

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT ("Agreement") by and between the Orange County Sanitation District, a California special district, ("**Seller**") and [Buyer's Name and legal capacity] ("**Buyer**"), each of them a "**Party**" and jointly the "**Parties**", is entered into as of the date the last of the Parties executes this Agreement ("**Effective Date**").

RECITALS

A. Seller owns and holds easement interest(s) in certain real property over [a] portion(s) of land identified with Assessor's Parcel Number(s) (APN) [APN #s], located [describe area] in the County of Orange, State of California and said easement interests are more particularly described in the legal description in Exhibit "A" and depicted in Exhibit "B" ("Property"), attached hereto and by this reference incorporated herein.

B. Buyer is the fee owner of land identified with APN [numbers] (the "Land") and has requested relinquishment of the Seller's easement interest consisting of approximately [numerical value] square feet of a portion of the Land, as described in Exhibit "A".

C. Seller has determined that the Property is no longer necessary to be retained for its uses and purposes and is authorized to relinquish the easement and sell the Property to Buyer in accordance with Health & Safety Code Section 4743 and Seller's Relinquishment and Disposition Procedure Regarding Excess Easement Interests in Real Property.

AGREEMENT

NOW, THEREFORE, based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. **PURCHASE AND SALE OF THE PROPERTY.** Subject to all of the terms, conditions, and provisions of this Agreement, and for the consideration herein set forth, the Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase from the Seller, the easement interests referenced as the Property above in Recital A and as described and depicted in Exhibits "A" and "B" attached hereto.

2. **PURCHASE PRICE AND COSTS.**

2.1. **Purchase Price.** The purchase price payable by Buyer to Seller for the Property, including but not limited to all of Seller's right, title, and interest to the Property, shall be [Write out purchase price amount] (\$numerical amount) ("**Purchase Price**") and shall be paid on or before the Closing. Within five (5) business days following the Effective Date, Seller and Buyer shall open an escrow in connection herewith ("**Escrow**") at _____ Title (_____ at ____ - ____ - ____ @ _____ [title].com) ("**Escrow Holder**"), and Buyer shall deposit \$_____ into Escrow ("**Initial Deposit**"); and, on or before the Closing, if this Agreement has not been earlier terminated, Buyer shall deposit into Escrow the balance of the Purchase Price, less any credits due Buyer hereunder (the "**Closing Amount**").

2.2. **Administrative Costs and Fees.** Buyer shall reimburse Seller for all costs and fees that Seller has incurred in processing the transaction that is the subject of this Agreement (the "**Administrative Fees**") before or by the Closing. The Administrative Fees shall include, but are not limited to, all costs associated with: (i) evaluating and assessing Buyer's request for relinquishment of the Easement(s), and (ii) the preparation and processing of any documents in connection with this Agreement, including staff time and professional services fees incurred by Seller, which is estimated to total [\$numerical amount] and are subject to reconciliation at the

Closing. Any deposits or amounts paid by Buyer outside of escrow and before the Effective Date of this Agreement specifically for requesting the relinquishment of the easement interests will be deducted from any outstanding Administrative Fees due and payable to the Seller under this Agreement at the Closing. The Seller acknowledges that the Buyer has submitted a deposit for Administrative Fees in the amount of [write out amount] (\$numerical amount) before the Effective Date of this Agreement.

2.3. Escrow Costs and Fees. Buyer shall be responsible for the payment of all costs associated with Escrow and all such costs must be paid on or by the Closing.

3. CLOSING.

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

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

3.3. Deliveries by Buyer. On or before 12:00 noon Pacific Time on the business day preceding the scheduled Closing Date, Buyer shall deliver to the Escrow Holder: (i) the balance of the Purchase Price and funds sufficient to cover the Administrative Fees, (ii) funds sufficient to cover any other costs and prorations for which Buyer is responsible pursuant to this Agreement, and (iii) all other documents reasonably required pursuant to this Agreement or by the Escrow Holder to consummate this transaction.

3.4. Closing, Recording and Disbursements. On the Closing Date, and provided all of the Seller Conditions to Closing and Buyer Conditions to Closing set forth in Sections 3.8.1 and 3.8.2 of this Agreement have been satisfied or waived in writing by the appropriate party, Escrow Holder shall take the following actions:

3.4.1. Recording. Cause the Quitclaim Deed to be recorded with the Recorder's Office in the Official Records of the County of Orange, State of California after confirmation of receipt of funds required to be deposited by Buyer under this Agreement has occurred.

