

**AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY
AND ESCROW INSTRUCTIONS**

Escrow No. _____ Date of Opening of Escrow: _____, 2022

To: Fidelity National Title ("Escrow Holder")
4400 MacArthur Blvd, Suite 200
Newport Beach, California 92660
Attention: Dayna Villegas
Telephone: 949-477-3660
Email: Dayna.villegas@fnf.com

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND ESCROW INSTRUCTIONS ("Agreement") is made this ____ day of _____, 2022 ("Effective Date"), by and between City of Newport Beach, a California municipal corporation and charter city ("City"), and the Orange County Sanitation District, a County Sanitation District ("OC San"). City and OC SAN are sometimes hereinafter individually referred to as a "Party" and collectively as the "Parties" to this Agreement.

RECITALS:

The following Recitals are a substantive part of this Agreement and are incorporated herein:

A. City is a municipal corporation and charter city duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of City.

B. City is the owner of that certain real property commonly known as 1516 Balboa Boulevard West, located in the City of Newport Beach, County of Orange, State of California, having County Assessor's Parcel Number 047-222-10, which is, on the Effective Date, more particularly described on **Exhibit "A"** and depicted on **Exhibit "B"** attached hereto and by this reference incorporated herein, (referred to herein as the "City Property").

C. OC San is a duly organized County Sanitation District existing pursuant to the County Sanitation District Act, California Health and Safety Code Section 4700, *et seq.*, providing for the ownership, operation, and maintenance of wastewater collection, treatment, and disposal facilities within Orange County, California.

D. OC San is the owner of that certain real property commonly known as 1514 Balboa Boulevard West, located in the City of Newport Beach, County of Orange, State of California, having Assessor's Parcel Number 047-222-09, which is, on the Effective Date, more particularly described on **Exhibit "C"** and depicted on **Exhibit "D"** attached

hereto and by this reference incorporated herein, (referred to herein as the “OC San Property”). In 2006, OC San built a pump station on the OC San Property, which pumps wastewater to higher ground. The pumps and electrical equipment comprising the pump station are located in a building on the OC San Property above ground level.

E. OC San would like to acquire approximately one thousand forty-two (1,042) square feet of the City Property that is immediately adjacent to the OC San Property. That portion of the City Property is more particularly described on **Exhibit “E”** and depicted on **Exhibit “F”** attached hereto and by this reference incorporated herein (referred to herein as the “Transfer Property”). If, after the Effective Date, but prior to the Closing Date (as defined in Section 6.1, below), the Parties agree in writing to make changes to the legal description of the Transfer Property, which is the subject of this Agreement, the updated legal description of the Transfer Property will be used in the Grant Deed (defined in Section 4.2(a) below).

F. In accordance with City Council Policy F-7, whenever less than the open market or appraised value is received or when an open bid process is not conducted, the City shall make specific findings setting forth the reasons thereof. Such findings may include but need not be limited to: the property provides an essential or unique service to the community that might not otherwise be provided were full market value of the property required, or the property serves to promote other goals of the City such as affordable housing, preservation of open space or marine related services.

G. The City finds that use of the Transfer Property by OC San as part of its pump station provides an essential or unique service to the community and that offering the Transfer Property for sale at an open bid and potentially converting the Transfer Property to another use or changing the user of the Transfer Property would not be of substantial benefit to the City. Moreover, use of the Transfer Property by OC San as part of its pump station promotes other goals of the City such as quality municipal utility services. Further, pursuant to the Newport Beach Municipal Code and City Council Policy F-7, the City conducted an analysis to determine the open market value of the Transfer Property, using an appraisal by a reputable and independent professional appraiser to determine the highest value of the Transfer Property in its condition as of the Effective Date.

H. OC San acknowledges that as a precondition to OC San’s acquisition of the fee interest in the Transfer Property, the City is requiring OC San to obtain the necessary land use approvals from the Newport Beach Community Development Department to complete a lot line adjustment to remove the Transfer Property from the City Property and incorporate the Transfer Property into the OC San Property (“Lot Line Adjustment”). The documents and instruments that must be recorded to effect the Lot Line Adjustment (the “Lot Line Adjustment Documents”) will be recorded immediately following the recordation of the Grant Deed in such form, content, and order as the Parties may reasonably determine consistent with the terms of this Agreement.

NOW, THEREFORE, in consideration for the benefits set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1. **PURCHASE AND SALE OF PROPERTY.** OC San hereby agrees to purchase from City, and City agrees to sell to OC San the Transfer Property, upon the terms and conditions hereinafter set forth.

2. **PURCHASE PRICE.** The total purchase price for the Transfer Property, which includes the value of the land and improvements, is FOUR HUNDRED SIXTY-SEVEN THOUSAND SIX HUNDRED TWENTY-NINE DOLLARS and 56/100 (\$467,629.56) ("Purchase Price").

2.1 **Payment of Purchase Price.**

(a) Not later than five (5) business days following the opening of Escrow, as defined in Section 3.1 below, OC San shall deposit in Escrow in good funds, the sum of ONE HUNDRED SIXTY-SEVEN THOUSAND EIGHT HUNDRED SIXTY-SEVEN DOLLARS and NO/100 (\$167,867.00) ("Deposit"), which Deposit shall be immediately non-refundable and applicable to the Purchase Price upon Closing (as defined in Section 6.1, below) unless City fails to comply with Section 4.4, refuses to allow inspection of the Transfer Property as provided in Section 5.4, fails to provide the preliminary title report as provided in Section 7.1, and/or declines to remove Disapproved Exceptions as provided in Section 7.1 of this Agreement as provided in this Section 2.1(a). OC San shall have the unqualified and unrestricted right to terminate its obligations under this Agreement on or before the expiration of the Due Diligence Period, hereinafter defined. In the event this Agreement is terminated by OC San on or before the expiration of the Due Diligence Period for any reason other than the City's failure to comply with Section 4.4, refusal to allow inspection of the Transfer Property as provided in Section 5.4, failure to provide the preliminary title report as provided in Section 7.1, and/or declines to remove Disapproved Exceptions as provided in Section 7.1 of this Agreement (the date of which termination is hereinafter referred to as the "Termination Date"), the Deposit shall be paid to the City within seven (7) days of the Termination Date.

(b) On or before the Closing Date, as defined in Section 6.1 below, OC San shall deposit in Escrow the balance of the Purchase Price, subject to any other credits or debits hereunder, in "good funds." "Good funds" shall mean a wire transfer of funds, cashier's or certified check drawn on or issued by the offices of a financial institution located in the State of California, or cash.

2.2 Interest-Bearing Account. If requested in writing to do so by OC San, Escrow Holder shall deposit and hold the Deposit in an interest-bearing account. All interest earned on the Deposit shall be credited to OC San.

3. ESCROW. This Agreement constitutes the joint escrow instructions of the City and OC San. Escrow Holder, to whom these instructions are delivered, is hereby authorized, directed, and empowered to act under and in strict accordance with this Agreement.

3.1 Opening of Escrow. Within five (5) business days after the execution of this Agreement, the Parties shall open an escrow ("Escrow") with the Escrow Holder by causing an executed copy of this Agreement to be deposited with Escrow Holder. Escrow shall be deemed opened on the date that Escrow Holder confirms in writing to City and OC San that Escrow has opened and provides the Parties with an Escrow account number. The Parties agree to perform all acts reasonably necessary to close Escrow if and when required hereby.

3.2 Escrow Holder Is Authorized To And Shall:

(a) Prior to disbursing any portion of the Purchase Price to Seller in connection with the Closing (as defined in Section 6.1 below) of the Escrow, Escrow Holder shall pay and deduct from the Purchase Price any amount necessary to satisfy (i) any delinquent taxes on the Transfer Property together with penalties and interest thereon, and/or (ii) delinquent or non-delinquent assessments or bonds on the Transfer Property except those which title is to be taken subject to in accordance with the terms of Section 7.2 of this Agreement;

(b) Prior to disbursing any portion of the Purchase Price to Seller in connection with the Closing of the Escrow, Escrow Holder shall pay and deduct from the Purchase Price all amounts necessary to cause to be released and fully reconveyed all monetary liens encumbering all or any part of the Transfer Property including, but not limited to, all deeds of trust, mortgages, or any other monetary liens or security interests, if any, encumbering the Transfer Property;

(c) Pay and charge to OC San all premiums, fees, and charges for any new or modified title policy that OC San may wish to purchase for the Transfer Property and/or the OC San Property and/or for any new or modified endorsements to OC San's existing title policy for the OC San Property;

(d) Pay and charge to the City all premiums, fees, and charges for any new or modified title policy that City may wish to purchase for the City Property and/or for any new or modified endorsements to City's existing title policy for the City Property;

(e) Pay and charge to OC San all recording fees incurred in this transaction;

(f) Pay and charge OC San for one-half of any escrow fees, charges, and costs payable under Section 7, below, except as otherwise expressly provided in this Section 3.2 and Section 9.4, below, and pay and charge City for one-half of any escrow fees, charges, and costs payable under Section 7, below, except as otherwise expressly provided in this Section 3.2 and Section 9.4, below;

(g) Prorate, as between City and OC San, real estate taxes and assessments through the Closing of Escrow, with OC San to be charged with and have the benefit of the Closing Date, as provided in Section 9.3 of this Agreement; and

(h) Disburse the Purchase Price in accordance with this Agreement, and record the Grant Deed and the documents and instruments effecting the Lot Line Adjustment in the Official Records of the County Recorder of Orange County, California in such order as the Parties shall direct in writing.

