

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

23-1397

SAP Number

ORIGINAL

San Bernardino County Flood Control District

Department Contract Representative Terry W. Thompson, Director, Real Estate Services Department
Telephone Number (909) 387-5000
Contractor Lennar Homes of California, LLC
Contractor Representative Blaine Humbles
Telephone Number (951) 258-2313
Contract Term N/A
Original Contract Amount \$65,000 and Administrative Fees
Amendment Amount N/A
Total Contract Amount
Cost Center 1920002522
GRC/PROJ/JOB No.
Internal Order No.

Briefly describe the general nature of the contract: Agreement between San Bernardino County Flood Control District (District) and Lennar Homes of California, LLC (Developer) for the relinquishment and sale of a 76,470 square foot District-owned easement located on Developer's property, Assessor's Parcel Number 0264-842-03, in the City of Rialto.

FOR COUNTY USE ONLY

Approved as to Legal Form

Please See Signature Page

John Tubbs II
Deputy County Counsel

Date

Reviewed for Contract Compliance

Date

Reviewed/Approved by Department

Brandon J. Ocasio, Real Property Manager, RESD

Date

## PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT ("**Agreement**"), between San Bernardino County Flood Control District, a public body, corporate and politic of the State of California ("**SELLER**") and Lennar Homes of California, LLC ("**BUYER**"), each of them a "**Party**" and jointly the "**Parties**", is entered into as of the date the last of the Parties executes this Agreement ("**Effective Date**").

### RECITALS

- A. SELLER owns an easement interest in certain real property known as Assessor's Parcel Number (APN) 0264-842-03, located west of the northern reach of the Lytle Creek Island Levee in the City of Rialto, San Bernardino County, California and more particularly described in the legal description attached hereto as Exhibit "A" (Property).
- B. BUYER is the fee owner of APN 0264-842-03 and requests relinquishment of the SELLER's easement interest consisting of approximately 76,470 square feet of land, as described in Exhibit "A".
- C. SELLER has determined that the Property is no longer necessary to be retained for its uses and purposes and is authorized to relinquish the easement and sell the Property to BUYER in accordance with Water Code Appendix, Section 43-6 and County Policy 12-17.

### AGREEMENT

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SELLER and BUYER agree as follows:

#### 1. PURCHASE AND SALE OF THE PROPERTY.

1.1 Subject to all of the terms, conditions, and provisions of this Agreement, and for the consideration herein set forth, the SELLER agrees to sell to BUYER, and BUYER agrees to purchase from the SELLER, the Property as described in Exhibit "A" attached hereto.

1.2 Amount of Purchase Price. The purchase price payable by BUYER to SELLER for the Property, including but not limited to all of SELLER's right, title, and interest to the Property, is the total sum of SIXTY FIVE THOUSAND AND 00/100 DOLLARS (\$65,000.00) ("**Purchase Price**").

1.3 Administrative Fees. BUYER agrees to reimburse SELLER for all administrative costs SELLER has incurred in processing the transaction that is the subject of this Agreement ("**Administrative Fees**"). Said costs are estimated to total \$25,300.00 and are subject to reconciliation at the Closing.

#### 2. RESERVED.

#### 3. CLOSING.

3.1 Closing Date. The Closing Date shall occur as soon as reasonably practicable, but in no event later than the date that is forty-five (45) calendar days following the Effective Date ("**Closing Date**"). The term "**Closing**" shall mean the consummation of the transactions contemplated by this Agreement including SELLER's conveyance of the Property to BUYER.

3.2 Purchase and Sale Agreement. This shall constitute as the agreement between BUYER and SELLER.

3.3 Deliveries by SELLER. On or before 12:00 noon Pacific Time on the business day preceding the scheduled Closing Date, SELLER shall deliver to BUYER: (i) the Quitclaim Deed substantially in the form attached hereto as Exhibit "B" ("**Quitclaim Deed**"), executed and acknowledged by SELLER, and (ii) all other documents reasonably required pursuant to this Agreement.

