

PURCHASE AND SALE AGREEMENT

COEG-CA-2, LLC

This Purchase and Sale Agreement ("Agreement") is entered into this 22 day of September, 2016, ("Effective Date"), by and between THE CITY OF RIVERSIDE, a California charter city and municipal corporation ("Buyer") and COEG-CA-2, LLC, a California limited liability company ("Seller"). In consideration of the mutual covenants and agreements, the parties agree to the following terms and conditions:

ARTICLE I AGREEMENT OF SALE

1.1 Buyer's Status. Buyer is a public entity with the power to acquire real and personal property for public uses and purposes. Buyer is engaged in property acquisition that shall be deemed to be for a public use and project for purposes of this Agreement.

1.2 Property. Seller owns approximately five (5) acres of undeveloped land located at Via Vista and Canyon Crest Drive, Riverside, California, bearing Assessor's Parcel No. 252-230-004 ("Property"), more particularly described in the legal description and on the plat attached hereto and marked as Exhibit "A" and incorporated herein by reference.

1.3 Agreement of Purchase and Sale. Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller, upon the terms and for the considerations set forth in this Agreement, the fee interest in the Property.

1.4 Incomplete Legal Description. If the legal description of the Property is not complete or is inaccurate, this Agreement shall not be invalid and the legal description shall be completed or corrected to meet the requirements of the title company to issue a title policy hereinafter described.

1.5 Other Grants. It is agreed that Seller, or its successors in interest, will not grant an interest in the Property, or any part thereof, including, but not limited to, a fee simple interest, easements, or any other conveyances and/or construct improvements or make changes upon or to the Property, during the period between the Effective Date and the earlier of the Termination of this Agreement or the Close of Escrow, as such terms are defined below.

1.6 Possession. Seller agrees that the Property will be available to Buyer upon the Close of Escrow, unless specifically provided otherwise, or, if applicable, the date specified in any order for possession heretofore ordered by a court.

1.7 Compensation. This Agreement is intended to be a resolution of all elements of "Just Compensation" to which Seller may be entitled and such other elements of damage, benefits and assistance as are authorized by law. The parties desire by this Agreement to provide the terms and conditions for the purchase and sale of the Property.

1.8 Tax-Deferred Exchange. Seller may use the proceeds from the sale of the Property to effect one or more tax deferred exchanges under Internal Revenue Code §§ 1031 or 1033. Buyer agrees to accommodate Seller in effecting such tax-deferred exchange. Seller shall have the right, expressly reserved herein, to elect such tax-deferred exchange at any time before the Close of Escrow. Seller and Buyer agree, however, that consummation of the purchase and sale of the Property is not conditioned on such exchange. If Seller elects to make a tax-deferred exchange, Buyer agrees to execute such additional escrow instructions, deeds, documents, agreements, or instruments to effect this exchange, provided that Buyer shall incur no additional costs, expenses, or liabilities in this transaction as a result of or in connection with this exchange. Seller agrees to hold Buyer harmless from any liability, damages, or costs, including reasonable attorney fees that may arise from Buyer's participation in such exchange.

1.9 Due Diligence. Buyer shall have 120 days from the Effective Date ("Contingency Date") to investigate the Property and to review and confirm that the Seller's appraisal complies with all required guidelines, including the Uniform Standards of Professional Appraisal Practice (USPAP), the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA or "Yellow Book"), and Land and Water Conservation Fund (LWCF) Manual appraisal standards in order that Buyer can apply for grant funding for the purchase. Buyer shall perform, in its sole discretion, its due diligence review of the condition of Property and all other matters concerning the Property, including without limitation, economic, financial, and accounting matters relating to or affecting the Property or its value, and the physical and environmental condition of the Property. Prior to the Contingency Date, Buyer shall have made such inquiries, communicated with local, state and federal government agencies as it sees fit, retained such consultants, and taken such actions as Buyer deems necessary or appropriate to enter into this Agreement. On or before the Contingency Date, Buyer shall deliver written notice to Seller (i) accepting the Property, and approving the condition of title to the Property (as described at Paragraph 2.6 below), or, in the alternative, terminating this Agreement. If Buyer fails to give such notice on or before the Contingency Date, Buyer shall be deemed to have accepted the Property, the value and title, and proceed with this Agreement.

1.10 As-Is Transaction. Buyer acknowledges that it is a public entity, is sophisticated in all aspects of the evaluation and ownership of real property, and has had or will have ample opportunity to inspect the Property and to investigate its physical characteristics and conditions. Upon Buyer's acceptance of the Property, its value and title prior to expiration of Buyer's Contingency Period, Buyer shall be deemed to have waived any and all objections to the physical characteristics and conditions of, the value of, and title to the Property. Buyer acknowledges that neither Seller nor any of its trustees, beneficiaries, agents, or representatives have made any representations, warranties or agreements to or with Buyer as to any matters concerning the Property, its physical condition, environmental condition, the present use(s) thereof or the suitability of Buyer's intended use of the Property. Buyer further acknowledges and agrees that the Property is to be purchased, conveyed, and accepted by Buyer in its present condition, 'AS-IS,' 'WITH ALL FAULTS' and that no patent or latent condition of the Property, whether or not known or discovered, whether arising before or after the Closing, shall affect the rights of either party hereto. Buyer has investigated and has knowledge of operative or imposed governmental laws and regulations (including, but not limited to, zoning, Subdivided Lands Act, Subdivision Map Act, the Americans With Disabilities Act of 1990, environmental laws, including

specifically the regulations of the or rights of contribution, including, but not limited to, the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et. seq., the Environmental Protection Agency and the Regional Water Quality Control Board, and land use laws and regulations), to which the Property is or may be subject, and is acquiring the Property solely on the basis of its review and determination of the condition of the Property, and the application and effect of such laws and regulations. Any agreements, warranties or representations not expressly contained in the Agreement shall in no way bind Seller.

