460
Facsimile: 714-550-6411

“Exception” means any encroachment, overlap, boundary line dispute or other matter that materially or adversely affects title to the Property as shown on the Preliminary Title Report.

“Extension Deposit” is defined in Section 2.3 of this Agreement.

“Extension Period” is defined in Section 2.3.1 of this Agreement.

“FTB” is defined in Section 3.5.1 (c).

“Grant Deed” means that document that is in substantially the same form as Exhibit “C” GRANT DEED and that is satisfactory to County, conveying to Buyer County’s title to the Property consistent with Section 4.1.2 Approval of Condition of Title.

“Hazardous Materials” means any substances that are flammable, explosive, asbestos, radioactive, or toxic and any substances defined or regulated as hazardous substances, hazardous materials, toxic substances, or hazardous waste under any Hazardous Materials Laws.

“Hazardous Materials Laws” means any and all federal, state or local laws, ordinances, rules, decrees, orders, regulations or court decisions (including “common law”) relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about the Property, or soil or groundwater conditions, including, but not limited to, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the California Hazardous Waste Control Act and the Carpenter-Presley-Tanner Hazardous Substance Account Act (Cal. Health & Safety Code Section 25100, et seq.

and Section 25300, et seq.), the Safe Drinking Water and Toxic Enforcement Act (Cal. Health & Safety Code Section 25249.5, et seq.), the Porter-Cologne Water Quality Control Act (Cal. Water Code Section 13000, et seq.), and any amendments to, and regulations implementing, the foregoing.

“Initial Deposit” is defined in Section 2.3 of this Agreement.

“Liquidated Damages” are defined in Section 2.3.2 of this Agreement.

“New Exception” means any encroachment, overlap, boundary line dispute or other matter that materially or adversely affects title to the Property shown on any amended Preliminary Title Report issued by Title Insurer.

“Non-Refundable Consideration” is defined in Section 2.4 of this Agreement.

“Opening of Escrow” means the date on which the County and Buyer establish an escrow as further described in Section 3.2 of this Agreement.

“Permitted Exceptions” mean those matters shown on the Preliminary Title Report approved or deemed approved by Buyer under Section 4.1.2 or Section 4.1.3, the approved condition of title and matters excepted or excluded from coverage by the printed terms of the Title Policy’s standard form.

“Preliminary Title Report” is defined in Section 4.1.1 of this Agreement.

“Property” is defined in Recital A of this Agreement.

“Purchase Price” is defined in Section 2.2 of this Agreement.

“Section 1542” is defined in Section 4.3.3 of this Agreement.

“Title Policy” means a standard form California Land Title Association Title Insurance Policy.

ARTICLE 2

PROPERTY; PURCHASE PRICE

2.1 Property. Subject to the terms of this Agreement, County agrees to sell to Buyer, and Buyer agrees to purchase from County, the Property, and all easements and right-of-ways related to the Property.

2.2 Purchase Price. The total purchase price for the Property (“Purchase Price”) shall

be _____ dollars (\$____,____) if the Close of Escrow occurs within three hundred sixty-five (365) day of the Opening of Escrow.

2.2.1 Increased Purchase Price. If Buyer elects to extend the Closing Date Deadline pursuant to Section 2.3.1 of this Agreement, the Purchase Price shall be increased by an amount equal to one percent (1.0%) of the Purchase Price immediately preceding the applicable election to extend.

2.3 Deposit. Buyer shall pay into escrow an initial deposit (“Initial Deposit”) in the amount of _____ dollars (\$_____) upon the Opening of Escrow.

2.3.1 Extension of Closing Date Deadline; Extension Deposit. If the Close of Escrow does not occur on or before the Closing Date Deadline, Buyer may extend the Closing Date Deadline by four (4) periods of ninety (90) days each (each an “Extension Period”) by providing written notice to County of its desire to so extend pursuant to Section 8.10 and depositing into escrow an additional deposit (each an “Extension Deposit”) of _____ dollars (\$_____) ten (10) business days before the end of the original 365-day escrow period, or ten (10) business days before the end of the applicable ninety-day Extension Period.

