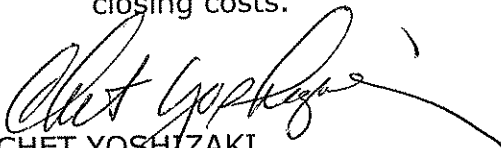





RECOMMENDATION

Staff recommends the Agency:

- Approved the attached PSA with M. David Paul & Associates for the purchase of the 1.87-acre site located at 12900 Euclid Street in the City of Garden Grove, known as the former Black Angus.
- Authorize the Agency Director and Secretary to execute and process the required documents to effectuate the purchase.
- Authorize the Finance Director to draw a warrant in the amount of \$2.9 million from the Agency's available funds for the purchase of the Site and closing costs.

  
CHET YOSHIZAKI  
Economic Development Director

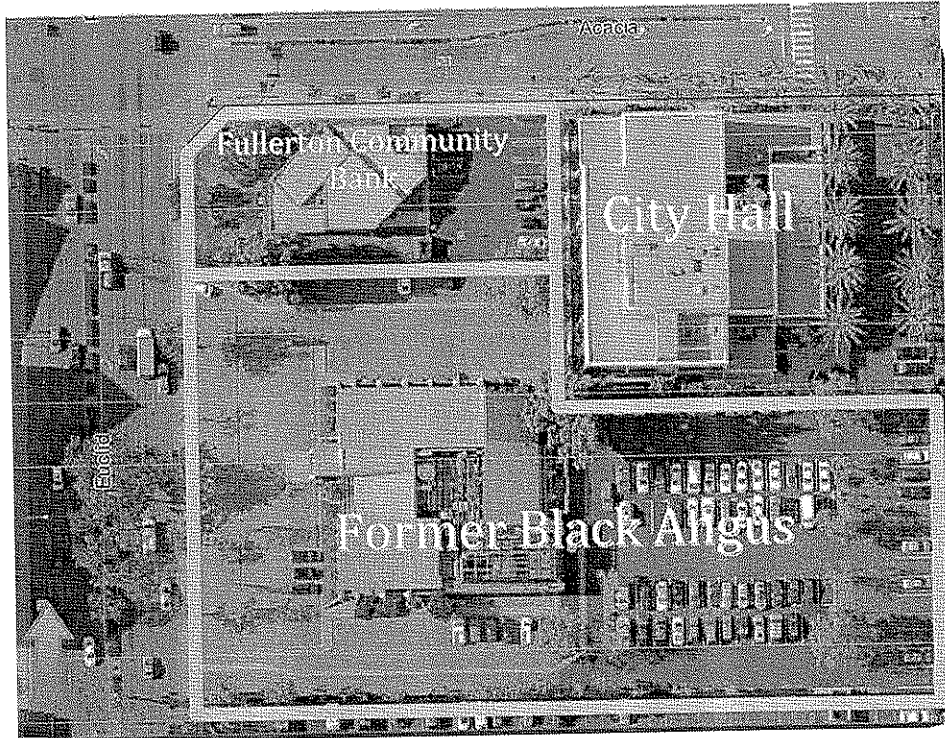
  
By: JIM DELLALONGA  
Project Manager



Attachment 1: Site Map  
Attachment 2: Purchase and Sale Agreement

## Attachment 1

### Site Map



#### **Black Angus Site**

- APN 090-164-37
- 12900 Euclid Street, Garden Grove, CA 92840
- Owner: M David Paul & Associates
- Owner Address: 233 Wilshire Blvd. 990, Santa Monica, CA 90401
- Year Built: 1978
- Lot SF: 81,195/1.86 acres

**PURCHASE AND SALE AGREEMENT  
AND  
JOINT ESCROW INSTRUCTIONS**

**SELLER:** M. David Paul & Associates

**BUYER:** Garden Grove Agency for  
Community Development

**DATED:** July \_\_\_, 2009

**BASIC TERMS**

Effective Date: The Effective Date shall be deemed to be July \_\_\_\_, 2009

Property: Real property located at 12900 Euclid Street,  
Garden Grove, California 92840; APN: 090-164-37

Seller: **M. David Paul & Associates**, a California limited partnership

Seller's Address: M. David Paul & Associates  
233 Wilshire Boulevard, Suite 900  
Santa Monica, California 90401  
Attention: Paul W. Krueger  
Telephone No.: (310) 393-9653  
Fax No.: (310) 458-2644

Seller's Attorney: Cox, Castle & Nicholson LLP  
555 California Street, 10th Floor  
San Francisco, California 94104  
Attention: Scott Brooks, Esq.  
Telephone No.: (415) 392-4200  
Fax No.: (415) 392-4250

Buyer: **Garden Grove Agency for Community Development**,  
a public body corporate and politic

Buyer's Address: Garden Grove Agency for Community Development  
11222 Acacia Parkway  
Garden Grove, California 92840  
Attention: Real Property Division  
Telephone No.: (714) 741-5100  
Fax No.: (714) 741-5044

Buyer's Attorney: Stradling Yocca Carlson & Rauth  
660 Newport Center Drive, Suite 1600  
Newport Beach, California 92660  
Attention: Thomas P. Clark, Jr., Esq.  
Telephone No.: (949) 725-4140  
Fax No.: (949) 823-5140

Contingency Date: Thirty (30) days following the Effective Date

Purchase Price: (i) \$2,700,000 cash at Closing ("Option 1") or, at the election of Buyer made by written notice to Seller on or before the Contingency Date, (ii) \$2,900,000 with \$580,000 cash at Closing and the balance of \$2,320,000 evidenced by the Promissory Note secured by the Deed of Trust ("Option 2"). If Buyer fails to make the election, Buyer shall be deemed to have elected Option 2.

Deposit: \$100,000 in cash or other immediately available funds

Closing Date (or Closing) Within forty (40) days from the Effective Date

Title Company Chicago Title Company  
and 700 South Flower Street, Suite 800  
Escrow Holder: Los Angeles, California 90017  
Telephone No.: (213) 488-4300  
Fax No.: (213) 488-4337  
Attn: Maggie Watson

**PURCHASE AND SALE AGREEMENT  
AND  
JOINT ESCROW INSTRUCTIONS**

This **PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS** ("Agreement") is made and entered into as of the \_\_\_\_ day of July, 2009 ("Effective Date"), by and among the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic ("Buyer"), and **M. DAVID PAUL & ASSOCIATES**, a California limited partnership ("Seller") for acquisition by Buyer of all interests, tangible and intangible, in that certain real property described below.

**RECITALS**

A. Seller is the fee owner of that real property located in the City of Garden Grove, California (the "City"), located at 12900 Euclid Street and legally described in Exhibit A attached hereto and made a part hereof ("Land"). The Land is improved with a building formerly used as a Black Angus Restaurant but is not occupied by any tenant(s), and no person or entity, other than Seller, has any right to occupy the Property, subject to existing matters of record and except for any rights of occupancy for parking pursuant to separate parking agreement between Seller and Buyer or the City ("City Parking Agreement").

B. Buyer is a redevelopment agency validly existing and exercising powers pursuant to the California Community Redevelopment Law, Health and Safety Code Section 33000, *et seq.* ("CRL"). The Property is located within Buyer's Garden Grove Community Project ("Project Area").

C. Seller is a willing and voluntary seller and, with full knowledge and understanding of Seller's rights relating to relocation assistance and benefits as set forth in the California Relocation Assistance Law, Government Code Section 7260, *et seq.*, the regulations promulgated thereunder, set forth at Title 25 California Code of Regulations, Section 6000, *et seq.*, and the federal relocation laws set forth in the Federal Uniform Relocation and Real Property Assistance Act, 42 U.S.C. Section 4601, *et seq.*, and the implementing regulations thereto in the Code of Federal Regulations, 49 CFR Part 24, and 24 CFR Parts 42, 91, 92, and 570, as applicable (collectively, the "Relocation Laws") and based on the advice and counsel of Seller's own attorney of choice, as and if Seller elects to obtain the advice of counsel, and in any event on the basis of Seller's own informed and voluntary decision, Seller wishes to sell the Property to Buyer for an "all-inclusive" Purchase Price as set forth in Section 2 below. Therefore, Seller knowingly, voluntarily, and intentionally agrees under this Agreement to waive and forego any right, eligibility, or claim to any relocation assistance and/or benefits to which Seller may be eligible for or entitled under the Relocation Laws, other than as included in the Purchase Price, payment of which constitutes a full and complete settlement for any and all relocation assistance and/or benefits available to Seller under the Relocation Laws.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. **Purchase and Sale.** Seller hereby agrees to sell the Property to Buyer, and Buyer hereby agrees to purchase the Property from Seller, on the terms and conditions set forth in this Agreement. The term "Property" is defined inclusively and collectively as all right, title and interest of Seller in and to the following:

- (a) the Land;
- (b) All improvements upon, within or beneath the Land;
- (c) All rights, privileges, easements, licenses and interests, both tangible and intangible, appurtenant to the Land and/or the Improvements. "Property" shall be deemed to include, without limitation, all royalties, minerals, oil and gas rights and profits, water and water rights (whether or not appurtenant) owned by Seller with respect to the Land and/or the Improvements;

2. **Purchase Price; Payment of Purchase Price; Settlement, Release and Waiver: FF&E.**

(a) **All Inclusive Purchase Price.** The Purchase Price for the Property is (i) the sum of Two Million, Seven Hundred Thousand Dollars (\$2,700,000) if paid, all cash at the Closing ("Option 1") or, at the election of the Buyer made by written notice to Seller and Escrow Holder on or before 5:00 p.m., California time, on the date (the "Contingency Date") which is thirty (30) days following the Effective Date, (ii) Two Million, Nine Hundred Thousand Dollars (\$2,900,000) payable Five Hundred Eighty Thousand Dollars (\$580,000) cash at the Closing (the "Down Payment") with the balance of Two Million, Three Hundred Twenty Thousand Dollars (\$2,320,000) evidenced by the Promissory Note ("Option 2") attached hereto as Exhibit D, repayment of which shall be secured by the deed of trust, in the form attached hereto as Exhibit E (the "Deed of Trust"). The Purchase price to be paid by Buyer based on Option 1 or Option 2, as elected by Buyer is hereinafter referred to as the "Purchase Price." Buyer's failure to deliver written notice to Seller and Escrow Holder on or before 5:00 p.m., California time, on the Contingency Date specifying the election of either Option 1 or Option 2 shall be deemed to constitute the election of Buyer to proceed with Option 2.