ARTICLE II PURCHASE PRICE, TITLE AND ESCROW

2.1 Purchase Price. Buyer shall pay to the Seller the sum of Four Hundred Fifty Thousand Dollars (\$450,000) (“Purchase Price”). Following Buyer’s acceptance of the Property pursuant to Paragraph 1.9 above, Buyer’s obligation to Close Escrow shall remain contingent upon Buyer obtaining State and/or Federal Grant funds within 365 days from the Effective Date. The parties agree that the Purchase Price represents full and complete compensation pursuant to Compensatory Laws for the rights and interests being acquired herein by Buyer, including, without limitation, real property, fixtures and equipment, loss of business goodwill, relocation assistance and such other compensation, damages and benefits as may be permitted by law. The Purchase Price shall be payable to Seller, upon the Close of Escrow, in immediately available funds in accordance with the provisions and requirements of this Agreement. The Parties understand that the award of state and or federal grant funds is contingent on those grantors approving the Purchase Price following the review and certification of the Seller’s Uniform Appraisal Standards for Federal Acquisitions appraisal report (“Yellow Book appraisal report”) standards.

Buyer shall provide a Deposit in the amount of Ten Thousand Dollars (\$10,000) to the Escrow Holder, the Deposit shall be refundable and will apply towards the Purchase Price at Close of Escrow. Seller may not withdraw the Deposit.

2.2 Just Compensation. Payment of the Purchase Price and compensation under this Agreement shall be deemed Just Compensation and shall include fair market value, damages of whatever kind or nature arising out of the Buyer’s acquisition of the Seller’s interest in realty, improvements, fixtures and equipment, and business interests including, without limitation, loss of business goodwill, loss of rent, bonus value, loss of inventory, equipment, patronage, and loss of opportunities.

2.3 Escrow. Upon execution of this Agreement by the parties, Buyer shall open an escrow (“Escrow”) with an escrow company of Buyer’s choosing (“Escrow Holder”) for the purpose of undertaking this Agreement within ten (10) days following execution of this Agreement which will require City Council approval. The parties hereto shall execute and deliver to Escrow Holder such escrow instructions prepared by Escrow Holder as may be required to complete this transaction. Any such instructions shall not conflict with, amend, or supersede any provision of this Agreement. If there is any inconsistency between such instructions and this Agreement, this Agreement shall control. Should City Council approval not

be obtained within such ten (10) day period, this Agreement shall terminate, and the Deposit shall be returned to Buyer.

2.4 Escrow Trust Accounts. All funds received in this Escrow may be deposited with other escrow funds in a general escrow trust account and may be transferred to any other similar escrow trust account, and all disbursements shall be made by check of Escrow Holder from such accounts. Escrow Holder shall deposit all of Buyer's money into an interest bearing account with all interest accruing to Buyer until the Close of Escrow. At the option of Buyer, said interest may be used toward the Purchase Price.

2.5 Conduct of Escrow. Escrow Holder is hereby authorized and instructed to conduct the Escrow in accordance with this Agreement, applicable law, custom and practice of the community in which Escrow Holder is located, including any reporting requirements of the State of California and the Internal Revenue Service.

2.6 Condition of Title. Seller shall convey title to the Property to Buyer as evidenced by a CLTA or ALTA Form Policy or Binder of Title Insurance ("Title Policy") in an amount equal to the Purchase Price. The Title Policy shall show title to the Property vested in the Buyer free and clear of all monetary liens or encumbrances, assessment, taxes and leases (recorded and/or unrecorded). Any exceptions to title representing monetary liens or encumbrances are hereby disapproved by Buyer and Escrow Holder is hereby authorized and instructed to cause the reconveyance of any such monetary exceptions at or prior to the Close of Escrow. Buyer shall review and approve, or disapprove, the preliminary title report on the Property as part of its Due Diligence described in Paragraph 1.9 above, and indicate its approval or disapproval of title on or before the Contingency Date. If a supplemental report is issued prior to the Close of Escrow which shows new matters, Buyer reserves the right to request that Seller remove any such new matter from the Title Policy prior to the Close of Escrow, and if Seller is unable or unwilling to remove such item, may terminate this Agreement and receive a refund of its Deposit. Seller agrees to assist with the removal of the new matters.

2.7 Reports, Studies and Agreements. Within five (5) calendar days of the Effective Date, Seller will provide Buyer with copies of any reports, studies, maps or agreements affecting the Property in Seller's possession, if any, including but not limited to geotechnical and soils reports, surveys, environmental reports, flood hazard or earthquake seismic studies and any other reports, studies, maps or agreements affecting the Property.

ARTICLE III CLOSING

3.1 Closing. Subject to the satisfaction of the contingency of Buyer obtaining State or Federal grant funds for the Purchase Price, as described at Paragraph 2.1 above, Escrow Holder shall close this Escrow by recording the deed(s) and other documents required to be recorded and by disbursing the funds and documents in accordance with this Agreement.