2.3.2 Additional Deposits. The Initial Deposit and Extension Deposit(s), as applicable, may be referenced individually in this Agreement or collectively referred to as the “Deposit” in this Agreement. If the Close of Escrow for the sale of the Property occurs the Deposit shall be applied to the Purchase Price. If the Close of Escrow for the sale of the Property does not occur prior to the Closing Date Deadline, the Deposit shall be paid to County as liquidated damages (“Liquidated Damages”) as provided in Section 3.7.4 Liquidated Damages of this Agreement.

2.4 Consideration. Concurrently with the Opening of Escrow, Buyer shall deposit into escrow the amount of one dollar (\$1.00) (“Independent Consideration”). The Independent Consideration shall be non-refundable to Buyer as independent consideration for the rights extended to Buyer under this Agreement, including without limitation, the right and option to terminate this Agreement as provided in this Agreement. Escrow Agent shall release the Independent Consideration to County immediately following Buyer’s delivery of the Deposit. In all instances under this Agreement in which Buyer elects to terminate or is deemed to have terminated this Agreement, County shall retain the Independent Consideration. The Independent Consideration shall not be treated as consideration given by County for any purpose other than as stated in this section.

ARTICLE 3

ESCROW

3.1 Escrow Agent. Escrow Agent is designated, authorized and instructed to act in accordance with the terms of this Agreement.

3.2 Opening of Escrow. Opening of Escrow shall occur within ten (10) business days of the Effective Date of this Agreement.

3.3 Escrow Instructions. This Agreement shall constitute initial escrow instructions to Escrow Agent. County and Buyer shall execute a copy of Escrow Agent's general conditions and any additional escrow instructions reasonably required by Escrow Agent to consummate the transaction provided for in this Agreement after Opening of Escrow; provided, however, any additional escrow instructions shall not modify the provisions of this Agreement, unless the instructions (i) state the modification in full and (ii) are signed by both County and Buyer. In the event of any conflict between the terms of this Agreement and the terms of Escrow Agent's general conditions, the terms of this Agreement shall prevail.

3.4 Close of Escrow. The "Close of Escrow" or "Closing Date" shall occur on the day the Escrow Agent records the Grant Deed to the Property in favor of Buyer and delivers the Purchase Price, less applicable charges and adjustments, to County. The Close of Escrow shall occur no later than three hundred sixty-five (365) days following the Opening of Escrow ("Closing Date Deadline"). The Closing Date Deadline shall be extended (i) by one day for each day of delay, at no cost of Buyer, where the delays have been caused by any act or omission of County; or (ii) if Buyer extends the Closing Date Deadline pursuant to Section 2.3.1 of this Agreement, or (iii) by the mutual written agreement of County and Buyer.

3.5 Deliveries to Escrow. Prior to the Close of Escrow, County and Buyer shall timely deliver to Escrow Agent the funds and documents required to cause the Close of Escrow. Without limiting the generality of the foregoing, County and Buyer shall deliver to Escrow Agent the following:

3.5.1 County's Deliveries. County shall deliver or cause to be delivered to Escrow Agent:

- (a) the Grant Deed conveying the Property to Buyer, duly executed by County and acknowledged in recordable form conveying to Buyer good and marketable fee simple title to the Property, subject only to the Permitted Exceptions;
- (b) an affidavit executed by County to the effect that County is not a "foreign person" within the meaning of Internal Revenue Code Section 1445, as amended;
- (c) a State of California Franchise Tax Board ("FTB") Form 593C and any additional forms required by FTB, all completed by County; and
- (d) any and all additional documents which may be reasonably

necessary to transfer title to the Property to Buyer as specified in this Agreement or otherwise required by law.

