



Contract Number

SAP Number

Real Estate Services Department

| | |
|---|-----------------------------|
| Department Contract Representative | Terry W. Thompson, Director |
| Telephone Number | (909) 387-5252 |
| Contractor | David Wiener Trust |
| Contractor Representative | |
| Telephone Number | |
| Contract Term | N/A |
| Original Contract Amount | \$1,299,000 |
| Amendment Amount | N/A |
| Total Contract Amount | \$1,299,000 |
| Cost Center | 1161161000 |

Briefly describe the general nature of the contract: Sale of approximately 3.62 acres of vacant County-owned land (APNs 0257-211-01, 02, 03 and 0257-221-01) located on the southeast intersection of Cedar Avenue and Slover Avenue in the incorporated area of Bloomington to the David Wiener Trust as a result of a public auction.

FOR COUNTY USE ONLY

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| <p>Approved as to Legal Form</p> <p>► SEE SIGNATURE PAGE</p> <p>Agnes Cheng, Deputy County Counsel</p> <p>Date _____</p> | <p>Reviewed for Contract Compliance</p> <p>► _____</p> <p>Date _____</p> | <p>Reviewed/Approved by Department</p> <p>► _____</p> <p>Marilee Rendulich, Real Property Manager, RESD</p> <p>Date _____</p> |
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PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS FOR AUCTION SALES

This PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (the "**Agreement**") is dated as of _____, 2019 (the "**Effective Date**"), and is entered into by and between the **County of San Bernardino**, a body corporate and politic of the State of California ("**SELLER**") and the **David Wiener Trust** ("**BUYER**").

RECITALS

- A. SELLER is the owner of the fee simple interest in that certain property (APNs 0257-211-01, 02, 03 and 0257-221-01) located at 18720 Wrangler Drive in the unincorporated area of Bloomington, California consisting of approximately 3.62 acres of land, (the "**Property**"), as shown on Exhibit "A", attached hereto and made a part hereof by this reference.
- B. BUYER, the highest bidder, in accordance with California Government Code Section 25531, "Oral Bids", is able to acquire from the SELLER, the Property for the highest bid price of \$1,299,000.
- C. SELLER has determined that the Property is surplus to its needs, has complied with all conditions to offer the Property pursuant to the auction conducted by SELLER, and is authorized to sell the Property to BUYER for the highest bid in accordance with California Government Code Section 25526 et seq.
- D. SELLER and BUYER agree that the value set by the highest bid on the Property is \$1,299,000 and BUYER agrees the purchase of the Property is **AS-IS**.

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 Property.

Subject to all of the terms, conditions and provisions of this Agreement, including the Bid to Purchase Real Property, attached hereto as Exhibit "B" and incorporated herein by this reference, 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 Property (the "Transaction").

The Property will be conveyed to BUYER when the Purchase Price is paid in full in accordance with this Agreement.

Section 3. Consideration.

As a condition to SELLER's performance hereunder, BUYER shall pay to SELLER total consideration in the amount of ONE MILLION TWO HUNDRED NINETY-NINE THOUSAND AND

00/100 DOLLARS (\$1,299,000) ("**Purchase Price**") for the Property. As part of the auction for the Property, BUYER has deposited directly with SELLER the amount of ONE HUNDRED FIFTEEN THOUSAND AND 0/100 DOLLARS (\$115,000) ("**Deposit**"). A portion of the Deposit, in the amount of One Hundred Dollars (\$100.00), will be referred to herein as the "Independent Contract Consideration" and, notwithstanding anything to the contrary contained herein, will not be refundable to the BUYER. From and after the Effective Date, in the event the Transaction contemplated hereby is consummated, the Deposit shall be credited against BUYER's payment obligations hereunder. The Deposit shall be subject to refund to BUYER, or retention by SELLER, on the terms and conditions 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 (as defined in Section 10, below), documentary stamps and recording fees are to be paid by BUYER.

(b) The transfer and sale of the Property shall take place through escrow (the "Escrow"), and such Escrow shall be administered by Fidelity National Title, 3237 E. Guasti Road, Ste. 105, Ontario, CA 91761, Attn: Janette DeLap (Phone: 909-569-0225) ("Escrow Holder"). The Escrow for the 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) days after the Effective Date. The date of Opening of Escrow shall be memorialized by Escrow Holder in writing and delivered to the parties.