4. ADDITIONAL FUNDS AND DOCUMENTS REQUIRED FROM CITY AND OC SAN.

4.1 OC San. OC San agrees that on or before 1:00 p.m. on the business day preceding the Closing Date, OC San will deposit with Escrow Holder all additional funds and any other items and/or documents (executed and acknowledged, if appropriate) as may be necessary to comply with the terms of this Agreement, including without limitation, the following:

(a) The balance of the Purchase Price plus the sums necessary to pay OC San's share of closing costs and prorations;

(b) The Lot Line Adjustment Documents and any other documents and funds needed from OC San to enable the Parties to cause the Lot Line Adjustment to be recorded immediately following the recording of the Grant Deed;

(c) A Preliminary Change of Ownership Report completed in the manner required in Orange County, California; and

(d) Such funds and other items and instruments as may be necessary in order for Escrow Holder to comply with this Agreement.

4.2 City. City agrees that on or before 1:00 p.m. on the business day preceding the Closing Date, City will deposit with Escrow Holder such funds and other items and/or documents (executed and acknowledged, if appropriate) as may be necessary to comply with the terms of this Agreement, including without limitation, the following:

(a) A grant deed conveying the Transfer Property to OC San in a form substantially similar to the form of **Exhibit “G”** attached hereto and incorporated herein by this reference (“Grant Deed”);

(b) A Non-Foreign Affidavit on Escrow Holder’s Standard form or a form substantially similar thereto (“Non-Foreign Affidavit”);

(c) Such funds and other items and instruments as may be necessary in order for Escrow Holder to comply with this Agreement; and

(d) The Lot Line Adjustment Documents from City to enable the Parties to cause the Lot Line Adjustment to be recorded immediately following the recording of the Grant Deed. Notwithstanding the foregoing, as set forth in Section 4.6, the Parties understand and agree that the application, permitting and approval of the Lot Line Adjustment shall be OC San’s obligation. This Section 4.2(d) shall not be interpreted or construed as requiring the City, as a party to this Agreement, to process, permit and/or approve the Lot Line Adjustment nor shall the denial of approval of Lot Line Adjustment be construed as a City Default.

Escrow Holder shall cause the Grant Deed to be recorded when (but in no event after the date specified in Section 6.1 below) Title Company is in a position to issue the Title Policy in the form described in Section 7 below, and Escrow Holder will hold for the account of City and OC San, respectively, the items described in Sections 4.1 and 4.2 above, to be delivered to City and OC San, respectively, through Escrow, less costs, expenses and disbursements chargeable to City and OC San, respectively, pursuant to the terms hereof.

4.3 RESERVED.

4.4 Miscellaneous Documents. On or before five (5) business days following the opening of Escrow, City shall deliver to OC San all documents relating to the Transfer Property which City may have in its possession including but not limited to copies of all Phase I and Phase II Environmental Reports, together with engineering reports, surveys, title materials, geotechnical reports, soils studies, environmental audits and reports, environmental impact reports or mitigated negative declarations, and all other documents relating to the Transfer Property for OC San’s review and approval. OC San shall notify City on or before the expiration of the Due Diligence Period of OC San’s approval or disapproval of each item as more fully set forth in Section 5.3 of this Agreement. If OC San does not acquire the Transfer Property, all said documents shall be promptly returned to City. In addition, City shall deliver to OC San (or cause Escrow Holder to deliver to OC San), natural hazard disclosure reports, if any exist, covering the Transfer Property in such form as required by law, which shall be countersigned by OC San and returned to City and Escrow Holder.

4.5 RESERVED.

4.6 Lot Line Adjustment Documents. OC San shall submit a complete application for a Lot Line Adjustment with the City and pay any associated costs, including, but not limited to hiring a licensed surveyor or civil engineer to prepare the exhibits to the application. City shall reasonably cooperate with OC San in the filing and processing of the application for the Lot Line Adjustment, and recording of the Lot Line Adjustment Documents, including promptly executing, delivering, and notarizing, as applicable, all documents required to process the Lot Line Adjustment and facilitate recordation of the Lot Line Adjustment Documents. OC San, at its own cost and expense, shall cause the Lot Line Adjustment Documents to be recorded, which includes paying any fees and preparing, completing, and recording any Lot Line Adjustment Documents reasonably required to complete the Lot Line Adjustment.

5. DUE DILIGENCE PERIOD.

5.1 Inspection Rights. At OC San's own cost and expense, it may make an independent investigation of the Transfer Property and all other aspects of this transaction and may rely thereon and on the advice of its consultants in entering into and, if applicable, terminating this Agreement.

5.2 OC San Inspection. Commencing upon the opening of Escrow and City's delivery of the documents described in Section 4.4 above and the Preliminary Title Report described in Section 7.1 below, and continuing thereafter for forty-five (45) calendar days ("Due Diligence Period"), OC San, its agents, and employees shall have the right to:

(a) examine and inspect the Transfer Property including the physical condition, quality, quantity and state of repair of the Transfer Property in all respects;

(b) review all instruments, records and documents which OC San deems appropriate or advisable to review in connection with this transaction, including, but not by way of limitation, any and all plans, specifications, surveys, environmental assessments, existing leases and/or easement documents reports, and title reports; and

(c) review all applicable laws, ordinances, rules and governmental regulations (including those relating to building, zoning and land use) affecting the development, use, occupancy or enjoyment of the Transfer Property.

5.3 Approval or Disapproval of Transfer Property After Inspection. On or before the expiration of the Due Diligence Period, OC San may notify Escrow, in writing, of its approval or disapproval of all inspections conducted pursuant to Sections 5.1 and 5.2 and all property documents provided by City pursuant to Section 4.4. Should OC San fail to provide written notice of its election to approve or disapprove each inspection conducted pursuant to Sections 4.4, 5.1 and 5.2, OC San shall be conclusively determined to have approved the condition of the Transfer Property. If OC San timely disapproves the above-

described inspections, this Agreement shall terminate and the Deposit shall be paid to City.

5.4 Entry for Investigation. Subject to the conditions hereafter stated, City grants to OC San, its agents, employees, and consultants a limited license to enter upon any portion of the Transfer Property for the purpose of conducting engineering surveys, soil tests, investigations or other studies reasonably necessary to evaluate the condition of the Transfer Property and to determine the information necessary to prepare the Lot Line Adjustment Documents, which studies, surveys, investigations and tests shall be done, if at all, at OC San's sole cost and expense. OC San shall (a) notify City prior to each entry of the date and purpose of intended entry and provide to City the names and affiliations of the persons entering the Transfer Property; (b) conduct all studies in a diligent, expeditious and safe manner and not allow any dangerous or hazardous conditions to occur on the Transfer Property as a result of such studies during or after such investigation, as a result of that investigation; (c) comply with all applicable laws and governmental regulations in connection with entering and performing such investigations on the Transfer Property; (d) keep the Transfer Property free and clear of all mechanics' and materialmen's liens, lis pendens and other liens arising out of the entry and work performed under this paragraph; (e) maintain or assure maintenance of workers' compensation insurance (or state approved self-insurance) covering all persons entering the Transfer Property in the amounts required by the State of California; (f) provide to City prior to initial entry a certificate of insurance evidencing that OC San has procured and paid premiums for an all-risk public liability insurance policy written on a per occurrence and not claims made basis in a combined single limit of not less than TWO MILLION DOLLARS and 00/100 (\$2,000,000.00) which insurance names City as additional insured entitled to not less than thirty (30) days cancellation notice and is primary and non-contributing with insurance carried by City; and (g) return the Transfer Property to its original condition following OC San's entry. OC San agrees to indemnify, defend, protect and hold City free and harmless from any and all loss, liability, claims, damages, causes of action and expenses (including but not limited to reasonable attorneys' fees and costs) (collectively, "Claims") arising from the exercise of said license, or from OC San's failure to comply with the conditions to OC San's entry onto the Transfer Property provided herein; provided, that such indemnity shall not extend or apply to discovery of pre-existing conditions or matters relating to the Transfer Property, or any impact on the Transfer Property or its valuation resulting therefrom or to any Claims to the extent arising from or caused by the negligence or wrongful conduct of the City or any of its agents or representatives. Such undertaking of indemnity shall survive Close of Escrow or the termination of this Agreement for any reason. The limited license herein granted shall be co-extensive with the term of this Agreement and any extension hereof.