3.5.2 Buyer's Deliveries. Buyer shall deliver or cause to be delivered to Escrow Agent:

- (a) upon the Opening of Escrow, cash in the amount of the Deposit;
- (b) prior to the Close of Escrow, cash in the amount of the Purchase Price, less the Deposit, plus any additional sums required of Buyer under this Agreement for special assessment prorations, expenses and adjustments, which may be deposited by Buyer with Escrow Agent by wire transfer; and
- (c) any and all additional documents which may be reasonably necessary to transfer title to the Property to Buyer as specified in this Agreement or otherwise required by law.

3.6 Completion of Documents. Escrow Agent is authorized to complete the documents deposited by County and Buyer into Escrow, when appropriate and consistent with this Agreement.

3.7 Escrow Fees and Costs.

3.7.1 County's Payments. County shall pay:

- (a) all government conveyance fees and taxes in the amount Escrow Agent determines to be due upon the transfer of the Property or otherwise required by law; and
- (b) other "seller's charges and expenses", in accordance with the customary practices of Escrow Agent. County shall pay all operating expenses for the Property prior to the Closing Date, including, but not limited to, insurance, utilities, interest on encumbrances, taxes and maintenance costs.

3.7.2 Buyer's Payments. Buyer shall pay:

- (a) the Escrow Agent's escrow fee;
- (b) any escrow termination charge;
- (c) the cost of the Title Policy described in Section 4.2 of this Agreement;
- (d) other "buyer's charges and expenses", in accordance with the

customary practices of Escrow Agent; and

(e) any special assessments from the Closing Date through the end of the current tax year, in accordance with the tax demand received from the San Diego County Treasurer-Tax Collector.

3.7.3 Default. Notwithstanding Section 3.7.2 of this Agreement, in the event of a default by Buyer or County under this Agreement, all cancellation and other escrow charges shall be paid by the defaulting party.

3.7.4 Liquidated Damages. **In addition, in the event the Close of Escrow does not occur due to a Buyer default under this Agreement, the Agreement will terminate and the rights and obligations of the parties will terminate and the Deposit will be immediately delivered by escrow holder to County on County's request. The Deposit will be deemed Liquidated Damages for Buyer's nonperformance as County's sole and exclusive remedy against Buyer (including, without limitation, County's right to seek specific performance of this Agreement and to receive damages) for Buyer's failure to purchase the Property. The damages caused by a Buyer default under this Agreement will be extremely difficult and impractical to ascertain for the following reasons: (i) the damages to which County would be entitled in a court of law will be based in part on the difference between the actual value of the Property at the Closing Date Deadline and the Purchase Price for the Property set forth in this Agreement; (ii) proof of the amount of the damages will be based on opinions of value of the Property which can vary in significant amounts; and (iii) it is impossible to predict as of the Effective Date of this Agreement whether the value of the property will increase or decrease as of the Closing Date. Buyer desires to limit the amount of damages for which Buyer might be liable should Buyer breach this Agreement. Buyer and County wish to avoid the costs and lengthy delays which would result if County filed a lawsuit to collect its damages for a breach of this Agreement.**

Therefore, the Deposit shall be deemed to constitute a reasonable estimate of County's damages under the provisions of State of California Civil Code Section 1671 and, except as provided below, County's sole and exclusive remedy in the event the Close of Escrow does not occur as a result of Buyer's default under this Agreement shall be limited to the Deposit. Nothing contained in this section shall waive or otherwise limit County's remedies or damages from claims of County against Buyer arising out of Buyer's indemnification obligations under this Agreement, or waive or otherwise limit County's rights to obtain from Buyer all of County's costs and expenses of enforcing the Liquidated Damages provision, including, without limitation, attorney's fees and costs. Buyer and County have reviewed the effect of this provision with legal counsel and have agreed that the Liquidated Damages are a reasonable and fair estimate of the damages County will sustain. By initialing this provision in the spaces below, County and Buyer each specifically affirm their respective agreements contained in this section.

Buyer's Initials: _____

County's Initials: _____

3.8 Existing Encumbrances. Escrow Agent is authorized to secure beneficiary demands and requests for reconveyance for those monetary liens which are not a Permitted Exception. County has the right to approve all demands and statements described in this section, but approval shall not be unreasonably withheld or delayed.