3.2 Closing Date. Escrow shall close on or before thirty (30) days following the earlier of: (i) Buyer obtaining the State and/or Federal grant funds described at Paragraph 2.1

above, or (ii) 365 days following the Effective Date (“Close of Escrow”). If the Escrow is not in a condition to close by the Close of Escrow, any party who is not then in default, upon notice in writing to the Escrow Holder and the other party, may provide notice of the termination of this Agreement and the cancellation of the Escrow.

3.3 **Closing Documents.**

3.3.1 Seller, prior to the Close of Escrow, shall deliver to Escrow Holder each of the following items, the delivery of each of which shall be a condition to the performance by Buyer of its obligations under this Agreement:

- (a) A grant deed sufficient for recording, conveying the Property; and
- (b) All additional documents, instruments and sums which may be reasonably necessary for the Close of Escrow and to consummate the sale of the Property in accordance with the terms of this Agreement.

3.3.2 Buyer, prior to the Close of Escrow, shall deliver to Escrow Holder each of the following items, the delivery of each of which shall be a condition to the performance by Seller of its obligations under this Agreement:

- (a) The Purchase Price to be paid to Seller and other cash charges provided for in this Agreement; and
- (b) All additional documents and instruments which may be reasonably necessary for the Close of Escrow and to consummate the sale of the Property in accordance with the terms of this Agreement.

Since Buyer is a public entity, Escrow Holder must secure from Buyer and attach to any deed a certificate of acceptance executed by Buyer or its authorized employees, officers or agents prior to the recording of any deed.

3.4 **Intentionally Deleted.**

3.5 **Taxes.** Escrow Holder is authorized and instructed to comply with the following tax proration procedures:

3.5.1 Payment of Unpaid Taxes. Pay and charge Seller for any unpaid delinquent taxes and/or any penalties and interest thereon, and for any delinquent or non-delinquent assessments or bonds against the Property.

3.5.2 Tax Proration. For purposes of tax proration, Escrow Holder will apportion all current taxes at “the date of apportionment” for public agency acquisitions as

defined in California Revenue and Taxation Code Section 5082. The “date of apportionment” is the earliest of the following times:

- (a) The date of conveyance to the Buyer or the date a final order of condemnation is recorded.
- (b) The date of actual possession by Buyer.
- (c) The date upon or after which Buyer may take possession as authorized by an order for possession or by a declaration of taking.

Since possession is being granted pursuant to this Agreement at the Close of Escrow, that date will be the “date of apportionment” unless Buyer has heretofore obtained an order for possession in a pending eminent domain action or obtained possession by agreement with Seller, in which case the earlier of such dates shall be the date of apportionment.

3.5.3 Ad Valorem Taxes. Seller understands and agrees pursuant to California Revenue and Taxation Code Section 5083 that when property is acquired by Buyer (a public entity) that any lien on the property for ad valorem taxes is extinguished as a matter of law upon the final acquisition of the property and the lien immediately transfers and attaches to the proceeds constituting the purchase price.

3.5.4 No Cancellation of Unpaid Taxes and Penalties. Seller understands and agrees pursuant to California Revenue and Taxation Code Section 5084 that no cancellation shall be made of all or any portion of any unpaid taxes or any penalties or costs levied for prior tax years that constitute a lien at the time of acquisition of the Property. Such unpaid taxes, penalties, and costs shall be paid through Escrow, or if unpaid for any reason, shall be transferred to the unsecured tax roll pursuant to Section 5090 of the California Revenue and Taxation Code and are collectible solely from Seller.

3.5.5 Proration of Current Taxes. From the date that tax information is available, that portion of the current taxes and any penalties and costs that are allocable during Seller’s ownership of the Property up to and including the date of apportionment, if unpaid, shall be paid through Escrow. If such taxes are not paid, Buyer shall not in any event be responsible or liable for such taxes and such taxes shall be transferred to the unsecured roll and be solely collectable from Seller.

3.5.6 Notice to County Tax Collector. Buyer shall be solely responsible for providing notice of this acquisition to the County Tax Collector and to any public entities, whose taxes are not collected by the County Tax Collector but who at this time exercise the right of assessment and taxation pursuant to California Revenue and Taxation Code Section 5091.

3.6 **Title and Escrow Costs.** The Seller shall pay for Buyer’s CLTA title policy, with Buyer responsible for the increase in the premium attributable to ALTA coverage if desired by Buyer. Buyer and Seller shall each pay half of the escrow fees, and all recording costs

incurred herein, all reconveyance fees, trustees' fees, or forwarding fees. Pursuant to California Code of Civil Procedure Section 1265.240, no prepayment penalty is required to be paid where property is required for a public use. The parties acknowledge that Buyer is exempt from the payment of documentary transfer tax.

3.7 Brokerage Commissions. Buyer is not represented by a broker and shall not pay a broker commission fee. Seller is represented by Andrew Shirk with Voit Real Estate Services and shall pay all agreed broker commission fees at the close of escrow pursuant to a separate agreement. Seller shall indemnify Buyer for any claim related to a broker sales commission in this transaction.

3.8 Closing Statement. Seller hereby authorizes and instructs Escrow Holder to release a copy of Seller's closing statement to Buyer, the purpose being to ascertain if any reimbursements are due Seller.

