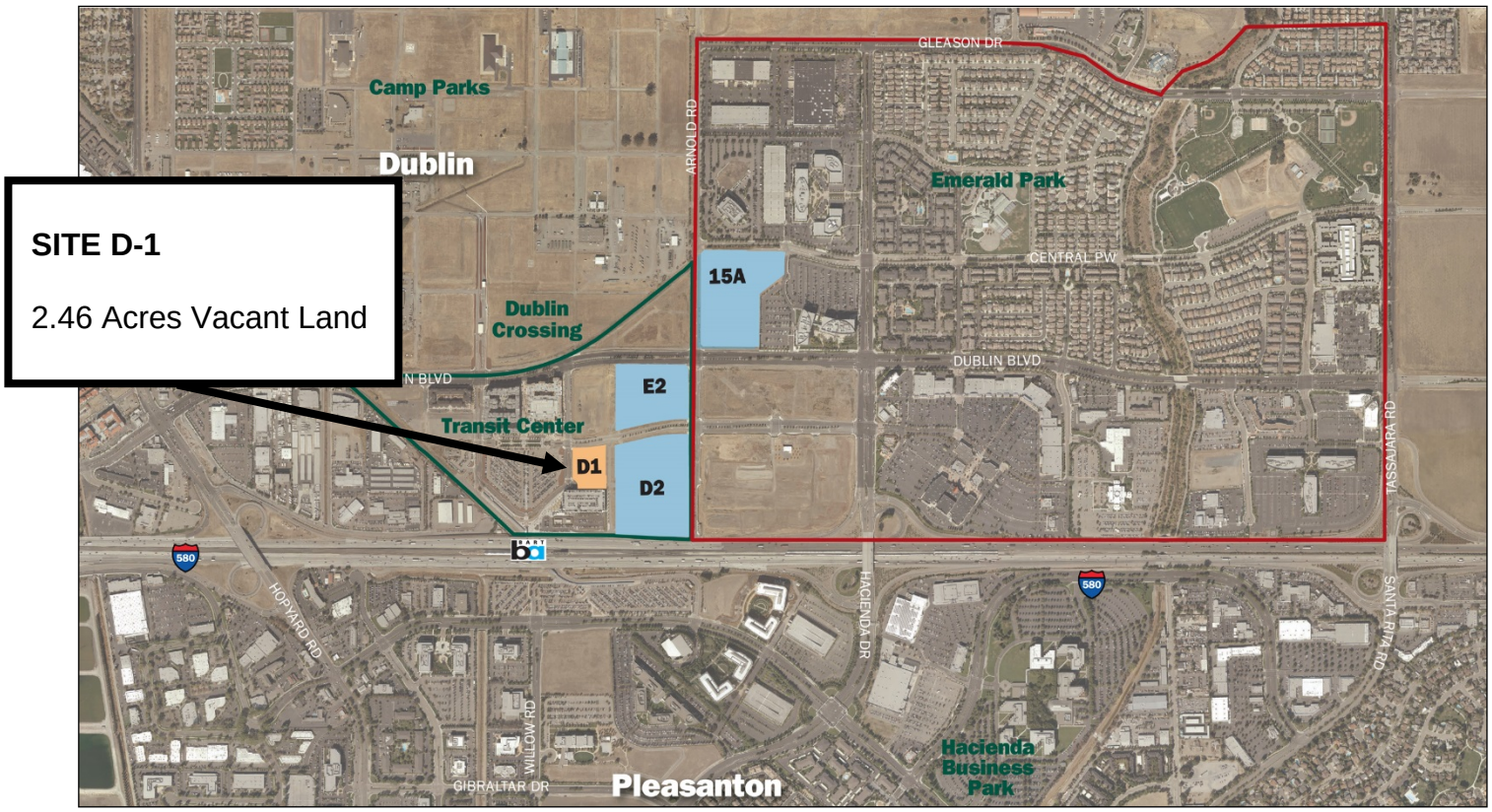
REQUEST FOR PROPOSALS

MULTI-FAMILY RESIDENTIAL DEVELOPMENT SITE D-1
DUBLIN, CALIFORNIA

November 28, 2016



ALAMEDA COUNTY SURPLUS PROPERTY AUTHORITY

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THE SITE

- Site D-1 is a 2.46 acre vacant parcel (APN #986-0034-13-1) owned by the Alameda County Surplus Property Authority within the Dublin Transit Center development. Site D-1 is entitled for up to 195 multi-family units as part of the City of Dublin's Transit Center Specific Plan area.