(b) **Deposit of All Inclusive Purchase Price in Escrow.** As consideration for the sale of the Property from Seller to Buyer, Buyer shall, one business day prior to Closing, deposit with the escrow officer ("Escrow Holder") immediately available funds either, as applicable, (i) the sum of Two Million, Seven Hundred Thousand Dollars (\$2,700,000), inclusive of the Deposit, or, at the election of Buyer pursuant to Section 2(a) above, (ii) the sum of Five Hundred Eighty Thousand Dollars (\$580,000), inclusive of the Deposit, and a duly executed Promissory Note and duly executed acknowledged Deed of Trust, together with funds necessary to cover all of the Buyer's Charges described in Section 11(b) and any Prorations described in Section 11(c), below.

(c) **Full and Complete Settlement, Release and Waiver.** The Purchase Price is and shall remain total compensation paid by Buyer to Seller for all of Seller's interests in the Property, inclusive of any and all rights or obligations which exist or may arise out of Buyer's acquisition of the Property, including without limitation, Seller's fee interest in the land, all improvements pertaining to the realty, all other improvements, furnishings, fixtures, and equipment located thereon, severance damages, if any, alleged pre-condemnation damages, if any, alleged loss of business goodwill, if any, eligible costs directly attributed to the development of the Property, relocation benefits and assistance, if any, costs, interest, attorney's fees, and any claim whatsoever

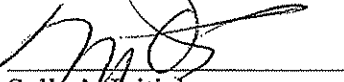


of, by, or through Seller that may arise out of or relate in any respect to Buyer's acquisition of the Property from Seller. In this regard Seller acknowledges that based on the advice and counsel, as and if Seller elects to obtain the advice of counsel, Seller is and will be fully satisfied that the Purchase Price is fair and adequate consideration for all interests in the Property and that it is all-inclusive compensation for the Property.

Seller represents, acknowledges, and agrees that Seller affirmatively approached Buyer and offered to sell the Property to Buyer, and although the Property was not "offered for sale" within the meaning of Section 7277 of the California Government Code, Seller requested that the Buyer acquire the Property and offered the Property to Buyer for purchase. In this regard and in furtherance thereof, Seller understands that Buyer would not have entered into this Agreement without Seller's agreement to (i) sell the Property for an All-Inclusive Purchase Price and (ii) knowingly, voluntarily, and intentionally waive according to the terms set forth herein, any and all of Seller's interest in or right to any relocation assistance or benefits under the Relocation Laws and for any other or further compensation or consideration for the Property and all interests therein or arising therefrom. Therefore, the Purchase Price has been determined by and is inclusive of Seller's agreement hereunder to fully release and discharge Buyer from all and any manner of rights, demands, liabilities, obligations, claims, or causes of action, in law or equity, of whatever kind or nature, whether known or unknown, whether now existing or hereinafter arising ("Claims"), which arise from or relate in any manner to (i) the sale of the Property to the extent such claims are based on the fact that Buyer is a public entity; (ii) the relocation of any person or persons or other occupant or occupants located on the Property, including the specific waiver and release of any right to any relocation benefits, advisory or other assistance, and/or payments under the Relocation Laws as to whom this waiver and release is effective, notwithstanding that such relocation assistance, benefits and/or payments may be otherwise required under said Relocation Laws or other state or federal law; and (iii) compensation for any interest in the Property or income from the Property including, but not limited to, land and improvements, fixtures, furniture, or equipment thereon, goodwill, severance damage, leases or other contracts relating to the Property, attorneys' fees, or any other compensation of any nature whatsoever.

By releasing and forever discharging claims both known and unknown which are related to or which arise under or in connection with, the items set out in clauses (i) and (ii) above, the Seller expressly waives any rights under California Civil Code Section 1542, which provides:

"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."

  
\_\_\_\_\_  
Seller's Initials

(d) **Possession and Disposition of Seller's FF&E.** Upon the Closing Date, possession of the Property, including land, improvements, furniture, fixtures and equipment, whether immovable or moveable ("FF&E"), if any, on, upon, or about the Property shall be deemed to be the property of Buyer. Seller shall not, and shall not be required to, remove or otherwise dispose of any or all of the moveable FF&E, if any, at the Property owned by Seller prior to the Closing Date. After

the Closing Date, Seller acknowledges and agrees that Buyer has the right to and may dispose of FF&E, if any, remaining at any portion of the Property as Buyer alone sees fit without further notice or any liability whatsoever to Seller. Seller shall provide a list of moveable FF&E Seller intends to remove, if any, at least five (5) days prior to close of Escrow.

**3. Escrow and Deposit.**

**(a) Escrow and Closing.**

(i) Opening of Escrow. For the purposes of this Agreement, the escrow ("Escrow") shall be deemed opened ("Opening of Escrow") on the date that Escrow Holder receives a copy of this Agreement fully executed by Seller and executed and attested by Buyer. Buyer and Seller shall use reasonable efforts to cause the Opening of Escrow to occur on or before three (3) business days after the Effective Date. Escrow Holder shall promptly notify Buyer and Seller in writing of the date of the Opening of Escrow. Buyer and Seller agree to execute, deliver and be bound by any reasonable or customary supplemental Escrow instructions or other instruments reasonably required by Escrow Holder to consummate the transaction contemplated by this Agreement; provided, however, that no such instrument shall be inconsistent or in conflict with, amend or supersede any portion of this Agreement. If there is any conflict or inconsistency between the terms of an instrument and the terms of this Agreement, then the terms of this Agreement shall control. Without limiting the generality of the foregoing, no instrument shall extinguish any obligations imposed by this Agreement or any other contract between Seller and Buyer.

(ii) Closing. For purposes of this Agreement, the "Closing" or "Closing Date" shall be the date the Grant Deed (as defined below) is recorded pursuant to applicable law in the Official Records of Orange County. Unless changed in writing by Buyer and Seller, the Closing shall occur on or before the date (the "Outside Date") which is forty (40) days from the Effective Date. If the Closing has not, for any reason, occurred by the Outside Date, then either Buyer or Seller may terminate this Agreement by delivering written notice to the other at any time after the outside Closing Date; provided, however, that if either party is in default under this Agreement at the time of the termination, then the termination shall not affect the rights and remedies of the non-defaulting party against the defaulting party.

**(b) Title Matters.**

(i) Title Review. Within seven (7) calendar days after the Opening of Escrow, Seller shall cause the Title Company to deliver to Buyer an updated preliminary report ("Report") for the Property, together with copies of the exceptions to title listed on Schedule B of the Report located in the Official Records of Orange County ("Exceptions"). On or before the Contingency Date, Buyer shall have approved or disapproved in writing, in Buyer's sole discretion, any matters of title disclosed by the following (collectively, "Title Documents"): (i) the Report; (ii) the Exceptions; (iii) the legal description of the Property, and (iv) any survey Buyer desires to obtain at Buyer's sole cost and expense. Buyer shall have the same rights to approve or disapprove any exceptions to title that are not created by Buyer and that come into existence after issuance of the Report but prior to Closing. All monetary liens and encumbrances (other than the lien of non-delinquent taxes and assessments), including court judgments, are deemed disapproved by Buyer; Seller shall, on or before the Closing, remove or cause to be removed, if any, all deeds of trust, mortgages, court judgments, and delinquent taxes (but not the lien for any real property taxes or assessments not yet delinquent).

(ii) Buyer's Title Policy. On or before the Closing, the Title Company shall, upon payment by Buyer of the Title Company's premium, have agreed to issue to Buyer, a CLTA or ALTA, at the option of Buyer, owner's policy of title insurance in the amount of the Purchase Price ("Buyer's Title Policy") showing fee title to the Property vested solely in Buyer and subject only to the following (collectively, the "Permitted Exceptions"): (i) the standard, preprinted exceptions to Buyer's Title Policy; (ii) liens to secure payment of real estate taxes or assessments not yet delinquent; (iii) matters affecting the Property created by or with the written consent of Buyer; and (iv) those matters not removed as exceptions to title to the Property pursuant to this Agreement. Seller acknowledges that the Title Policy shall include an endorsement against the effect of any mechanics' liens; and Seller will provide a customary Seller's affidavit to Title Company to induce the Title Company to provide such endorsement. In the event Buyer requires additional endorsements to be included in Buyer's Title Policy, Buyer shall be responsible for the additional expense of acquiring such additional endorsements and inclusion of such endorsements shall be at Buyer's sole risk.

(iii) Seller's Cure Right. Buyer shall delivery written notice (the "Buyer's Title Notice") to Seller, at least ten (10) days prior to the Contingency Date, of Buyer's disapproval or conditional approval of any Title Documents. Any items not specifically disapproved in Buyer's Title Notice shall be deemed approved by Buyer. Seller shall then have the right, but not the obligation, within five (5) days after receipt of Buyer's Title Notice to (1) remove from title any disapproved or conditionally approved Exception(s) (or cure such other title matters that are the basis of Buyer's disapproval or conditional approval of the Title Documents), or (2) provide assurances reasonably satisfactory to Buyer that such Exception(s) will be removed (or other matters cured) on or before the Closing. Notwithstanding the foregoing, Seller shall have the affirmative obligation and responsibility under this Agreement to remove or cause to be removed any and all monetary liens, other than non-delinquent taxes and assessments, recorded against the Property on or before Closing. With respect to any such Exception, it shall be sufficient for purposes hereof for Seller to commit in writing, within the applicable period, to remove such Exception at or before the Closing. Seller's failure to remove such Exception after committing to do so shall be a default hereunder. An Exception shall be deemed removed or cured if Seller furnishes Buyer with evidence that the Title Company will issue the Buyer's Title Policy, as defined herein, at the Closing deleting such Exception or providing an endorsement (at Seller's expense) reasonably satisfactory to Buyer concerning such Exception. If Seller cannot or does not remove or agree to remove any of the disapproved Exception(s) (or cure other matters) within such five (5) day period, Buyer shall have until the Contingency Date to give Seller written notice that Buyer elects to proceed with the purchase of the Property subject to the disapproved Title Document(s), it being understood that Buyer shall have no further recourse against Seller for such disapproved Title Exception(s). Buyer shall deliver written notice to Seller prior to the Contingency Date specifying either that that Buyer elects to proceed with the Escrow (the "Buyer's Notice to Proceed") or that Buyer elects to terminate this Agreement ("Buyer's Notice to Terminate"). Buyer's failure to deliver either Buyer's Notice to Proceed or Buyer's Notice to Terminate on or before the Contingency Date shall be deemed Buyer's delivery of a Buyer's Notice to Proceed and Buyer's election to proceed with the Escrow.