ARTICLE IV **RIGHT OF ENTRY AND DAMAGE TO PROPERTY**

4.1 Right of Entry. After Seller's execution of this Agreement by the parties, and during Escrow, Seller grants to Buyer, its agents, employees or nominees, the right to enter into and upon the Property for the purpose of conducting Phase I Environmental Site Assessment, soil testing, environmental and engineering studies, and such further engineering, grading, archeological, geological or survey work as may be required for the preparation by Buyer of its development plans for the Property. Buyer shall give Seller reasonable notice of such entry, and shall not unreasonably interfere with any occupant's use of the Property or any of Seller's other operations on the Property. Buyer shall keep the Property free and clear of any liens or encumbrances that may arise out of Buyer's inspection of and activities on the Property. All costs, expenses, liabilities or charges incurred in or related to the performance of any and all of such studies and work on the Property, the preparation by Buyer of any plans or maps for the development or use of the Property, and the cost of filing, recording reports, plans, maps or other documents related thereto shall be at the sole cost and expense of and shall be paid by Buyer. Buyer hereby agrees to repair any damage done to the Property by Buyer, its agents, employees, servants or nominees, and Buyer shall restore the Property to the same or similar condition as existed on the date of Buyer first exercised this right of entry, if this transaction is terminated. Buyer shall not have any such obligation if Escrow closes and title to the Property vests in Buyer. The right to enter the Property shall be co-extensive with the period during which Escrow is open, or any extension thereof.

At any time during the Escrow period, Buyer, and its agents and representatives, shall have the right at reasonable times and subject to rights of tenants (if any), to enter upon the Property for the purpose of making inspections and tests specified in this agreement. No Phase II or destructive testing shall be conducted, however, without Seller's prior approval which approval shall be in the discretion of Seller. Following any such entry or work, unless otherwise directed in writing by Seller, Buyer shall return the property to the condition it was in prior to such entry of work, including the compaction or removal of any disrupted soil or material as Seller may reasonably direct.

Buyer will provide evidence of insurance coverage to Seller prior to entry onto the Property.

4.2 Material Adverse Change, Destruction or Damage. The closing of this Escrow is also contingent upon the fact that no material adverse change shall have occurred with respect to the Property that has not been approved in writing by Buyer. For purposes of this Agreement, a “material adverse change” shall be a change in the status of the use or condition of the Property that occurs subsequent to the Effective Date of this Agreement. In the event there is a material adverse change to the Property after the Effective Date and prior to the earlier of the termination of this Agreement or the Close of Escrow, Buyer may elect, within fifteen (15) days thereafter to terminate this Agreement, and receive the return of its Deposit, and, if it makes no such election, Buyer shall proceed with the Close of Escrow.

ARTICLE V **WAIVER AND RELEASE**

5.1 Acknowledgment of Full Benefits. By execution of this Agreement, Seller, on behalf of itself and its heirs, executors, administrators, successors and assigns, hereby acknowledges that this Agreement provides full payment for the acquisition of the Property by the Buyer, and Seller hereby expressly and unconditionally waives any and all claims for damages, improvements, relocation assistance benefits, severance damages, interest, loss of goodwill, claims for inverse condemnation or unreasonable precondemnation conduct, right of first refusal, or any other compensation or benefits, which may arise or have arisen out of Buyer’s immediate possession of the Property and any claims pursuant to California Code of Civil Procedure sections 1036, 1245.010, et seq., 1245.245, et seq., 1250.410, et seq., 1255.410, et seq., 1263.205, et seq., 1263.310, et seq., 1263.410, et seq., 1263.510, et seq., 1263.610, et seq., 1265.110, et seq., 1265.210, et seq., 1265.410, et seq., 1268.310, et seq., 1268.410, et seq., 1268.510, et seq., 1268.610, et seq., 1268.620, and 1268.710, et seq., and their successors, it being understood that this is a complete and full settlement of all acquisitions claims, liabilities, or benefits of any type or nature whatsoever relating to or in connection with the acquisition of the Property.

5.2 Acknowledgment of Just Compensation. This Agreement arose out of the Buyer’s efforts to acquire the Property through its public entity authority. The parties acknowledge and agree that the Purchase Price paid to Seller shall be deemed the fair market value and total amount of “Just Compensation” for the Property.

5.3 Waiver and Release. Buyer and Seller hereby acknowledge that they have had the full opportunity to speak with or have been advised by an attorney and are familiar with the provisions of California Civil Code section 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

At and following the Close of Escrow, Buyer and Seller each release and discharge the other from any and all claims damages, losses, costs or expenses which are presently unknown and unsuspected which are related to this Property and this transaction, except for those obligations which are stated herein as surviving the Close of Escrow. Buyer and Seller hereby acknowledge that this Agreement has been negotiated and agreed upon in light of this mutual general release, and hereby expressly waive any and all rights which they may have under California Civil Code Section 1542, or under any statute or common law or equitable principal of similar effect. This waiver shall not supersede any of the express provisions of this Agreement, or the rights of the either party to enforce this Agreement in law or equity

5.4 Waivers. Seller hereby waives the right to further and greater compensation and to have the adequacy of compensation determined in a court of law or equity, by a judge or a jury. Seller understands and knowingly agrees that this waiver shall extend to constitutional claims of whatever kind or nature that may be brought under the California and United States Constitutions and the federal civil rights statutes including, without limitation, claims arising under 42 U.S.C. Section 1983. Seller hereby further waives the right to raise affirmative defenses and to attack by way of answer, complaint or collaterally, the Buyer's right to acquire the property for public uses and purposes, and to challenge the findings made in any resolution of necessity.

These acknowledgments, waivers and releases shall survive the Close of Escrow.

