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**ORIGINAL**

Contract Number  
**24-164**

SAP Number

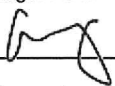
## San Bernardino County Flood Control District

Department Contract Representative	Terry W. Thompson, Director, Real Estate Services Department
Telephone Number	(909) 387-5000
Contractor	Avila Collection, LLC
Contractor Representative	Kevin Kent
Telephone Number	(626) 808-5067
Contract Term	N/A
Original Contract Amount	\$475,000
Amendment Amount	N/A
Total Contract Amount	\$475,000
Cost Center	1920002522
GRC/PROJ/JOB No.	
Internal Order No.	

**Briefly describe the general nature of the contract:** Purchase and Sale Agreement and Escrow Instructions between San Bernardino County Flood Control District (District) and Avila Collection, LLC (Buyer) for the sale of surplus property, via quitclaim deed, totaling approximately 3.03 acres (Assessor's Parcel Numbers 0257-021-02 and 0257-012-12). The Property is located in the unincorporated area of Bloomington and will be sold to Buyer for payment of \$475,000 plus reimbursement of incurred administration costs of approximately \$17,000.

### FOR COUNTY USE ONLY

Approved as to Legal Form

►   
Agnes Cheng  
Deputy County Counsel


Date 1/18/2024

Reviewed for Contract Compliance

► \_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_

Reviewed/Approved by Department

►   
Brandon J. Ocasio, Real Property Manager,  
RESD

Date 1/22/24

## PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

This PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (the "**Agreement**") is entered into as of the date the last of the parties hereto signs this Agreement (the "**Effective Date**") by and between San Bernardino County Flood Control District ("**SELLER**") and Avila Collection, LLC, a Nevada Limited liability company ("**BUYER**").

### RECITALS

- A. SELLER is the owner of the fee simple interest in that certain real property, comprising approximately 3.03 acres located between Linden Avenue and Cedar Avenue and from Slover Avenue to Santa Ana Avenue in the unincorporated area of Bloomington, CA, which is commonly known as APNs 0257-021-02 and 0257-012-12 and more particularly described in Exhibit "A" and depicted in Exhibit "B", each of which are attached hereto and incorporated herein by reference ("District Property").
- B. BUYER owns certain real property [commonly known as APNs 0257-021-28 and 0257-031-35], which is adjacent to the District Property (Adjacent Property).
- C. SELLER agrees to sell the District Property to BUYER and BUYER agrees to buy the District Property from SELLER on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions of this Agreement, the SELLER and BUYER hereby agree as follows:

#### Section 1. Recitals.

The recitals set forth above are true and correct and incorporated herein by this reference.

#### Section 2. Purchase and Sale of District Property.

Subject to all of the terms, conditions and provisions of this Agreement, and for the consideration set forth below, SELLER hereby agrees to sell, convey and transfer to BUYER and BUYER hereby agrees to acquire all of the right, title and interest of SELLER in and to the District Property by quitclaim deed ("Transaction").

#### Section 3. Consideration.

(a) As a condition to SELLER's performance hereunder, BUYER shall pay to SELLER total consideration in the amount of FOUR HUNDRED SEVENTY-FIVE THOUSAND DOLLARS AND 00/100 CENTS (\$475,000.00) ("**Purchase Price**") for the District Property, which shall be deposited with the Escrow Holder in accordance with this Agreement, plus all of SELLER's administrative cost incurred in currently estimated to be \$17,000, which shall be totaled prior to the Close of Escrow.

(b) Independent Consideration Payment. Within fifteen (15) business days after the Escrow Opening Date, BUYER shall deliver to SELLER the sum of One Hundred and 00/100 Dollars (\$100.00) (the "**Independent Consideration Payment**"),

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as independent consideration for BUYER's right to purchase the Property and to terminate this Agreement on or prior to the expiration of the Due Diligence Period and for SELLER's execution, delivery, and performance of this Agreement. The Independent Consideration Payment is non-refundable, not applicable to the Purchase Price, and shall be retained by SELLER notwithstanding any other provision of this Agreement.

Section 4. Opening of Escrow.

(a) All expenses incurred in the transfer of title, including but not limited to escrow, Title Policy (if desired by BUYER), documentary stamps and recording fees are to be paid by BUYER at its sole cost and expense.