ARTICLE 4 **TITLE MATTERS**

4.1 Preliminary Title Report.

4.1.1 Delivery to Buyer. Buyer has received a copy of the Preliminary Title Report No. _____ dated _____ ("Preliminary Report"), issued by Title Insurer reflecting the status of title to the Property.

4.1.2 Approval of Condition of Title. Buyer approves the condition of title to the Property, including the Permitted Exceptions. There are no items to be cleared from the title by County prior to Close of Escrow.

4.1.3 Amendment of Preliminary Report. If any New Exception to the Preliminary Title Report arises after the Effective Date and prior to the Close of Escrow, then Buyer may elect, at any time prior to Close of Escrow, to either (i) waive any objection it may have to any New Exception and accept title to the Property subject to the New Exception, (ii) request that County remove the New Exception, or (iii) terminate this Agreement.

4.2 Title Insurance. Title Insurer shall issue a Title Policy insuring Buyer's title to the Property in the amount of the Purchase Price, subject only to the Permitted Exceptions.

4.3 Condition of the Property.

4.3.1 No Seller Representations. Buyer acknowledges that, except as explicitly set forth in Section 6.1, County has made no representations or warranties, express or implied, regarding the Property or matters affecting the Property, whether made by County, on County's behalf, or otherwise, including, without limitation, the physical condition of the Property (including, without limitation, any improvements on the Property); the size or square footage of the Property or any improvements; the age of any improvements, title to, or the boundaries of the Property; pest control matters; utilities; soil conditions; the presence, existence or absence of Hazardous Materials or other environmental issues; compliance with building, health, safety, land use and zoning laws; structural and other engineering characteristics (including seismic

damage); economic conditions or projections; or any other information pertaining to the Property (including, without limitation, any due diligence materials or document delivered by County to Buyer under this Agreement) or the market and physical environments in which the Property is located. Buyer assumes sole and complete responsibility for the Property upon transfer of title, all risk of adverse physical characteristics and existing conditions, tort liability, and compliance with any and all federal, state and local laws, regulations, rules, orders or ordinances relating to the condition of the Property, including Hazardous Materials Laws.

4.3.2 Buyer's Reliance on its Investigations. Buyer acknowledges that Buyer is taking the Property "as is" with any and all latent and patent defects and that there is no warranty by County that the Property is fit for a particular purpose. Buyer acknowledges that, except as expressly provided in Section 6.1, it is not relying upon any representation, statement or other assertion with respect to the condition of the Property, but is relying upon the examination of the Property. Buyer takes the Property under the express understanding that, except as expressly provided in this Agreement, there are no express or implied warranties (except for limited warranties of title set forth in the deed to be delivered at the Close of Escrow).

The provisions of this section shall survive indefinitely the Closing Date or termination of this Agreement and shall not be merged into the closing documents.

Buyer's Initials: _____

Buyer's Initials: _____

4.3.3 Section 1542 Waiver. Buyer acknowledges that it has read and is familiar with the provisions of State of California Civil Code Section 1542 ("Section 1542"), which is set forth below:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

By initialing below, Buyer waives the provisions of Section 1542 solely in connection with the matters which are the subject of the foregoing waivers and releases:

Buyer's Initials: _____

Buyer's Initials: _____

The waiver and release by Buyer shall survive indefinitely the Closing Date or termination of this Agreement and shall not be merged into the closing documents.

4.3.4 Condition of Title. It shall be a condition to the Close of Escrow for Buyer's benefit that title to the Property shall be conveyed to Buyer by the Grant Deed subject to the following condition of title:

- (a) matters affecting the condition of title created by or with the written consent of Buyer;
- (b) all applicable laws, ordinances, maps, resolutions, rules and regulations (including, but not limited to, those relative to building, zoning and land use) of all governmental authorities affecting the Property or the development, use, occupancy or enjoyment of the Property; and
- (c) all matters which an accurate survey of the Property made at the time of the Closing Date would show and any facts which a personal inspection of the Property made at the time of the Closing Date would disclose.