(c) From and after the Effective Date of this Agreement, in the event the Transaction contemplated hereby is consummated, the Deposit shall be credited against BUYER's payment obligations hereunder.

(d) If this Agreement is terminated or Escrow is cancelled as a result of a default by the SELLER, then SELLER shall be solely responsible to the Escrow Holder for payment of all customary and reasonable escrow cancellation charges to the Escrow Holder and SELLER is authorized to release BUYER's Deposit, less the Independent Contract Consideration, to the BUYER without further or separate instruction to the Escrow Holder. **IF THIS AGREEMENT IS TERMINATED OR ESCROW IS CANCELLED SUBSEQUENT TO THE EXPIRATION OF THE DUE DILIGENCE PERIOD FOR ANY REASON OTHER THAN THE SELLER'S DEFAULT, THEN BUYER SHALL BE SOLELY RESPONSIBLE TO THE ESCROW HOLDER FOR PAYMENT OF ALL CUSTOMARY AND REASONABLE ESCROW CANCELLATION CHARGES TO THE ESCROW HOLDER AND THE SELLER SHALL RETAIN THE ENTIRE DEPOSIT WITHOUT FURTHER OR SEPARATE INSTRUCTION TO THE ESCROW HOLDER.**

Consent of Escrow Holder: _____

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 sixty (60) days from the Opening of Escrow to allow the BUYER the opportunity to investigate the condition and suitability of the Property for BUYER's intended use. In the event BUYER finds the Property unsatisfactory for any reason, at its sole discretion, BUYER shall notify SELLER and Escrow Holder in writing 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; provided however that SELLER shall release the Deposit, less the Independent Contract Consideration, to BUYER and BUYER shall pay any Escrow cancellation charges. 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) SELLER hereby grants to BUYER for use by BUYER and its officers, directors, employees, agents, representatives, tenants, prospective tenants, contractors, and other persons accessing the Property by, through or with the permission or under the direction or auspices of BUYER, a limited and revocable license to enter upon the Property 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 Property and any hazardous substances located thereon and to determine the suitability of the Property for development in accordance with BUYER's development plans, provided that, BUYER shall (i) give the SELLER forty eight (48) hours telephonic, electronic mail or written notice of any intended access which involves work on the Property; and (ii) conduct no Invasive Investigations without the written consent of the SELLER. In this regard, the term "**Invasive Investigations**" means and refers to environmental testing, sampling, invasive testing, or boring into the soils. 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. SELLER will not unreasonably withhold, condition or delay its consent to any such Invasive Investigations and will be deemed to have given its consent to the specified scope of such Invasive Investigations if SELLER does not (within three (3) business days following receipt of the proposed scope of such Invasive Investigations) give BUYER a written statement identifying those items to which SELLER has an objection.

Section 6. Close of Escrow.

(a) As used herein, "**Close of Escrow**" means and refers to the close of Escrow for the Property and the transfer of fee title to the Property by the SELLER to the BUYER pursuant to grant deed 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 Property have been satisfied, and the Deed is recorded by the Escrow Holder. The Property shall be transferred to BUYER at the Close of Escrow; provided that, within the periods of time set forth in this Agreement: (i) BUYER has not terminated this Agreement, (ii) SELLER is satisfied that the requirements under the California Environmental Quality Act, as amended, shall have been complied with, and (iii) all other 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 and BUYER has paid, or caused to be paid to the Escrow Holder all applicable Escrow costs relating to such closing. The Close of Escrow shall occur on a date that is no later than fifteen (15) days after the expiration of the Entitlement Period. The BUYER may elect to extend the Entitlement Period up to an additional six (6) months (to a date that is eighteen (18) months following the Opening of Escrow) in exchange for the BUYER's one-time payment of \$300,000.00 (Three Hundred Thousand Dollars) ("**Escrow Extension Deposit**") which amount will be paid directly to SELLER and added to the Deposit. To be effective to extend the Entitlement Period for that additional six (6) month period, BUYER shall deliver the Escrow Extension Deposit to SELLER

prior to the last day of that initial twelve (12) month Entitlement Period and such Escrow Extension Deposit will be non-refundable, but shall be applied toward the Purchase Price.