- The Property, as indicated on **FIGURE 1**, is located directly north of the East Dublin/Pleasanton BART station parking garage, and only several hundred feet from the station entrance as well as bus service serving the Tri-Valley region. The rectangular site is bounded to the north by Martinelli Way, to the west by Iron Horse Parkway, and on the east by the right-of-way for the future extension of Campus Drive.

- All major infrastructure required for the development of Site D-1 is in place, including all necessary utilities in the adjacent streets. The generally level Property is largely covered in gravel and was recently used for as a staging area for construction of nearby developments.

- Site D-1 is part of the Dublin Transit Center, a 90 acre mixed-use transit-oriented development area adjacent to the East Dublin/Pleasanton BART Station. Under agreement between Alameda County and the City of Dublin, land use entitlements are controlled by the City. Dublin's Transit Center Specific Plan amendment and Stage I zoning permits up to 1,800 multi-family units, 1,700,000 square feet of office, ancillary retail uses, and a BART garage.

- In 2008, the Authority completed construction of a seven-level BART garage adjacent to the station entrance and separating Site D-1 from I-580. The BART garage replaced most of the station's existing surface parking lots, allowing for their subsequent development as housing. In addition, Iron Horse Parkway and DeMarcus Boulevard have been narrowed to make them more inviting to pedestrians, with wide sidewalks and street trees. Between Iron Horse and DeMarcus, forming the terminus for Martinelli Way, is the 1.1 acre Campbell Green, which serves as a focal point for the Transit Center neighborhood. The Iron Horse Trail forms the western edge of the Transit Center development, a regional bike and pedestrian trail operated by the East Bay Regional Park District that currently connects Concord to the north with Pleasanton and Livermore to the south, a distance of over 25 miles.

- Site D-1 is the last remaining Transit Center property owned by the Authority that is currently zoned for residential use. To date, the Authority has completed land sales to private developers for seven multi-family residential projects within the Transit Center, five of which have been completed and occupied, and one other currently under construction. Immediately to the west of Site D-1, across Iron Horse Parkway, AvalonBay is recently completed construction of the second phase of Avalon Station, a five-story 505 unit apartment complex directly north of the BART station entrance. Directly north of the Site, across Martinelli Way, is the 105 unit Esprit town home

development, a D.R. Horton project. Further to the west, along Dublin Boulevard, is the 305-unit Eclipse at Dublin apartment community, the 257unit Elan condominium community, as well as EAH's Camellia Place development, with 112 units of low and very-low affordable units. To the west of Camellia Place, Pulte Homes completing construction of 52 townhomes on the 2.8 acre Site A-1. Site A-3, a 2.4 acre parcel just south of Camellia Place that is designated for up to 190 units, was sold by the Authority to Hanover in 2007. The current owner (UDR) has not announced any plans or schedule for the development of the property.

- To the east of Site D-1, between Campus Drive and Arnold Road, are two vacant sites owned by the Authority (Sites D-2 and E-2) that are zoned for high-density office development (8-10 stories). These sites can be made available for construction staging for Site D-1 until such time as they are developed.

- The recently opened Persimmon Place retail center, featuring a Whole Foods market, Nordstrom Rack and numerous restaurants, is an easy walk from Site D-1, just east of Arnold Road on Martinelli Way.

- North of Dublin Boulevard, Brookfield Homes is starting construction on the first phase of the Dublin Crossings project, a 180 acre development that was formerly a part of the 2,500 acre U.S. Army's Camp Parks reserve training base. The City of Dublin has approved a Specific Plan and related environmental documents for the project that permits up to 1,996 residential units at a mix of densities, a 30 acre community park, an elementary school and several hundred thousand square feet of retail and commercial uses. Both Iron Horse Parkway and DeMarcus Boulevard are being extended north of Dublin Boulevard to access the area.