ARTICLE 5

CLOSE OF ESCROW

5.1 Buyer's Conditions to Close of Escrow. Close of Escrow shall be subject to satisfaction or waiver of each of the following conditions precedent for the benefit of Buyer:

- (a) the Title Insurer's written agreement to issue or issuance of the Title Policy in the form required by Section 4.2;
- (b) the continued accuracy of the representations and warranties of County set forth in Section 6.1; and
- (c) seven (7) days advance notice from Escrow Agent or County before Buyer is required to deliver the Purchase Price to Escrow Agent.

5.1.1 Waiver of Buyer's Conditions to Close of Escrow. Buyer may unilaterally waive, in writing, any or all of the conditions described in Section 5.1. If Buyer elects to proceed with the Close of Escrow, notwithstanding the nonsatisfaction of a condition in Section 5.1, there shall be no liability on the part of County for breaches of representations and warranties of which Buyer had knowledge as of the Closing Date.

5.1.2 Failure of Conditions; Termination by Buyer. If any of the conditions described in Section 5.1 is neither satisfied nor waived, Buyer may terminate this Agreement and the escrow by giving written notice of termination to County and Escrow Agent. In the event of termination, Buyer shall be relieved of any obligation to purchase the Property and to pay any costs associated with this Agreement. The termination of this Agreement shall not limit any other legal rights and remedies available to Buyer if the failure of conditions is the result of a default by County.

5.2 County's Conditions to Close of Escrow. Close of Escrow shall be subject to

satisfaction or waiver of each of the following conditions precedent for the benefit of County:

(a) the continued accuracy of the representations and warranties of Buyer set forth in Section 6.2 in all material respects;

(b) as of the Closing Date, Buyer shall have performed its obligations under this Agreement and all deliveries to be made at the Close of Escrow have been tendered, including those required under Section 3.5.2;

(c) there shall exist no actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings, pending or threatened against Buyer that would materially and adversely affect Buyer's ability to perform its obligations under this Agreement; and

(d) there shall exist no pending or threatened action, suit or proceeding with respect to Buyer before or by any court or administrative agency which seeks to restrain or prohibit, or to obtain damages or a discovery order with respect to, this Agreement or the consummation of the transaction contemplated by this Agreement.

5.2.1 Waiver of County's Conditions to Close of Escrow. County may unilaterally waive, in writing, any or all of the conditions described in Section 5.2. If County elects to proceed with the Close of Escrow, notwithstanding the nonsatisfaction of a condition in Section 5.2, there shall be no liability on the part of Buyer for breaches of representations and warranties of which County had knowledge as of the Closing Date.

5.2.2 Failure of Conditions; Termination by County. If any of the conditions described in Section 5.2 is neither satisfied nor waived, County may terminate this Agreement and the escrow by giving written notice of termination to Buyer and Escrow Agent. In the event of termination, County shall be relieved of any obligation to sell the Property to Buyer and to pay any costs associated with this Agreement. The termination of this Agreement shall not limit any other legal rights and remedies available to County if the failure of conditions is the result of a default by Buyer.

5.3 Prorations. For purposes of prorations only, on the Closing Date the Property shall be considered to be owned by Buyer and all prorations provided in this Agreement to be made as of the Closing Date shall each be made as of the end of the day before the Closing Date. In each proration set forth below, the portion of the proration applicable to periods beginning as of Closing Date shall be credited to Buyer or charged to Buyer as applicable and the portion of the proration applicable to periods ending as of Closing Date shall be credited to County or charged to County as applicable.

5.4 Distribution of Funds and Documents. On the Closing Date, Escrow Agent shall:

5.4.1 Recordation of Documents. Submit to the County Recorder of San Diego County the Grant Deed for the Property and any other document to be recorded under the terms of this Agreement or by general usage, and, after recordation, cause the County Recorder to mail the Grant Deed to the Buyer, and any other document recorded pursuant to this Agreement to that person acquiring rights under this Agreement for whose benefit the document was recorded.