(c) **Deposit.** Within ten (10) days following the Opening of Escrow, Buyer shall deposit with Escrow Holder the sum of \$100,000 (the "Deposit") in cash or other immediately available funds. Escrow Holder shall hold the Deposit in an interest bearing account reasonably acceptable to Seller and Buyer, in accordance with the terms and conditions of this Agreement. All interest accrued on the Deposit shall be deemed income of Buyer, and Buyer shall be responsible for the payment of all costs and fees imposed on the Deposit account. Nevertheless, all interest accrued

on the Deposit shall be held and disbursed with, and deemed to be a part of, the "Deposit" for all purposes of this Agreement. At Closing, the Deposit and all interest accrued thereon shall be applied toward the Purchase Price and paid through Escrow to Seller. From and after the Contingency Date, if this Agreement is not earlier terminated, the Deposit shall be nonrefundable to Buyer, except in the event of a termination of this Agreement prior to the Closing due to Seller's default or a failure of a Condition Precedent for Buyer's benefit under this Agreement.

**4. Seller's Delivery of Property Documents.**

(a) Within ten (10) days after the Effective Date, Seller shall deliver to Buyer copies of tax bills, including assessments, if any.

(b) Within ten (10) days after the Effective Date, Seller shall deliver to Buyer a copy of any existing environmental or other physical condition report respecting the condition of the Property in Seller's possession.

(c) Within fifteen (15) days after the Effective Date, Seller shall deliver to Buyer the results of a Phase I environmental analysis of the Property prepared by Triad International or an alternate Phase I preparer designated by Seller and reasonably acceptable to Buyer, in a form and substance upon which Buyer can reasonably rely ("Phase I Report"). The actual and direct third party costs of such Phase I Report not to exceed One Thousand, Seven Hundred Dollars (\$1,700.00) (the "Phase I Report Reimbursement Amount") will be reimbursed to Seller by Buyer through Escrow at the Closing or, if this Agreement is terminated for any reason other than Seller's default, Buyer shall reimburse Seller for the Phase I Report Reimbursement Amount within five (5) days after a receipt of an invoice.

The items to be delivered pursuant to the foregoing clauses (a), (b) and (c) are collectively referred to in this Agreement as the "Property Documents".

5. **Buyer's Right of Entry.** From and after the Effective Date through the earlier to occur of the termination of this Agreement or the Contingency Date, Seller hereby grants to and agrees that Buyer and Buyer's employees, agents, consultants and contractors shall have the right to enter upon the Property during normal business hours, provided reasonable prior notice has been given to Seller (and tenants, if any), for the purpose of undertaking and completing necessary or appropriate inspections, assessments, and tests (collectively, "Tests"), and remediation or corrections of the Property relating to the physical condition of the Property including without limitation the presence, release, and/or absence of adverse soils conditions, asbestos, lead-based paint, and/or Hazardous Materials, as hereinafter more fully defined and described. Buyer agrees to repair any damage Buyer or Buyer's employees, agents, consultants and contractors cause to the Property and further agrees to indemnify, defend and hold harmless Seller from any and all liability, claims, demands, damages and costs (including, without limitation, reasonable attorneys' fees and expenses) resulting from the activities of Buyer and/or Buyer's employees, agents, consultants and contractors on the Property and from and against all mechanics', materialmen's or other liens resulting from the conduct of Buyer and/or Buyer's employees, agents, consultants and contractors upon the Property. This provision shall survive Closing or termination of this Agreement.

6. **Buyer's Conditions Precedent and Termination Right.**

(a) **Buyer's Conditions Precedent.** The Closing and Buyer's obligation to consummate the transaction contemplated by this Agreement are subject to the timely satisfaction or written waiver of the following conditions precedent (collectively, "Buyer's Conditions Precedent"), on or before the respective times for satisfaction or waiver thereof set forth below, which Buyer's Conditions Precedent are for Buyer's benefit only.

(i) **Review and Approval of Title.** Buyer shall have reviewed and approved the condition of title of the Property, as provided in Section 3(b)(i), on or before the Contingency Date.

(ii) **Buyer's Title Policy.** The Title Company shall have agreed, at Closing, upon payment of Title Company's premium pursuant to this Agreement, to provide as of the Closing, Buyer's Title Policy and any additional endorsements required by Buyer as agreed upon between Buyer and Title Company on or before the Contingency Date, in accordance with Section 3(b)(ii).

(iii) **Physical and Legal Inspections and Studies.** On or before the Contingency Date, Buyer shall have delivered Buyer's Notice to Proceed, which shall be deemed to constitute Buyer's approval in writing, in Buyer's sole and absolute discretion, of the results of any inspections, investigations, the Phase I Report, tests and studies Buyer elects to make or obtain, including, but not limited to, investigations with regard to zoning, building codes and other governmental regulations; engineering tests; soils, seismic and geologic reports; environmental audits, inspections and studies; environmental investigation or other invasive or subsurface testing; and any other physical or legal inspections and/or investigations as Buyer may elect to make or obtain, all of which testing, inspections and/or investigations shall be conducted pursuant to Section 5 above.

(iv) **Property Documents.** On or before the Contingency Date, Buyer shall have delivered Buyer's Notice to Proceed, which shall be deemed to constitute Buyer's approval in

writing, in Buyer's sole and absolute discretion, of the terms, conditions and status of all of the Property Documents.

(v) Authority to Convey the Property. Seller shall provide evidence reasonably acceptable to the Title Company that Seller has full right and authority to execute and deliver the Grant Deed.

(vi) Delivery of Documents. Seller shall have delivered all of Seller's Delivered Items described in Section 8.

(vii) Representations and Warranties. All representations and warranties of Seller contained in this Agreement shall be materially true and correct as of the Effective Date and as of the Closing.

(viii) No Default. As of the Closing, Seller shall not be in default in the performance of any material covenant or agreement to be performed by Seller under this Agreement.

(b) **Termination Right.** Should any of Buyer's Conditions Precedent not be met, Buyer may, by written notice to Seller prior to Closing Date, terminate this Agreement. If this Agreement is so terminated, then (except to the extent expressly allocated to one party hereto by this Agreement) any Escrow, title or other cancellation fees shall be paid fifty percent (50%) by Buyer, and fifty percent (50%) by Seller, unless either party is in default hereunder, in which case the defaulting party shall pay all such fees. If each of the Buyer's Conditions Precedent has not been satisfied or waived in writing by Buyer on or before 5:00 p.m. on respective date for satisfaction thereof, then Buyer shall have the right to terminate the Escrow by submitting a written notice of termination ("Termination Notice") to Seller at any time within three (3) days thereafter, but prior to Closing Date.

7. **Seller's Conditions Precedent.** The Closing and Seller's obligations with respect to the transaction contemplated by this Agreement are subject to the timely satisfaction or written waiver of the following conditions precedent ("Seller's Conditions Precedent"), which are for Seller's benefit only:

(a) Buyer shall not be in default of any of its obligations under the terms of this Agreement.

(b) All representations of Buyer herein are and remain true and correct.

(c) Buyer shall have deposited with Escrow Holder, (i) in the case of Option 1, immediately available funds in an amount equal to the Purchase Price or (ii) in the case of Option 2, the Down Payment and Promissory Note and Deed of Trust, the Buyer's Charges, and Buyer's share of Prorations described in Section 11.

(d) Buyer shall have delivered all documents and other items described in Section 9(a).

(e) Seller shall not have terminated this Agreement.

Should any of Seller's Conditions Precedent not be met, Seller may, by written notice to Buyer within three (3) days thereafter, but prior to Closing Date, terminate this Agreement. If this

Agreement is so terminated, then (except to the extent expressly allocated to one party hereto by this Agreement) any Escrow, title or other cancellation fees shall be paid fifty percent (50%) by Buyer, and fifty percent (50%) by Seller, unless either party is in default hereunder, in which case the defaulting party shall pay all such fees. If each of the Seller's Conditions Precedent has not been satisfied or waived in writing by Seller on or before 5:00 p.m. on respective date for satisfaction thereof, then Seller shall have the right to terminate the Escrow by submitting a written notice of termination ("Termination Notice") to Seller at any time within three (3) days thereafter, but prior to Closing Date.

**8. Seller's Deliveries to Escrow Holder.**

(a) **Seller's Deliveries to Escrow.** On or before the Closing Date, except as to possession of the Property which shall be delivered as of Closing and the items specified in clause (iii) below, which shall be delivered outside of the Escrow (if any), Seller shall deposit or cause to be deposited with Escrow Holder the following items, duly executed and, where appropriate, acknowledged ("Seller's Delivered Items"):

(i) Seller's Charges. Immediately available funds in the amount necessary to pay Seller's Charges as set forth in Section 11(a) herein.

(ii) Deed. The Grant Deed in the form attached hereto as Exhibit B and incorporated herein ("Grant Deed") along with a company resolution or other satisfactory evidence of Seller's corporate authority to enter into and execute this Agreement and to sell the Property to Buyer and fully perform hereunder.

(iii) Licenses, Certificates, and Permits. To the extent the same are in the possession, custody or control of Seller and are transferable to Buyer, all original licenses, certificates and permits pertaining to the Property and necessary or beneficial for the use or occupancy thereof;

(iv) FIRPTA/Tax Exemption Forms. Transferor's Certification of Non-Foreign Status in the form attached hereto as Exhibit C ("FIRPTA Certificate") (unless Seller is a "foreign person," as defined in Section 1445 in the Internal Revenue Code of 1986), together with any necessary tax withholding forms, and a duly executed California Form 593-C, as applicable ("California Exemption Certificate").

(v) Possession of Property. At Closing, exclusive possession of and marketable title to the Property, subject only to the Permitted Exceptions.

(vi) Authority. Such proof of Seller's authority and authorization to enter into this Agreement and to consummate this transaction as may be reasonably requested by the Title Company.

(vii) Further Documents or Items. Any other documents or items reasonably required to close the transaction contemplated by this Agreement as determined by the Title Company.

(b) **Failure to Deliver.** Should any of Seller's Delivered Items not be timely delivered to Escrow, Buyer may, by written notice to Seller, terminate this Agreement; provided,

however, that Buyer may (but shall not be obligated to) in such notice provide Seller with five (5) business days to deliver all of Seller's Delivered Items. If Buyer's notice provides Seller such five (5) business days to deliver Seller's Delivered Items, and if Seller's Delivered Items are not delivered within such period, then this Agreement shall automatically terminate without further action or notice. In the event of any such termination, any cash deposited by Buyer shall immediately be returned to Buyer.