3.4 Deliveries by BUYER. On or before 12:00 noon Pacific Time on the business day preceding the scheduled Closing Date, BUYER shall deliver to SELLER: (i) the Purchase Price and Administrative Fees, (ii) costs and prorations for which BUYER is responsible pursuant to this Agreement, and (iii) all other documents reasonably required pursuant to this Agreement.

3.5 RESERVED.

3.6 Closing, Recording and Disbursements. On the Closing Date, and provided all of the SELLER Conditions to Closing and BUYER Conditions to Closing set forth in Sections 3.10.1 and 3.10.2 of this Agreement have been satisfied or waived in writing by the appropriate party, Escrow Holder shall take the following actions:

(a) *Recording.* The BUYER shall cause the Quitclaim Deed to be recorded with the Recorder's Office in San Bernardino County, California.

(b) *Delivery of Documents and Funds.* SELLER shall deliver to BUYER all of the items listed in Section 3.3 above including the Purchase Price to SELLER prior to the Closing Date, together with one duplicate original of all of the items listed in Section 3.4 above on the Closing Date.

3.7 Taxes. Not Applicable.

3.8 Payment of Costs. Any recording fees for the documents to be recorded under this Agreement shall be paid by the BUYER. All other costs and expenses not specifically allocated in this Agreement shall be paid by the BUYER. BUYER and SELLER shall each be responsible for their respective attorneys' fees for this Agreement.

3.9 RESERVED.

3.10 Closing Conditions.

3.10.1 Conditions to SELLER Obligations. In addition to any other condition set forth in this Agreement in favor of SELLER, SELLER shall have the right to condition its obligation to convey the Property to BUYER and close the Escrow upon the satisfaction, or written waiver by SELLER, of each of the following conditions precedent on the Closing Date or such earlier time as provided for herein (collectively, the "**SELLER Conditions to Closing**"):

(a) *Delivery of Document and Funds.* BUYER shall have timely executed and submitted all closing documents required to be submitted by BUYER in order to accomplish this transaction. BUYER shall have submitted the Purchase Price and Administrative Fees for which BUYER is responsible to pay and all other sums required of BUYER by this

Agreement.

(b) *Representations and Warranties.* All representations and warranties made by BUYER in this Agreement are true and correct in all material respects as of the Closing as though made at that time.

(c) *No Default under the Agreement.* BUYER shall not be in material default of any of its obligations under this Agreement (and shall not have received notice of a default hereunder which has not been cured) and no event shall have occurred that would constitute a default with the giving of notice or the passage of time.

3.10.2 Conditions to BUYER's Obligations. In addition to any other condition set forth in this Agreement in favor of BUYER, BUYER shall have the right to condition its obligation to purchase the Property upon the satisfaction, or written waiver by BUYER, of each of the following conditions precedent on the Closing Date or such earlier time as provided for herein (collectively, the "**BUYER Conditions to Closing**");

(a) *Delivery of Documents .* SELLER shall have executed and deposited the Quitclaim Deed.

(b) *Representations and Warranties.* All representations and warranties made by SELLER in this Agreement are true and correct in all material respects as the Closing as though made at that time.

(c) *No Default under Agreement.* SELLER shall not be in material default of any of its obligations under this Agreement (and shall not have received notice of a default hereunder which has not been cured).

3.10.3 Satisfaction of Conditions. Where satisfaction of any of the foregoing conditions requires action by BUYER or SELLER, each party shall use its diligent efforts, in good faith, and at its own cost, to satisfy such condition.

3.10.4 Waiver. Each party may at any time or times, waive any of their respective Conditions to Closing in this Section 3.10, as set forth above, to their respective obligations hereunder, but any such waiver shall be effective only if contained in writing, signed, and delivered to the other party.

3.10.5 Termination of Agreement. In the event each of the Conditions to Closing in this Section 3.10, as set forth above, is not fulfilled on the Closing Date or such earlier time period as provided for herein or waived, any party hereto may at its option terminate this Agreement, provided that party is not in default of this Agreement. No termination under this Agreement shall release any party then in default from liability for such default. In the event this Agreement is terminated, all documents and funds delivered shall be returned immediately to the respective parties.