- The Dublin Transit Center is the latest phase of the Authority's build-out of its surplus properties in Dublin. Over the last two decades, the Authority has completed over 25 land sales in Dublin that have resulted in the construction of over 3,500 homes and 2.5 million square feet of commercial and office space, as well as an elementary school, community park and a major creek restoration. The Authority's lands are a part of the larger Eastern Dublin Specific Plan area that will ultimately result in some 12,000 residential units and some 7 million square feet of commercial and office space.

ENTITLEMENTS

- By agreement, the Authority's Transit Center project is under the jurisdiction of Dublin, requiring that all land use entitlements be received from the City.

- The Dublin Transit Center, including Site D-1, has approved Stage 1 Planned Development zoning designations that specify densities and uses, a Master Development Agreement, and an EIR. Site D-1 is zoned for either campus office or high density residential development, as well as ancillary retail uses. Up to 195 multi-family units are permitted to be developed on the Site, which can be either for-sale or rental units.

- The selected developer of Site D-1 will be responsible for securing the project-specific entitlements that will include: Stage 2 PD rezoning tailored to the project; Site Development Review (design review); and any internal subdivision desired by the developer. These approvals are usually granted concurrently. The Authority will work

with the selected developer and the City to complete the entitlement process for the Site. Based on previous experience, an entitlement time frame of 9 to 12 months, from the date of entering into Exclusive Negotiations, should be anticipated.

- The City of Dublin's designation of the Site for "high-density residential" specifies that a minimum density of 25.1 units per acre (62 units) be achieved, or it will require a General Plan/Specific Plan amendment and Stage 1 rezoning to change the permitted residential density to "medium-high density residential" (14-25 units per acre). Due to City and Dublin Unified School District concerns that lower-density development on the Site may result in more school-age children than a higher density project, the Authority does not encourage proposals that would require a General Plan/Specific Plan amendment.

- Recent amendments to California's Surplus Lands Act require that a minimum of 15% of the total residential units developed on Site D-1 be made affordable to "lower-income" residents (60% Average Median Income), based on rates for Alameda County published by the California Department of Housing and Community Development. As discussed in detail in **Attachment I** (Site Context, Affordable Housing and Design Issues), proposers can meet this requirement in a variety of ways, including by having a non-profit housing developer separately build and manage the required affordable units on a portion of the Site, or by incorporating the affordable units within the larger market-rate development.

- The 15% affordable housing requirement and transit-oriented location potentially make Site D-1 a strong candidate to take advantage of recent amendments to State law regarding density bonus incentives (Assembly Bill No. 2501) that was signed by the Governor in September. As discussed in more detail in **Attachment I**, proposers are encouraged to consider utilizing the density bonus provisions to increase the total number of market-rate units (by up to 35%), significantly reduce parking requirements from the current 1.5 spaces per unit, waive development standards such as the five-story height limitation, and/or potentially propose additional incentives/concessions to the City that would financially help the project meet the affordable housing requirement.

AUTHORITY OBJECTIVES

Consideration will be weighted towards proposals that best meet the Authority's following objectives:

- Develop a high quality multi-family development that capitalizes on the proximity to BART, incorporates a high standard of design quality that is compatible with existing development in the Transit Center district, emphasizes the pedestrian environment and that recognizes and addresses design issues regarding the adjacent BART garage;

- Appropriately incorporate the required 15% affordable units in the overall development that maintains the high standard of design quality that is compatible with the Transit Center district, complements the existing residential projects and meets the City's expectations;

- Optimize the Authority's return on its land, taking into consideration the site context and the Authority's other, qualitative development goals and design issues, as outlined in **ATTACHMENT I.**

DEVELOPER QUALIFICATIONS

The Authority seeks proposers with the demonstrated ability to:

- Close land purchases in a timely manner;
- Bring experience from development of similar projects;
- Develop high quality multi-family projects that will be compatible with and enhance the mixed-use, pedestrian-oriented, character of the Transit Center;
- Incorporate affordable housing in an appropriate manner;
- Secure entitlements and all necessary permits in a timely manner;
- Develop a plan for the Site that integrates the development with the existing and planned land uses on the remainder of the Transit Center;
- Fund expenses required for project-specific entitlements upon execution of an Exclusive Right to Negotiate with the Authority; and
- Secure all necessary financing of the private development, including construction loans.