9. **Buyer's Deliveries to Escrow.** On or before one (1) day prior to the Closing Date, Buyer shall deposit or cause to be deposited with Escrow Holder the following, each duly executed and acknowledged, by Buyer as appropriate ("Buyer's Delivered Items"):

(a) **Purchase Money.** If Buyer elects Option 1, then cash by wire transfer in the amount of Two Million, Seven Hundred Thousand Dollars (\$2,700,000) or if Buyer elects Option 2 then cash by wire transfer in the amount of Five Hundred Eighty Thousand Dollars (\$580,000) along with a duly executed Promissory Note and duly executed and acknowledged Deed of Trust, together with additional funds necessary to pay Buyer's Charges set forth in Section 11(b) herein and Buyer's share of the Prorations set forth in Section 11(c); provided, however, that in the event Seller does not qualify for an exemption from California withholding tax under Section 18662 of the California Revenue and Taxation Code, as evidenced by the delivery at Closing of the California Exemption Certificate duly executed by Seller, Title Company shall withhold three and one-third percent (3-1/3%) of the Purchase Price on behalf of Buyer for payment to the California Franchise Tax Board in accordance with Section 11(d) hereof. In the event Seller is not exempt from such withholding or does not otherwise deliver the California Exemption Certificate at Closing, Buyer shall execute and deliver three (3) originals of California Form 593-W to Title Company at or immediately after Closing. In either event, Buyer shall also deliver the Phase 1 Report Reimbursement Amount.

(b) **Certificate of Acceptance.** One (1) original Certificate of Acceptance executed by Buyer to be attached to the Deed.

(c) **Final Escrow Instructions.** Buyer's final written Escrow instructions to close Escrow in accordance with the terms of this Agreement.

(d) **Authority.** In the event Buyer elects to proceed with Option 2 for the Closing, such proof of Buyer's authorization to enter into this Agreement, the Note and the Deed of Trust, and to consummate this transaction as may be reasonably requested by Seller and the Title Company.

(e) **Further Documents or Items.** Any other documents or items reasonably required to close the transaction contemplated by this Agreement as determined by the Title Company.

10. **Tax Adjustment Procedure.** Escrow Holder is authorized and is instructed to comply with the following tax adjustment procedure:

(a) **Delinquent Taxes.** Pay and charge Seller for any unpaid delinquent property taxes and/or penalties and interest thereon, and for any delinquent assessments or bonds against the Property.



(b) **Proration.** Seller's pro rata portion of taxes due at close of Escrow shall be cleared and paid by Seller pursuant to provisions of Section 5082 through 5090 of the Revenue and Taxation Code of the State of California.

(c) **Refund of Taxes.** After the close of Escrow, Seller shall have the right in Seller's sole discretion to apply to the Orange County Tax Collector for refund of any excess property taxes paid by Seller with respect to the Property. This refund would apply to the period after close of Escrow and Buyer's acquisition of the Property pursuant to Revenue and Taxation Code Section 5096.7.

11. **Escrow Holder Authorization.** Escrow Holder is authorized to and shall pay, charge, and perform the following:

(a) **Seller Charges.**

(i) **Seller's Monetary Liens and Encumbrances.** Pay and charge Seller for any amount necessary to place title in the condition necessary to satisfy the obligations of Seller under Section 3 of this Agreement, including without limitation payoff, removal, and charge for any and all monetary liens and encumbrances of record against the Property.

(ii) **Seller's Share of Charges of Escrow.** Pay and charge Seller for normal seller's fees and costs for consummation of the purchase and sale pursuant to the Escrow in Orange County, including, without limitation, County documentary transfer taxes for recording the Grant Deed, 50% of Escrow fees and 50% of the costs of Buyer's Title Policy.

The charges set forth in this Section 11(a) are herein referred to as "Seller's Charges."

(b) **Buyer Charges.**

(i) **Buyer's Share of Charges of Escrow.** Pay and charge Buyer for buyer's normal fees and costs for consummation of the purchase and sale pursuant to the Escrow in Orange County, including, without limitation, County documentary transfer taxes for recording the Deed of Trust (if applicable), costs of the Lender's Title Policy (if applicable), recording fees for the Deed and Deed of Trust (if applicable), 50% of Escrow fees, and 50% of the costs of Buyer's Title Policy and 100% of the costs of any additional title insurance and/or endorsements to Buyer's Title Policy requested by Buyer.

The charges set forth in this Section 11(b) are herein referred to as "Buyer's Charges."

(c) **Prorate Revenues and Expenses.** All revenues (including, but not limited to, fees collected under any other agreements relating to the Property) and expenses relating to the Property (including, but not limited to, utility costs and expenses, water charges and sewer rents and refuse collection charges) shall be prorated as of the Closing Date (collectively, the "Prorations"). Not less than five (5) business days prior to the Closing, Seller shall deliver to Buyer a tentative schedule of prorations for Buyer's approval ("Proration and Expense Schedule"). If any prorations made under this Section shall require final adjustment after the Closing, then the parties shall make the appropriate adjustments promptly when accurate information becomes available and either party

hereto shall be entitled to an adjustment to correct the same. Any corrected or adjusted proration shall be paid promptly in cash to the party entitled thereto.

(d) **Tax Requirements.** Escrow Holder shall prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099 S form, and be responsible for withholding taxes, if any such forms and/or withholding is provided for or required by law.

(i) **California Withholding.** In the event Seller does not qualify for an exemption from California withholding tax under Section 18662 of the California Revenue and Taxation Code ("Tax Code") as evidenced by the delivery to Buyer at Closing of the California Exemption Certificate duly executed by Seller, (i) Escrow Holder shall withhold three and one-third percent (3-1/3%) of the Purchase Price on behalf of Buyer at Closing for payment to the California Franchise Tax Board in accordance with the Tax Code, (ii) Buyer shall deliver three (3) duly executed originals of California Form 593-W to Escrow Holder at or immediately after Closing, (iii) two (2) executed originals of California Form 593-W shall be delivered by Escrow Holder to Seller, and (iv) on or before the 20th day of the month following the month title to the Property is transferred to Buyer (as evidenced by the recording of the Grant Deed), Escrow Holder shall remit such funds withheld from the Purchase Price, together with one (1) executed original of California Form 593-W to the California Franchise Tax Board on behalf of Buyer. Buyer and Seller hereby appoint Escrow Holder as a reporting entity under the Tax Code, authorized to withhold and remit the withholding tax contemplated under the Tax Code, together with such other documents required by the Tax Code (including, without limitation, California Form 593-W), to the California Franchise Tax Board.

(ii) **FIRPTA Withholding.** Unless Seller is not a "foreign person" under the Foreign Investment in Real Property Transfer Act or an exemption applies, the Escrow Holder shall deduct and withhold from Seller's proceeds ten percent (10%) of the gross sales price and shall otherwise comply with all applicable provisions of the Foreign Investment in Real Property Act and any similar state act. Seller agrees to execute and deliver Exhibit C, as directed by Escrow Holder, or any instrument, affidavit, and statement, and to perform any act reasonably necessary to comply with the provisions of the Foreign Investment in Real Property Act and any similar state act and regulation promulgated thereunder.

(e) **Closing Statement.** Escrow Holder is instructed to prepare and provide copies of a proposed closing statement and thereafter the final closing statement ("Closing Statement") to both Seller and Buyer.

(f) **Escrow Holder Responsibility.** The responsibility of the Escrow Holder under this Agreement is limited to Sections 1 through 12, 14(d), 15, and 16(b) and (c), and to its liability under any policy of title insurance issued in regard to this transaction.

12. **Closing Procedure.** When the Title Company is ready to issue the Buyer's Title Policy and any additional endorsements required by Buyer and all required documents and funds have been deposited with Escrow Holder, Escrow Holder shall immediately close Escrow in the manner and order provided below.

(a) **Recording.** Escrow Holder shall cause the Grant Deed and, if applicable, Deed of Trust to be recorded pursuant to applicable law in Orange County and obtain conformed copies thereof for distribution to Buyer and Seller.

(b) **Disburse Funds.** Escrow Holder shall debit or credit (as provided herein) all charges and Prorations to Buyer and Seller and withhold funds pursuant to Section 11. The Purchase Price or Down Payment, as applicable (less any amounts required to be withheld as provided in Section 11(d)) shall be distributed by check payable to Seller unless Escrow Holder is instructed otherwise in a writing signed by Seller (and, in such event, in accordance with such instructions).

(c) **Documents to Seller.** Escrow Holder shall deliver to Seller a conformed copy of the Grant Deed and, if applicable, Deed of Trust, and a copy of every other document deposited into Escrow by Buyer pursuant hereto.

(d) **Documents to Buyer.** Escrow Holder shall deliver to Buyer the original FIRPTA Certificate, the original California Exemption Certificate (as applicable), a conformed copy of the Grant Deed, the Deed of Trust (if applicable), the Report, and each other document (or copies thereof) deposited into Escrow by Seller pursuant hereto, including, without limitation, those documents referenced in Section 8.

(e) **Title Company.** Escrow Holder shall cause the Title Company to issue the Buyer's Title Policy and endorsements, if any, to Buyer. In addition, notwithstanding anything to the contrary contained in this Agreement, if Buyer elects to consummate the Closing with Option 2, at the Closing, the Title Company shall issue to Seller a customary lender's policy of title insurance subject to the Permitted Exceptions and in form reasonably satisfactory to Seller, at Buyer's sole cost and expense.

(f) **Closing Statement.** Escrow Holder shall forward to both Buyer and Seller a separate accounting of all funds received and disbursed for each party in the form of the Closing Statement prepared pursuant to Section 11(e).

(g) **Informational Reports.** Escrow Holder shall file any informational reports required by Internal Revenue Code Section 6045(e), as amended.

(h) **Possession.** Possession of the Property shall be delivered to Buyer at the Closing, subject to the Permitted Exceptions.

13. **Representations and Warranties.**

(a) **Seller's Representations and Warranties.** In consideration of Buyer entering into this Agreement and as an inducement to Buyer to purchase the Property, Seller makes the following representations and warranties as of the Effective Date and at and as of the Closing, each of which is material and is being relied upon by Buyer, and all of which shall survive Closing:

(i) All requisite action (corporate, trust, partnership or otherwise) has been taken by Seller in connection with entering into this Agreement and the instruments referenced herein; and, by the Closing, all such necessary action will have been taken to authorize the consummation of the transaction contemplated hereby. By the Closing no additional consent of any individual, director, manager, shareholder, partner, member, trustee, trustor, beneficiary, creditor, investor, judicial or administrative body, governmental authority or other party shall be required for Seller to consummate the transaction contemplated by this Agreement.