6. CLOSING DATE.

6.1 Closing Date. Close of Escrow shall occur on or before one hundred eighty (180) calendar days from the date of opening of Escrow, but in no event later than fifteen (15) calendar days from the date on which OC San has confirmed to the Parties and Escrow Holder that the Lot Line Adjustment is in a ready to record condition ("Closing

Date”). The terms the “Close of Escrow”, and/or the “Closing” are used herein to mean the time City’s Grant Deed is filed for record by the Escrow Holder in the Office of the County Recorder of Orange County, California. OC San and City each specifically agrees to strictly comply and perform its obligations herein in the time and manner specified and waives any and all rights to claim such compliance by mere substantial compliance with the terms of this Agreement.

6.2 Extension; Extension Deposit. OC San shall have the right to extend the Closing Date by thirty (30) calendar days (“Extension”), provided OC San delivers to Escrow Holder the sum of TWENTY-FIVE THOUSAND DOLLARS and 00/100 (\$25,000.00) (“Extension Deposit”), which amount shall be applicable to the Purchase Price and shall be deemed consideration for such extension. The Extension Deposit shall be promptly returned to OC San only if City fails to satisfy any of the conditions specified in Section 8.1 (b) through (e) below, and those conditions are not waived by OC San in writing prior to Closing or if the Close of Escrow fails to occur and such failure is not due to the uncured default of OC San under this Agreement. In any other circumstance, City shall retain the Extension Deposit.

6.3 RESERVED.

6.4 RESERVED.

6.5 RESERVED.

6.6 Distribution of Documents. Following Close of Escrow, Escrow Holder shall distribute the documents as follows:

(a) To OC San:

(i) One certified conformed copy of the Grant Deed, the original of which shall be mailed to OC San following recordation thereof;

(ii) One certified conformed copy of each of the recorded Lot Line Adjustment Documents, the originals of which shall be mailed to OC San following recordation thereof; and

(iii) One certified copy, conformed if recorded, of any other document delivered to Escrow Holder by OC San or City pursuant to the terms hereof.

(b) To City:

(i) One duplicate original of the ~~Non-Foreign~~ Affidavit; and

(ii) One certified copy, conformed if recorded, of any other document delivered to Escrow Holder by OC San or City pursuant to the terms hereof.

7. TITLE POLICY.

7.1 Approval of Title. Following execution of this Agreement but in no event later than five (5) calendar days following opening of Escrow, City shall deliver to OC San a preliminary title report issued through Fidelity National Title Company ("Title Company"), describing the state of title of the Transfer Property ("Preliminary Title Report") for an endorsement to add the Transfer Property to the coverage under OC San's existing owner's policy of title insurance for the OC San property and to increase the policy limits thereunder by an amount equal to the Purchase Price, together with copies of all exceptions specified therein. OC San shall notify City in writing of any objections OC San may have to title exceptions or other matters ("Disapproved Exceptions") contained in the Preliminary Title Report within fifteen (15) calendar days after OC San's receipt of the Preliminary Title Report ("OC San's Objection Notice"). If OC San fails to deliver OC San's Objection Notice within said fifteen (15) calendar day period, OC San shall be conclusively deemed to have approved the Preliminary Title Report and all matters shown thereon. In the event OC San delivers OC San's Objection Notice within said period, City shall have a period of ten (10) calendar days after receipt of OC San's Objection Notice in which to notify OC San of City's election to either (i) agree to remove the Disapproved Exceptions prior to the Close of Escrow; or (ii) decline to remove any such Disapproved Exceptions ("City's Notice"). City shall only elect to decline to remove Disapproved Exceptions where City in good faith believes City's reasonable efforts would not result in removal or as to which removal would result in cost or expense to City other than nominal administrative expense incurred in the process of removal. City's failure to deliver City's Notice within said ten (10) calendar day period shall be deemed City's election to decline to remove the Disapproved Exceptions. If City notifies OC San of its election to decline to remove the Disapproved Exceptions, if City is deemed to have elected to decline to remove the Disapproved Exceptions or if City is unable to remove the Disapproved Exceptions, OC San may elect either to terminate this Agreement and the Escrow or to accept title to the Transfer Property subject to the Disapproved Exception(s). OC San shall exercise such election by delivery of written notice to City and Escrow Holder within fifteen (15) calendar days following the earlier of (i) the date of written advise from City that such Disapproved Exception(s) cannot be removed; or (ii) the date City declines or is deemed to have declined to remove such Disapproved Exception(s). If OC San fails to deliver said written notice of termination of this Agreement and the Escrow within said fifteen (15) calendar day period, OC San's disapproval of the Disapproved Exception(s) shall be deemed waived and OC San shall be deemed to have agreed to accept title to the Transfer Property subject to the Disapproved Exception(s). Notwithstanding anything in this Agreement to the contrary, City shall remove from title of the Transfer Property, at or before the Close of Escrow, any deeds of trust, mortgages, judgement liens, mechanics liens, and other monetary encumbrances encumbering the Transfer Property.

Upon the issuance of any amendment or supplement to the Preliminary Title Report which adds additional exceptions, the foregoing right of review and approval shall also apply to said amendment or supplement, provided, however, that OC San's initial period of review and approval or disapproval of any such additional exceptions shall be limited to ten (10) calendar days following receipt of notice of such additional exceptions along with a legible copy of the underlying document comprising the basis for each such additional exception.

7.2 Title Policy to be Issued to OC San. When Escrow Holder holds for OC San the Grant Deed in favor of OC San executed and acknowledged by City and the Lot Line Adjustment Documents that must be recorded to incorporate the Transfer Property into the OC San Property executed and acknowledged by City and OC San, Escrow Holder shall cause to be issued and delivered to OC San and City as of the Closing Date a CLTA standard coverage policy of title insurance or, upon OC San's request therefor, an ALTA extended coverage policy of title insurance ("Title Policy"), issued by Title Company, with liability in the amount of the Purchase Price, covering the Transfer Property and showing title vested in OC San free of all liens and encumbrances, except:

(a) All nondelinquent general and special real property taxes and assessments for the current fiscal year;

(b) Easements, encumbrances, covenants, conditions, restrictions, reservations, rights-of-way and other matters of record, as approved or deemed approved by OC San pursuant to Section 7.1 above;

(c) The standard printed exceptions and exclusions contained in the CLTA or ALTA form policy; and

(d) Any exceptions created or consented to in writing by OC San, including without limitation, any exceptions resulting from OC San's possession of or entry on the Transfer Property.

8. CONDITIONS PRECEDENT TO CLOSE OF ESCROW.

8.1 Conditions Precedent to OC San's Obligations. The obligations of OC San under this Agreement to proceed with Close of Escrow shall be subject to the satisfaction or written waiver, in whole or in part, by OC San of each of the following conditions precedent:

(a) Title Company has irrevocably committed to issue a CLTA Title Policy as required by Section 7 of this Agreement insuring title to the Transfer Property vested in OC San or other vestee designated by OC San for vesting purposes only.

(b) City has delivered to Escrow all documents required to be delivered under Section 4.2(a), (b) and (d) above and City shall not have given any

instruction to Escrow that is contrary to City's obligations under this Agreement unless such revised escrow instructions have been given in writing and agreed to by both Parties.

(c) All representations and warranties specified in Section 11.1 are true and correct.

(d) The Transfer Property shall be delivered free of any tenants, licenses, concessionaires or other rights of possession by any third party.

(e) The California Department of Housing and Community Development has not objected to City's declaration that the Transfer Property is "exempt surplus" under California Government Code Section 54221 within the statute of limitations.