ARTICLE VI REPRESENTATIONS AND WARRANTIES

6.1 Seller Representations, Warranties and Covenants. Seller hereby represents, warrants and covenants to Buyer as of the date of this Agreement, and upon the Close of Escrow, as follows, all of which shall survive the Close of Escrow:

6.1.1 Authority. Seller is the owner of the Property and has the full right, power and authority to sell, convey and transfer the Property to Buyer as provided herein, and to perform Seller's obligations hereunder. The person signing this Agreement and any documents and instruments in connection herewith on behalf of Seller has full power and authority to do so.

6.1.2 Bankruptcy. There are no attachments, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or any other debtor relief actions contemplated by Seller or filed by Seller, or to the best of Seller's knowledge, pending in any current judicial or administrative proceeding against Seller. Further, Seller has no notice or knowledge that any tenant of the Property is the subject of a bankruptcy proceeding.

6.1.3 Other Agreements. Seller has not entered into any other written contracts or agreements for the sale or transfer of any portion of the Property.

6.1.4 Condition of Property. Seller warrants and covenants that through the date possession is made available to Buyer, the Property shall be maintained in the same unimproved condition as of the Effective Date of this Agreement.

6.1.5 Violation of Codes. Seller warrants that Seller has no knowledge of any notice of any violations of city, county, state federal building, zoning, fire, health codes or ordinances, or other governmental regulations filed or issued against the Property. Seller further warrants that it has no knowledge of any aspect or condition of the Property which violates applicable laws, rules, regulations, codes, or covenants, conditions or restrictions, or of improvements or alterations made to the Property without a permit where one was required, or of any unfulfilled order or directive of any applicable governmental agency, or of any casualty insurance company that any work, investigation, remediation, repair, maintenance or improvement is to be performed on the Property.

6.1.6 Condemnation. Seller represents that it is aware of no condemnation action or other proceedings or actions pending by any governmental or private party which would have an adverse material effect upon Buyer's development or use of the Property.

6.1.7 Geologic Condition. Seller represents that it has no knowledge of surface cracking or subsidence or other geologic condition in the immediate vicinity of the Property that might affect the development or use of the Property. Further, Seller has no knowledge of any report prepared by any governmental agency relating to such geologic conditions as to the Property or the proximate area around the Property.

6.1.8 Maintenance of the Property. Except as provided in other provisions hereof dealing with destruction, damage or loss, Seller shall maintain the Property until the Close of Escrow in its present unimproved condition.

6.1.9 Changes in Agreements. Prior to Close of Escrow, Seller will not violate or modify, orally or in writing, any existing lease or other agreement, or create any new leases or other agreements affecting the Property without Buyer's prior written consent.

6.1.10 Possessory Rights. To the best knowledge of the Seller, no one will, at the Close of Escrow, have any right to possession of the Property superior to the right of the Buyer, except as disclosed by this Agreement, or otherwise in writing to Buyer.

6.1.11 Mechanics' Liens. There are no unsatisfied mechanic's or materialman's lien rights concerning the Property.

6.1.12 Actions. To the best of Seller's knowledge, no actions suits, or proceedings are pending or threatened before any governmental department, commission, board,

bureau, agency, court, or instrumentality that would affect the Property or the right to occupy or utilize the Property.

6.1.13 Notice of Changes. Seller will promptly notify Buyer in writing of any material change affecting the Property that becomes known to Seller prior to the Close of Escrow.

The material truth and accuracy of the foregoing representations and warranties shall be a condition of Buyer's obligations hereunder. At least five (5) calendar days prior to the Close of Escrow, Seller shall notify Buyer of any facts or circumstances which are contrary to the foregoing representations and warranties.

ARTICLE VII **BUYER'S REPRESENTATIONS AND WARRANTIES**

7.1 **Buyer's Representations and Warranties.** Buyer hereby represents warrants and covenants to Seller as of the date of this Agreement, and upon the Close of Escrow, as follows, all of which shall survive the Close of Escrow:

7.1.1 Authority. Buyer is a municipal corporation and has the full power and authority to enter into and carry out the agreements contained in, and the transactions contemplated by this Agreement. The persons signing this Agreement and any documents and instruments in connection herewith on behalf of Buyer have full power and authority to do so.

7.1.2 Bankruptcy. There are no attachments, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or any other debtor relief actions contemplated by Buyer or filed by Buyer, or to the best of Buyer's knowledge, pending in any current judicial or administrative proceeding against Buyer.

7.1.3 Ratification. This Agreement is subject to the approval and ratification by the City Council of the City of Riverside, which approval shall be sought and, if obtained, notice of such approval shall be provided to Seller, within forty five (45) calendar days following the Effective Date. In the event the City Council fails to timely approve this Agreement prior to expiration of that forty five (45) day period, there shall be no further liability or obligation on the part of either the Seller or the Buyer, and this Agreement shall become null and void and of no further force and effect and Escrow Holder shall cancel the Escrow immediately and return all money and/or documents to the respective party.

7.1.4 Grant Funds. Buyer shall at all times following the Effective Date, and until such funds are obtained, make timely and diligent efforts to obtain the State and Federal grant funds described in Paragraph 2.1 above.

The material truth and accuracy of the foregoing representations and warranties shall be a condition of Seller's obligations hereunder. At least five (5) calendar days prior to the Close of Escrow, Buyer shall notify Seller of any facts or circumstances which are contrary to the foregoing representations and warranties.

ARTICLE VIII **DEFAULT AND TERMINATION**

8.1 Default. A party shall be deemed in default hereunder if it fails to meet, comply with, or perform any covenant, agreement, or obligation on its part required within the time limits and in the manner required in this Agreement for any reason other than a default by the other party hereunder or termination of this Agreement prior to Close of Escrow.