In the event all of the conditions set forth in Section 6(b) are not satisfied or waived as of the date that is fifteen (15) days following expiration of the Entitlement Period, as the same may be extended upon payment of the Escrow Extension Deposit or as set forth in Section 18 ("**Outside Closing Date**"), BUYER may terminate this Agreement and/or exercise such rights and remedies, if any, that it may have pursuant to the terms of this Agreement. Likewise, in the event all of the conditions set forth in Section 6(c) are not satisfied or waived as of the Outside 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.

(b) Conditions to BUYER's Obligations. BUYER's obligation to consummate the Close of Escrow is conditioned on 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, 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 affidavit of non-foreign status of SELLER under the Foreign Investment in Real Property Tax Act.
- (iv) a settlement statement showing both the SELLER's and the BUYER's credits and debits consistent with this Agreement (the "**Settlement Statement**").
- (v) any transfer declarations required by applicable law;
- (vi) a State of California Form 593 C.
- (vii) an owner's affidavit in form and substance reasonably acceptable to Escrow Holder to delete the non-survey related standard, pre-printed exceptions.
- (viii) any other customary closing documents in form and substance reasonably satisfactory to SELLER to consummate the Transaction.

(2) Pre-Existing Obligations. There shall exist no leases, contracts or rights of occupancy or other agreements or contracts with respect to the Property entered into by SELLER that shall survive the Close of Escrow.

(3) Title Conditions Satisfied. The Escrow Holder shall be in a position to issue the Title Policy to BUYER in the amount of the Purchase Price with respect to the Property subject only to the exceptions permitted by Section 9 of this Agreement.

(4) Subdivision. The Property shall have been legally subdivided or if conveyed by metes and bounds description pursuant to Government Code Section 66428(a)(2) SELLER shall provide such evidence as may be requested by Escrow Holder and BUYER to assure that the Property comprise one or more legally subdivided parcels under the Subdivision

Map Act and to assure issuance of an endorsement to the Title Policy for the benefit of BUYER to such effect ("**Subdivision Map Act Endorsement**").

(5) Entitlements. All Entitlements required to be approved by the County of San Bernardino for the development of the Property in accordance with the Proposed Development Plans shall have been approved, shall be Final and shall not have expired. The term "**Final**" as used in this Agreement means that all applicable appeal and statute of limitations periods relating thereto shall have expired without the filing of any appeal or legal challenge or any such appeal or legal challenge shall have been finally resolved, without possibility of further appeal, in favor of BUYER and in a manner permitting construction and operation on the Property consistent with BUYER's Proposed Development Plans.

(6) SELLER's Deliveries Complete. SELLER shall have delivered all of the documents and other items required pursuant to Section 6(c) and shall have performed all other material obligations under this Agreement to be performed by SELLER 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.

(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 all of the following:

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

- (i) The Purchase Price less the Deposit and the Escrow Extension Deposit, if paid, as adjusted for apportionments and other adjustments required under this Agreement, 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 Settlement Statement.
- (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(b) and shall have performed all other material obligations to be performed by BUYER 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.

(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.

(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. Processing of Entitlements.

(a) SELLER covenants and agrees that SELLER will reasonably cooperate with BUYER in connection with the processing, by the Buyer Parties, of the Entitlements deemed necessary by BUYER for the development of the Property during Escrow. SELLER acknowledges that such cooperation shall include whatever actions may be reasonably necessary or helpful to enable the Buyer Parties to file for and process its entitlements. Such entitlements to be processed by the Buyer Parties may include, without limitation, the processing of an amendment to the general plan covering the Property, a zone change, a tentative subdivision map, a final subdivision map, an environmental impact report, associated development permits and related permits, including, without limitation, site plan approval and a building permit, agreements and approvals requested from the County of San Bernardino or any other governmental agency having jurisdiction over the Property, all of the above in such a manner as BUYER may determine to be necessary or helpful to facilitate development of the Property as an economically viable project in accordance with the Proposed Development Plans, including any and all required Seller approvals of the final plans and specifications for implementing the Proposed Development Plans (if required) (all of which being collectively referred to as the "**Entitlements**"). Such cooperation of SELLER shall include facilitating efforts of the Buyer Parties to enter into development agreements, investigate public financing and formation of special improvement districts, execution, as may be requested by the County of San Bernardino or any other governmental agency having jurisdiction over the Property, of applications, permits or approvals required for the submittal of the Entitlements and, if applicable, executing the final map, if requested by BUYER, and providing the Buyer Parties access to the Property to perform any investigations or tests necessary for the processing of such Entitlements as contemplated in Section 5, above. The parties acknowledge that the intent of this provision is that SELLER will cooperate with BUYER and participate in such meetings if the County of San Bernardino or other governmental agencies require the owner of the Property to be in attendance at such meetings. To the extent such attendance is required, BUYER will use reasonable efforts to ensure that (i) SELLER receives reasonable advance notice of any such meetings; and (ii) any such meetings are scheduled at a time which is reasonably acceptable to SELLER. Upon submittal of any such applications, permits, deeds or maps to SELLER, SELLER shall, no later than seven (7) days after delivery of such documents, execute such documents as necessary and return the same BUYER.

