

PURCHASE AND SALE AGREEMENT

VICTOR DE LOS SANTOS

(Assessor Parcel No. 207-021-007)

This Purchase and Sale Agreement ("Agreement") is entered into this 17th day of August, 2016, ("Effective Date"), by and between THE CITY OF RIVERSIDE, a California charter city and municipal corporation ("Buyer") and VICTOR DE LOS SANTOS, an individual ("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 certain real property, approximately .54 acres or 23,522 square feet of undeveloped land located on the northerly side of Indian Hill Road, Riverside, California, bearing Assessor Parcel No. 207-021-007 ("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 Close of Escrow, as such term is 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. Buyer has made an offer to purchase the Property pursuant to California Government Code section 7267.2. 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 sections 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 sixty (60) days from the Escrow Opening Date ("Contingency Date") to 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. Such physical inspection shall include, but not be limited to, soil testing, environmental studies and testing, engineering studies, and feasibility, HVAC systems, roofs, structural aspects of the structures, code compliance of improvements, operating and mechanical systems, and any other matters deemed necessary to Buyer. 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 accepting the Property, or 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 and proceed with this Agreement.

ARTICLE II

PURCHASE PRICE, TITLE, DEPOSIT, AND ESCROW

2.1 **Purchase Price.** Buyer shall pay to the Seller the sum of Sixty-Eight Thousand 00/00 Dollars (\$68,000.00) ("Purchase Price"). The Purchase Price shall represent 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. Seller acknowledges that a portion of the Purchase Price will be paid by the Riverside Land Conservancy and that the sale of this transaction is contingent upon receipt of those funds. 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.

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") within ten (10) days with Commonwealth Land Title Company, 888 Figueroa Street, Los Angeles, California 90017 ("Escrow Holder") for the purpose of consummating this Agreement. 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.

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 liens, encumbrances, easements, 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. If a supplemental report is issued prior to the Close of Escrow which shows new matters, Buyer reserves the right to require any new matters removed from the Title Policy. Seller agrees to assist with the removal of the new matters.

2.7 **Deposit.** One Thousand 00/00 Dollars (\$1,000.00) ("Deposit") shall be deposited by Buyer to Escrow Holder within Thirty (30) business days of opening escrow in an interest bearing account. The Deposit shall be refundable and applied to the Purchase Price if Escrow closes, or returned to Buyer if Escrow fails to close.

2.8 **Reports, Studies and Agreements.** Within two (2) business days following opening of Escrow, Seller will provide Buyer with copies of any reports, studies, maps or agreements affecting the Property, including but not limited to preliminary title reports, lease agreements, tenant correspondence, delinquency notices, rent payment history, geotechnical and soils reports, surveys, environmental reports, as-builts, building floor plans, flood hazard or earthquake seismic studies and other reports, studies, maps or agreements affecting the Property.

2.9 **Matching Funds.** The Riverside Land Conservancy will contribute fifty percent (50%) matching funds prior to the close of Escrow.

ARTICLE III CLOSING

3.1 **Closing.** Subject to the satisfaction of any contingencies described herein, 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 no later than sixty (60) days following the Opening of Escrow or upon satisfaction of all contingencies, whichever is earlier. 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 demand the return of their documents and/or money and cancellation of the Escrow. Unless objected to in writing within ten (10) days from the receipt of the notice of cancellation, the Escrow will automatically be canceled. If no demand for cancellation is made, then Escrow will close as soon as possible.

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 **Mortgages and Deeds of Trust.** Any and all monies payable under this Agreement, up to and including the total amount of unpaid principal and interest on any note secured by a mortgage or deed of trust, or other security instrument if any, shall, upon demand, be made payable to the mortgagee or beneficiary entitled thereunder; and such mortgagee or beneficiary shall be required to furnish Buyer with good and sufficient receipt showing said monies were credited against the indebtedness secured by said mortgage, deed of trust, or other security instrument. Escrow Holder shall notify the title company of such payments and secure and cause any necessary full or partial conveyances to be prepared, signed and recorded as required by the title company to eliminate any encumbrances or exceptions from the Title Policy issued pursuant to this Agreement.

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 all the costs for a CLTA title policy. The Buyer and Seller shall each pay one-half (50%) of the cost of 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.** The parties acknowledge that neither party has been represented by a broker, with respect to this transaction. The parties hereby agree to indemnify, defend and hold the other party harmless from any and all claims that may arise in regard to any commission that may claimed to be owed.

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.

3.9 **Walk Through.** Three (3) days prior to the Close of Escrow, Buyer shall walk the Property to inspect for any unacceptable conditions. Seller will then have 48 hours in which to correct the unacceptable condition or, if agreed to by Buyer, reduce the purchase price to adjust for the unacceptable condition. If following the walk through, the property is acceptable to Buyer, Seller shall immediately hand over the keys to Buyer.

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.