8.2 Conditions Precedent to City's Obligations. The obligations of City under this Agreement to proceed with Close of Escrow shall be subject to the satisfaction or written waiver, in whole or in part, by City of each of the following conditions precedent (provided that the condition in Section 8.2(b) shall not be waived and must be satisfied at Close of Escrow):

(a) Escrow Holder holds and shall be prepared to deliver to City at the Closing the instruments and funds, if any, accruing to City pursuant to this Agreement and OC San shall not have given any instruction to Escrow that is contrary to OC San's obligations under this Agreement unless such revised escrow instructions have been given in writing and agreed to by both Parties.

(b) OC San has delivered to Escrow all documents necessary for Escrow to record the Lot Line Adjustment Documents immediately following the recordation of the Grant Deed and, to the extent applicable, such Lot Line Adjustment Documents are in a ready to record condition.

8.3 Return of Deposit; City Default; OC San Default. In the event that City fails to satisfy any of the conditions specified in Section 8.1 (b) through (e), above, and those conditions are not waived by OC San or cured within ten (10) business days after City's receipt of a written notice from OC San specifying such default in writing prior to Closing, this Agreement shall be terminated pursuant to the terms of Section 9.5 below, and Escrow shall promptly return the Deposit together with any and all interest accrued thereon to OC San.

In the event that OC San fails to satisfy any of the conditions specified in Section 8.2 and those conditions are not waived by City in writing prior to Closing or if Escrow fails to timely Close and such failure is due to a uncured default by OC San under this Agreement that is not fully cured by OC San within ten (10) business days after OC San's receipt of a written notice from City specifying such default (either, an "OC San Default"), the Deposit and any and all interest accrued thereon shall be forfeited by OC San and retained by City.

9. ESCROW PROVISIONS.

9.1 Escrow Instructions. This Agreement, when signed by OC San and City, shall also constitute escrow instructions to Escrow Holder. If required by Escrow Holder, OC San and City agree to execute Escrow Holder's standard escrow instructions, provided that the same are consistent with and do not conflict with the provisions of this Agreement. In the event of any such conflict, the provisions of this Agreement shall prevail.

9.2 General Escrow Provisions. Escrow Holder shall deliver the Title Policy to OC San and instruct the Orange County Recorder to mail the Grant Deed and the recorded Lot Line Adjustment Documents to OC San at the address set forth in Section 31 after recordation. All funds received in this Escrow shall be deposited in one or more general escrow accounts of the Escrow Holder with any bank doing business in Orange County, California, and may be disbursed to any other general escrow account or accounts. All disbursements shall be made by Escrow Holder's check or wire transfer.

9.3 Proration of Real Property Taxes. All nondelinquent general and special real property taxes applicable to the Transfer Property shall be prorated to the Close of Escrow on the basis of a thirty (30) day month and a three hundred sixty-day (360) year. In the event that property taxes are assessed on a parcel of real property which includes land other than the Transfer Property, such proration shall include only taxes attributable to the Transfer Property, calculated in terms of total gross square feet of land assessed pursuant to the tax statement versus total gross square footage of the Transfer Property. Any supplemental tax bills received after Close of Escrow shall be paid by City to the extent they relate to a period prior to Close of Escrow, and by OC San, to the extent they relate to a period after Close of Escrow. If a supplemental tax bill covers a period commencing before and continuing after Close of Escrow, the Party named in the supplemental tax bill will pay the tax and the other Party shall reimburse the first Party its pro rata share of the portion of such supplemental tax bill that pertains to the Transfer Property within thirty (30) calendar days after receipt of a copy of the tax bill and evidence of the second Party's payment of same. The provisions of this Section 9.3 shall survive Close of Escrow. If either Party fails to pay its pro rata share of taxes for the Transfer Property by the times herein provided, interest shall accrue on all unpaid amounts from when owing until paid at five percent (5%) over the Federal Discount Rate quoted by the Federal Reserve Bank of San Francisco on the 25th day of the month preceding the date interest commences to accrue.

9.4 Payment of Costs. City shall pay one-half (1/2) of the Escrow fee and the charges for drawing the Grant Deed. OC San shall pay one-half (1/2) of the Escrow fee, charges for recording the Grant Deed, all recording fees, and the entire title insurance premium for the Title Policy, whether CLTA or ALTA coverage, including all premiums and other costs for any endorsements. All other costs of Escrow not otherwise specifically allocated by this Agreement shall be apportioned between the Parties in a manner consistent with the custom and usage of Escrow Holder. This transaction is exempt from payment of documentary transfer taxes.

9.5 Termination and Cancellation of Escrow; Remedies. Time is of the essence of this Agreement. If Escrow fails to close on or before the Closing Date, as provided above, then Escrow shall terminate automatically without further action by Escrow Holder or any Party, and Escrow Holder is hereby instructed, without further notice or instructions from either Party, to disburse the Deposit and any interest earned on the Deposit, and all other funds then in Escrow, if any, to the Party entitled thereto under Section 8.3 of this Agreement; the Extension Deposit, if any, to the Party entitled thereto under Section 6.2 of this Agreement; and to return all documents deposited into the Escrow, if any, to the Party that deposited the same. Cancellation of Escrow, as provided herein, and return of such funds and documents shall be without prejudice to whatever legal rights OC San or City may have against each other arising from the Escrow or this Agreement.

9.6 Information Report. The "Reporting Person" within the meaning of Treasury Regulation Section 1.6045-4(e)(5) with respect to the transactions contemplated by this Agreement shall be Escrow Holder. It is agreed that Escrow Holder is an eligible person under Section 1.6045-4(e)(5)(ii) of said Regulations. Escrow Holder hereby agrees to be responsible for complying with the reporting and other requirements of Internal Revenue Code Section 6045(e) and the income tax regulations promulgated thereunder. Pursuant to said regulations, the address for the transferor and transferee are as set forth for City and OC San below, and the identifying information regarding the real estate transferred is the legal description for the Transfer Property set forth herein. Escrow Holder agrees to file the form required by said regulations between the end of the calendar year in which the Close of Escrow occurs and February 28 of the following calendar year. OC San and City agree (i) to cooperate with Escrow Holder and with each other in completing any report and/or other information required to be delivered to the Internal Revenue Service pursuant to Internal Revenue Code Section 6045(e) regarding the real estate sales transaction contemplated by this Agreement, including without limitation, Internal Revenue Service Form 1099-S as such may be hereinafter modified or amended by the Internal Revenue Service, or as may be required pursuant to any regulation now or hereinafter promulgated by the Treasury Department with respect thereto; (ii) that OC San and City, their respective employees and attorneys, and Escrow Holder and its employees may disclose to the Internal Revenue Service, any information regarding this Agreement or the transaction contemplated herein as such Party reasonably deems to be required to be disclosed to the Internal Revenue Service by such Party pursuant to Internal Revenue Code Section 6045(e); (iii) that neither OC San nor City shall seek to hold any such Party liable for the disclosure to the Internal Revenue Service of any such information; and (iv) to retain this Agreement for at least four (4) years following the close of the calendar year in which the Close of Escrow occurs.

10. RESERVED.

11. REPRESENTATIONS AND WARRANTIES.

11.1 Representations and Warranties. City hereby makes the following representations and warranties to OC San, each of which (i) is material and relied upon

by OC San in making its determination to enter into this Agreement; (ii) is true in all respects as of the date hereof and shall be true in all respects on the date of Close of Escrow for the Transfer Property; and (iii) shall survive the Close of Escrow for the purchase and sale of the Transfer Property as well as any future transfer of the Transfer Property to OC San or any transferee, successor or assignee of OC San:

(a) There are no contracts, leases, claims or rights affecting the Transfer Property and no agreements entered into by or under City shall survive the Close of Escrow with respect to the Transfer Property that will be binding on OC San after the Closing, except as heretofore disclosed in writing by City to OC San;

(b) City has the unimpeded power and authority to execute, deliver and perform this Agreement, the City's obligations under this Agreement, and the documents executed and delivered by City pursuant hereto;

(c) City is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended;

(d) This Agreement is the legal, valid and binding obligation of City, enforceable against City in accordance with its terms (except to the extent such enforcement may be limited by applicable bankruptcy, insolvency or other principles relating to creditors' rights);

(e) To the best of City's knowledge, there are no existing or alleged violations of law, ordinance or other governmental regulations with respect to the Transfer Property. Notwithstanding the foregoing, the Surplus Lands Act as set forth in California Government Code Section 54200 *et seq.* ("SLA") has recently been amended by the California Legislature. The City, in good faith, interprets the sale of the Transfer Property as exempt surplus pursuant to Section 54221(f)(1)(B) and (f)(1)(D) of the California Government Code. Upon declaring the Transfer Property exempt surplus, the City will submit the resolution to the California Department of Housing and Community Development ("HCD"), thus, triggering the thirty (30) day review period within which HCD is statutorily required to approve or reject the City's declaration of the Transfer Property as exempt surplus.