#### 4. REPRESENTATIONS AND WARRANTIES.

4.1 SELLER Representations and Warranties. SELLER hereby makes the following representations and warranties to BUYER, each of which is material and relied upon by BUYER in making its determination to enter into this Agreement and each of which is re-made as of the Closing Date and shall survive the Closing Date:

(a) SELLER has the full right, power and lawful authority to relinquish and sell the Property and undertake all obligations as provided herein. The execution, performance and delivery of this Agreement by SELLER has been fully authorized by all requisite actions on the part of Seller.

(b) There are no pending actions, suits, writs, injunctions, decrees, legal proceedings or governmental investigations against the Property.

(c) SELLER has not received any notices and has no knowledge of any violation of any laws, ordinances, rules, regulations, or requirements of any governmental agency, body or subdivision affecting or relating to the Property.

4.2 BUYER's Representations and Warranties. BUYER hereby makes the following representations and warranties to SELLER, each of which is material and relied upon by SELLER in making its determination to enter into this Agreement and each of which is re-made as of the Closing Date and shall survive the Closing Date:

(a) BUYER has the full right, power, and lawful authority to purchase and accept the Property and undertake all obligations as provided herein. The execution, performance, and delivery of this Agreement by BUYER has been fully authorized by all requisite actions on the part of BUYER.

(b) BUYER's execution, delivery, and performance of its obligations under this Agreement does not constitute a default or a breach under any contract, agreement, or order to which BUYER is a party or by which it is bound.

5. RESERVED.

6. DEFAULTS.

6.1 Institution of Legal Actions. Any legal action must be instituted in the Superior Court of San Bernardino County, State of California.

6.2 Rights and Remedies are Cumulative. Except as otherwise expressly provided in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

6.3 Inaction Not a Waiver of Default. Any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

7. MISCELLANEOUS.

7.1 Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be delivered by either (a) personal delivery, (b) a reliable courier service that provides a receipt showing the date and time of delivery, including (but not limited to Federal Express), or (c) registered or certified U.S. Mail, postage prepaid,

return receipt requested. A courtesy copy of any notices delivered in accordance with this subsection shall be concurrently sent via email as identified below, provided that such courtesy email is not intended or shall it be deemed to substitute as the effective means of notice delivery or alter the effective date of such notice. Notices shall be addressed to the respective parties as set forth below or to such other address and to such other persons as the parties may hereafter designate by written notice to the other party hereto:

To SELLER: San Bernardino County Flood Control District  
c/o Real Estate Services Department  
Attention: Brandon Ocasio, Manager of Acquisitions  
385 North Arrowhead Ave, 3<sup>rd</sup> Floor  
San Bernardino, CA, 92415

To BUYER: Lennar Homes of California, LLC  
Attention: Geoffrey Smith  
980 Montevideo Drive, Suite 302  
Corona, CA 92879  
Courtesy copy via email at:

Each notice shall be deemed delivered on the date received or the date the recipient refuses to accept receipt if by personal delivery or by overnight courier service, or on the date of receipt or the date the recipient refuses to accept receipt as disclosed on the return receipt if by mail,. By giving to the other parties written notice as provided above, the parties to this Agreement shall have the right from time to time, and at any time during the term of this Agreement, to change their respective notice addresses.

7.2 Relationship Between SELLER and BUYER. It is hereby acknowledged that the relationship between SELLER and BUYER is not that of a partnership or joint venture and that SELLER and BUYER shall not be deemed or construed for any purpose to be the agent of the other.

7.3 Attorneys' Fees. If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees.

7.4 Successors and Assigns; Assignment. This Agreement shall bind and inure to the benefit of SELLER and BUYER and their respective successors and permitted assigns.

7.5 Entire Agreement, Waivers, and Amendments. This Agreement incorporates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to all or part of the subject matter hereof. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the party to be charged. Any amendment or modification to this Agreement must be in writing and executed by SELLER and BUYER.