(ii) The individuals executing this Agreement and the instruments referenced herein on behalf of Seller have the legal power, right and actual authority to bind Seller to the terms and conditions hereof and thereof.

(iii) Neither the execution or delivery of this Agreement or the documents or instruments referenced herein, nor incurring the obligations set forth herein, nor the consummation of the transaction contemplated herein, nor compliance with the terms of this Agreement or the documents or instruments referenced herein or therein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, lease or other agreement or instrument to which Seller is a party or that affect the Property, including, but not limited to, any of the Title Documents or the Property Documents.

(iv) To Seller's actual knowledge, there are no actions or proceedings pending or which have been threatened in written notice to Seller against Seller, before any court or administrative agent in any way connected with or relating to the Property, or affecting Seller's ability to fulfill all of its obligations under this Agreement.

(v) Except as disclosed by the Report, Seller has made no written or oral commitments to or agreements with any governmental authority or agency materially and adversely affecting the Property, or any part thereof, or any interest therein, which will survive the Closing. Seller has entered into no understanding or agreement with any taxing or assessing authority respecting the imposition or deferment of any taxes or assignments respecting the Property.

(vi) To Seller's actual knowledge, Seller is not in default of its obligations under any contract, agreement or instrument to which Seller is a party pertaining to the Property. To Seller's actual knowledge, no document supplied to Buyer by Seller pursuant to this Agreement contains any untrue statement of a material fact, and no document omits any facts that would be necessary, in the circumstances, to make the document supplied not materially misleading.

(vii) Except as disclosed by the Report, there are no contracts, licenses, commitments, undertakings or other written or oral agreements for services, supplies or materials concerning the use, operation, maintenance, or management of the Property that will be binding upon Buyer or the Property after the Closing.

(viii) Except for any City Parking Agreement or as disclosed by the Report, there are not, as of the Effective Date of this Agreement, nor will there be as of the Closing, any written or oral leases or contractual rights or options to lease, purchase, or otherwise enjoy possession, rights or interest of any nature in and to the Property or any part thereof, and no person other than Buyer shall have any right of possession to the Property or any part thereof as of the Closing.

(ix) Except for any City Parking Agreement or as disclosed by the Report, there are not as of the Effective Date of this Agreement, nor will there be as of the Closing, any tenants, occupants, or residents at the Property.

(x) Except for any City Parking Agreement or as disclosed by the Report, no person, except Seller, has possession or any rights to possession or use of the Property or portion thereof. Seller agrees that prior to the Closing or earlier termination of this Agreement, except for any City Parking Agreement, Seller shall not lease any portion of the Property, grant any licenses or easements in the Property, or grant any other rights of occupancy or use of the Property without the prior written approval of Buyer, which may be granted or denied in Buyer's sole and absolute discretion.

**(b) Subsequent Changes to Seller's Representations and Warranties.** If, prior to the Closing, Buyer or Seller should learn, discover or become aware of any existing or new item, fact or circumstance which renders a representation or warranty of Seller set forth herein incorrect or untrue in any material respect (collectively, the "Seller Representation Matter"), then the party who has learned, discovered or become aware of such Seller Representation Matter shall promptly give written notice thereof to the other party and Seller's representations and warranties shall be automatically limited to account for the Seller Representation Matter. Buyer shall have the right to approve or disapprove any such change and to terminate this Agreement by written Termination Notice to Seller within three (3) days after first learning of such Seller Representation Matter if Buyer reasonably disapproves any such change. If Buyer does not elect to terminate this Agreement within such three (3) day period, then Seller's representation shall be qualified by such Seller Representation Matter and Seller shall have no obligation to Buyer for such Seller Representation Matter.

**(c) Buyer's Representations and Warranties.** In consideration of Seller entering into this Agreement and as an inducement to Seller to sell the Property, Buyer makes the following representations and warranties as of the date hereof and at and as of the Closing, each of which is material and is being relied upon by Seller (and the truth and accuracy of which shall constitute a condition precedent to Seller's obligations hereunder), and all of which shall survive Closing:

(i) As of the Effective Date and subject to Section 15, all requisite governmental action has been taken by Buyer in connection with entering into this Agreement and the instruments referenced herein; and, by the Closing, all such necessary action will have been taken to authorize the consummation of the transaction contemplated hereby. On or before the Closing Date and subject to Section 15, no additional consent of any individual, judicial or administrative body, governmental authority or other party shall be required for Buyer to consummate the transaction contemplated by this Agreement.

(ii) The individuals executing this Agreement and the instruments referenced herein on behalf of Buyer have the legal power, right and actual authority to bind Buyer to the terms and conditions hereof and thereof.

(iii) Neither the execution and delivery of this Agreement and the documents and instruments referenced herein, nor incurring the obligations set forth herein, nor the consummation of the transaction contemplated herein, nor compliance with the terms of this Agreement and the documents and instruments referenced herein conflict with or result in the

material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease or other agreement or instrument to which Buyer is a party or by which any of Buyer's properties are bound.

**(d) Subsequent Changes to Buyer's Representations and Warranties.** If, prior to the Closing, Seller or Buyer should learn, discover or become aware of any existing or new item, fact or circumstance which renders a representation or warranty of Buyer set forth herein incorrect or untrue in any material respect (collectively, the "Buyer Representation Matter"), then the party who has learned, discovered or become aware of such Buyer Representation Matter shall promptly give written notice thereof to the other party and Buyer's representations and warranties shall be automatically limited to account for the Buyer Representation Matter. Seller shall have the right to approve or disapprove any such change and to terminate this Agreement by written Termination Notice to Buyer within three (3) days after first learning of such Seller Representation Matter if Seller reasonably disapproves any such change. If Seller does not elect to terminate this Agreement within such three (3) day period, then Buyer's representation shall be qualified by such Buyer Representation Matter and Buyer shall have no obligation to Seller for such Buyer Representation Matter.

**(e) Seller's Knowledge.** The term "Seller's actual knowledge", Seller's "knowledge" or words of similar intent shall mean the current actual personal knowledge of, and only of, M. David Paul, with no imputation of knowledge and no duty of investigation or inquiry. The individual described above shall have no personal liability under this Agreement by virtue of acting as a representative of the Seller for the purpose of this definition.

**(f) AS IS Sale.** Except as specifically stated in this Agreement or any of the documents to be executed and delivered by Seller to Buyer at Closing, neither Seller nor any advisor, officer, director, trustee, member, employee, agent, attorney or contractor thereof or therefor (individually and collectively, the "Seller Parties") is making or shall be deemed to have made, nor does any Seller Party have the authority to make, any express or implied representation or warranty of any kind or nature as to the Property or the transactions contemplated in this Agreement (the "Transactions"), including, without limitation, (A) the financial status of the Property, including without limitation, income or expenses generated, paid or incurred in connection with the Property, (B) the nature, physical or environmental condition, safety or any other aspect of the Property or the Property's compliance with applicable laws, ordinances, rules and regulations, including, without limitation, zoning ordinances, building codes (including, without limitation, the Americans With Disabilities Act of 1990) and environmental, hazardous material and endangered species statutes, (C) the accuracy or completeness of any information or data provided or to be provided by Seller Parties, including, without limitation, copies of any reports or documents prepared for Seller Parties whether by third parties or otherwise which may be included with such information, or (D) any other matter relating to the Property or Seller. Without limiting the foregoing, Buyer hereby acknowledges that, except as expressly provided in this Agreement or any of the documents to be executed and delivered by Seller to Buyer at Closing, the Property will be sold to Buyer "AS IS", "WHERE IS" and "WITH ALL FAULTS", and except for the express Seller representations and warranties contained in this Agreement and the documents to be executed and delivered by Seller to Buyer at Closing, there are no representations and/or warranties, express or implied, made by Seller Parties in connection with the Transactions contemplated in this Agreement. Buyer acknowledges and agrees that, except as otherwise stated in this Agreement, (1) Buyer shall rely upon Buyer's own due diligence in determining whether the Property is suitable for purchase by Buyer; (2) Buyer has been

given a reasonable opportunity to inspect and investigate the Land, all Improvements thereon, and all aspects relating to the Property, either independently or through agents and experts of Buyer's choosing; (3) Buyer is acquiring the Property based exclusively upon Buyer's own investigations and inspections thereof and the express representations and warranties of Seller contained in this Agreement and in the documents to be executed and delivered by Seller to Buyer at Closing; (4) except as may be expressly otherwise provided in this Agreement, Seller has no obligation to repair or correct any facts, circumstances, conditions or defects or compensate Buyer therefor; and (5) except as may be expressly otherwise provided in this Agreement, by reason of all of the foregoing, Buyer shall assume the full risk of any loss or damage occasioned by any fact, circumstance, condition or defect pertaining to the Property. Subject to the foregoing, Buyer further agrees and acknowledges that:

(i) Buyer has, or by the Contingency Date will have, with the assistance of such experts as Buyer has deemed appropriate, made such independent investigations and studies with respect to the Property as it deems appropriate (including, without limitation, in connection with physical and environmental matters), the Transactions and all aspects thereof, including without limitation hazardous materials and endangered species, and it will be relying entirely thereon and on the advice of its counsel, advisers and consultants concerning the Transactions. Except for Seller's express representations and warranties contained in this Agreement and in the documents to be executed and delivered by Seller to Buyer at Closing, Buyer is not relying and shall not rely on any investigation, study, projection or other information, economic, physical, environmental or otherwise, prepared by Seller Parties or any person or entity affiliated with Seller.

(ii) Buyer has, or by the Contingency Date will have, with the assistance of such experts as Buyer has deemed appropriate, reviewed all instruments, records and documents concerning the Property which Buyer deems appropriate or advisable to review in connection with the Transactions.

(iii) Buyer has, or by the Contingency Date will have, with the assistance of such experts as Buyer has deemed appropriate, made such examinations and investigations as it deems appropriate with respect to the status of all circumstances concerning the zoning, land use controls, required permits, building code compliance, environmental, hazardous material and endangered species regulations and condition and other matters with respect to the Property. Seller makes no representation or warranty regarding the permitted use of the Property. In particular, Seller makes no representation or warranty that the Property may continue to be used for its present uses, that the Property or any part thereof complies with any ordinances, codes or regulations or were or are properly permitted, the condition of or rights to ingress, egress or access to and from the Property, or the condition of or any rights with respect to the water courses traversing the Property.