(b) The transfer and sale of the District Property shall take place through escrow (the "Escrow"), and such Escrow shall be administered by Chicago Title ("Escrow Holder"). The Escrow for the District Property shall be deemed open ("Opening of Escrow") upon the receipt by the Escrow Holder of a copy of this Agreement executed by SELLER and BUYER. Notwithstanding the foregoing, SELLER shall deliver the fully-executed Agreement to the Escrow Holder within seven (7) business days after the Effective Date. The date of Opening of Escrow shall be memorialized by Escrow Holder in writing and delivered to the parties.

Section 5. Due Diligence Period

(a) As used in this Agreement, the term "**Due Diligence Period**" shall refer to a period of time to expire at 5:00 p.m., Pacific Time, on the date which is thirty (30) business days from the Opening of Escrow to allow the BUYER the opportunity to investigate the condition and suitability of the District Property for BUYER's intended use. In the event BUYER finds the District Property unsatisfactory for any reason, at its sole discretion, BUYER shall notify SELLER and Escrow Holder in writing on or prior to the expiration of the Due Diligence Period and, thereafter, SELLER and BUYER shall have no further obligation to each other, Escrow shall be cancelled and this Agreement shall automatically terminate on the date of such election and the parties shall each be relieved and discharged from all further responsibility or liability under this Agreement except for those that survive the termination of this Agreement; provided however that BUYER shall pay all Escrow cancellation charges and all Administrative Costs incurred by SELLER as of the cancellation date. BUYER's failure to give written notice of termination to the SELLER on or before the expiration of the Due Diligence Period shall constitute an election by BUYER to waive the termination right contemplated under this Section 5(a) and proceed with this Agreement, subject to all of the other terms and conditions of this Agreement.

(b) BUYER and its employees, agents, representatives, and contractors ("BUYER's Agents") shall have reasonable access to the District Property during the SELLER's normal business hours until the end of the Due Diligence Period (or any earlier termination of this Agreement) for purposes of (a) conducting BUYER's due diligence inspection and/or (b) obtaining data and making surveys and tests, including, without limitation, soil and groundwater testing, determined reasonably necessary by BUYER to permit it to determine the physical condition of the District Property and to determine the suitability of the District Property for development in accordance with BUYER's development plans, provided that, BUYER shall (i) give the SELLER not less than forty eight (48) hours telephonic, electronic mail or written notice prior to any intended access, which notice shall include the date of such access, the purpose of the access, and the names and affiliations of BUYER and/or BUYER's Agents; (ii) conduct no Invasive

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Investigations without the written consent of the SELLER, which shall be at SELLER's sole discretion; (iii) maintain or cause BUYER Agents to maintain workers' compensation insurance on all persons entering the District Property in the amounts required by the State of California and commercial general liability insurance covering all operations performed by or on behalf of BUYER providing coverage for bodily injury and property damage with a combined single limit of not less than Two Million Dollars (\$2,000,000.00) per occurrence and to include premises operations and mobile equipment, products and completed operations, broad form property damage (including completed operations), explosion, collapse, and underground hazards, personal injury, contractual liability, which policies shall name SELLER and San Bernardino County ("COUNTY") as an additional insureds and include a waiver by the insurer of any right to subrogation against SELLER, COUNTY, and its respective members, officers, employees, agents, and volunteers; and (iv) provide to SELLER prior to initial entry onto the District Property a certificate of insurance or other evidence satisfactory to SELLER that BUYER and any BUYER Agents have in force the insurances required by this Agreement and provide a copy of such policies upon SELLER's request. Any insurance or self-insurance maintained by SELLER or COUNTY shall be in excess of insurances required by BUYER or BUYER Agents in this Agreement and shall not contribute with BUYER or BUYER Agents insurance policies. The insurance policies required by BUYER or BUYER Agents shall be kept and maintained in force during the Due Diligence Period and so long thereafter as necessary to cover any claims of damages suffered by persons or property resulting from any acts or omissions of BUYER and BUYER's Agents. The term "**Invasive Investigations**" as used in this Agreement means and refers to testing or inspections that involve digging, drilling, cutting, or boring into the ground of the District Property, including (without limitation) a "Phase II" environmental assessment. If BUYER desires to conduct any Invasive Investigations it will first provide SELLER with a written statement describing the scope of any such Invasive Investigations. .

(c) BUYER shall: (i) conduct all due diligence activities in a diligent, expeditious and safe manner and not allow any dangerous or hazardous conditions to occur on the District Property, (ii) comply with all applicable laws and governmental regulations; (iii) keep the District Property free and clear of all materialmen's liens, lis pendens and other liens arising out of the access and due diligence activities performed by BUYER and BUYER's Agents; and (iv) promptly repair any and all damage to the District Property caused by BUYER and BUYER's Agents and return the District Property to the condition existing immediately prior to said access.