5.4.2 Non-Recorded Documents. Deliver by United States mail (or hold for personal pickup, if requested):

- (a) the Title Policy to Buyer;
- (b) one (1) signed copy of Escrow Agent's closing statement showing all receipts and disbursements of the escrow to both County and Buyer;
- (c) the documents required in Section 3.5.1(b)-(d); and
- (d) any other non-recorded document received under this Agreement to the payee or person acquiring rights under this Agreement or for whose benefit the document was acquired.

5.4.3 Distribution of Funds. Deliver by United States mail (or as otherwise instructed by the receiving party):

- (a) to County, or order, the cash portion of the Purchase Price, adjusted for charges, credits and debits provided for in this Agreement; and
- (b) to Buyer, or order, any excess funds delivered to Escrow Agent by Buyer.

ARTICLE 6 **REPRESENTATIONS AND WARRANTIES**

6.1 County's Representations and Warranties. County warrants that as of the date of this Agreement and as of the Close of Escrow:

6.1.1 Authority. County has full legal right, power and authority to execute and fully perform its obligations under this Agreement, without the need for any further action and the persons executing this Agreement and other documents required under this Agreement on behalf of County are the only persons required to execute the documents to legally effect the transactions contemplated by this Agreement and are fully authorized to do so.

6.1.2 Claims, Litigation. There is no action or proceeding pending and, to

County's knowledge, County has received no written notice of any threatened actions or proceedings against County or the Property, including condemnation proceedings, which challenges or impairs County's ability to execute or perform its obligations under this Agreement.

6.1.3 Governmental Regulations. To County's knowledge, County has received no notice of violation of any applicable zoning regulation or ordinance or other law, order, ordinance, rule, regulation, code or requirement affecting or relating to the construction, use or occupancy of the Property, nor any written notice of violation of any covenant, condition or restriction affecting the Property.

6.1.4 County's Knowledge. "County's knowledge" as used in this Agreement means the current, actual knowledge of County's officers, and employees, without any duty of inquiry or investigation and without any personal liability. The term "written notice" to County, or similar phrases, as used in this Agreement shall mean written notice addressed specifically to County and actually received in County's offices at the address stated in Section 8.10 of this Agreement. County's representations and warranties are qualified by any knowledge obtained by Buyer during its Due Diligence Investigation and by any due diligence materials delivered by County to the Buyer under this Agreement.

6.2 Buyer's Representations and Warranties. As a material inducement to County to execute this Agreement and consummate this transaction, Buyer represents and warrants to County that:

(a) Authority. Buyer has full legal right, power and authority to execute and fully perform its obligations under this Agreement, without the need for any further action and the persons executing this Agreement and other documents required under this Agreement on behalf of Buyer are the only persons required to execute the documents to legally effect the transactions contemplated by this Agreement and are fully authorized to do so.

(b) Conflicts and Pending Action. There is no agreement to which Buyer is a party or to Buyer's knowledge binding on Buyer which is in conflict with this Agreement. There is no action or proceeding pending or, to Buyer's knowledge, threatened against Buyer which challenges or impairs Buyer's ability to execute or perform its obligations under this Agreement.

ARTICLE 7

ADDITIONAL OBLIGATIONS

7.1 Access to Property. County shall allow Buyer and its agents reasonable access to the Property, during reasonable business hours and upon reasonable notice, for the purpose of inspecting, surveying and testing the Property, including examination of soils, building materials, environmental factors, Hazardous Materials and archeological information, and for other

purposes reasonably related to Buyer's right to purchase the Property ("Due Diligence Investigation"). Buyer shall perform all work in a safe manner, repair any damage to the Property, and Buyer shall indemnify County as provided in Section 7.2 of this Agreement. Access shall be coordinated with County, and County may require all access to be supervised by an authorized representative of County.

Access to the Property shall be subject to the following conditions:

(a) The Due Diligence Investigation shall be conducted in full compliance with all laws, zoning restrictions, ordinances, rules, regulations or requirements of any governmental or quasi-governmental agency with jurisdiction over the Property.