(iv) Seller has made or will make available for Buyer's inspection copies of certain studies, reports and other information in Seller's possession applicable to the Property. By furnishing these materials neither Seller nor any Seller Party shall be deemed to have made any representation or warranty of any kind or nature whatsoever with respect to any matter set forth, contained or addressed in such materials, including but not limited to the accuracy, adequacy or completeness thereof. The Seller Parties shall incur no liability to Buyer by reason of furnishing any such information. Consequently, Buyer, for itself and its successors in interest, hereby releases the Seller Parties from, and waives all claims and liability against the Seller Parties for any and all statements or opinions now or hereafter made, or information now or hereafter furnished, by the Seller Parties to Buyer or its agents or representatives.

(v) Buyer further acknowledges that "Natural Hazards" described in the following California code sections (the "Natural Hazard Laws") may affect the Property: Government Code Sections 8589.4; 8589.3; Government Code Sections 51183.4, 51183.5 (Fire Hazard Severity Zone); Public Resource Code Section 2621.9 (Earthquake Fault Zone); Public Resource Code Section 2694 (Seismic Hazard Zone); and Public Resource Code Section 4136 (Wildland Area). Buyer acknowledges and agrees that Buyer has had the opportunity to independently evaluate and investigate whether any or all of such Natural Hazards affect the Property and Seller shall have no liabilities or obligations with respect thereto. Without limiting the foregoing, Buyer acknowledges and agrees that Buyer knowingly and intentionally waives any disclosures, obligations or requirements of Seller with respect to Natural Hazards, including, without limitation, any disclosure obligations or requirements under the aforementioned code sections or under California Civil Code Section 1102. Buyer represents that Buyer has experience acquiring and conducting due diligence, and that this waiver has been negotiated and is an essential aspect of the bargain between the parties.

(g) **Waiver and Release.** Subject to the express covenants, representations and warranties of Seller as provided in this Agreement and in the documents to be executed and delivered by Seller to Buyer at Closing, upon Closing, Buyer shall assume the risk that adverse matters, including but not limited to, construction defects, adverse physical, environmental, hazardous materials, endangered species, zoning, access or water course issues or conditions, may not have been revealed by Buyer's investigations. Subject to the express covenants, representations and warranties of Seller as provided in this Agreement and in the documents to be executed and delivered by Seller to Buyer at Closing, Buyer releases all Seller Parties from, and waives any and all liability, claims, demands, damages and costs (including, without limitation, reasonable attorneys' fees and expenses) of any and every kind or character, known or unknown, for or attributable to, any latent or patent issue or condition at the Property, including without limitation, claims, liabilities and contribution rights relating to the presence, discovery or removal of any hazardous materials in, at, about or under the Property, or for, connected with or arising out of any and all claims or causes of action based thereon. For purposes of this Agreement, the term "hazardous material" shall mean any substance, chemical, waste or material that is or becomes regulated by any federal, state or local governmental authority because of its toxicity, infectiousness, radioactivity, explosiveness, ignitability, corrosiveness or reactivity, including, without limitation, asbestos or asbestos containing material, the group of compounds known as polychlorinated biphenyls, flammable explosives, oil, petroleum or any refined petroleum product. It is the intention of the parties that the foregoing release shall be effective with respect to all matters, past and present, known and unknown, suspected and unsuspected. Buyer realizes and acknowledges that factual matters now unknown to it may have given or may hereafter give rise to losses, damages, liabilities, costs and expenses which are presently unknown, unanticipated and unsuspected, and Buyer further agrees that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Buyer nevertheless hereby intends to release, discharge and acquit Seller from any such unknown losses, damages, liabilities, costs and expenses.

By releasing and forever discharging claims both known and unknown which are related to or which arise under or in connection with, the items set out above, Buyer expressly waives any rights under California Civil Code Section 1542, which provides:

"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 provisions of this Paragraph 13(g) have been expressly bargained for and shall survive the Closing.

\_\_\_\_\_  
Buyer's Initials

**14. Intentionally Omitted.**

**15. Contingency.** It is understood and agreed between the parties hereto that the completion of this transaction, and the Escrow created hereby, is contingent upon the specific acceptance and approval of Buyer in Buyer's reasonable discretion. The execution of this Agreement by Buyer and the delivery of same to Escrow Holder constitute said acceptance and approval.

**16. General Provisions.**

**(a) Loss or Damage to Improvements.** In the event of any damage or destruction of any of the Improvements prior to the Closing, Buyer shall have no right to terminate this Agreement, Seller shall assign to Buyer at Closing any and all proceeds and/or claims under any applicable insurance coverage, and Buyer shall take title to the Property subject to such damage and destruction.

**(b) Notices.** All notices, demands, requests or other communications required or permitted hereunder (collectively, "Notices") shall be in writing, shall be addressed to the receiving party, and shall be personally delivered, sent by overnight mail (Federal Express or another carrier that provides receipts for all deliveries), by fax transmission, or sent by certified mail, postage prepaid, return receipt requested, to the address listed below:

If to Seller: M. David Paul & Associates,  
233 Wilshire Boulevard, Suite 900  
Santa Monica, California 90401  
Attention: Paul W. Krueger  
Tel. No.: (310) 393-9653  
Fax No.: (310) 458-2644

With a copy to: Cox, Castle & Nicholson LLP  
555 California Street, 10th Floor  
San Francisco, California 94104  
Attention: Scott Brooks  
Tel. No.: (415) 392-4200  
Fax No.: (415) 392-4250

If to Buyer: Garden Grove Agency for Community Development  
Attention: Real Property Agent  
11222 Acacia Parkway  
Garden Grove, California 92840  
Tel. No.: (714) 741-5100  
Fax No.: (714) 741-5044

With a copy to: Stradling Yocca Carlson & Rauth  
660 Newport Center Drive, Suite 1600  
Newport Beach, California 92660  
Attention: Thomas P. Clark, Jr.  
Tel. No.: (949) 725-4000  
Fax No.: (949) 725-4100

All Notices shall be effective upon receipt at the appropriate address. Notice of change of address shall be given by written Notice in the manner detailed in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no Notice in accordance with this Section was given shall be deemed to constitute receipt of such Notice. The providing of copies of Notices to the parties' respective counsels is for information only, is not required for valid Notice and does not alone constitute Notice hereunder.

**(c) Brokers.** Buyer and Seller each represent to the other that no brokerage commission, finder's fee or other compensation of any kind is due or owing to any person or entity in connection with this Agreement. Each party agrees to and does hereby indemnify and hold the other free and harmless from and against any and all costs, liabilities or causes of action or proceedings which may be instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the indemnifying party in connection with this Agreement.

**(d) Waiver, Consent and Remedies.**

**(i)** Either party may specifically and expressly waive in writing any portion of this Agreement or any breach thereof, but no such waiver shall constitute a further or continuing waiver of a preceding or succeeding breach of the same or any other provision. A waiving party may at any time thereafter require further compliance by the other party with any breach or provision so waived. The consent by one party to any act by the other for which such

consent was required shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or any similar acts in the future. No waiver or consent shall be implied from silence or any failure of a party to act, except as otherwise specified in this Agreement. All rights, remedies, undertakings, obligations, options, covenants, conditions and agreements contained in this Agreement shall be cumulative and no one of them shall be exclusive of any other, except as expressly otherwise provided in this Agreement. Except as otherwise specified herein, either party hereto may pursue any one or more of its rights, options or remedies hereunder or may seek damages or specific performance in the event of the other party's breach hereunder, or may pursue any other remedy at law or equity, whether or not stated in this Agreement.

(ii) IN THE EVENT THE SALE OF THE PROPERTY IS NOT CONSUMMATED BECAUSE OF A DEFAULT UNDER THIS AGREEMENT ON THE PART OF THE BUYER, BUYER AND SELLER AGREE THAT IT WOULD BE IMPRACTICABLE AND EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGE TO SELLER. BUYER AND SELLER THEREFORE AGREE THAT, IF BUYER FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY AS HEREIN PROVIDED BY REASON OF BUYER'S BREACH OR DEFAULT, THE AMOUNT OF THE DEPOSIT IS A REASONABLE ESTIMATE OF SELLER'S DAMAGES AND THAT SELLER SHALL BE ENTITLED TO SAID SUM AS LIQUIDATED DAMAGES, WHICH SHALL BE SELLER'S SOLE AND EXCLUSIVE REMEDY, EITHER AT LAW OR IN EQUITY. IN SUCH EVENT, THE ESCROW HOLDER SHALL, UPON WRITTEN DEMAND BY SELLER WITHOUT JOINDER OF BUYER, IMMEDIATELY DELIVER THE DEPOSIT TO SELLER IN CASH OR OTHER IMMEDIATELY AVAILABLE FUNDS. THE FOREGOING DOES NOT LIMIT BUYER'S LIABILITY UNDER SECTION 16(g) OF THIS AGREEMENT OR UNDER ANY INDEMNITY OR OTHER PROVISION OF THIS AGREEMENT WHICH BY ITS TERMS SURVIVES A TERMINATION OF THIS AGREEMENT OR IS TO BE PERFORMED AFTER CLOSING. TO SIGNIFY THEIR AWARENESS AND AGREEMENT TO BE BOUND BY THE TERMS AND PROVISIONS OF THIS SECTION 16(d)(ii), BUYER AND SELLER HAVE SEPARATELY INITIALED THIS SECTION.

SELLER INITIALS: \_\_\_\_\_

BUYER'S INITIALS: \_\_\_\_\_

(iii) In the event the sale of the Property is not consummated because of default under this Agreement on the part of Seller, Buyer shall have the option, as its sole and exclusive remedy at law or in equity, to either (1) terminate this Agreement by delivery of written notice of termination to Seller, whereupon Buyer and Seller shall each be released from all liability hereunder (except for those provisions which recite that they survive termination) and the Deposit shall be returned to Buyer; or (2) continue this Agreement and seek the equitable remedy of specific performance. The foregoing options are mutually exclusive and are the exclusive rights and remedies available to Buyer at law or in equity in the event of Seller's default under or breach of this Agreement. Buyer hereby waives any and all rights it may now or hereafter have to pursue any other remedy or recover any other damages on account of any such breach or default by Seller, including, without limitation, loss of bargain, special, punitive, compensatory or consequential damages. Buyer shall be deemed to have elected its remedy under clause (1) of this subsection (iii) if Buyer fails to file suit for specific performance against Seller in a court having jurisdiction in the county and state in which the Property is located, on or before sixty (60) days following the date upon which Closing was to have occurred.