SUBMISSION REQUIREMENTS

Those wishing to respond to this RFP should submit their response package in the format described below:

A. Description and Experience of Development Entity

A description of the proposer's qualifications and role in developing and completing similar projects, including the following information, must be submitted:

1. Developer's name and address;
2. Nature of Developer's business organization (corporation, partnership, joint venture, etc.);
3. Principals of the Development Entity (corporate officers, principal stockholders, general and limited partners, etc.);
4. Identification of the person who has the authority to execute an agreement with the Authority and the key personnel that will be responsible for negotiating the agreement with the Authority and seeking entitlements from the City;
5. Relevant project experience of the Development entity will be heavily weighted in the selection. The descriptions of completed projects should include: role assumed by key individuals; photographs; brief description of the project (date completed, location,

concept, land uses, size, product types, densities, rates of absorption, construction cost, rents/sales prices, inclusionary housing requirements, estimated value, amount of financing, and names of construction and permanent lenders);

6. Developer's references: joint venture partners, if any, and a minimum of three (3) construction and permanent financing lenders;

7. Evidence that the Developer has recently been able to finance similar projects, including:
    - Internal funding sources to satisfy the Developer's capital requirements;
    - Ability to secure sufficient capital to fund construction and total project costs ;
    - The Authority may require a current audited financial statement from the selected developer, which will be kept confidential;

8. Land seller references: Three (3) land sellers that recently sold land to the Developer. Include contacts and a brief description of the transaction; and

9. Development Team: The proposal shall identify the major consultants that will work on the project. The composition of the development team should recognize that the Authority will require the developer make a good faith effort to contract with consultants and construction firms with offices in Alameda County. A "Buy Alameda Goal" of at least 25% will be included in the Conveyance Agreement. A commitment, in the Proposal, to exceed this goal will be viewed favorably.

B. Site Plan and Narrative Description of the Project

FIGURE 2 is an illustration of the Site and adjoining roads/rights-of-way. This map is provided for site planning purposes. A ***CAD*** version of **FIGURE 2** is available from Robert Taylor with the Alameda County Community Development Agency. E-mail your request for the "Site D-1 RFP Site Plan" to him directly at robert.taylor@acgov.org.

Each submittal should include a site plan with an accompanying narrative description of the development concept, including:

1. Identification of the total net square footage, mix of unit types, including number of units by type and a description of each unit type (number of plans, size of units, type of construction, and other key features of the units, such as the number of parking spaces).

2. Graphic examples of the proposed unit types, including typical elevations and floor plans. These can be examples from other similar projects.

3. A conceptual site plan, including internal circulation and parking areas, that integrates the design issues outlined in **ATTACHMENT I,** relates to the balance of the Dublin Transit Center, and correlates with the Business Proposal.

4. A clear description of how the affordable housing requirement will be met, including number, type and location of units.

5. A statement regarding which (if any) density bonus provisions will be sought, such as additional units, waiver of (specific) development standards, parking reductions, and/or other incentives or concessions.

C. Business Proposal

The Authority encourages proposers to have discussions with staff to better understand how the business proposal might be structured.