(b) Prior to entering the Property to perform its Due Diligence Investigation, Buyer or Buyer's contractors shall provide County a certificate of insurance showing that Buyer or Buyer's contractor maintains in full force and effect a policy of comprehensive general liability insurance (i) covering the activities of Buyer or Buyer's contractor (including employees, independent contractors and agents) in connection with the Due Diligence Investigation, (ii) in an amount of not less than two million dollars (\$2,000,000) combined single limit for bodily injury, personal injury and property damage, per occurrence, and contractual liability from a carrier reasonably acceptable to County, (iii) naming County and its Board of Supervisors as additional insureds by separate endorsement, and (iv) requiring at least thirty (30) days written notice to County prior to cancellation or reduction in coverage.

(c) Any testing or investigation involving physical invasion or sampling of the components of the improvements or the surface of the Property are to be made by Buyer only after obtaining the express written consent of County, which may be withheld or conditioned in County's sole discretion.

(d) Promptly after any physical inspection of the Property, Buyer at its sole cost shall restore the Property to the condition that existed immediately prior to the inspection.

(e) Buyer shall not permit any mechanics' or other liens to be filed against the Property as a result of Buyer exercising its right of entry and Buyer at its sole cost shall cause any liens so filed to be removed within five (5) days after filing, by bond or otherwise.

(f) Buyer's obligations under this section shall survive the Closing Date or the termination of this Agreement.

7.2 Buyer's Indemnity. Buyer shall indemnify, defend and hold County, its elected officials, officers, employees, trustees, agents, successors and assigns harmless from and against any and all claims, liens, demands, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, and all costs and expenses incurred in connection with any entry onto the Property (including, without limitation,

reasonable attorneys' fees, reasonable costs of defense, and reasonable costs and expenses of all experts and consultants), arising directly or indirectly, in whole or in part, out of Buyer's Due Diligence Investigation, including but not limited to any investigative or construction related activity, or any other act or omission in connection with the Property by or on behalf of Buyer or its employees, invitees, agents or contractors and any contract, agreement or commitment entered into by Buyer in connection with the Property. Buyer's obligations under this section shall survive the Closing Date or the termination of this Agreement.

ARTICLE 8

GENERAL PROVISIONS

8.1 Assignment. Buyer shall not have the right to assign its rights or obligations under this Agreement.

8.2 Contingency. This Agreement shall bind Buyer and County only following its approval by County's Board of Supervisors and execution by the authorized signatory of Buyer and County.

8.3 Entire Agreement. This Agreement together with all exhibits attached to this Agreement and other agreements expressly referred to in this Agreement, constitutes the entire agreement between County and Buyer with respect to the subject matter contained in this Agreement. All prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, are superseded.

8.4 Exhibits. All exhibits referred to in this Agreement are attached to this Agreement and are incorporated into this Agreement by reference.

8.5 Further Assurances. County and Buyer shall perform any further acts and execute and deliver any additional documents and instruments that may be reasonably required to carry out the provisions of this Agreement and the intentions of County and Buyer.

8.6 Governing Law. This Agreement shall be governed, interpreted, construed and enforced in accordance with the laws of the State of California.

8.7 Construction. The captions and section headings used in this Agreement are inserted for convenience only and are not intended to define, limit or affect the construction or interpretation of any term or provision of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and vice versa. This Agreement shall not be construed as if it had been prepared by County or Buyer, but rather as if County and Buyer had jointly prepared this Agreement.

8.8 Modification, Waiver, Amendment. No modification, waiver, amendment or

discharge of this Agreement shall be valid unless the modification, waiver, amendment or discharge is in writing and signed by County and Buyer.

8.9 No Other Inducement. The making, execution and delivery of this Agreement by the County and Buyer has been induced by no representations, statements warranties or agreements other than those expressed in this Agreement.