(b) BUYER shall in good faith diligently make all reasonable efforts to obtain Entitlements within the twelve (12) month period following the Opening of Escrow, as such period may be extended for an additional six (6) months by BUYER pursuant Section 6(a) (the "**Entitlement Period**").

(c) If BUYER is not otherwise in default or in breach of this Agreement, and if BUYER should fail to obtain such Entitlements within the Entitlement Period for any reason or if such Entitlements are issued but are not Final by the end of such Entitlement Period, BUYER, at its option, may: 1) terminate this Agreement, cancel Escrow and receive a full refund of its Deposit, or 2) at the end of the 12th month following the Opening of Escrow only, continue Escrow for a further six (6) month period by payment of the Escrow Extension Deposit.

(d) SELLER and BUYER understand that full environmental review under CEQA and/or other state, federal, and local environmental laws must be completed as part of the County of San Bernardino's evaluation of whether to approve the development of the Property. SELLER and BUYER understand and agree that nothing set forth herein commits or otherwise requires the County to approve, in whole or in part, the development of the Property and that this Agreement does not govern federal, state, or other local agency approvals required for the development of the Property.

(e) SELLER and BUYER acknowledge and agree that County of San Bernardino retains full discretionary authority with respect to the development of the Property, and may condition, deny, or approve the development of the Property or any portion thereof. Any such condition, denial, or approval of the development of the Property by the County of San Bernardino in its capacity as the land use authority over the Property shall not constitute a default under this Agreement.

(f) SELLER shall not enter into any agreement that will allow for the development of the Property until there has been appropriate compliance with CEQA. The County of San Bernardino retains the absolute discretion to: (i) modify the proposed development of the Property to mitigate significant adverse impacts; (ii) select feasible alternatives that avoid significant adverse impacts of the proposed development; (iii) reject the development of the Property as proposed if the economic and social benefits of the development do not outweigh otherwise unavoidable significant adverse impacts of the proposed development; or (iv) approve the proposed development upon a finding that the economic, social, or other benefits of the proposed development outweigh unavoidable significant adverse impacts of the proposed development.

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, (ii) Escrow Holder holds the funds for the SELLER as set forth on the Settlement Statement and as contemplated herein, (iii) Escrow Holder is prepared to issue to BUYER an ALTA owner's extended coverage policy of title insurance ("**Title Policy**") issued by Buyer's Choice, with liability in an amount equal to the Purchase Price with respect to the Property, and together with a Subdivision Map Act Endorsement if requested by BUYER and

such other endorsements to the policy as may be reasonably requested by BUYER, insuring that fee title to the Property is vested in BUYER, free and clear of options, rights of first refusal or other purchase rights, leases or other possessory interests, lis pendens and monetary liens and/or encumbrances and subject only to:

- (a) non-delinquent real property taxes;
- (b) dedication of streets abutting the Property;
- (c) zoning ordinances;
- (d) utility easements common to any subdivision of which the Property is a part that are approved by BUYER; and
- (e) such other title exceptions, if any, resulting from documents being recorded or delivered through Escrow in accordance with the provisions of this Agreement.

Section 10. Inspections and Review.