#### Section 6. Close of Escrow.

(a) As used herein, "**Close of Escrow**" means and refers to the close of Escrow for the District Property and the transfer of fee title to the District Property by the SELLER to the BUYER pursuant to Quitclaim Deed substantially in the form of Exhibit "C" attached hereto (the "**Deed**"). The Close of Escrow shall take place on the Closing Date. The "**Closing Date**" shall mean the date on which the conditions set forth in this Agreement for the Close of Escrow and for the transfer of the District Property have been satisfied or waived, and the Deed is recorded by the Escrow Holder. The District Property shall be transferred to BUYER at the Close of Escrow; provided that, within the periods of time set forth in this Agreement: (i) neither party has terminated this Agreement, and (ii) all conditions of the Close of Escrow set forth in this Agreement, including without limitation as set forth in Sections 6(b) and 6(c) below, have been met or waived by the respective party. The Close of Escrow shall occur on a date that is no later than thirty (30) business days after the expiration of the Due Diligence Period.

In the event all of the conditions set forth in Section 6(b) are not satisfied or waived as of the Closing Date, BUYER may terminate this Agreement and/or exercise such rights and

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remedies, if any, that it may have pursuant to the terms of this Agreement, provided that BUYER is not in default beyond any applicable notice and cure periods. Likewise, in the event all of the conditions set forth in Section 6(c) are not satisfied or waived as of the Closing Date, SELLER may terminate this Agreement and/or exercise such rights and remedies, if any, that it may have pursuant to the terms of this Agreement, provided that BUYER is not in default beyond any applicable notice and cure periods.

(b) Conditions to BUYER's Obligations. BUYER's obligation to consummate the Close of Escrow is conditioned on the satisfaction or written waiver of all of the following:

(1) SELLER's Closing Deliveries. At Close of Escrow, SELLER shall deliver the following to the Escrow Holder:

- (i) The Deed, substantially in the form attached hereto as Exhibit "C", has been duly executed and acknowledged by SELLER.
- (ii) Documentation to establish to the Escrow Holder's reasonable satisfaction the due authorization of the person(s) executing the instruments contemplated under this Section 6(b)(1) on behalf of SELLER.
- (iii) An original Closing settlement statement showing both the SELLER's and the BUYER's credits and debits consistent with this Agreement (the "**Settlement Statement**"), which has been signed by SELLER.
- (iv) any transfer declarations required by applicable law.
- (v) any other customary closing documents in form and substance reasonably satisfactory to SELLER to consummate the Transaction.

(2) Pre-Existing Contractual Obligations. SELLER shall have canceled or terminated all leases, contracts or rights of occupancy or other use agreements or contracts with respect to the District Property entered into by SELLER effective on or before the Close of Escrow.

(3) Ownership of Adjacent Property. SELLER is the sole fee simple owner of the Adjacent Property.

(4) Reserved.

(5) Reserved.

(6) SELLER's Deliveries Complete. SELLER shall have delivered all of the documents and other items required pursuant to Section 6(b)(1) and shall not be in default of any other material obligations under this Agreement to be performed by SELLER (beyond any applicable notice and cure period) at or prior to the Close of Escrow provided that SELLER shall have a reasonable opportunity to cure any such default after receiving written notice thereof from BUYER but not to exceed the Closing Date.

(7) Representations True. All representations and warranties made by SELLER in this Agreement shall be true and correct in all material respects on and as of the Closing Date, as if made on and as of such date.

(c) Conditions to SELLER's Obligations. SELLER's obligation to consummate the Close of Escrow is conditioned on the satisfaction or written waiver of all of the following:

(1) BUYER's Closing Deliveries. At the Close of Escrow, BUYER shall deliver the following:

- (i) The Purchase Price, the Administrative Costs, plus any other amounts required to be paid by BUYER at the Close of Escrow.
- (ii) Documentation to establish to the Escrow Holder's reasonable satisfaction the due authorization of the person(s) executing the instruments contemplated under this Section 6(c)(1) on behalf of BUYER.
- (iii) The original Closing Settlement Statement executed by BUYER.
- (iv) any transfer declarations required by applicable law;
- (v) any other customary closing documents in form and substance reasonably satisfactory to BUYER to consummate the Transaction.