3.4.2. Delivery of Documents and Funds. Tender the Purchase Price to Seller at and on the Closing Date, together with any documents due to the Seller on the Closing Date. Provide copies of the closing statements and documents to the respective parties at Closing.

3.5. Taxes. In the event that there are any taxes, including but not limited to, any documentary transfer taxes, due as a result of this purchase and sale, Buyer shall be responsible for paying any and all such taxes assessed and due.

3.6. Payment of Costs. Any recording fees for the documents to be recorded under this Agreement shall be paid by the Buyer. All other costs and expenses not specifically allocated in this Agreement shall be paid by the Buyer.

3.7. Tax Exempt Agency. All parties hereto acknowledge that the Seller is a public entity and exempt from payment of any real property taxes. There will be no proration of taxes through Escrow.

3.8. Closing Conditions.

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

3.8.1.1. Delivery of Document and Funds. Buyer shall have timely executed and submitted all closing documents required to be submitted by Buyer in order to accomplish this transaction. Buyer shall have submitted the Purchase Price and funds sufficient for escrow costs and fees and the Administrative Fees for which Buyer is responsible to pay and all other sums required of Buyer by this Agreement.

3.8.1.2. Representations and Warranties. All representations and warranties made by Buyer in this Agreement are true and correct in all material respects as of the Closing as though made at that time.

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

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

3.8.2.1. Delivery of Documents. Seller shall have executed and deposited the Quitclaim Deed with the Escrow Holder.

3.8.2.2. Representations and Warranties. All representations and warranties made by Seller in this Agreement are true and correct in all material respects as the Closing as though made at that time.

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

3.8.3. Satisfaction of Conditions. Where satisfaction of any of the foregoing conditions requires action by Buyer or Seller, each party shall use its diligent efforts, in good faith, to satisfy such condition.

3.8.4. Waiver. Each party may at any time or times, waive any of their respective Conditions to Closing in this Section 3.8, as set forth above, to their respective obligations hereunder, but any such waiver shall be effective only if contained in writing, signed, and delivered to the other party.

3.8.5. Termination of Agreement. In the event each of the Conditions to Closing in Section 3.8, as set forth above, is not fulfilled on the Closing Date or such earlier time period as provided for herein or waived, any party hereto may at its option terminate this Agreement, provided that party is not in default of this Agreement. No termination under this Agreement shall release any party then in default from liability for such default. In the event this Agreement is terminated, all documents and funds delivered shall be returned immediately to the respective parties.

4. REPRESENTATIONS AND WARRANTIES.

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

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

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

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

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

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

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

4.2.3. This Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms.

5. CONTINUATION AND SURVIVAL. All representations, warranties and covenants by the respective parties contained herein are intended to and shall be deemed made as of the date of this Agreement and again at the Closing, shall be deemed to be material, and unless expressly provided to the contrary shall survive the execution and delivery of this Agreement, the Deed and the Closing.

6. DEFAULT.

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

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

7. LIQUIDATED DAMAGES. IF THE SALE OF THE PROPERTY IS NOT CONSUMMATED SOLELY BECAUSE OF A DEFAULT UNDER THIS AGREEMENT ON THE

PART OF BUYER, THE DEPOSIT SHALL BE RETAINED BY SELLER AS LIQUIDATED DAMAGES. THE PARTIES HAVE AGREED THAT SELLER'S ACTUAL DAMAGES, IN THE EVENT OF A DEFAULT BY BUYER, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE EARNEST MONEY HAVE BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES AND AS SELLER'S SOLE AND EXCLUSIVE REMEDY AGAINST BUYER, AT LAW OR IN EQUITY, IN THE EVENT OF A DEFAULT UNDER THIS AGREEMENT ON THE PART OF BUYER. FURTHERMORE, THE PAYMENT AND RETENTION OF SUCH DEPOSIT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 AND 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677.

INITIALS: Seller _____ Buyer _____

8. AS-IS; WHERE-IS. THE SALE OF THE PROPERTY HEREUNDER IS AND WILL BE MADE ON AN "AS IS, WHERE IS" BASIS. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, VERBAL OR WRITTEN, PAST, PRESENT OR FUTURE OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY OR ANY OTHER MATTER WHATSOEVER.