(f) To the best of City's knowledge, there is not present in, on, or under the Transfer Property and City has not used, stored or disposed of, on, under or about the Transfer Property or transported to or from the Transfer Property any "Hazardous Materials," which shall mean and include any hazardous substance, pollutant, contaminant, material, waste, by-product or constituent which is or becomes regulated by any local government authority, the State of California or the United States Government, including, without limitation, any substance, material, waste or by-product regulated by any environmental laws. To City's actual knowledge, but without duty of investigation, City, as of the Effective Date, is not required by any applicable laws and/or governmental regulations to take any action to remediate any environmental condition affecting the Transfer Property.

(g) City has received no notice and has no actual knowledge that any governmental authority or any employee or agent thereof considers any existing improvements on the Transfer Property or the construction of any proposed improvements on the Transfer Property or the present or proposed operation, use or ownership of the Transfer Property to violate or have violated any ordinance, rule, law, regulation or order of any government or agency, body or subdivision thereof, or that any investigation has been commenced or is contemplated respecting such possible violations.

(h) There are no pending or threatened litigation, allegations, lawsuits or claims, whether for personal injury, property damage, landlord-tenant disputes, property taxes, contractual disputes or otherwise, which do or may affect the Transfer Property or the operation or value thereof, and there are no actions or proceedings pending or, to the best of City's knowledge, threatened against City before any court or administrative agency in any way connected with the Transfer Property and neither the entering into of this Agreement nor the consummation of the transactions contemplated hereby will constitute or result in a violation or breach by City of any judgment, order, writ, injunction or decree issued against or imposed upon it. There is no action, suit, proceeding or investigation pending or threatened against City which could become a cloud on City's title to and have a material adverse impact upon the Transfer Property or any portion thereof or which questions the validity or enforceability of the transaction contemplated by this Agreement or any action taken pursuant hereto in any court or before or by any federal, state, district, county, or municipal agency, entity, department, commission, board, bureau, agency or other governmental instrumentality.

All representations and warranties made hereunder are in addition to any representations and warranties implied by law and in no event shall this Section 11.1 be construed to limit, diminish or reduce any obligation of disclosure imposed upon City by law. The representations and warranties of City set forth in this Agreement shall survive Closing for a period of one (1) year. City shall have no liability to OC San for a breach of any representation or warranty unless written notice containing a description of the specific nature of such breach shall have been given by OC San to City prior to the expiration of said one year period and an action shall have been commenced by OC San against City within sixty (60) days following the expiration of such one (1) year period.

11.2 Disclaimer of Representations and Warranties. OC San acknowledges that as of Close of Escrow it will have had an adequate opportunity to inspect the Transfer Property and to investigate its physical characteristics and conditions. Upon the Close of Escrow, OC San shall be deemed to have waived any and all objections to the physical characteristics and conditions of the Transfer Property which would be disclosed by a reasonable and diligent inspection subject to OC San's right to rely upon City's express representations and warranties set forth in this Agreement and/or the other documents signed and delivered by City hereunder. OC San acknowledges that, except as specifically provided herein, neither City nor any of its employees, agents, or representatives has made any representations, warranties or agreements to or with OC

San on behalf of City as to any matters concerning the Transfer Property, the present use thereof, or the suitability of OC San's intended use of the Transfer Property.

The foregoing disclaimer includes, without limitation, topography, climate, air, water rights, utilities, present and future zoning, soil, subsoil, the acreage of the Transfer Property or square footage of buildings located thereon, the purpose to which the Transfer Property is suited, drainage, and access to public roads. OC San further acknowledges and agrees that the Transfer Property is to be purchased, conveyed, and accepted by OC San in its present condition, "AS-IS," and that no patent or latent physical condition of the Transfer Property, whether or not known or discovered, shall affect the rights of either Party hereto. OC San has investigated and has knowledge of operative or imposed governmental laws and regulations (including, but not limited to, zoning, environmental, including specifically the regulations of the Environmental Protection Agency, and land use laws and regulations) to which the Transfer Property may be subject, and is acquiring the Transfer Property on the basis of its review and determination of the application and effect of such laws and regulations. OC San has neither received nor relied upon any representations concerning such laws and regulations made by City, City's employees, agents, or any other person acting on behalf of City. Any agreements, warranties or representations that are not expressly contained in this Agreement or in any other documents signed and delivered by City pursuant to this Agreement shall in no way bind City.

IN ADDITION TO OC SAN'S ACCEPTANCE OF THE TRANSFER PROPERTY IN AN "AS IS" CONDITION, OC SAN EXPRESSLY ACKNOWLEDGES AND AGREES TO THE FOLLOWING CONDITIONS UNDER WHICH THE TRANSFER PROPERTY IS BEING TRANSFERRED TO OC SAN:

OC SAN REPRESENTS AND WARRANTS THAT OC SAN IS A KNOWLEDGABLE, EXPERIENCED, AND SOPHISTICATED BUYER OF REAL ESTATE AND THAT, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OC SAN HAS RELIED AND SHALL RELY SOLELY ON (A) OC SAN'S OWN EXPERTISE AND THAT OF OC SAN'S CONSULTANTS PERTAINING TO DUE DILIGENCE AND OTHERWISE RELATING TO EVALUATING THE PURCHASE OF THE TRANSFER PROPERTY AND ITS OPERATIONS, AND (B) OC SAN'S OWN KNOWLEDGE OF THE TRANSFER PROPERTY BASED ON OC SAN'S INVESTIGATIONS AND INSPECTIONS OF AND DUE DILIGENCE REGARDING THE TRANSFER PROPERTY AND ITS OPERATIONS.

CITY AND OC SAN ACKNOWLEDGE AND AGREE THAT THE FOREGOING PROVISIONS OF THIS SECTION HAVE BEEN FREELY BARGAINED FOR BY THE PARTIES AND CONSTITUTES A MATERIAL CONSIDERATION TO CITY FOR THE SALE OF THE TRANSFER PROPERTY AND BUT FOR THIS PROVISION CITY WOULD NOT SELL THE TRANSFER PROPERTY TO OC SAN.

CITY'S INITIALS

OC SAN'S INITIALS

11.3 Changed Circumstances. If City becomes aware of any fact or circumstance which would change or render incorrect, in whole or in part, any representation or warranty made by City under this Agreement, whether as of the date given or any time thereafter through the Close of Escrow and whether or not such representation or warranty was based upon City's knowledge and/or belief as of a certain date, City will give immediate written notice of such changed fact or circumstance to OC San, but such notice shall not release City of its liabilities or obligations with respect thereto.

11.4 Indemnity by OC San. OC San shall hold harmless, indemnify and defend City, its officers, employees, volunteers and agents, and the Transfer Property from and against any Claims (i) arising from any negligent act or omission (where there was a duty to act) by OC San with respect to the Transfer Property or an OC San Default under this Agreement at any time or times on or before the date of the Close of Escrow for the purchase and sale of the Transfer Property, including without limitation, any damage to the Transfer Property or injury to or death of any person, employees or agents of OC San; (ii) all costs and expenses, including attorneys' fees, relating to any actions, suits or judgments incident to any of the foregoing; provided that in no event shall any of the indemnities described above in this Section 11.4 arise from any obligations, liabilities, claims, liens or encumbrances that arise from City's negligence, willful misconduct or a City Default under this Agreement. Should OC San fail to discharge or undertake to defend City or the Transfer Property pursuant to the indemnities set forth in this Section 11.4 as required within thirty (30) calendar days after having received written notice from City, then City may settle such liability in City's good faith judgement and OC San's liability to City shall be conclusively established by such settlement, the amount of such liability to include both the settlement consideration and the reasonable expenses, including attorney's fees, incurred by City in effecting such settlement.