(a) BUYER shall accept the delivery of possession of the Property (including but not limited to, subterranean structures and soil conditions), in an **"AS IS," "WHERE IS" and "SUBJECT TO ALL FAULTS" condition**. BUYER hereby acknowledges that it has relied solely upon its own investigation of the 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 Property. SELLER makes no representations or warranties as to whether the Property presently complies with environmental laws or whether the Property contains any hazardous substance. SELLER shall, within five (5) calendar days of the Opening of Escrow, provide BUYER with copies of all plans, reports, studies, investigations and other materials SELLER may have in its possession or control that are pertinent to the Property and its use condition or development, provided that to the extent that SELLER has provided BUYER with information relating to the condition of the Property, SELLER makes no representation or warranty with respect to the accuracy, completeness or methodology or content of such reports or information.

(b) From and after the Close of Escrow, BUYER, on behalf of itself and its successors, waives and releases SELLER and its successors and assigns from any and all costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, arising from or relating to any of the following matters and conditions relating to the Property which exist as of the date of the Close of Escrow: (i) the physical condition of the Property or any above ground or underground improvements thereon, (ii) the condition of the soils, (iii) the suitability of the soils for the improvement of any proposed project, or (iv) any law or regulation applicable thereto; provided that the foregoing release shall not extend to (1) any breach by SELLER of any of the representations or warranties of the SELLER set forth in Section 12(a) of this Agreement, (2) any breach by SELLER of any of the covenants or obligations set forth in this Agreement or in any other instrument or document executed pursuant to this Agreement, (3) any claim that is the result of the negligence or willful misconduct of SELLER or (4) any actions of SELLER which occur following the Close of Escrow.

(c) BUYER expressly waives any rights or benefits available to it with respect to the foregoing release under any provision of applicable law which generally provides that a

general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time the release is agreed to, which, if known to such creditor, would materially affect a settlement. By execution of this Agreement, BUYER acknowledges that it fully understands the foregoing, and with this understanding, nonetheless elects to and does assume all risk for claims known or unknown, described in this Section 10 without limiting the generality of the foregoing:

The undersigned acknowledges that it has been advised by legal counsel and is 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 OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY, AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

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: 

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

(e) SELLER shall assist and cooperate with BUYER in endeavoring 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, except that SELLER shall remove all monetary liens and encumbrances created by or as a result of SELLER's activities, including, without limitation, any liens or encumbrances associated with (i) any delinquent tax or assessment applicable to the Property; (ii) any indebtedness secured by a deed of trust, assignment of rents or other similar encumbrance; and (iii) any labor or materials supplied to the Property that are not the result of any act or neglect of BUYER or anyone acting for or on behalf of BUYER.

(f) SELLER covenants not to further encumber and not to place any further liens or encumbrances on the 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.

(g) SELLER also covenants not to authorize or permit others to take any action that adversely affects the physical condition of the Property or its soils.

Section 11. Closing Costs, Prorations, Possession.

(a) BUYER shall pay the premium for the ALTA extended coverage Title Policy, cost of procuring a survey and all requested ALTA survey policy endorsements, the cost of recording the Deed and any documentary or other transfer taxes payable on account of the conveyance of the 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 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, covenants 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, threatened claims, action, allegations or lawsuit of any kind, whether for personal injury, property damage, property taxes, or otherwise, that could affect the Property.

(5) No Violation. Neither the execution of this Agreement or the other instruments and documents referenced herein nor the performance by SELLER of its obligations hereunder and thereunder shall result in a breach or constitute a default under any agreement, document, instrument or other obligation to which SELLER is a party or by which SELLER may be bound or a breach or violation under law, statute, ordinance, rule, governmental regulation, state constitution, or any writ, injunction, order or decree of any court or governmental body applicable to SELLER, the Property, or the Transaction contemplated hereby.

(6) Operation and Condition Pending Closing. Between the date of this Agreement and the Close of Escrow hereunder, SELLER will continue to manage, operate and maintain the Property in the same manner as existed prior to the execution of this Agreement.

(7) Contracts. There are no contracts or agreements to which SELLER is a party or rights of third parties relating to the operation, maintenance, development, improvement, lease, possession or ownership of the Property which will survive the Close of Escrow.

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.

(b) Warranties and Representations by BUYER. BUYER hereby makes the following representations, covenants 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.