8.2 Opportunity to Cure. No act, failure to act, event or circumstance which might be deemed to be a default by either party shall be deemed to be a default under any of the provisions of this Agreement, unless and until, notice thereof is first given by the non-defaulting party to the party alleged to be in default and said party fails to cure the alleged default within fifteen (15) calendar days in the case of a non-monetary default, or five (5) calendar days in the case of a monetary default.

8.3 Termination upon Default. After written notice detailing the nature of the default, the defaulting party shall have thirty (30) days in which to cure the default, and if the defaulting party then fails to timely cure that default, the non-defaulting party may terminate this Agreement (a “Termination”) by giving written notice to the defaulting party and the Escrow Holder. Upon receipt of the notice to terminate, the Escrow Holder shall immediately cancel the Escrow and return all money and/or documents to the respective party.

8.4 Intentionally Deleted.

8.5 Intentionally Deleted.

ARTICLE IX **MUTUAL AGREEMENTS**

9.1 Studies. Seller hereby authorizes Buyer, its agents, employees, contractors and representatives, at Buyers sole cost and expense, to conduct such necessary cultural, environmental phase I, lead base paint and asbestos studies as Buyer may require. In connection with such studies, Seller hereby grants to Buyer, its agents, employees, contractors and representatives, a right of entry as more specifically set forth in Section 4.1 above.

9.2 CEQA Compliance. Buyer and Seller understand, acknowledge and agree that purchase of the Property is contingent upon Buyer’s compliance with the California Environmental Quality Act (“CEQA”).

9.3 Soil Inspection. Buyer shall have the right to obtain a soil test report concerning the Property. Said report shall be obtained at Buyer’s discretion and expense. Buyer agrees to keep the property free from any liens, including mechanics liens, arising from persons or agents authorized to perform such soils investigation on behalf of Buyer.

9.4 Abandonment of Personal Property. Unless special arrangements have been made by the parties, any personal property left by Seller on the Property at the Close of Escrow

shall be deemed abandoned and become the property of the Buyer. Seller shall reimburse Buyer upon receipt from Buyer of an invoice evidencing the cost of removal of any of Seller's personal property, less any offsets, if any. Seller agrees that Buyer may dispose of the personal property without notice to the Seller and without sale at a public auction. Seller expressly waives the requirements of California Civil code Section 1980, et seq., relating to the disposition of personal property remaining on the premises at the termination of a tenancy, and to the extent applicable, the provisions of California Code of Civil Procedure Section 1174.

9.5 Other Agreements Affecting Property. Seller and Buyer have made this Agreement upon the belief that there are no other agreements except this Agreement which will affect the Property beyond the Close of Escrow. If Seller determines that such agreements or exceptions exist which are not revealed herein, Seller shall provide Buyer with a copy immediately upon Seller's learning of its existence. Buyer may thereafter, prior to the Close of Escrow, either accept such agreements or elect to terminate this Agreement. After Close of Escrow, should any Seller agreements be discovered as to which the Buyer was not given notice, and should they result in damage or expense to Buyer, Seller shall be liable to Buyer for any damage or expense including attorney's fees and costs incurred by Buyer by reason of such undisclosed agreements.

9.6 Condition of Property. Upon Close of Escrow, Seller shall deliver the property, in its present unimproved condition, with any trash or debris which may have accumulated following the Effective Date being removed.

ARTICLE X **HAZARDOUS SUBSTANCES**

10.1 Intentionally Deleted.

10.2 Hazardous Substances. Seller represents and warrants that it does not have knowledge of the existence or prior existence of any hazardous substances on the Property. In addition, Seller has no actual knowledge of the existence or prior existence of any above or below ground storage tank or tanks on the Property.

10.3 Hazardous Substance Conditions Report. Buyer shall have the right to obtain a Hazardous Substance Conditions report(s) or other environmental studies concerning the Property and relevant adjoining properties. Such report(s) will be obtained at Buyer's discretion and expense. If Buyer elects to secure such reports, Buyer shall obtain such a report prior to the Contingency Date. Seller currently has no such reports, nor knowledge of any hazardous substance condition report that was prepared by any other person or entity including any governmental agency.

10.4 Hazardous Substance Defined. A "Hazardous Substance" for purposes of this Agreement shall mean and refer to any (a) hazardous or toxic wastes, materials or substances or chemicals and other pollutants or contaminants which are or become regulated by applicable local, state, regional and/or federal orders, ordinances, statutes, rules, regulations (as interpreted by judicial and administrative decisions) and laws, (b) asbestos, asbestos-containing materials or

urea formaldehyde, (c) polychlorinated biphenyls, (d) flammable, explosive, corrosive or radioactive materials, (e) medical waste and biochemical, (f) gasoline, diesel, petroleum or petroleum by-products, (g) lead-based paint or (h) any substance set forth in Health and Safety Code Section 25316, et seq., or whose nature and/or quality of existence, use, manufacture or effect, render it subject to federal, state or local regulation, investigation, remediation or removal as potentially injurious to public health or welfare. A “Hazardous Substance Condition” for purposes of this Agreement is defined as the existence on, under or relevantly adjacent to the Property or a Hazardous Substance that would or could require remediation and/or removal under applicable federal, state or local law.