12. RESERVED.

13. SETTLEMENT OF CLAIMS.

13.1 Release of Claims by OC San. In exchange for the promises contained in this Agreement, and except as to the obligations provided for in any one or more of this Agreement, the Lot Line Adjustment Documents, and/or the other documents, instruments, and agreements signed and delivered by City in connection with the Lot Line Adjustment and/or the Closing of the Escrow, and as otherwise expressly set forth herein, effective upon Close of Escrow, OC San hereby waives, releases and forever discharges, and agrees to the extent permitted by law that it will not in any manner institute, prosecute or pursue, any and all complaints, charges, claims for relief, demands, damages, suits, actions or causes of action, of any kind, whether in law or in equity, which it asserts or could assert, at common law or under any statute, rule, regulation, order or law, whether federal, state or local, or on any grounds whatsoever, against the City and/or any of its current or former officers, elected or appointed officials, agents, representatives, employees, successors and assigns with respect to any event, matter, claim, damage or

injury, of any kind related to the Transfer Property as of the date of this Agreement and/or the Closing Date.

13.2 Release of Claims by City. In exchange for the promises contained in this Agreement, and except as to the obligations provided for in in any one or more of this Agreement, the Lot Line Adjustment Documents, and/or the other documents, instruments, and agreements signed and Delivered by OC San in connection with the Lot Line Adjustment and/or the Closing of the Escrow, and as otherwise expressly set forth herein, effective upon Close of Escrow, City hereby waives, releases and forever discharges, and agrees to the extent permitted by law that it will not in any manner institute, prosecute or pursue, any and all complaints, charges, claims for relief, demands, damages, suits, actions or causes of action, of any kind, whether in law or in equity, which it asserts or could assert, at common law or under any statute, rule, regulation, order or law, whether federal, state or local, or on any grounds whatsoever, against OC San and/or any of its current or former officers, directors, affiliates, agents, representatives, employees, attorneys, successors, predecessors, insurers, and assigns with respect to any event, matter, claim, damage or injury of any kind related to the Transfer Property as of the date of this Agreement and/or the Closing Date.

13.3 Waiver of Unknown Claims. With respect to the subject matter of this Agreement, including, but not limited to the City Property, the OC San Property, and the Transfer Property, it is agreed and understood that the releases being provided by each of the Parties above apply to all injuries and damages, whether now known or unknown, and whether now existing or which may result in the future due to the actions or omissions of the Parties on or before the Effective Date. With respect to the subject matter of this Agreement, the Parties acknowledge that they have each been fully advised of and understand the provisions of Section 1542 of the California Civil Code which reads:

“A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

In further consideration of the promises and payments pursuant to this Agreement, each Party agrees to, and does hereby, waive and relinquish all rights afforded to it under California Civil Code Section 1542, or any similar law of any state or territory of the United States or other jurisdiction with respect to the matters of this Agreement. Notwithstanding the above, nothing in this Agreement shall be deemed to waive or release either Party as to (i) any of its obligations or rights under this Agreement, the Lot Line Adjustment Documents, and/or any other documents, instruments, or agreements signed and delivered by City or OC San pursuant to the terms of this Agreement or the Lot Line Adjustment Documents, or (ii) any Claims arising from such Party's own actual or alleged fraud, gross negligence, or wrongful conduct of the other Party, or (iii) Claims for personal injury or property damage occurring on the Transfer Property during that Party's ownership of the Transfer Property, or Claims against a Party based on a breach of

contract by that Party concerning the Transfer Property and/or its own property and occurring during such Party's ownership of the Transfer Property .

The foregoing provisions shall survive the Closing Date hereunder and the recordation of the Grant Deed.

CITY'S INITIALS

OC SAN'S INITIALS

14. DAMAGE, DESTRUCTION AND CONDEMNATION.

14.1 Risk of Physical Loss. Risk of physical loss to the Transfer Property shall be borne by City prior to the Close of Escrow and by OC San thereafter. In the event that the Transfer Property shall be damaged by fire, flood, earthquake or other casualty and the estimated cost to repair same exceeds ONE HUNDRED THOUSAND DOLLARS and 00/100 (\$100,000.00), OC San may, at its option, elect not to acquire the Transfer Property. If OC San does not so elect or the estimated cost to repair the damage is less than ONE HUNDRED THOUSAND DOLLARS and 00/100 (\$100,000.00), OC San shall complete the acquisition of the Transfer Property, in which case City shall assign to OC San the interest of City in all insurance proceeds relating to such damage. In the event that such damage shall occur and OC San elects not to purchase the Transfer Property as above provided, then this Agreement shall be terminated and OC San shall be entitled to the return of all funds and documents (including the entirety of the Deposit) that OC San deposited into the Escrow hereunder.

14.2 Condemnation. In the event that, prior to the Close of Escrow, any governmental entity shall commence any actions of eminent domain or similar type proceedings to take all or any portion of the Transfer Property, or if City and any other governmental entity shall commence any efforts toward a conveyance in lieu of a condemnation action as to all or any portion of the Transfer Property, OC San shall have the option either to (i) elect not to acquire the Transfer Property, or (ii) complete the acquisition of the Transfer Property, in which case OC San shall be entitled to all the proceeds of such taking. In the event that OC San elects not to purchase the Transfer Property as above provided, then this Agreement shall be terminated and OC San shall be entitled to the return of all funds and documents (including the entirety of the Deposit) that OC San deposited into the Escrow hereunder.

15. RESERVED.

16. POSSESSION. Possession of the Transfer Property shall be delivered to OC San as of Close of Escrow.

17. ENVIRONMENTAL CONDITION. To City's actual knowledge, but without duty of investigation, City, as of the Effective Date, is not required by any applicable laws and governmental regulations to take any action to remediate any environmental condition affecting the Transfer Property.

18. ASSIGNMENT. OC San shall not have the right to assign this Agreement or any interest or right hereunder or under the Escrow or to nominate another party to take title to the Transfer Property without the prior written consent of City, which City may withhold in City's sole discretion. In no event shall OC San be released of liability in the event of an assignment or nomination.

19. RESERVED.

20. COOPERATION. OC San and City agree to cooperate with one another, at no cost or expense to the cooperating Party, in satisfying the conditions precedent to Close of Escrow. City shall be responsible for proceeding with diligence and in good faith to satisfy the conditions to City's performance set forth in Section 8.1 of this Agreement, and OC San shall be responsible for proceeding with diligence and in good faith to satisfy the conditions to OC San's performance set forth in Section 8.2 of this Agreement.

21. QUALIFICATION; AUTHORITY. Each Party represents and warrants to the other Party that it is duly formed, is authorized to do business in the State of California, and that it has been duly authorized to enter into and perform this Agreement.

22. NO ATTORNEYS' FEES. In any action between the Parties hereto seeking enforcement of any of the terms and provisions of this Agreement or the Escrow, or in connection with the Transfer Property, the prevailing Party in such action shall not be entitled to have and to recover from the other Party its reasonable attorneys' fees and other expenses and costs in connection with such action or proceeding.

23. INTERPRETATION; GOVERNING LAW. This Agreement shall be construed according to its fair meaning and as if prepared by both Parties hereto. This Agreement shall be construed in accordance with the laws of the State of California in effect on the Effective Date of this Agreement. Titles and captions are for convenience only and shall not constitute a portion of this Agreement or be used in the interpretation of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

24. NO WAIVER. No delay or omission by either Party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other Party hereto under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either Party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by the other Party shall not be construed as a waiver of any contemporaneous or succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

25. MODIFICATIONS. Any alteration, change or modification of or to this Agreement, or any time limits contained herein, in order to become effective, shall be

made by written instrument or endorsement thereon and in each such instance executed on behalf of each Party hereto.

26. SEVERABILITY. If any term, provision, condition or covenant of this Agreement or the application thereof to any Party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

27. COVENANTS TO SURVIVE ESCROW. The covenants and agreements contained herein shall survive the Close of Escrow and, subject to the limitations on assignment contained in Section 18 above, shall be binding upon and inure to the benefit of the Parties hereto and their representatives, successors and assigns. Without limitation of the foregoing, all indemnity obligations set forth herein shall survive the Close of Escrow or termination of this Agreement with respect to all Claims that have accrued thereunder prior to such Closing or termination, as applicable.

28. NO WITHHOLDING BECAUSE NON-FOREIGN SELLER. City represents and warrants to OC San that City is not, and as of the Close of Escrow will not be, a foreign person within the meaning of Internal Revenue Code Section 1445 and that it will deliver to OC San on or before the Close of Escrow the Non-Foreign Affidavit as described hereinabove, pursuant to Internal Revenue Code Section 1445(b)(2) and the Regulations promulgated thereunder.