(e) **Construction.** The parties acknowledge and agree that:

(i) each party is of equal bargaining strength;

(ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement;

(iii) each party has consulted with such party's own independent attorney and such other professional advisors, if at all, as each party has deemed appropriate, relating to any and all matters contemplated under this Agreement, and each party's decision to or not to consult an attorney with respect to the terms and conditions of this Agreement has been made knowingly and voluntarily;

(iv) each party and such party's counsel and advisors, if so elected by the party, have reviewed this Agreement;

(v) each party has agreed to enter into this Agreement following such review and the rendering of such advice, if so elected by the party; and

(vi) any rule of construction to the effect that ambiguities are to be resolved against the drafting parties shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

(f) **Cooperation.** Buyer and Seller agree to execute such instruments and documents and to diligently undertake such actions as may be required in order to consummate the purchase and sale herein contemplated and shall use all reasonable efforts to accomplish the Closing in accordance with the provisions hereof.

(g) **Attorney's Fees.** In the event any declaratory or other legal or equitable action is instituted between Seller, Buyer, and/or Escrow Holder in connection with this Agreement, then as between Buyer and Seller the prevailing party shall be entitled to recover from the losing party all of its costs and expenses including court costs and reasonable attorney's fees, and all fees, costs and expenses incurred on any appeal or in collection of any judgment.

(h) **Time.** Time is of the essence of every provision herein contained. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which said period of time runs shall be excluded, and the last day of such period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which case the period shall be deemed to run until 5:00 p.m. of the next day that is not a Saturday, Sunday, or legal holiday. Except as otherwise expressly provided herein, all time periods expiring on a specified date or period herein shall be deemed to expire at 5:00 p.m. on such specified date or period.

(i) **Counterparts; Facsimile Signatures.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument. A facsimile signature shall be deemed an original signature.

(j) **Captions.** Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and

shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

**(k) No Obligations to Third Parties.** Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties to this Agreement to, any person or entity other than the parties hereto.

**(l) Amendment to this Agreement.** The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

**(m) Waiver.** The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

**(n) Agency Director Authority.** The Agency Director of the Buyer public entity ("Director") or his or her assignee shall have the authority, on behalf of Buyer (but not Seller), to sign closing documents, issue interpretations, waive provisions, and enter into amendments of or supplements to this Agreement on behalf of Buyer, so long as such actions do not substantially or substantively change the terms and conditions of the purchase and sale of the Property as set forth herein and as agreed to by the Buyer in its approval of this Agreement. All other waivers or amendments on behalf of Buyer shall require the consideration and written consent of the Buyer.

**(o) Applicable Law.** This Agreement shall be governed by and construed in accordance with the local law of the State of California.

**(p) Exhibits and Schedules.** The exhibits and schedules attached hereto are incorporated herein by this reference for all purposes.

**(q) Entire Agreement.** This Agreement supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between, and the final expression of, Buyer and Seller with respect to the subject matter hereof. The parties hereto expressly agree and confirm that this Agreement is executed without reliance on any oral or written statements, representations or promises of any kind which are not expressly contained in this Agreement. No subsequent agreement, representation or promise made by either party hereto, or by or to an employee, officer, agent or representative of either party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

**(r) Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto.

**(s) Assignment.** This Agreement may not be assigned without the prior written consent of the other party hereto, which consent shall not unreasonably be withheld.

IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Sale Agreement and Joint Escrow Instructions as of the day and year first written above.

**BUYER:**

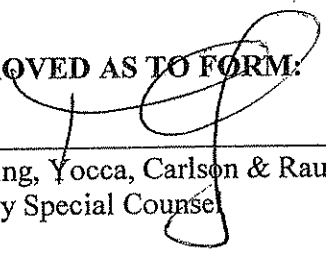
**GARDEN GROVE AGENCY FOR  
COMMUNITY DEVELOPMENT,**  
a public body, corporate and politic

By: \_\_\_\_\_  
Agency Director

**ATTEST:**

\_\_\_\_\_  
Agency Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Stradling, Yocca, Carlson & Rauth,  
Agency Special Counsel

**SELLER:**

**M. DAVID PAUL & ASSOCIATES,**  
a California limited partnership

By: \_\_\_\_\_  
M. David Paul, General Partner

IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Sale Agreement and Joint Escrow Instructions as of the day and year first written above.

**BUYER:**

**GARDEN GROVE AGENCY FOR  
COMMUNITY DEVELOPMENT,**  
a public body, corporate and politic

By: \_\_\_\_\_  
Agency Director

**ATTEST:**

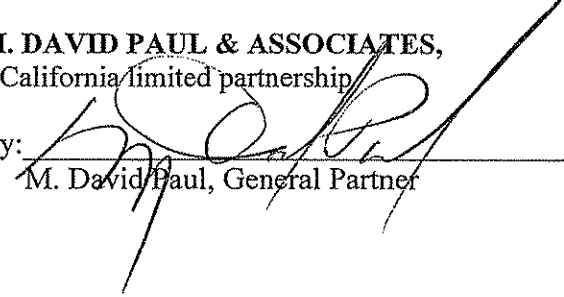
\_\_\_\_\_  
Agency Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stradling, Yocca, Carlson & Rauth,  
Agency Special Counsel

**SELLER:**

**M. DAVID PAUL & ASSOCIATES,**  
a California limited partnership

By:  \_\_\_\_\_  
M. David Paul, General Partner

Acceptance by Escrow Holder:

CHICAGO TITLE COMPANY hereby acknowledges that it has received a fully executed copy of the foregoing Purchase and Sale Agreement and Joint Escrow Instructions by and between M. David Paul & Associates, a California limited partnership, as Seller, and the Garden Grove Agency for Community Development, a public body corporate and politic, as Buyer, and agrees to act as Escrow Holder thereunder and to be bound by and strictly perform the terms thereof as such terms apply to Escrow Holder.

Dated: \_\_\_\_\_, 2009

CHICAGO TITLE COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_



**EXHIBIT A**

**LEGAL DESCRIPTION**

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

PARCEL 1, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 126 PAGES 18 AND 19 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 090-164-37

**EXHIBIT B**

**GRANT DEED**

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

Garden Grove Agency for Community  
Development  
11222 Acacia Parkway  
Garden Grove, California 92840  
Attn: Agency Director or Authorized  
Designee

APN: 099-092-02

[Space above for recorder.]

Exempt from recording fee and documentary transfer tax  
pursuant to Government Code Section 27283.

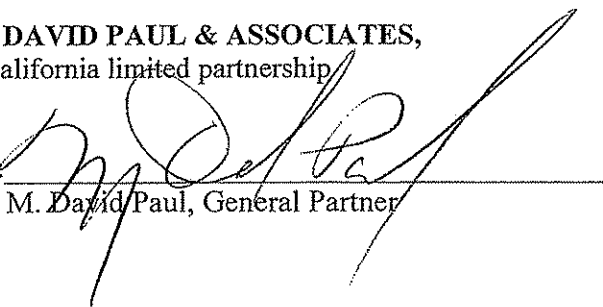
**GRANT DEED**

**FOR VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged,  
**M. DAVID PAUL & ASSOCIATES**, a California limited partnership (collectively "Grantor"),  
hereby grants to the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**,  
a public body corporate and politic, that certain real property located in the County of Orange, State  
of California, more particularly described on **Schedule 1** attached hereto and incorporated herein by  
this reference, subject to those certain matters described on Schedule 2 attached hereto and  
incorporated herein by this reference.

**IN WITNESS WHEREOF**, Grantor has executed this Grant Deed as of \_\_\_\_\_, 2009.

**"GRANTOR"**

**M. DAVID PAUL & ASSOCIATES,**  
a California limited partnership

By:   
M. David Paul, General Partner

**SCHEDULE 1 TO GRANT DEED**

**LEGAL DESCRIPTION**

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

PARCEL 1, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 126 PAGES 18 AND 19 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**SCHEDULE 2 TO GRANT DEED**

**PERMITTED EXCEPTIONS**

[ATTACH FROM BUYER'S TITLE POLICY ISSUED AT CLOSING]

**SCHEDULE 2 TO EXHIBIT B**

STATE OF CALIFORNIA

)

) ss.

COUNTY OF \_\_\_\_\_

)

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
(Print Name of Notary Public)

personally appeared \_\_\_\_\_

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 of Notary Public

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER**

**DESCRIPTION OF ATTACHED DOCUMENT**

- Individual
- Corporate Officer

\_\_\_\_\_  
Title(s)

\_\_\_\_\_  
Title Or Type Of Document

- Partner(s)       Limited
- General

- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: \_\_\_\_\_

\_\_\_\_\_  
Number Of Pages

Signer is representing:  
Name Of Person(s) Or Entity(ies)

\_\_\_\_\_  
Date Of Documents

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signer(s) Other Than Named Above

**CERTIFICATE OF ACCEPTANCE**

This is to certify that the fee interest in real property conveyed under the foregoing Grant Deed by, M. David Paul & Associates, a California limited partnership, as to the following property:

Real property in the City of Garden Grove, County of Orange, State of California, described as follows:

PARCEL 1, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 126 PAGES 18 AND 19 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

is hereby accepted by the Director of the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT** ("Agency") on behalf of the Agency pursuant to authority conferred by action by said Agency taken on July \_\_\_\_\_, 2009, and the Agency consents to recordation thereof by its duly authorized officer.

**GARDEN GROVE AGENCY FOR  
COMMUNITY DEVELOPMENT,**  
a public body corporate and politic

Dated: \_\_\_\_\_, 2009

By: \_\_\_\_\_  
Agency Director or Authorized Designee

**ATTEST:**

\_\_\_\_\_  
Agency Secretary

**EXHIBIT C**

**FIRPTA CERTIFICATE**

**TRANSFEROR'S CERTIFICATE OF NON-FOREIGN STATUS**

To inform the Garden Grove Agency for Community Development ("Transferee"), that withholding of tax under Section 1445 of the Internal Revenue Code of 1986, as amended ("Code") will not be required upon the transfer of that certain real property to the Transferee by **M. DAVID PAUL & ASSOCIATES**, a California limited partnership ("Transferor"), the undersigned hereby certifies the following:

1. The Transferor is not a foreign person or citizen, foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);

2. The Transferor's U.S. employer identification number is as follows:

[U.S. employer identification number] \_\_\_\_\_;

3. The Transferor's office address is:

233 Wilshire Boulevard, Suite 900  
Santa Monica, California 90401

The Transferor understands that this certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment or both. Under penalty of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document.