(2) BUYER's Deliveries Complete. BUYER shall have delivered all of the documents and other items required pursuant to Section 6(c)(1) and shall not be in default of any other material obligations to be performed by BUYER (beyond any applicable notice and cure period) at or prior to the Close of Escrow provided that BUYER shall have a reasonable opportunity to cure any such default after receiving written notice thereof from SELLER but not to exceed the Closing Date.

(3) Representations True. All representations and warranties made by BUYER in this Agreement shall be true and correct in all material respects on and as of the Closing Date, as if made on and as of such date but not to exceed the Closing Date.

(4) California Environmental Quality Act (CEQA) Compliance. The requirements of the California Environmental Quality Act, as amended, shall have been complied with.

(5) California Surplus Land Act (SLA) Compliance. SELLER has received a letter of concurrence from the California Department of Housing and Community Development that the District Property is Exempt Surplus Land under the SLA.

(6) BUYER has acquired legal title in its name to the Adjacent Property.

(d) Waiver or Failure of Conditions Precedent. At any time on or before the date specified for the satisfaction of any condition, SELLER or BUYER may elect in writing to waive the benefit of any such condition to its obligations hereunder. By closing the Transaction, SELLER and BUYER shall be conclusively deemed to have waived the benefit of any remaining unfulfilled conditions set forth in this Section 6.

Section 7. Reserved.



Section 8. Escrow Instructions.

SELLER and BUYER each agree to execute and deliver to the Escrow Holder the customary supplemental written escrow instructions (consistent with the terms of this Agreement) of the Escrow Holder. In the event of a conflict between the additional terms of such customary supplemental escrow instructions of the Escrow Holder and the provisions of this Agreement, this Agreement shall supersede and be controlling.

Section 9. Conveyance of Title.

The Escrow Holder shall be instructed to record the Deed in the Official Records of San Bernardino County, California, if and when the parties have (i) confirmed that the conditions to Close of Escrow have been satisfied or waived, and (ii) Escrow Holder holds the funds for the SELLER as set forth on the Settlement Statement and as contemplated herein.

Section 10. Inspections and Review.

(a) On the Closing Date, BUYER shall accept the delivery of possession of the District Property (including but not limited to, any subterranean structures and soil conditions), in an **"AS IS," "WHERE IS" and "SUBJECT TO ALL FAULTS" condition and without any representations or warranties, express or implied.** BUYER acknowledges that it has had adequate opportunity to review and inspect all aspects of the District Property during the Due Diligence Period and hereby acknowledges that it has relied solely upon its own investigation of the District Property and its own review of such information and documentation as it deems appropriate. BUYER is not relying on any statement or representation by SELLER, any employee, official or consultant of SELLER relating to the condition of the District Property. SELLER makes no representations or warranties of any kind as to the physical or environmental condition of the District Property or in connection with any matter, report or information relating to the condition of the Purchase Property, its value, fitness, use, zoning, entitlements, the existence of Hazardous Materials thereon, moratoriums, economic feasibility, developability or any other matter relating to BUYER's proposed use or development of the District Property. BUYER shall, upon the Close of Escrow, be deemed to have disclaimed and waived any and all objections to the physical and environmental characteristics and conditions of the District Property, including, without limitation, any Hazardous Materials located thereon and the condition of title thereto, whether or not such conditions would be disclosed by reasonable and diligent.

(b) From and after the Close of Escrow, except for a breach of SELLER's representation and warranties in this Agreement, BUYER, on behalf of itself and its successors and assigns ("Releasors"), waives and releases SELLER and its employees, agents, contractors, successors and assigns ("Releasees") from any and all claims, damages, losses, liabilities, fees, costs or expenses of any kind or nature whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, suspected or unsuspected, fixed or contingent, liquidated or unliquidated which Releasors have, own, hold, or claim to have had, owned, or held against Releasee arising from, based on, or relating to whether directly or indirectly, any facts, matters, circumstances, conditions or defects (whether patent or latent) of all or any kinds, related to, arising from, or based upon, whether directly or indirectly, the District Property, including without limitation, the physical condition and quality of the District Property or the presence of hazardous materials in, on, about or under the District Property.

(c) BUYER expressly waives any rights or benefits available to it with respect to the foregoing release under any provision of applicable law. By execution of this Agreement,

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BUYER acknowledges that it fully understands the foregoing Section 10(b), and with this understanding, nonetheless elects to and does assume all risk for claims known or unknown, and agrees that this release applies thereto, and expressly waives the benefits of

the provisions of California Civil Code section 1542, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

The undersigned, being aware of this Code section, hereby expressly waives any rights it may have thereunder, as well as under any other statutes or common law principles of similar effect.