29. TIME IS OF THE ESSENCE. Time is hereby expressly made of the essence of this Agreement.

29.1 EXECUTION IN COUNTERPART; ELECTRONIC DELIVERY. This Agreement and any modifications, amendments, or supplements hereto may be executed in two or more counterparts, and all so executed shall constitute one (1) agreement binding on all Parties hereto, notwithstanding that all Parties are not signatories to the original or the same counterpart. This Agreement and any modifications, amendments, or supplements hereto may be delivered electronically by e-mail or other means and shall be valid and enforceable as though all of the Parties' signatures were on two (2) original ink-signed document.

30. NOTICES. Any notice which either Party may desire to give to the other Party or to the Escrow Holder must be in writing and shall be effective upon delivery if sent via overnight mail with tracking; upon delivery, if delivered by confirmed facsimile or email (with a backup sent by first class mail or overnight mail); when personally delivered, if sent by messenger service; or when delivered if sent postage prepaid by registered or certified mail, return receipt requested; and in each case addressed to the respective Parties as set forth below or to such other address and to such other persons as either

Party may hereafter designate by written notice to the other Party hereto and Escrow Holder:

To OC SAN: Orange County Sanitation District
Attention: General Manager and Real Property Agent
10844 Ellis Avenue
Fountain Valley, CA 92708-7018

With a Copy to: Alston & Bird, LLP
Attn: Pamela J. Privett, Esq.
333 S Hope Street, 16th Floor
Los Angeles, CA 90071

To City: City of Newport Beach
Attn: Real Property Administrator
100 Civic Center Drive
Newport Beach, CA 92660

With Copy to: City of Newport Beach
Attn: City Attorney
100 Civic Center Drive
Newport Beach, CA 92660

31. NO BROKERS. OC San and City each represents to the other that it has not engaged or involved any brokers, agents, or finders in the transaction provided in this Agreement. OC San and City agree to indemnify one another against any Claims arising or resulting from the claims of any person for any commission, fee or other remuneration that such person claims is owed in respect of the transaction provided for herein pursuant to a written agreement made with said claimant or resulting from the inaccuracy of the representations set forth above.

32. CONTINGENCY. It is understood and agreed between the Parties hereto that the completion of the purchase and sale transaction provided for herein, and Closing of the Escrow created hereby, are contingent upon the specific acceptance and approval of City and OC San. The execution of this Agreement and the other documents required for Closing, and the delivery of same to Escrow Holder constitute said acceptance and approval.

33. CEQA. By its execution of this Agreement, the City is not committing itself or agreeing to undertake any activity requiring the subsequent exercise of discretion by the City or any department thereof, including, but not limited to, the approval of any CEQA documents, the approval of any development project or land use regulation governing the Transfer Property, or any other act or approval. The City reserves the right to exercise in good faith its discretion as to all matters which it is, by law, entitled or required to exercise its discretion, including, but not limited to, the consideration of CEQA documents, the

consideration of any and all plans, permits, licenses, or regulatory approvals, or any other acts or activities requiring the subsequent independent exercise of discretion by the City or any agency or department thereof. The City may in good faith, in its sole and absolute discretion, certify or not certify a CEQA document and approve, approve with modifications, or not approve, or consider other alternatives to any project proposed in a CEQA document, including other alternatives presented in the CEQA documents.

34. RESERVED.

35. ENTIRE AGREEMENT, WAIVER AND MODIFICATION. This Agreement is the entire agreement between the Parties with respect to the subject matter of this Agreement. It supersedes all prior agreements and understandings, whether oral or written, between the Parties with respect to the matters contained in this Agreement. Any waiver, modification, consent or acquiescence with respect to any provision of this Agreement shall be set forth in writing and duly executed by or on behalf of the Party to be bound thereby.

36. CITY AUTHORIZATION. The City Manager of the City of Newport Beach is hereby authorized, on behalf of the City, to sign all documents necessary and appropriate to carry out and implement this Agreement and to administer the City's obligations, responsibilities and duties to be performed under this Agreement and as may be required for Closing.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement for Purchase and Sale of Real Property and Escrow Instructions as of the date set forth above.

**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**
Date: _____

CITY OF NEWPORT BEACH,
a California municipal corporation
Date: _____

By: _____
Aaron C. Harp
City Attorney

By: _____
Grace K. Leung
City Manager

ATTEST:
Date: _____

**OC SAN: Orange County
Sanitation District, a County
Sanitation District**
Date: _____


By: _____
Leilani I. Brown
City Clerk

By: _____
James D. Herberg
General Manager

**APPROVED AS TO FORM:
OC SAN SPECIAL COUNSEL**
Date: June 7, 2022

ATTEST:
Date: _____

ALSTON & BIRD, LLP

By:  _____
Pamela J. Privett, Partner

By: _____
Kelly A. Lore
Clerk of the Board

[END OF SIGNATURES]

ATTACHMENTS: Exhibit "A" – City Property Legal Description
Exhibit "B" – City Property Depiction
Exhibit "C" – OC San Property Legal Description
Exhibit "D" – OC San Property Depiction
Exhibit "E" – Transfer Property Legal Description
Exhibit "F" – Transfer Property Depiction
Exhibit "G" – Grant Deed

EXHIBIT "A"

CITY PROPERTY LEGAL DESCRIPTION

LOTS 9 AND 10 IN BLOCK 115 OF TRACT NO. 234, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 13, PAGES 36 AND 37 OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT "B"
CITY PROPERTY DEPICTION

EXHIBIT "B-2"



EXHIBIT "C"

OC SAN PROPERTY LEGAL DESCRIPTION

LOT 8, BLOCK 115, TRACT 234, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 13, PAGES 36 AND 37 OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXHIBIT "D"
OC SAN PROPERTY DEPICTION

EXHIBIT "D"



EXHIBIT "E"

TRANSFER PROPERTY DESCRIPTION

THAT PORTION OF LOT 9, BLOCK 115 IN TRACT NO. 234 IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 13, PAGES 36 AND 37 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT; THENCE ALONG THE EASTERLY LINE OF SAID LOT SOUTH 09°43'30" WEST 92.02 FEET; THENCE LEAVING SAID EASTERLY LINE NORTH 80°16'30" WEST 4.87 FEET; THENCE NORTH 50°18'39" WEST 7.61 FEET TO A LINE PARALLEL WITH AND 11.46 FEET WESTERLY OF SAID EASTERLY LOT LINE; THENCE ALONG SAID PARALLEL LINE NORTH 09°43'30" EAST 88.22 FEET TO THE NORTHERLY LINE OF SAID LOT; THENCE ALONG SAID NORTHERLY LINE SOUTH 80°16'30" EAST 11.46 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,042 SQUARE FEET, MORE OR LESS.

EXHIBIT "F"

TRANSFER PROPERTY DEPICTION

(Added graphics)