The business proposal must include all of the following information:

Project Description:

1. Product mix, indicating the number of units by type;

2. Description of each unit type, including number of plans, size of units, unit amenities (balconies, fixtures, etc.), and other key features of the development, such as parking accommodation and project amenities;

3. Projected sales prices and/or rental rates for the units; and

4. Development Pro Forma, including:

    - Land purchase price;

    - A breakdown of all estimated construction costs, including building costs and on-site infrastructure costs;

    - A detailed estimate of all soft costs, including A&E, all City/Utility and other development fees and permits **(utilizing the schedule of assumed fees provided in ATTACHMENT II)**, marketing and leasing, financing fees and costs, insurance and taxes, and developer's overhead and profit;

    - An operating budget; including anticipated sales/rental schedule, operating expenses, net operating income, cash flow and financing/equity assumptions.

    - Assumed funding sources for the affordable housing units.

Project Development and Marketing Plan

1. Detailed predevelopment schedule, with milestones and proposed date for start of construction;

2. Planned construction schedule and lease up/sales schedule for the development;

3. Planned phasing of development, if any; and

4. Proposed plan for marketing the development, including targeted market, proposed marketing budget, amenities, upgrades, etc.

Project Financial Terms

1. **Land Price**: Proposed financial terms of the land purchase.

2. **Deposits**: The proposer is required to review **ATTACHMENT IV**, the Authority's form of Purchase and Sale Agreement, and to make a specific proposal regarding the amount of Deposit(s) and the terms for the satisfaction of feasibility and the release of the Deposit(s) to the Authority.

3. **Unit Yield Adjusters**: The minimum number of units needed to achieve the proposed land price must be stated; and any assumed reduction in land price, on a per unit basis, if that minimum is not achieved after completing the City's entitlement process. Likewise, a unit price adjuster should be provided if the number of units ultimately approved by the City exceeds the number used to determine the proposed land price.

4. **Closing Conditions**: Proposed Outside Close of Escrow Date and Buyer's Conditions for the Close of Escrow.

5. **Financing Contingencies**: A clear statement regarding any financing contingency.

6. **Financial Structure**: Sources and terms for financing, including amount of equity contribution and amount of debt requirement; and

7. **Lenders**: If debt financing is proposed, list three potential lending sources, including contact name and phone number.

Assumptions for Business Proposal

For the purposes of the business proposal only, the following assumptions should be used. Actual business terms may vary for the selected developer, based on the outcome of negotiations with the Authority.

1. Assume that completing Campus Drive (paving and curb-and-gutter) between Altamirano and Martinelli, as well as constructing curb-and-gutter improvements along the Site's Martinelli frontage, will be done by the selected developer after close, but at the Authority's cost, utilizing funds placed into escrow based on competitive bids.

2. Assume that, with the exception of completing Campus Drive and Martinelli Way, no major off-site infrastructure will be required. Assume that any minor off-site infrastructure (such as a turn lane into the project from adjacent streets, if desired) will be the financial responsibility of the Buyer.

3. Assume that the Buyer will be responsible for the cost of all improvements within Site D-1, including all utility hook-ups and back-of-curb improvements within the adjoining City street rights-of-way.

4. Assume that all fees and exactions will be the responsibility of the Buyer. A**TTACHMENT II** contains a list of assumed fees that should be used by the

proposer for estimating development fees. It should be noted that this list represents the Authority's best estimate of fees and exactions at this time, but such fees and exactions are likely to change at any time. However, to permit an equal evaluation of all proposals, this fee list should be used for the purposes of this proposal only. Note that, while the Authority possesses fee credits applicable to a portion of the City's traffic impact and park fees, the selected developer will be required to utilize these fee credits and compensate the Authority at their "face value" when used (resulting in no change in cost to the developer in comparison to paying the City fees directly). The Authority will require that such fee credits be paid in full within three years of close, even if the project has not started construction.

5. Assume that all costs of completing the entitlement of the Site are the responsibility of the proposer (including any environmental mitigation requirements).

D. Brokers

The Authority requires that any fees or commissions owed to third parties be solely the responsibility of the developer. The business proposal should reflect this.

E. $25,000 Deposit

Each submittal must include a $25,000 cashier's check made out to *Alameda County Surplus Property Authority*, as a refundable deposit. This deposit will be returned to all proposers that are not selected by the Authority for an exclusive right to negotiate. For submittals selected for the exclusive right to negotiate period, this deposit will become a portion of the good faith deposit required.