Initials of BUYER: BFW

(d) The provisions of this Section 10 shall survive the Close of Escrow and shall be binding upon BUYER.

(e) SELLER shall cooperate with BUYER in BUYER's efforts to remove title exceptions unacceptable to BUYER, but SELLER shall have no obligation to cause such objections to be removed or to expend any sums in such endeavor.

(f) SELLER covenants not to further encumber and not to place any further liens or encumbrances on the District Property, including, but not limited to, covenants, conditions, restrictions, easements, liens, options to purchase, rights of first offer options to lease, leases, tenancies, or other possessory interests.

#### Section 11. Closing Costs, Prorations, Possession.

(a) BUYER shall pay the premium for any Title Policy sought, cost of procuring any surveys and any desired policy endorsements or extended coverage, the cost of recording the Deed and any documentary or other transfer taxes payable on account of the conveyance of the District Property to BUYER.

(b) BUYER shall pay 100% of the Escrow Holder's charges and fees which may be charged by the Escrow Holder in connection with the Close of Escrow.

(c) BUYER shall be entitled to exclusive possession of the District Property immediately upon the Close of Escrow.

(d) All prorations shall be made in accordance with customary practice in San Bernardino County, except as otherwise expressly provided in this Agreement. All prorations shall be on an "actual day" basis and a three hundred sixty-five (365) day year.

#### Section 12. Representations and Warranties.



(a) SELLER hereby makes the following representations and warranties:

(1) Power and Authority. SELLER has the legal power, right and authority to enter into this Agreement and to execute the instruments and documents referenced herein, and to consummate the Transaction contemplated hereby.

(2) Requisite Action. SELLER has taken all requisite action and obtained all requisite consents in connection with entering into this Agreement and the instruments and documents referenced herein and the consummation of the Transaction contemplated hereby, and no consent of any other party is required.

(3) Enforceability of Agreement. The persons executing this Agreement and any instrument or document referenced herein for or on behalf of SELLER have been duly authorized to so act on behalf of SELLER and this Agreement and any such instrument or document is valid and legally binding on SELLER and enforceable against SELLER in accordance with their respective terms.

(4) No Litigation. There is no pending or, to the best of SELLER's knowledge as of the Effective Date without duty of inquiry or investigation, actions, ~~s~~-or lawsuit of any kind, whether for personal injury, property damage, property taxes, or otherwise, that affect the District Property.

(5) Ownership of Adjacent Property. SELLER is the sole fee simple owner of the Adjacent Property.

(6) Reserved.

(7) Reserved.

All representations and warranties contained in this Section 12(a) are true and correct on the date hereof and on the Closing Date and shall survive the Close of Escrow.

(a) Warranties and Representations by BUYER. BUYER hereby makes the following representations and warranties and acknowledges that the execution of this Agreement by SELLER has been made in material reliance by SELLER on such covenants, representations and warranties:

(1) BUYER has the legal right, power and authority to enter into this Agreement and the instruments and documents referenced herein and to consummate the Transaction contemplated hereby. The persons executing this Agreement and such other instruments as may be referenced herein on behalf of BUYER hereby represent and warrant that such persons have the power, right and authority to bind BUYER.

(2) BUYER has taken all requisite action and obtained all requisite consents in connection with entering into this Agreement and the instruments and documents referenced herein and the consummation of the Transaction contemplated hereby, and no consent of any other party is required.

(3) This Agreement is, and all instruments and documents to be executed by BUYER pursuant to this Agreement shall be, duly executed by and are or shall be valid and legally binding upon BUYER and enforceable in accordance with their respective terms.

(4) Neither the execution of this Agreement nor the consummation of the Transaction contemplated hereby shall result in a breach of or constitute a default under any other agreement, document, instrument or other obligation to which BUYER is a party or by which BUYER may be bound, or a breach or violation under law, statute, ordinance, rule governmental regulation or any writ, injunction, order or decree of any court or governmental body applicable to BUYER.

(5) BUYER, as well as any of BUYER's partners, directors, officers, and employees, are not an employee of SELLER, COUNTY, or other County Board of Supervisors/Directors-governed entity.

(6) BUYER is not the subject of current or pending bankruptcy proceeding.

All representations and warranties contained in this Section 12(b) are true and correct on the date hereof and on the Closing Date and shall survive the Close of Escrow.