10.5 Hazardous Substances Indemnity. Seller expressly agrees to indemnify, defend, and hold Buyer, and its respective officials, officers, employees, agents, successors and assigns, harmless from and against any claim, action, liability, loss, damage, entry, judgment, order, lien, encumbrance, and costs and expenses that, foreseeable or unforeseeably, directly or indirectly, arises from, or is in any way related to, the existence, release, treatment, use, generation, transportation, storage, or disposal in, on, under, to, or from the Property of any Hazardous Substances. For the purposes of this section, “costs and expenses” include, but are not limited to, the cost of any necessary, ordered, adjudicated, or otherwise required remediation or removal of Hazardous Substances, any cost of repair of improvements on the Property or adjacent property necessitated by or related to the remediation or removal of Hazardous Substances, the cost of any tests, samples, studies, investigations, or other preparation reasonably undertaken in preparation or furtherance of remediation or removal of Hazardous Substances, and the cost of preparing plans for the remediation or removal of Hazardous Substances. Notwithstanding the foregoing, Seller expressly agrees to, at its sole expense, and with legal counsel of the Buyer’s choice, defend the Buyer and its respective officials, officers, employees, agents, successors and assigns in any action in which the Buyer or its respective officials, officers, employees, agents, successors and assigns become or may become involved as a result of the existence, release, treatment, use, generation, transportation, storage, or disposal in, on, under to, or from the Property of any Hazardous Substances. Seller’s obligations under this section shall survive the Close of Escrow for a period of two (2) years, after which they shall terminate.

ARTICLE XI **MISCELLANEOUS**

11.1 Exhibits. All Exhibits attached hereto are a part of this Agreement for all purposes and are incorporated herein.

11.2 Assignment. Neither this Agreement nor any rights under this Agreement may be assigned by any party without the prior written consent of the other party.

11.3 Binding Effect. This Agreement shall be binding upon and inure to the benefit of Seller and Buyer, and their respective successors, heirs, agents and permitted assigns.

11.4 **Captions.** The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

11.5 **Number and Gender of Words.** Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other gender where appropriate.

11.6 **Governing Law and Venue.** The laws of the State of California shall govern the validity, construction, enforcement, and interpretation of this Agreement. All claims, disputes and other matters in question arising out of or relating to this Agreement, or the breach thereof, shall be decided by proceedings instituted and litigated in the state court in the County of Riverside, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

11.7 **Amendments.** This Agreement may be amended or supplemented only by written documents signed by the parties.

11.8 **Notices.** All notices, terminations, waivers and other communications hereunder shall be in writing and shall be delivered personally, by facsimile or shall be sent by registered or certified United States mail or a nationally recognized, overnight courier service, postage prepaid, and addressed as follows:

Seller: COEG-CA-2, LCC
c/o Andrew Shirk
Voit Real Estate Services
3280 E Guasti Rd., Suite 100
Ontario, CA 91761

Buyer: CITY OF RIVERSIDE
Community & Economic Development Department
Attn: Real Property Services Manager
3900 Main Street
Riverside, CA 92522
(951) 826-5649 (phone)
(951) 826-5744 (fax)

Any notice in accordance herewith shall be deemed received when delivery is received or refused, as the case may be. Notices may be given by telephone facsimile transmission, provided that an original of said transmission shall be delivered to the addressee by a nationally recognized overnight delivery service on the business day following such transmission. Telephone facsimiles shall be deemed delivered on the date of such transmission.

11.9 **Entirety.** This Agreement embodies the entire agreement between the parties and supersedes all prior written or oral agreements and understandings, if any, between them concerning the subject matter contained herein. There are no representations, agreements,

arrangements, or understandings, oral or written, between the parties hereto, relating to the subject matter contained in this Agreement which are not fully expressed herein.

11.10 Severability. If any of the provisions of this Agreement, or its application to any party or circumstance, is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. In lieu of such illegal, invalid, or unenforceable provision, there shall be added automatically as a part of this Agreement, a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible to make such provision legal, valid, and enforceable.

11.11 Further Acts. In addition to the acts and deeds recited herein and contemplated and performed, executed and/or delivered by Sellers and Buyer, Sellers and Buyer agree to perform, execute and/or deliver or cause to be performed, executed and/or delivered at the Close of Escrow or after the Close of Escrow any and all such further acts, deeds, and assurances as may be necessary to consummate the transactions contemplated herein.

11.12 Construction. No provision of this Agreement shall be construed in favor of, or against, any particular party by reason of any presumption with respect to the drafting of this Agreement; both parties, having the opportunity to consult legal counsel, having fully participated in the negotiation of this Agreement.

11.13 Time of the Essence. It is expressly agreed by the parties hereto that time is of the essence with respect to each and every provision of this Agreement.

11.14 Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required under this Agreement. The exercise of any remedy provided in this Agreement shall not be a waiver of any other remedy provided by law, and the provisions of this Agreement for any remedy shall not exclude any other remedies unless they are expressly excluded.

11.15 Nondiscrimination. The parties shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical or mental disability, medical conditions, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, genetic information, gender, gender identity, sex or sexual orientation, in connection with the performance of this Agreement. The parties further agree to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

11.16 Date of Agreement. The date of the Agreement as used in this Agreement shall refer to the date this Agreement is signed and approved by the governing body of Buyer. It is

understood and agreed that no employee, officer or director(s) of Buyer has any authority to bind the Buyer, which is a public entity, except upon prior approval by the governing body of Buyer.

11.17 Survival of Warranties. All of the warranties, representations, covenants and agreements of the parties hereto contained in this Agreement shall survive the Close of Escrow.