8.10 Notices. All notices or other communications required or permitted under this Agreement shall be in writing, and shall be personally delivered by a reputable courier delivery service, sent by United States Postal Service certified mail, postage prepaid, return receipt requested, or sent by telecopy or e-mail, and shall be deemed received upon the earlier of (i) if personally delivered or delivered by a reputable courier delivery service, the date of delivery to the address of the person to receive the notice, (ii) if mailed, two (2) business days after the date of posting by the United States Postal Service, (iii) if given by telecopy or e-mail, when sent. Any notice, request, demand, direction or other communication sent by telecopy or e-mail must be confirmed within forty-eight (48) hours by letter mailed or delivered in accordance with this section.

If to County: County of San Diego
Department of General Services
Attention: Marko Medved, P.E., CEM, Director
5560 Overland Avenue
Suite 410
San Diego, California 92123
Telephone: 858-694-2291 [Real Estate Services Division]
Facsimile: 858-694-2369 [Real Estate Services Division]

If to Buyer: _____
Attention: _____

Telephone: _____
Facsimile: _____

With a copy to: _____
Attention: _____

Telephone: _____
Facsimile: _____

If to Escrow Agent: North American Title Company
Attention: Maria Jacobsen, Escrow Officer

6 Hutton Centre Drive
Suite 550
Santa Ana, California 92707
Telephone: 714-546-3100
Direct Telephone: 949-419-9460
Facsimile: 714-550-6411

Any notice of change of address shall be given by written notice in the manner detailed in this section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent.

8.11 Severability. If any term, provision, covenant or condition of this Agreement is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement shall not be affected, and each term, provision, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

8.12 Specific Performance and Other Remedies. If County defaults in its obligation to sell and convey the Property to Buyer pursuant to this Agreement, Buyer's sole remedy shall be to elect one of the following: (i) to terminate this Agreement, or (ii) to bring a suit for specific performance provided that any suit for specific performance must be brought within ninety (90) days of County's default, to the extent permitted by law, and Buyer waives the right to bring suit at any later date. This Agreement confers no present right, title or interest in the Property to Buyer and Buyer agrees not to file a lis pendens or other similar notice against the Property except in connection with, and after, the proper filing of a suit for specific performance.

8.13 Successors. Subject to the limitations on assignment set forth in Section 8.1, all terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by County and Buyer and their respective heirs, legal representatives, successors, and assigns.

8.14 Time. Time is of the essence of each provision of this Agreement.

8.15 Time Period Computation. All periods of time referred to in this Agreement shall include all Saturdays, Sundays and County, State or national holidays, unless the period of time specifies business days, provided that if the date or last date to perform any act or give any notice or approval shall fall on a Saturday, Sunday or County, State or national holiday, the act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or County, State or national holiday.

8.16 Waiver. The waiver by one party of the performance of any term, provision, covenant or condition shall not invalidate this Agreement, nor shall it be considered as a waiver by the party of any other term, provision, covenant or condition. Delay by any party in pursuing

any remedy or in insisting upon full performance for any breach or failure of any term, provision, covenant or condition shall not prevent the party from later pursuing remedies or insisting upon full performance for the same or any similar breach or failure.

**THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK
THE SIGNATURE PAGE IS ON THE FOLLOWING PAGE**

SIGNATURES

This Agreement shall be effective as of the date of its approval by County.

COUNTY:

County of San Diego,
a political subdivision of the State of California

Date: _____

By: _____
Marko Medved, P.E., CEM, Director
Department of General Services

BUYER:

Date: _____

By: _____

ACCEPTANCE BY ESCROW HOLDER:

_____ acknowledges that it has received a fully executed counterpart of the Agreement and agrees to act as Escrow Holder under the Agreement and to be bound by and perform the terms of the Agreement as the terms apply to Escrow Holder.

Dated: _____

By: _____

Name: _____

Title: _____

DRAFT

EXHIBIT “A”
LEGAL DESCRIPTION

[Add legal description]

DRAFT

EXHIBIT “B”
LOCATION MAP

[add location map]

DRAFT

EXHIBIT “C”
GRANT DEED

(Begins on the following page)

DRAFT