### Section 13. Conflict of Interest.

No member, official or employee of either party having any conflict of interest, direct or indirect, related to this Agreement and the use and development of the District Property shall participate in any decision relating to the Agreement. The parties represent and warrant that they do not have knowledge of any such conflict of interest.

### Section 14. Nonliability of Officials and Employees.

No officer, official or employee of SELLER shall be personally liable to BUYER, or any successor in interest of such other party, in the event of any default or breach or for any amount which may become due hereunder, or on any obligations under the terms of this Agreement.

### Section 15. Indemnification.

BUYER agrees to indemnify, defend (with counsel reasonably approved by SELLER), and hold SELLER, COUNTY, and its respective officers, employees and agents harmless from and against any and all claims, actions, losses, liabilities, damages, judgments, costs, expenses and attorney's fees arising from or related to this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by SELLER on account of any claim resulting from this Agreement except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. BUYER's indemnification obligation applies to SELLER "active" as well as "passive" negligence but does not apply to SELLER "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782. The foregoing indemnity shall survive the Close of Escrow or the termination of this Agreement.

### Section 16. Defaults.

(a) Institution of Legal Actions. In addition to any other rights or remedies and subject to the restrictions set forth in this Agreement, either party may institute an action at law or equity to seek specific performance of the terms of this Agreement, or to cure, correct or remedy any default, to recover damages for any default (subject to the restriction on BUYER's rights to



recover monetary damages against SELLER set forth in the final clause of this sentence), or to obtain any other remedy consistent with the purpose of this Agreement; provided, however, that notwithstanding anything in the foregoing to the contrary, in no event shall BUYER be entitled to obtain monetary damages of any kind from SELLER, including but not limited to for economic loss, lost profits, or any other economic or consequential damages of any kind. Such legal actions must be instituted in the Superior Court of the County of San Bernardino, State of California or in the United States District Court for the Central District of California.

(b) 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.

(c) 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.

Section 17. Reserved.

Section 18. Time of the Essence.

Time is of the essence with respect to the Close of Escrow and all of the provisions of this Agreement.

Section 19. Miscellaneous.

(a) This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and together shall constitute one and the same agreement, with one counterpart being delivered to each party hereto. If authorized by law, the parties shall be entitled to manually sign and transmit this Agreement by electronic means (whether by facsimile, PDF, or email transmission) and are entitled to electronically sign and transmit this Agreement via DocuSign, Adobe Sign, 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.

(b) All periods of time referred to in this Agreement shall include all Saturdays, Sundays and state or national holidays, provided that if the date or last date to perform any act or give any notice with respect to this Agreement shall fall on a Saturday, Sunday or state or national holiday, such act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

(c) The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

(d) Notices. All notices, requests, demands, and other communications required or permitted under this Agreement shall be in writing and shall be delivered by either (i) personal delivery, (ii) a reliable overnight courier service that provides a receipt showing

the date and time of delivery, including (but not limited to) Federal Express, or (iii) 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:

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 as disclosed on the return receipt or the date the recipient refuses to accept 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.

To BUYER:	Avila Collection, LLC A Nevada Limited Liability Company PO Box 11503 Carson, CA 90749 Phone (626) 808-5067
Copy to:	Byron Walker All-Era Properties, LLC / Avila Collection, LLC PO Box 11503 Carson, CA 90749
To SELLER:	San Bernardino County c/o Real Estate Services Department Attention: Brandon Ocasio, Manager of Acquisitions 385 North Arrowhead Avenue, 3 <sup>rd</sup> Floor San Bernardino, CA 92415-0180 Copy via email at: brandon.ocasio@res.sbcounty.gov(909) 659-4676

Section 20. Additional Agreements; Further Assurances.

Each of the parties hereto shall execute and deliver such documents as the other party shall reasonably request in order to consummate and make effective the Transaction; provided, however, the execution and delivery of such documents shall not result in any additional liability or cost to the executing party.

Section 21. Entire Agreement.

(a) This Agreement and the exhibits attached hereto constitute the entire understanding and Agreement of the parties.

(b) This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto with respect to the District Property.

B/W



(c) The headings to the sections and paragraphs of this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not in any way affect its interpretation.

(d) Unless otherwise indicated, references in this Agreement to Sections, paragraphs, clauses and exhibits are to the same contained in or attached to this Agreement and all attachments referenced in this Agreement are incorporated in this Agreement by this reference as though fully set forth in this Section.

Section 22. 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 District 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.

Section 23. Senate Bill SB 1439/Political Contributions.