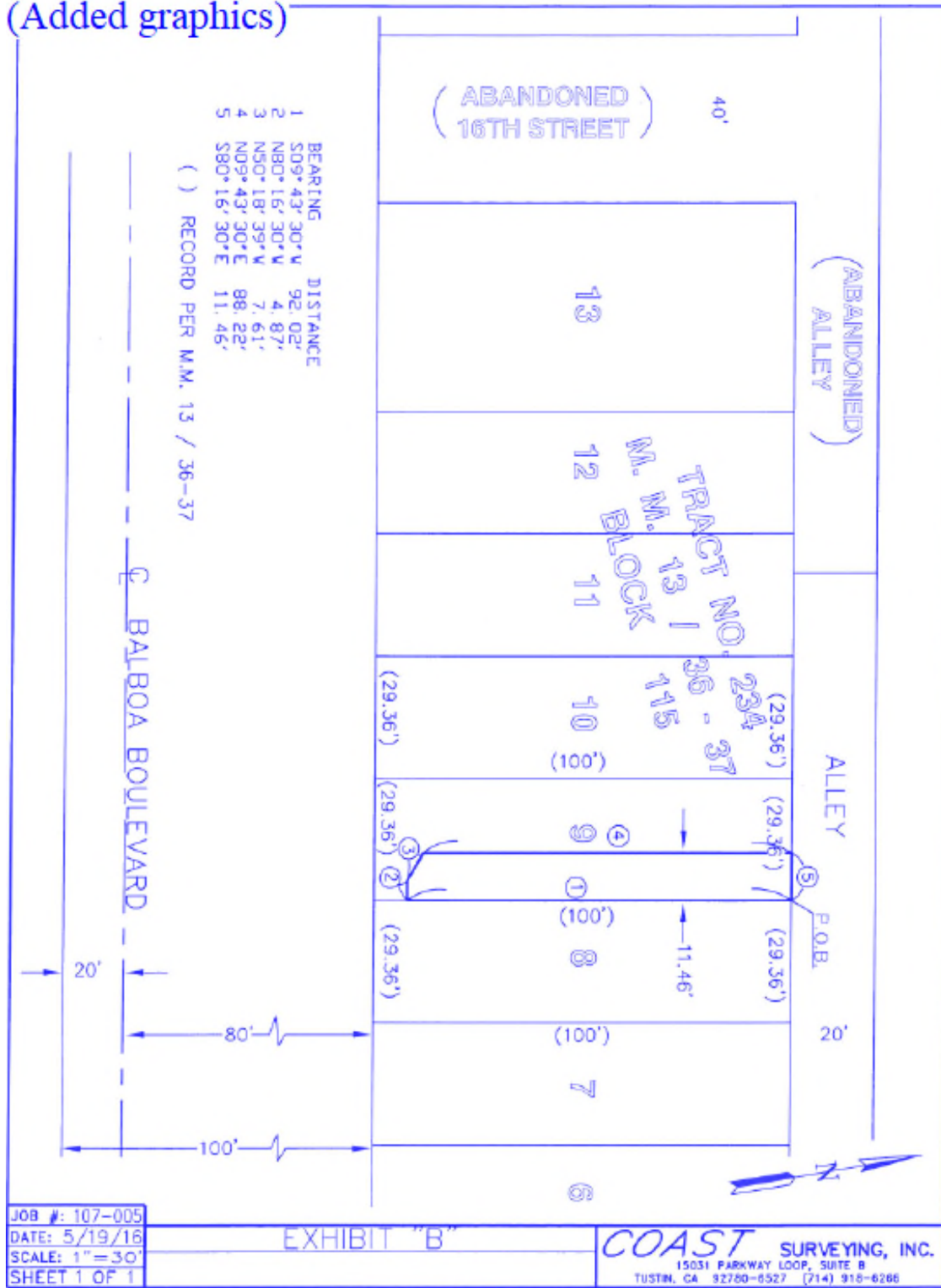


EXHIBIT "G"
GRANT DEED

**RECORDING REQUESTED BY:
CITY OF NEWPORT BEACH**

AND WHEN RECORDED MAIL TO:

Attn: City Clerk
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

ORDER: _____
ESCROW NO.: _____

*Exempt from recording fee per Government Code §§ 6103 and 27383
(Space Above This Line For Recorder's Use Only)*

Parcel No:

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(s):

- | | |
|--|---|
| <input type="checkbox"/> City of Newport Beach | Documentary Transfer Tax is \$ |
| <input type="checkbox"/> unincorporated area | City Transfer Tax is \$0.00 |
| | <input type="checkbox"/> computed on full value of interest or property conveyed, or |
| | <input type="checkbox"/> full value less value of liens or encumbrances remaining at the time of sale |

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **the City of Newport Beach, a municipal corporation and charter city**, hereby GRANTS in fee simple interest to the **Orange County Sanitation District**, a County Sanitation District, the following real property in the City of Newport Beach, County of Orange, State of California described in EXHIBIT "A" and depicted on EXHIBIT "B," which exhibits are attached hereto and incorporated herein by reference and are made a part of this Grant Deed, with all improvements and fixtures, together with equipment and personal property, if any, located on or under the land (collectively the "Property").

[END OF DOCUMENT. SIGNATURES ON NEXT PAGE.]

IN WITNESS WHEREOF, the undersigned has executed this Grant Deed as of _____, 202__.

City of Newport Beach, a municipal corporation and charter city

By: _____
Grace K. Leung
City Manager

EXHIBIT "A"

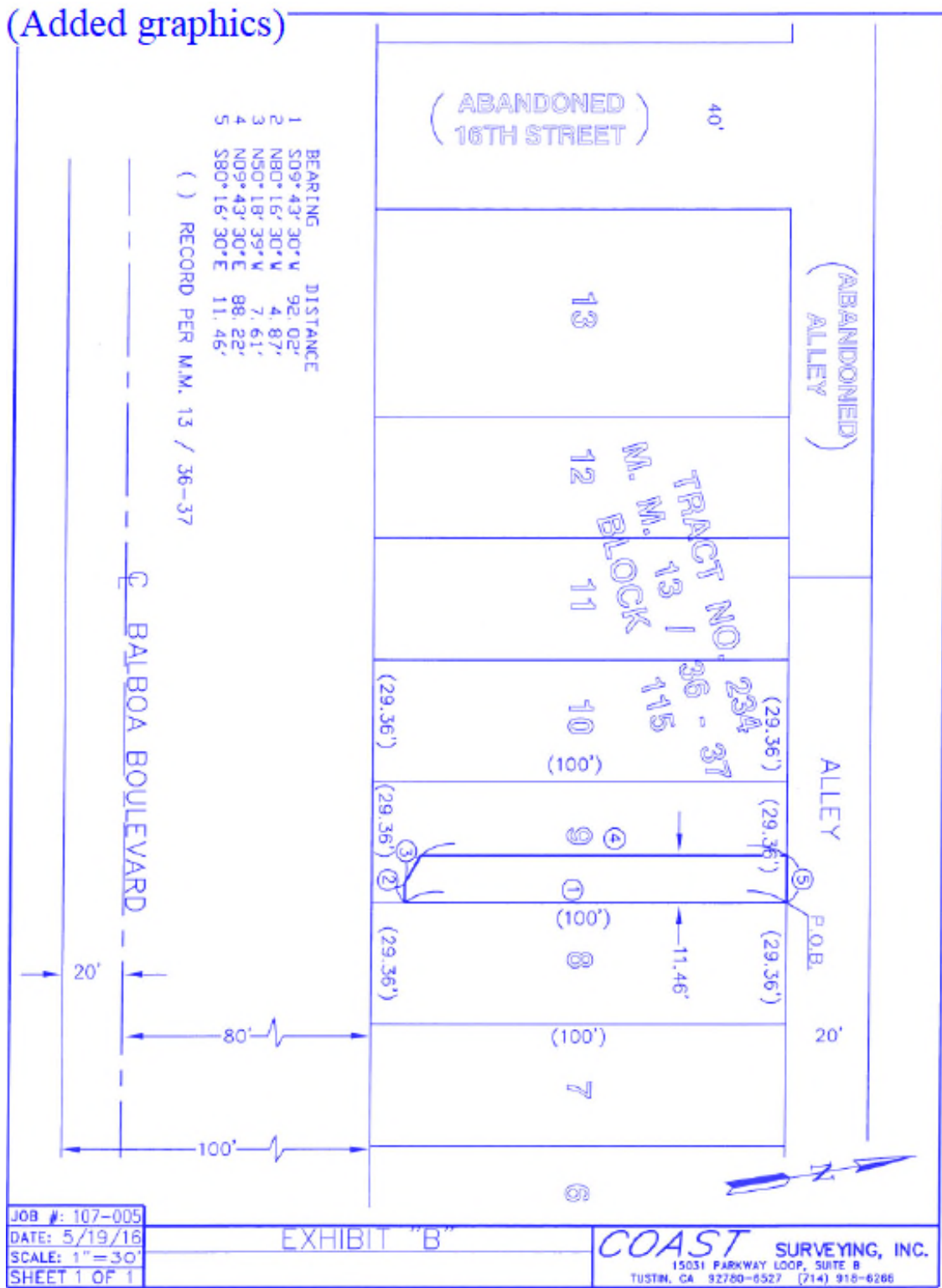
PROPERTY LEGAL DESCRIPTION

THAT PORTION OF LOT 9, BLOCK 115 IN TRACT NO. 234 IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 13, PAGES 36 AND 37 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT; THENCE ALONG THE EASTERLY LINE OF SAID LOT SOUTH 09°43'30" WEST 92.02 FEET; THENCE LEAVING SAID EASTERLY LINE NORTH 80°16'30" WEST 4.87 FEET; THENCE NORTH 50°18'39" WEST 7.61 FEET TO A LINE PARALLEL WITH AND 11.46 FEET WESTERLY OF SAID EASTERLY LOT LINE; THENCE ALONG SAID PARALLEL LINE NORTH 09°43'30" EAST 88.22 FEET TO THE NORTHERLY LINE OF SAID LOT; THENCE ALONG SAID NORTHERLY LINE SOUTH 80°16'30" EAST 11.46 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,042 SQUARE FEET, MORE OR LESS.

EXHIBIT "B"
PROPERTY DEPICTION



ACKNOWLEDGMENT

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

State of California)
County of ORANGE)

On _____ before me, _____, Notary Public, personally appeared GRACE K. LEUNG, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature on the instrument the person, 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

(Seal)