4.2 **Material Change, Destruction or Damage.** The closing of this Escrow is contingent upon the fact that no material 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 change” shall be a change in the status of the use, occupancy, tenants or condition of the Property (including any destruction of the improvements) that occurs subsequent to the Effective Date of this Agreement. In the event there is a material change to the Property after the Effective Date, Buyer shall be required to purchase the Property with a credit against the Purchase Price otherwise due hereunder equal to the amount of any insurance proceeds actually collected by Seller prior to the Close of Escrow as a result of any such material change, plus the amount of any insurance deductible or any uninsured amount or retention. Seller agrees that they will maintain a casualty insurance policy with respect to the Property in full force and effect until 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 consideration paid to Seller shall be deemed the fair market value and total amount of “Just Compensation” for the Property. Seller, on behalf of itself and its heirs, executors, administrators, successors and assigns, hereby fully releases the Buyer, its successors, agents, representatives, and assigns, and all other persons and associations, known or unknown, from all claims and causes of action by reason of any image which has been sustained, or may be sustained, as a result of the Buyer’s efforts to acquire the Property or to construct works of improvement thereon, or any preliminary steps thereto.

5.3 Waiver and Release. Seller hereby acknowledges that it has had the 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.”

Seller acknowledges that it may have sustained damage, loss, costs or expenses which are presently unknown and unsuspected, and such damage, loss, costs or expenses which may have been sustained, may give rise to additional damage, loss, costs or expenses in the future. Nevertheless, Seller hereby acknowledges that this Agreement has been negotiated and agreed upon in light of that situation, and hereby expressly waives 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 supercede any of the provisions of this Agreement or the rights of the parties hereto 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 Close of Escrow, the date possession is made available to Buyer, the Property and improvements, including, without limitation, landscaping and grounds, shall be maintained in the same condition as upon 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 Zoning Changes. Seller represents that it is aware of no condemnation action (other than Buyer's existing or potential action, if any), zoning change 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 so as to 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 condition, ordinary wear and tear excepted.

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 may be subject to the approval and ratification by the City Council of the City of Riverside. In the event the City Council fails to approve this Agreement, there shall be no liability on the part of the Buyers 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.

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 notice and an opportunity to cure, if the defaulting party fails to cure the default, the non-defaulting party may terminate this acquisition 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 Buyer's Termination. If Buyer exercises its rights under this Agreement to terminate this acquisition, Buyer shall provide written notice to the Sellers and Escrow Holder. Upon receipt of said notice, Escrow Holder shall immediately cancel the Escrow and return all money and/or documents to the respective party.

8.5 Seller's Termination. Seller may not terminate or rescind this agreement unless such termination or rescission is in writing to Buyer and Buyer has, in writing agreed to such termination or rescission.

ARTICLE IX MUTUAL AGREEMENTS

9.1 Studies. Seller hereby authorizes Buyer, its agents, employees, contractors and representatives, at Buyer's 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 shall indemnify and hold Seller harmless from any liability arising from Buyer's soils investigation and 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 on the Property at the Close of Escrow shall be deemed abandoned and the property of the Buyer. Seller shall reimburse Buyer upon receipt from Buyer of an invoice evidencing the cost of said removal, 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 terminate this acquisition or modify the offered Purchase Price. After Close of Escrow, 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. Seller shall further indemnify and defend Buyer as necessary so that Buyer may use the Property for the contemplated public use.

9.6 **Condition of Property.** Upon Close of Escrow, Seller shall deliver the property, including the interior of the structure(s) and the yard in a clean condition, both inside and out, with all trash, debris and personal property removed.

ARTICLE X HAZARDOUS SUBSTANCES

10.1 **Hazardous Substances Disclosure.** The Property is subject to a disclosure as designated under Section 25359.7 of the Health and Safety Code, whereby Sellers are required to disclose if there are any hazardous substances, as defined in Health and Safety Code section 25316, et seq., located on or beneath the property or adjacent

thereto. It is understood and agreed between Buyer and Seller that closing of this Escrow is subject to and contingent upon receipt and approval of a written disclosure by Buyer. Said review and approval will not be unreasonably withheld or delayed by Buyer.

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 use reasonable diligence to obtain such a report on a timely basis. If Seller has such a report, they shall provide Buyer with a copy thereof. If Seller has knowledge of any hazardous substance condition report that was prepared by any other person or entity including any governmental agency, Seller shall inform Buyer of the existence of such a report and its location within fifteen (15) calendar days from the Effective Date.

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.

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:

Buyer

City of Riverside
Community & Economic
Development Department
Real Property Services
3900 Main Street
Riverside, CA 92522
Phone: (951) 826-5649
Fax: (951) 826-2504

Seller

Victor De Los Santos
1035 Hunting Drive, #B
Arcadia, CA 91007

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, gender expression, 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. NOTE: If federal funds are expended in association with this Agreement, Parties will ensure compliance with the Civil Rights Act of 1964, all related statutes, and local agency requirements.

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 Lease. Seller agrees not to rent, lease, license or allow any person to take possession of the Property or any portion of the Property or building or

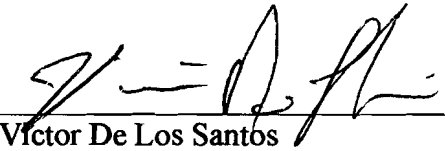
structure located thereon, other than those parties that may be residing in the Property as of the Effective Date.

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

CITY OF RIVERSIDE

VICTOR DE LOS SANTOS,
an individual

By: _____
City Manager

By: 
Victor De Los Santos

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:


Chief Assistant City Attorney

O:\Cycorm\WPDocs\D026\P022\00289429.doc
CA: 16-1105