BUYER has disclosed to the SELLER using Exhibit D, whether it has made any campaign contributions of more than \$250 to any member of the SELLER or COUNTY's governing body or the COUNTY's 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 SELLER, or (2) 12 months before the date this Agreement was approved by SELLER's governing body. BUYER acknowledges that under Government Code section 84308, BUYER is prohibited from making campaign contributions of more than \$250 to any member of SELLER or COUNTY's governing body or other COUNTY elected officer for 12 months after the SELLER's consideration of the Agreement. In the event of a proposed amendment to this Agreement, BUYER will provide the SELLER a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the SELLER or COUNTY's governing body or COUNTY's elected officer within the preceding 12 months of the date of the proposed Agreement. 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.

Section 24. Approval.

(a) Board of Supervisors. This Agreement is subject to and will have no force or effect until and unless approved by SELLER's governing body. All amendments of this Agreement shall be in writing and shall require the approval of the SELLER's governing body and the approval of BUYER.

Section 25. Real Estate Brokerage Commission.

Real Estate Brokerage Commission. Each party represents and warrants that neither party has retained any brokers or finders to represent its interests 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.

Section 26. 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. This subsection shall not apply to those costs and attorneys' fees directly arising from any third-party legal action against a party hereto and payable under Section 11 ("Indemnification") or Section 25 ("Real Estate Brokerage Commission").

Section 27. Successors and Assigns; Assignment.

This Agreement shall bind and inure to the benefit of SELLER and BUYER and their respective successors and permitted assigns. This Agreement shall not be assigned or otherwise transferred without the prior written consent of SELLER. Any change in control or ownership of BUYER shall be deemed an assignment requiring SELLER's consent for purpose of this Agreement.

Section 28. 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 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.

Section 29. 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.

REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY



IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the dates set forth below.

**BUYER:**

**Avila Collection, LLC,  
a Nevada Limited Liability Company**

By: *Byron L. Walker* Date: 02/15/2024

Print: Byron L. Walker

Title: Owner

**SELLER:**

**San Bernardino County Flood Control District**

By: *Dawn Rowe*  
Dawn Rowe, Chair  
Board of Supervisors

Date: FEB 27 2024

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

LYNNA MONEILL  
Clerk of the Board of Supervisors

By: *[Signature]*  


Date: FEB 27 2024

Approved as to Legal Form:

TOM BUNTON,  
County Counsel  
San Bernardino County, California

By: *[Signature]*  
Agnes Cheng  
Deputy County Counsel

Date: 2/21/2024

**ACCEPTANCE BY ESCROW HOLDER**

The undersigned hereby acknowledges that it has received a fully executed copy of the foregoing Purchase and Sale Agreement and Escrow Instructions ("Agreement") and agrees to act as Escrow Holder thereunder and to be bound by and perform the terms thereof as such terms apply to Escrow Holder. Escrow Holder agrees that in the event of a conflict between the Agreement and any supplemental escrow instructions executed by the parties, the Agreement shall control. The escrow number assigned for this Agreement is \_\_\_\_\_.

\_\_\_\_\_, 2024

Title Company,  
BOC License No.: \_\_\_\_\_

By: \_\_\_\_\_,  
Escrow Officer



**EXHIBIT "A"**

**LEGAL DESCRIPTION OF DISTRICT PROPERTY**  
(see following page)

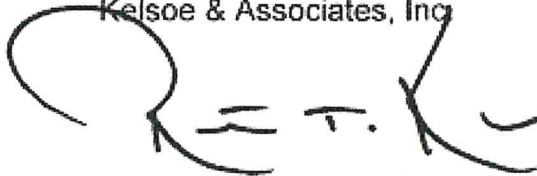
**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

THE EAST 25.00 FEET OF THE WEST HALF OF LOTS 363, 370, 371 AND 378, TOGETHER WITH THE WEST 25.00 FEET OF THE EAST HALF OF SAID LOTS 363, 370, 371 AND 378, ALL PER MAP OF SEMI-TROPIC LAND COMPANY, RECORDED IN BOOK 11, PAGE 12 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SAN BERNARDINO, IN THE UNINCORPORATED TERRITORY OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA.

**Containing 132,000 square feet (3.03 ac.), more or less.**

**ALL AS SHOWN ON EXHIBIT "B" ATTACHED HERETO.**

Prepared by:  
Kelsoe & Associates, Inc.

A handwritten signature in black ink, appearing to read "R. T. Kelsoe", with a long horizontal line extending to the right.