7.6 Prohibited Persons and Transactions. BUYER represents to SELLER that it is not a

person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities.

7.7 Executive Order N-6-22 Russia Sanctions. On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the "EO") regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine (<https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions>), as well as any sanctions imposed under state law (<https://www.dgs.ca.gov/OLS/Ukraine-Russia>). The EO directs state agencies and their contractors (including by agreement or receipt of a grant) to terminate agreements with, and to refrain from entering any new agreements with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should it be determined by the County or the State that BUYER is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this Agreement. BUYER shall be provided advance written notice of such termination, allowing BUYER at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of SELLER.

7.8 Political Contributions. BUYER has disclosed to the County using Exhibit C, whether it has made any campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the earlier of: (1) the date of the submission of BUYER's proposal to the County, or (2) 12 months before the date this Agreement was approved by the Board of Supervisors. BUYER acknowledges that under Government Code section 84308, BUYER is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer for 12 months after the County's consideration of the Agreement.

In the event of a proposed amendment to this Agreement, the BUYER will provide the County a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment.

Campaign contributions include those made by any agent/person/entity on behalf of the BUYER or by a parent, subsidiary or otherwise related business entity of BUYER.

7.9 Computation of Time. In the event that the day on which a party is required to take any action under the terms of this Agreement is a holiday, Saturday or Sunday, such action shall be taken on the next succeeding County business day. The term "holiday" shall mean all holidays as recognized by the SELLER.

7.10 Interpretation; Governing Law. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. This Agreement shall be construed in accordance with the laws of the State of California, without regard to conflict-of-interest principles.

7.11 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement.

7.12 Real Estate Brokerage Commission. Each Party represents and warrants that neither Party has retained any brokers or finders to represent its interest in connection with this transaction. Each Party agrees to indemnify and hold the other harmless from and against all liabilities, costs, damages, and expenses, including, without limitation, reasonable attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay any additional broker's commission and/or finder's fee.

7.13 Execution in Counterpart. This Agreement may be executed in several counterparts, and all so executed shall constitute one agreement binding on both parties hereto, notwithstanding that both parties are not signatories to the original or the same counterpart. If authorized by law, the parties shall be entitled to manually sign and transmit this Agreement by electronic means (whether by PDF, or other email transmission) and are entitled to electronically sign and transmit this Agreement via DocuSign, AdobeSign, or other similar digital signature software, which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

7.14 Exhibits. Exhibits "A", "B" and "C" are attached to this Agreement and are incorporated hereinby this reference and made a part hereof.

7.15 No Withholding as Foreign Seller. SELLER represents and warrants to BUYER that SELLER is not, and as of the Closing Date will not be, a foreign person within the meaning of Internal Revenue Code section 1445 and that it will deliver to BUYER on or before the Closing Date a non-foreign affidavit on standard form pursuant to Internal Revenue Code section 1445(b)(2) and the Regulations promulgated thereunder and a California Form 590-RE.

8. BOARD OF SUPERVISORS APPROVAL: This Agreement is subject to and shall have no force or effect until and unless approved by Board of Supervisors for SELLER.

[Signatures on next page]



IN WITNESS WHEREOF, SELLER and BUYER have entered into this Agreement as of the date first set forth above.

**BUYER:**

**Lennar Homes of California, LLC**

By: 

Date: 9/7/2023

**SELLER:**

**San Bernardino County Flood Control District**

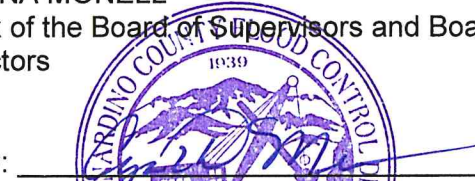



By: Dawn Rowe  
Chair, Board of Supervisors

Date: DEC 19 2023

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD OF SUPERVISORS AND BOARD OF DIRECTORS