F. Exclusive Right to Negotiate

ATTACHMENT III includes the "Exclusive Right to Negotiate" (ERN). **Each submittal must include an ERN executed by the proposer.** The "Exclusive Right to Negotiate" period will be not more than 60 days after approval of the ERN by the County Board of Supervisors, acting in their capacity as the Alameda County Surplus Property Authority Commission. During this period, the selected Developer must, in conjunction with the Authority, at a minimum:

1. Deposit an additional deposit with the Authority as a good faith deposit. The total deposit 1) will be returned to the Developer if, at the end of the Exclusive Right to Negotiate period, despite good faith efforts, no Purchase and Sale Agreement is signed; or 2) will be applied towards the required First Deposit when a Purchase and Sale Agreement is signed.

2. Finalize the business agreement with the Authority.

3. Detail the responsibilities of the Developer and the Authority leading to the conveyance of the site and set forth a performance schedule.

4. Submit a comprehensive and detailed financial plan to provide sufficient equity and debt to complete the project and any additional information the Authority may request in order to evaluate the Developer's financial position. A current financial statement of the Developer may be required.

5. Begin preparation of the site plan, elevations, and architecture in preparation for an application to the City of Dublin, and meet with the City to review the initial plans.

PURCHASE AND SALE AGREEMENT

Following successful completion of negotiations, documents for the conveyance of the Site will be prepared for execution by the Developer and consideration and action by the Authority Commission, (whose members are the same as the County Board of Supervisors). Any agreement must be approved by the Authority Commission. A form of the Purchase and Sale Agreement used by the Authority in other Eastern Dublin property transactions is included for review as **ATTACHMENT IV**. Proposals should assume that the Authority's form of Agreement will be the basis for negotiating a final agreement.

DEVELOPER SELECTION PROCESS

The proposals submitted will be reviewed by Authority staff. The Authority staff and selected proposers will then engage in negotiations to clarify and remove ambiguities in the responses and business terms for the conveyance of the site. Depending on the number and composition of the proposals received, this may require that the top several proposers submit "best and final" offers.

The most qualified submittal will be determined by Authority staff, taking into consideration each proposers' ability to satisfy the Authority's objectives. The staff's recommendation, together with the executed Exclusive Right to Negotiate, will then be forwarded to the Authority Commission for consideration and action.

At the conclusion of a successful negotiation during the Exclusive Right to Negotiate period, the Purchase and Sale Agreement between the parties will be finalized. The final agreement will then be forwarded to the Authority Commission for consideration and action.

This RFP is not a contract or a commitment of any kind by the Authority and does not commit the Authority to award an exclusive development option or to pay any cost incurred in the submission of a response. The Authority, at its sole discretion, reserves the right to accept or reject, in whole or in part, submittals received in response to this request, to solicit additional proposals, to negotiate with any qualified source, or to cancel in whole or in part this Request for Proposals. All submittals will become the property of the Authority. Failure to provide any of the requested data within the specified submission period may cause the Authority, at its sole discretion, to reject the submittal or require that the data be submitted.

It is specifically understood that this RFP constitutes an enumeration of the points which will guide subsequent negotiations. No agreement as to the specific terms shall be binding between the parties until execution of the agreements. Any sums expended in response to the RFP shall be at the sole cost and expense of the proposer.

DEVELOPER SELECTION SCHEDULE

The proposed schedule for the selection process is outlined below. The ability to achieve these target dates depends upon a number of variables, which cannot be predicted at this time. The Authority may alter the schedule.