Robert T. Kelsoe, PLS 6957  
Exp. Date 9-30-23





**EXHIBIT "B"**  
**PLAT OF DISTRICT PROPERTY**

(to accompany Legal description)  
(see following page)

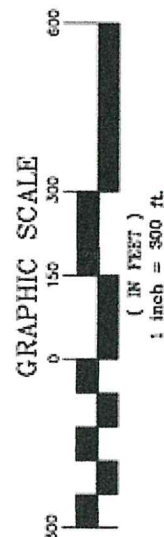


EXHIBIT "B"

EXHIBIT D  
TO ACCOMPANY LEGAL DESCRIPTION BY ROBERT T. KELSOE PLS 6957

THIS PAGE IS SOLELY AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED EXHIBIT "A." IT IS NOT A PART OF THE WRITTEN DESCRIPTION CONTAINED THEREIN.

DATE:	DRAWN BY:	CHECKED BY:	J.N.
6-17-2022	RTK		30942

**KEI SOE**

3754 KENDRA LANE, CORONA, CA 92880

951 736-0755 • FAX 951 736-8421



**EXHIBIT "C"**

**FORM OF QUITCLAIM DEED**  
(see following page)

RECORDING REQUESTED BY:  
AVILA COLLECTION, LLC

WHEN RECORDED MAIL  
DOCUMENT TO:  
AVILA COLLECTION, LLC  
PO Box 11503  
Carson, CA 90749

Project: FCSUR-2022-00001  
System No.: 2-112  
Parcel No.: 3A-3B-3C-3D  
Dept. Code: 11600

## QUITCLAIM DEED

D.P. No.: N/A  
APNs: 0257-021-02 & 0257-012-12  
Date: February 9, 2024

The undersigned grantor(s) declare(s):  
DOCUMENTARY TRANSFER TAX \$

- ☐ computed on full value of property conveyed, or  
☐ computed on full value less liens and encumbrances remaining at the time of sale  
☒ Unincorporated Area ☐ City of \_\_\_\_\_

**SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT**, a body corporate and politic of the State of California, **Grantor**, for valuable consideration the receipt of which is hereby acknowledged, does hereby remise, release, and forever quitclaim to **AVILA COLLECTION, LLC**, a Nevada Limited Liability Corporation, **Grantee**, in severalty and upon the same tenure as their respective interests appear of record, portions of Quitclaim Deed as described in those certain documents recorded in the County of San Bernardino, recorded on October 4, 1961 in Book 5552 at Page 33 Official Records of said County, State of California, those portions being more particularly described as follows:

See Exhibit "A", Legal Description, attached hereto and made a part hereof

**SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT**

By: Dawn Rowe

Name: Dawn Rowe

Title: Chair, Board of Supervisors

Date: FEB 27 2024

Mail Tax Statement As Directed Above

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Bernardino )

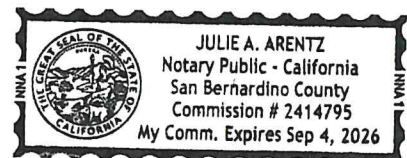
On February 27, 2024 before me, Julie A. Arentz, Notary Public  
(insert name and title of the officer)

personally appeared Dawn M. Rowe,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Julie A. Arentz (Seal)





1. Name of Contractor:

Byron L. Walker

2. Is the entity listed in Question No. 1 a non-profit organization under Internal Revenue Code section 501(c)(3)?

Yes ☐ If yes, skip Question Nos. 3 - 4 and go to Question No. 5.

No ☒

3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision:

Byron L. Walker

4. If the entity identified in Question No. 1 is a corporation held by 35 or less shareholders, and not publicly traded ("closed corporation"), identify the major shareholder(s):

Byron L. Walker

5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):

Company Name	Relationship
All-Era Properties, LLC	Owner

6. Name of agent(s) of Contractor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)
	Byron L. Walker	

7. 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):
Avila Collection, LLC	N/A	Nevada Registered Agents, LLC

8. Name of any known individuals/companies who are not listed in Questions 1-7, 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
N/A	N/A

9. 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. 1-8?

No ☒ If no, please skip Question No. 10.

Yes ☐ If yes, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: \_\_\_\_\_

Name of Contributor: \_\_\_\_\_

Date(s) of Contribution(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

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

By signing below, Contractor certifies that the statements made herein are true and correct. Contractor understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while this matter is pending and for 12 months after a final decision is made by the County.

Byron L. Walker  
Signature

Byron L. Walker  
Print Name

02/15/2024  
Date

Avila Collection, LLC  
Print Entity Name, if applicable