LYNNA MONELL  
Clerk of the Board of Supervisors and Board of Directors

By:   
Date: DEC 19 2023



APPROVED AS TO LEGAL FORM:

Tom Bunton, County Counsel  
San Bernardino County, California

By:   
John Tubbs II  
Deputy County Counsel

Date: 10/3/23

## EXHIBIT "A"

### Legal Description of the Property

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF RIALTO, SAN BERNARDINO COUNTY, STATE OF CALIFORNIA, BEING A PORTION OF LOT F OF TRACT 20092 PER MAP RECORDED IN BOOK 362 OF MAPS, PAGES 21 THROUGH 41, INCLUSIVE, RECORDS OF SAID COUNTY, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS A STRIP OF LAND 60.00 FEET IN WIDTH, LYING 30.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:

**BEGINNING** AT THE MOST SOUTHEASTERLY CORNER OF SAID TRACT, SAID POINT ALSO BEING THE MOST SOUTHERLY CORNER OF LOT F OF SAID TRACT;

THENCE NORTH 00°11'46" WEST, 1446.32 FEET TO THE SOUTHERLY LINE OF LOT 3 OF SAID TRACT AND THE **POINT OF TERMINATION** OF SAID CENTER LINE.

THE SIDE LINES OF SAID STRIP TO BE LENGTHENED OR SHORTENED TO TERMINATE AT THE SOUTHWESTERLY AND SOUTHEASTERLY BOUNDARY LINES OF SAID TRACT AND THE SOUTHERLY LINE OF SAID LOT 3.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN THAT LAND DESCRIBED AS TRACT NO. 410 IN THAT DEED TO THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT RECORDED IN BOOK 2564, PAGE 41, OFFICIAL RECORDS OF SAID COUNTY.

CONTAINS 76,469.61 S.F., 1.75 AC., MORE OR LESS.

A PORTION OF APN 0264-842-03

**EXHIBIT "B"**

QUITCLAIM DEED  
(conveyance document)

Follows this page



## EXHIBIT C

### Senate Bill 1439

### Contractor Information Report

#### **DEFINITIONS**

Actively supporting the matter: (a) Communicate directly, either in person or in writing, with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] with the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidiary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

**Contractors must respond to the questions on the following page. If a question does not apply respond N/A or Not Applicable.**

1. Name of Buyer: Lennar Homes of CA., LLC

2. Name of Principal (i.e., CEO/President) of Buyer, if the individual actively supports the matter and has a financial interest in the decision:

Geoffrey Smith – V.P.

3. Name of agent of Buyer:

| Company Name | Agent(s) |
|--------------|----------|
| NONE         | NONE     |
| NONE         | NONE     |

4. Name of any known lobbyist(s) who actively supports or opposes this matter:

| Company Name | Contact |
|--------------|---------|
| NONE         | NONE    |
| NONE         | NONE    |

5. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

| Company Name | Subcontractor(s): | Principal and/or Agent(s): |
|--------------|-------------------|----------------------------|
| NONE         | NONE              | NONE                       |
| NONE         | NONE              | NONE                       |

6. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?

Yes

No

7. Name of any known individuals/companies who are not listed in Questions 1-5, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

| Company Name | Individual(s) Name |
|--------------|--------------------|
| NONE         | NONE               |
| NONE         | NONE               |

8. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer on or after January 1, 2023, by any of the individuals or entities listed in Question Nos. 1-7?

No  If no, please skip Question No. 9 and sign and date this form.

Yes  If yes, please continue to complete this form.

9. Name of Board of Supervisor Member or other County elected officer: N/A

Name of Contributor: N/A

Date(s) of Contribution(s): N/A

Amount(s): N/A

Please add an additional sheet(s) to identify additional Board Members/County elected officer to whom anyone listed made campaign contributions.

By signing the Contract, Buyer certifies that the statements made herein are true and correct. Buyer understands that the individuals and entities listed in Question Nos. 1-7 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while award of this Contract is being considered and for 12 months after a final decision by the County.