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 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 and hold SELLER and its officers, employees and agents harmless from and against all damages, judgments, costs, expenses and attorney's fees arising from or related to any act or omission of BUYER in performing its due diligence investigations

under Section 5(b), above; provided that the foregoing indemnity shall not apply to the extent of (a) the negligence or willful misconduct of SELLER; or (b) the existence of any hazardous materials which were at, in, under, over or upon the Property as of the Opening of Escrow, unless the condition of any such hazardous materials was exacerbated in a negligent manner by an affirmative act of BUYER. SELLER shall give BUYER written notice of the occurrence of a claim, litigation or other matters for which SELLER seeks indemnity under this Section as promptly as practicable following SELLER'S knowledge of the occurrence of such matter and SELLER shall reasonably cooperate with BUYER in the defense of any such claim or matter and shall not take any action that would adversely affect BUYER's defense of such matter.

Section 17. Default.

(a) Default by Buyer; Limitation on Liability; Liquidated Damages. IF BUYER REFUSES OR FAILS TO CONSUMMATE THE CLOSE OF ESCROW UNDER THIS AGREEMENT FOR ANY REASON OTHER THAN: (I) THE FAILURE OF AN EXPRESS CONDITION PRECEDENT TO BUYER'S OBLIGATION TO CLOSE, OR (II) ANY OTHER EXPRESS RIGHT OF BUYER SET FORTH IN THIS AGREEMENT TO TERMINATE THIS AGREEMENT, AND IF BUYER FAILS TO CURE ANY SUCH FAILURE TO COMPLETE THE CLOSE OF ESCROW WITHIN TEN (10) DAYS FOLLOWING RECEIPT OF A WRITTEN NOTICE FROM SELLER INDICATING THE NATURE OF ANY DEFAULT ON THE PART OF BUYER, THE SELLER SHALL RETAIN THE DEPOSIT AND ESCROW EXTENSION DEPOSIT, IF APPLICABLE, PLUS ANY INTEREST ACCRUED THEREON, AS SELLER'S SOLE REMEDY FOR BUYER'S FAILURE TO CLOSE OR FOR ANY DEFAULT ON THE PART OF BUYER UNDER THIS AGREEMENT, AND IN SUCH A CASE, BOTH PARTIES SHALL BE RELIEVED OF AND RELEASED FROM ANY FURTHER LIABILITY HEREUNDER. THE PARTIES HAVE AGREED THAT SELLER'S ACTUAL DAMAGES, IN THE EVENT OF A DEFAULT BY BUYER, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. SELLER AND BUYER AGREE THAT THE DEPOSIT AND, IF THEN PAID BY BUYER TO ESCROW, THE ESCROW EXTENSION DEPOSIT, PLUS ANY INTEREST ACCRUED THEREON IS A FAIR AND REASONABLE AMOUNT TO BE RETAINED BY SELLER AS AGREED AS LIQUIDATED DAMAGES IN LIGHT OF SELLER'S REMOVAL OF THE PROPERTY FROM THE MARKET AND THE COSTS INCURRED BY SELLER, AND SHALL NOT CONSTITUTE A PENALTY OR A FORFEITURE.

BY PLACING ITS INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

INITIALS: SELLER: _____ BUYER:  _____

(b) Default By Seller; Other Failure To Consummate Agreement. IN THE EVENT OF ANY DEFAULT ON THE PART OF SELLER UNDER THIS AGREEMENT, WHICH SELLER FAILS TO CURE WITHIN TEN (10) DAYS FOLLOWING RECEIPT OF A WRITTEN NOTICE, BUYER SHALL HAVE THE RIGHT, IN BUYER'S SOLE DISCRETION AND AS ITS SOLE AND ONLY REMEDIES HEREUNDER TO THE EXCLUSION OF ALL OTHER POTENTIAL REMEDIES, TO TERMINATE THIS AGREEMENT AND RECEIVE THE DEPOSIT AND IF, THEN PAID BY BUYER, THE ESCROW EXTENSION DEPOSIT, IN WHICH EVENT THIS AGREEMENT SHALL AUTOMATICALLY TERMINATE AND BE OF NO FURTHER FORCE OR EFFECT AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR

OBLIGATIONS HEREUNDER, OTHER THAN PURSUANT TO ANY PROVISION HEREOF WHICH EXPRESSLY SURVIVES THE TERMINATION OF THIS AGREEMENT.

INITIALS: SELLER: _____ BUYER: _____

Section 18. Effect of Initiative, Referendum or Entitlement Litigation.