9. NOTICES. Any notice, requests, demands, consent or approval required or permitted, and other communications to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, (ii) one (1) business day after being deposited with a reliable overnight courier service for next day delivery, (iii) two (2) business days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested. A courtesy copy of any notices delivered in accordance with this subsection shall be concurrently sent via email as identified below, provided that such courtesy email is not intended or shall it be deemed to substitute as the effective means of notice delivery or alter the effective date of such notice. Notices shall be addressed to the respective parties as set forth below or to such other address and to such other persons as the parties may hereafter designate by written notice to the other party hereto:

To SELLER: Orange County Sanitation District
Attn:
[mailing address]
[email address]

With a Copy to: Best, Best & Krieger, LLP
Attn:
[mailing address]
[email address]

To BUYER: [Buyer NAME]
Attn:
[mailing address]

[email address]

With a Copy to: [Legal Counsel Firm]
Attn:
[mailing address]
[email address]

By giving to the other parties written notice as provided above, the parties to this Agreement shall have the right from time to time, and at any time during the term of this Agreement, to change their respective notice addresses.

10. Attorneys' Fees. If any legal action is instituted to enforce or declare any party's rights hereunder, the prevailing party is entitled to recover its costs and attorneys' fees.

11. Successors and Assigns; Assignment. This Agreement shall bind and inure to the benefit of Seller and Buyer and their respective successors and permitted assigns. Buyer shall not assign this Agreement, nor any part hereof, without the prior written consent of the Seller.

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

13. Time of Essence. The parties acknowledge that time is of the essence in this Agreement.

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

15. Interpretation and Construction. The parties agree that each party has reviewed this Agreement and that each has had the opportunity to have their legal counsel review and revise this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or Exhibits thereto. This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. The captions of the sections and subsections of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

16. Governing Law; Venue. This Agreement shall be construed in accordance with the laws of the State of California. The existence, validity, construction, operation and effect of this Agreement and all of its terms and provisions shall be determined in accordance with the laws of the State of California. Any action at law or in equity brought by either of the Parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be

tried in a court of competent jurisdiction in the County of Orange, State of California, and the Parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

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

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

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

20. Exhibits. Exhibits "A", "B" and "C" are attached to this Agreement and are incorporated herein by this reference and made a part hereof.

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

22. BOARD OF DIRECTORS APPROVAL. This Agreement is subject to and shall have no force or effect until and unless approved by Board of Directors for Seller.

(Signature provisions on the following pages)

SIGNATURE PAGE TO
PURCHASE AND SALE AGREEMENT

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement to be effective as of the last date set forth below next to their respective signatures.

SELLER:

**ORANGE COUNTY SANITATION DISTRICT, a California
special district**

By: _____
Date
Board Chairman

By: _____
Date
Kelly A. Lore
Clerk of the Board

APPROVED AS TO FORM:
Best Best & Krieger LLP

By: _____
Scott Smith, General Counsel

SIGNATURE PAGE TO
PURCHASE AND SALE AGREEMENT

BUYER:

[NAME OF BUYER AND CAPACITY]

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT "B"
DEPICTION/PLAT OF PROPERTY

EXHIBIT "C"
QUITCLAIM DEED
(FORM ATTACHED BEHIND)

RECORDING REQUEST BY:

[Name of requesting party]

AND WHEN RECORDED RETURN TO:

[Requesting Party's Name and Address]

TRA: _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

APN(S): _____

The undersigned Grantor(s) Declare(s):

DOCUMENTARY TRANSFER TAX \$_____

☐ computed on the consideration or full value of property conveyed, OR

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

☐ Unincorporated Area _____ ☐ City of _____

QUITCLAIM DEED

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and adequacy of which are hereby acknowledged, **ORANGE COUNTY SANITATION DISTRICT, a California special district**, (“Grantor”) does hereby remise, release, relinquish and forever quitclaim to [Grantee's name, including capacity, if appropriate] (“Grantee”) all right, title, interest Grantor has in the real property, and upon the same tenure as the [OR respective] interest(s) appear of record, [a portion of that easement OR that easement] as described in [that OR those] certain document(s) recorded on [Recorded date(s) _____], [as Instrument No(s). _____ OR in Book _____, Page _____, in the Official Records of Orange County, in the State of California, that [portion OR easement interest] being more particularly described as follows:

See Exhibit A, Legal Description and Exhibit B, Plat Map, attached hereto and by this reference incorporated herein.

DATED: _____

GRANTOR:

**ORANGE COUNTY SANITATION
DISTRICT, a California special district**

By:

Name:

Title:

[Attach Notary Acknowledgment]

EXHIBIT A
EASEMENT QUITCLAIM
LEGAL DESCRIPTION

(Attached behind)

EXHIBIT B
EASEMENT QUITCLAIM
PLAT MAP
(Attached behind)