**"TRANSFEROR"**

**M. DAVID PAUL & ASSOCIATES,**  
a California limited partnership

By:   
M. David Paul, General Partner

EXHIBIT D

PURCHASE MONEY PROMISSORY NOTE

(Secured by Deed of Trust)

\$2,230,000

Garden Grove, California  
\_\_\_\_\_, 2009

FOR VALUE RECEIVED, the undersigned, GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic (collectively herein, "**Borrower**"), promises to pay to the order of M. DAVID PAUL & ASSOCIATES, a California limited partnership ("**Lender**"), at 233 Wilshire Boulevard, Suite 900, Santa Monica, California 90401, or at such other place as may be designated in writing by the Lender, the principal sum of Two Million, Two Hundred Thirty Thousand Dollars (\$2,230,000) (the "**Loan**"), with interest thereon at the rate of five percent (5.0%) per annum ("**Interest Rate**"). All sums owing under this Promissory Note Secured by Deed of Trust (this "**Note**") are payable in lawful money of the United States of America, in immediately available funds.

1. **Purpose of Note.** This Note is given in accordance with Borrower's obligations under that certain Purchase and Sale Agreement and Joint Escrow Instructions ("**Purchase Agreement**") dated July \_\_\_, 2009 between Borrower, as Buyer, and Lender, as Seller, as a portion of the Purchase Price of the Property described therein.

2. **Defined Terms.** All capitalized terms used and not otherwise defined in this Note shall have the same meanings in this Note as used and defined in the Purchase Agreement.

3. **Payment.** Borrower shall pay the following amounts which, if timely made, represents payment in full of the Loan:

\$696,000	First Anniversary of the Closing
\$667,000	Second Anniversary of the Closing
\$638,000	Third Anniversary of the Closing
\$609,000	Fourth Anniversary of the Closing

5. **Security.** This Note shall be secured by that certain Deed of Trust with Assignment of Rents (the "**Deed of Trust**") dated of even date herewith securing certain real property located in the City of Garden Grove, County of Orange, State of California, as more particularly described on Exhibit A attached to the Deed of Trust, the "**Property**."

6. **Default.** At the option of Lender, all sums remaining unpaid under this Note shall become immediately due and payable upon the occurrence of an Event of Default (as defined below). The occurrence of any of the following events shall constitute an "**Event of Default**" under this Note:

a. fail to make the full and punctual payment under Section 3 or of any late charges, costs and expenses due hereunder or any other sum of money required to be paid hereunder which failure is not cured on or before the tenth (10th) day after Lender's delivery of written notice of such failure to Borrower; or



b. cause or permit a default to occur in the timely performance or observance of any of the other terms, covenants or conditions hereof or in any of the terms, covenants or conditions of the Deed of Trust which default is not cured within the applicable cure period, if any, or if none specified, on or before the twentieth (20th) day of the Lender's written notice of such failure.

7. **Prepayment.** Borrower may, at any time, prepay any amounts outstanding under this Note in whole or in part without premium or penalty.

8. **Non-recourse.** This Note and the Deed of Trust shall be non-recourse. In the event of a default by Borrower under the terms of this Note or the Deed of Trust, neither Borrower nor its shareholders shall be personally liable for the payment of the indebtedness evidenced by, or any default under, this Note or the Deed of Trust, and any judgment or decree in any action brought to enforce the obligations of Borrower to pay such indebtedness or brought because of any such default shall be enforceable against Borrower only to the extent of Borrower's interest in the Property. Any judgment or decree shall not be subject to execution, or be a lien, on the assets of Borrower or the members in Borrower, other than Borrower's interest in the Property.

9. **Miscellaneous.** If this Note is executed by more than one person as Borrower, the obligations of each such person shall be joint and several. Time is of the essence with respect to every provision hereof. This Note shall be construed and enforced in accordance with the laws of the State of California, and all persons and entities in any manner obligated under this Note consent to the jurisdiction of any federal or state court within the State of California having proper venue and also consent to service of process by any means authorized by California or federal law. If any provision hereof is found to be invalid or unenforceable by a court of competent jurisdiction, the invalidity thereof shall not affect the enforceability of the remaining provisions of this Note.

10. **Attorneys' Fees.** If any attorney is engaged by Lender to enforce or defend any provision of this Note, or as a consequence of any Event of Default, with or without the filing of any legal action or proceeding, including, but not limited to, Lender's appearance in any bankruptcy proceeding related to Borrower or this Note, then Borrower shall pay to Lender immediately upon demand all attorneys' fees and all costs incurred by Lender in connection therewith, together with interest thereon from the date of such demand until paid at the rate of interest applicable to the principal balance owing hereunder as if such unpaid attorneys' fees and costs had been added to the principal.

11. **Default Rate.** From and after the occurrence of an Event of Default hereunder, overdue payments of principal, interest and charges, costs and expenses hereunder shall bear interest, from the date the same became due and payable, at an annual rate which is four (4) percentage points above the Interest Rate otherwise then applicable.

12. *Late Charge.* In the event any payment under Section 3 above is not paid within ten (10) business days after Lender provides Borrower with written notice of Borrower's failure to make timely payment pursuant to Section 3, Borrower shall immediately pay Lender a late charge of one (1%) percent of the amount of the payment due. Such late charge shall be payable to Lender as additional interest and not as a penalty.

**"BORROWER"**

**GARDEN GROVE AGENCY FOR  
COMMUNITY DEVELOPMENT,**  
a public body, corporate and politic

By: \_\_\_\_\_  
Agency Director

**EXHIBIT E**

**FORM OF DEED OF TRUST**

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

**DEED OF TRUST**

WITH ASSIGNMENT OF RENTS AS ADDITIONAL SECURITY

This DEED OF TRUST, made \_\_\_\_\_, between

herein called TRUSTOR,  
whose address is

**CHICAGO TITLE COMPANY**, a California Corporation, herein called TRUSTÉE, and

\_\_\_\_\_, herein called BENEFICIARY,  
Trustor irrevocably grants, transfers and assigns to Trustee in Trust, with Power of Sale that property  
in \_\_\_\_\_ County \_\_\_\_\_ California, described as:

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits.

For the Purpose of Securing (1) payment of the sum of \$ \_\_\_\_\_ with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof; (2) the performance of each agreement of Trustor incorporated by reference or contained herein or reciting it is so secured; (3) Payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A of that certain Fictitious Deed of Trust referenced herein, and it is mutually agreed that all of the provisions set forth in subdivision B of that certain Fictitious Deed of Trust recorded in the book and page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, namely:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	1288	556	Kings	858	713	Placer	1028	379	Sierra	38	187
Alpine	3	130-31	Lake	437	110	Plumes	166	1307	Siskiyou	506	762
Amador	133	438	Lassen	192	367	Riverside	3778	347	Solano	1287	621
Butte	1330	513	Los Angeles	T-3878	874	Sacramento	71-10-26	615	Sonoma	2067	427
Calveras	185	338	Madera	911	136	San Benito	300	405	Stanislaus	1970	56
Colusa	323	391	Marin	1849	122	San Bernardino	6213	768	Sutter	655	585
Contra Costa	4684	1	Mariposa	90	453	San Francisco	A-804	596	Tehama	457	183
Def Norte	101	549	Mendocino	667	99	San Joaquin	2855	283	Trinity	108	595
El Dorado	704	635	Merced	1660	753	San Luis Obispo	1311	137	Tulare	2530	108
Fresno	5052	623	Modoc	191	93	San Mateo	4778	175	Tuolumne	177	160
Glenn	469	76	Mono	69	302	Santa Barbara	2065	881	Ventura	2607	237
Humboldt	801	83	Monterey	357	239	Santa Clara	6626	664	Yolo	769	16
Imperial	1189	701	Napa	704	742	Santa Cruz	1638	607	Yuba	398	693
Inyo	165	672	Nevada	363	94	Shasta	800	633			
Kern	3756	690	Orange	7182	18	San Diego Series 5 Book 1964, Page 149774					

shall inure to and bind the parties hereto, with respect to the property above described. Said agreements, terms and provisions contained in said subdivisions A and B, (identical in all counties) are preprinted on the following pages hereof and are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein, and Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge thereof does not exceed the maximum allowed by laws.

The undersigned Trustor, requests that a copy of any notice of default and any notice of sale hereunder be mailed to him at his address hereinbefore set forth.

\_\_\_\_\_

\_\_\_\_\_

STATE OF CALIFORNIA }  
COUNTY OF \_\_\_\_\_ } S.S.

On \_\_\_\_\_, \_\_\_\_\_ before me, \_\_\_\_\_  
\_\_\_\_\_, a Notary Public in and for said County and State,  
personally appeared, \_\_\_\_\_

\_\_\_\_\_, 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: \_\_\_\_\_

(Notary Seal)

STATE OF CALIFORNIA }  
COUNTY OF \_\_\_\_\_ } S.S.

On \_\_\_\_\_, \_\_\_\_\_ before me, \_\_\_\_\_  
\_\_\_\_\_, a Notary Public in and for said County and State,  
personally appeared, \_\_\_\_\_

\_\_\_\_\_, 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: \_\_\_\_\_

(Notary Seal)

## DO NOT RECORD

The following is a copy of Subdivisions A and B of the fictitious Deed of Trust recorded in each County in California as stated in the foregoing Deed of Trust and incorporated by reference in said Deed of Trust as being a part thereof as if set forth at length therein.

A. To protect the security of this Deed of Trust, Trustor agrees:

(1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer, or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.

(4) To pay: at least ten days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may, make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.

(5) To pay immediately and without demand all sums so expanded by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby, any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

EXHIBIT E-4

B. It is mutually agreed:

(1) That any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him or her in the same manner and with the same effect as above provided for regarding disposition of proceeds of fire or other insurance.

(2) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his or her right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(3) That at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(4) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

(5) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his or her own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(6) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice Trustee shall Cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

(7) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

(8) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term Beneficiary shall mean the owner and holder, including pledgees of the note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or the neuter, and the singular number includes the plural.

(9) The Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

DO NOT RECORD

REQUEST FOR FULL RECONVEYANCE

EXHIBIT E-6



TO CHICAGO TITLE COMPANY

The undersigned is the legal owner and holder of the note or notes and of all other indebtedness secured by the foregoing Deed of Trust. Said note or notes, together with all other indebtedness secured by said Deed of Trust, have been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel said note or notes above mentioned, and all other evidence of indebtedness secured by said Deed of Trust delivered to you herewith, together with the said Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, all the estate now held by you under the same.

Dated

Please mail Deed of Trust,  
Note and Reconveyance to \_\_\_\_\_

*Do not lose or destroy this Deed of Trust OR THE NOTE which it secures. Both must be delivered to the Trustee for cancellation before reconveyance will be made.*

EXHIBIT E-7