1. **Proposal and Selection Phase**

   RFP issued **November 28, 2016**

   RFP response due date - 5:00 p.m. **January 20, 2017**

   2 hard copies and 1 electronic copy (on disc or flashdrive) to:

   Stuart Cook
   Alameda County Surplus Property Authority
   224 West Winton Avenue, Room 110
   Hayward, CA 94544

   Complete review of proposals and Authority selection of recommended developer **Early March, 2017**

2. **Exclusive Right to Negotiate Phase**

   Negotiate basic business terms and schedule of performance **March-April, 2017**

3. **Execute Purchase and Sale Agreement** **May, 2017**

Figure 1 - Site D-1 Location and Context

ALAMEDA COUNTY | **Community Development Agency**

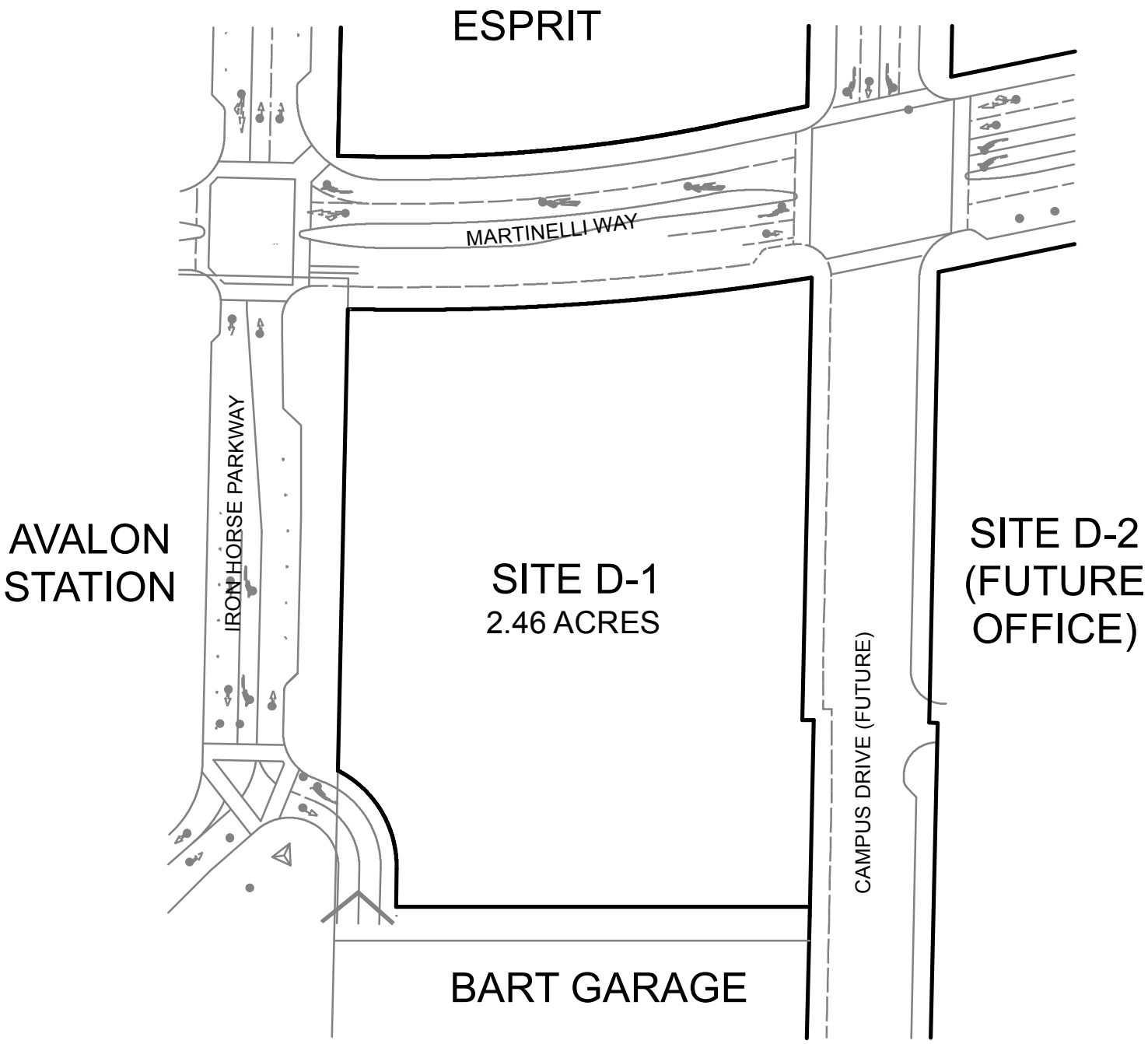

Figure 2 - Site D-1 Site Plan

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ATTACHMENT I

SITE CONTEXT, AFFORDABLE HOUSING AND DESIGN ISSUES

REQUEST FOR PROPOSALS

MULTI-FAMILY RESIDENTIAL DEVELOPMENT SITE D-1
DUBLIN TRANSIT CENTER
DUBLIN, CALIFORNIA

November 28, 2016

ATTACHMENT I

SITE D-1 CONTEXT, AFFORDABLE HOUSING AND DESIGN ISSUES

DUBLIN TRANSIT CENTER
MULTI-FAMILY RESIDENTIAL DEVELOPMENT SITE D-1

CONTEXT

The 2.46 acre Site D-1 is part of the Alameda County Surplus Property Authority's 90-acre mixed-use Dublin Transit Center development. As specified in the City of Dublin's *Dublin Transit Center Specific Plan Amendment*, adopted in 2002, the area is planned as a high-density, pedestrian-friendly district, with up to 1.7 million square feet of office space east of Iron Horse Parkway, up to 1,800 high-density residential units clustered near the BART station and centered around a 1.1 acre Village Green, a BART station garage to replace most patron surface parking, as well as ancillary ground-floor retail uses along Iron Horse Parkway.

To date, six separate residential projects have been completed or are under construction, totaling over 1,300 units. An additional residential site, zoned for up to 190 units, was sold by the Authority in 2008, but no specific development plans have been filed with the City of Dublin. In addition, the BART garage and the Village Green (Campbell Green) have been completed, as well as most of the Transit Center street system.

The rectangular Site D-1 is located in the center of the Transit Center development, bounded by Martinelli Way to the north, Iron Horse Parkway to the west, the BART garage to the south, and the right-of-way for the future extension of Campus Drive to the east.