If litigation, referendum, or initiative brought by a third party or any challenge thereto remains pending on the Outside Closing Date and such litigation, referendum or ongoing challenge (i) prevents SELLER from conveying all or any portion of the Property to BUYER; (ii) prevents the County of San Bernardino or any other governmental entity from approving the Entitlements, or (iii) results or could result in the voiding of any Entitlements issued, then at the election of BUYER, and provided that BUYER provides SELLER with written notice delivered prior the Outside Closing Date that BUYER will continue to pursue such litigation and will defend SELLER in any litigation, as applicable, or will challenge such referendum or initiative), then the Outside Closing Date shall be extended and SELLER shall not have the right to terminate this Agreement for as long as BUYER continues to diligently pursue such defense or challenge.

Section 19. 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 20. 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.

(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.

Section 21. 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 22. 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 Property.

(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 23. Approval.

(a) Board of Supervisors. This Agreement is subject to, and will have no force or effect until and unless first approved by the Board of Supervisors of the County of San Bernardino. All amendments of this Agreement shall be in writing and shall require the approval of the Board of Supervisors on behalf of SELLER and the approval of BUYER.

(b) Administrative Approvals. Following its approval by the Board of Supervisors, this Agreement shall be administered by the Director of Real Estate Services for San Bernardino County ("**Director**") or his or her designee. Except where the terms of this Agreement expressly require the approval of a matter or the taking of any action by the Board of Supervisors, any matter to be approved by the SELLER shall be deemed approved, and any action to be taken by the SELLER shall be deemed taken, upon the written approval by the Director (or designee). The Director or designee shall have the authority to issue interpretations with respect to this Agreement and to determine whether any action requires the approval of the Board of Supervisors.

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:

By:  _____ Date: 11/20/19 _____

SELLER:

COUNTY OF SAN BERNARDINO

By: _____
Curt Hagman, Chairman
Board of Supervisors

Date: _____

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

LYNNA MONELL,
Clerk of the Board of Supervisors

Approved as to Legal Form:

MICHELLE D. BLAKEMORE,
County Counsel
San Bernardino County, California

By: _____
Deputy

By: _____
Robert F. Messinger
Principal Assistant County Counsel

Date: _____

Date: _____

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 _____.

_____, 2019

Fidelity National Title,
BOC License No.: _____

By: _____
Janette DeLap, Escrow Officer

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF SAN BERNARDINO,
STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOTS 1 THROUGH 4, INCLUSIVE, OF TRACT NO. 15922-1, AS PER MAP RECORDED IN
BOOK 273, PAGES 7 THROUGH 11, INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY.

APNS: 0257-211-01, 02, 03; 0257-211-01

EXHIBIT "B"

BID TO PURCHASE REAL PROPERTY

PLEASE COMPLETE THE BID INFORMATION BELOW

Name of Bidder: DAVID WIENER

Buyer Vesting on Title: DAVID WIENER TRUST

Address: 118 S. BEVERLY DRIVE, STE. 215
BEVERLY HILLS, CA 90212

Phone Number: 310-550-9444

Bid Amount:

\$: \$1,299,000.00

Bidder Signature: David Wiener

*Please submit with the required deposit of \$115,000 in the form of a certified or cashier's check.

EXHIBIT "C"

FORM OF DEED

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

A.P.N(s): 0257-211-01, 02,
03; 0257-211-01

GRANT DEED

Dept. Code: 11200

The undersigned grantor(s) declare(s):

DOCUMENTARY TRANSFER TAX \$0.00 Conveyance to Government Entity. R&T 11922

☐ computed on full value of property conveyed, or

☐ computed on full value less liens and encumbrances remaining at the time of sale

☒ Unincorporated Area ☐

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **COUNTY OF SAN**

BERNARDINO, a body corporate and politic of the State of California, hereby GRANT(S) to _____
, the Real Property in the unincorporated area of Bloomington, in the County of San Bernardino, California,
described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

By: _____
Curt Hagman, Chairman
Board of Supervisors

Date: _____

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE

Name

Street Address

City & State

EXHIBIT "A"

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF SAN BERNARDINO,
STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOTS 1 THROUGH 4, INCLUSIVE, OF TRACT NO. 15922-1, AS PER MAP RECORDED IN
BOOK 273, PAGES 7 THROUGH 11, INCLUSIVE OF MAPS, RECORDS OF SAID COUNTY.

APNS: 0257-211-01, 02, 03; 0257-211-01