11.18 Counterparts. This Agreement may be executed in a number of identical counterparts. If so executed, each of such counterparts shall, collectively, constitute one original agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

11.19 Agreement Not to Rent, Lease or License Property. Seller agrees that there are no existing leases and agrees not to rent, lease, license or allow any person to take possession of the Property, or any portion of the Property, or any building or structures that maybe located thereon, beyond the Close of Escrow.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

BUYER

CITY OF RIVERSIDE, a California charter city and municipal corporation

By: _____
City Manager

ATTEST:

By: _____
City Clerk

SELLER

COEG-CA-2, LLC, a California limited liability company

By: Pete F. Drs 9-22-16
Its: Member/Manager

By: Pete 9-22-16
Its: Member

Approved as to Form:

By: R. M. Gill
Deputy City Attorney

CA #16-0855 RMG 09/19/16
\\Rc-Citylawprod\\Cycom\\Wpdocs\\D009\\P024\\00293073.Docx

EXHIBIT "A"

EXHIBIT "A"

LEGAL DESCRIPTION

APN: 252-230-004-6

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RIVERISDE, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

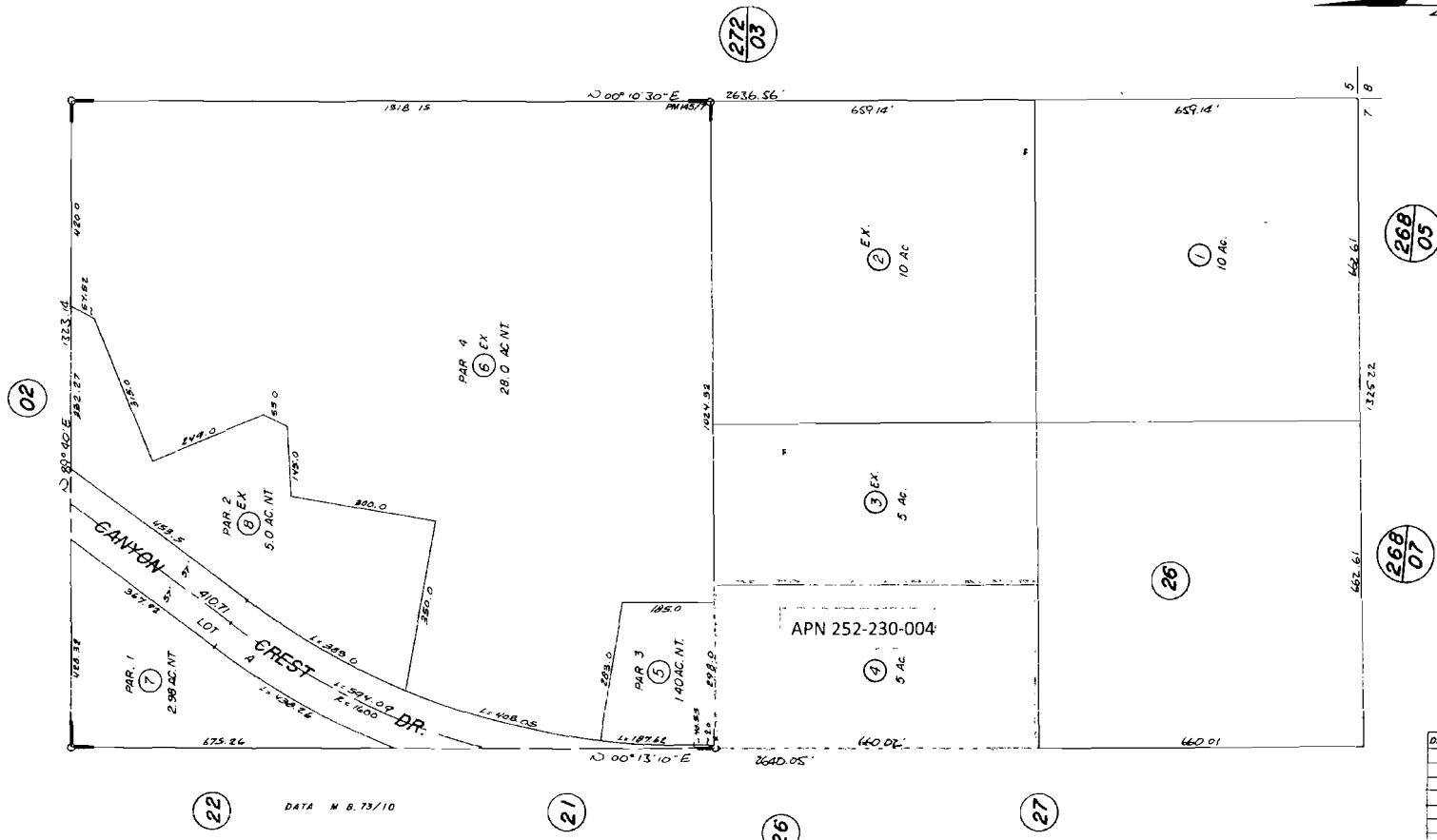
THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 3 SOUTH, RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN.

E1/2 SE1/4 SEC. 6 T.3 S.R. 4 W.

T.R.A. 913

252-23

THIS MAP IS FOR
ASSESSMENT PURPOSES ONLY



ASSESSOR'S MAP BK. 252 PG. 23
RIVERSIDE COUNTY, CALIF. B_H

PM 145/7-8 Parcel Map No. 22392