As part of the Transit Center Specific Plan Amendment and Stage 1 PD Zoning entitlements approved by the City of Dublin, Site D-1 is designated for up 180,000 square feet of office or hotel development or for up to 195 units of high-density multi-family residential development (defined as 25.1+ units per acre). Ancillary ground-floor retail uses are permitted (but not required) along the Iron Horse Parkway frontage.

The Authority is offering the Site for high-density multi-family residential development in keeping with existing zoning. Proposed projects that contain less than 62 units will be considered "medium-high density" by the City of Dublin, and will require changing the Site's Stage I zoning from "High-Density Residential" to "Medium-High Density Residential", as well as a General Plan and Specific Plan amendment. While Dublin has approved similar GPA/SP/rezoning requests in the past (most recently with SummerHill Home's townhome project on the Authority's Site A-1 in 2014), recently expressed concerns regarding cumulative impacts of development on the school district make it less clear that such a rezoning on Site D-1 would also be approved. Therefore, the Authority does not encourage proposals that would require the City to amend the General Plan and Transit Center Specific Plan for Site D-1.

SITE ISSUES

The flat, treeless, vacant Site D-1 is bounded by Iron Horse Parkway to the west and Martinelli Way to the north. The easterly side of Site D-1 is defined by the right-of-way for Campus Drive, which is planned as a two-lane street connecting Martinelli Way with Altimirano Road to the south. Campus Drive will be completed (at the Surplus Property Authority's cost) in association with the development of the Site. Directly to the south of Site D-1 is the seven-story BART garage (approximately 70 feet high) that is located approximately 10 feet from the property line, separated from Site D-1 by a landscape strip. The entrance to the BART garage from Iron Horse Parkway is located along the southwest corner of Site D-1, and separates the Site from a 120 foot-high lattice-style communication tower.

Site D-1 is currently largely covered with gravel and asphalt, left over from its use as a construction staging area for the BART garage and adjacent residential development. There are no existing easements within the net area of the Site. Although no borings have been done on-site, borings and trenching on adjacent sites indicate that the ground water level could be as high as 7-10 feet below the surface.

All necessary utilities for the development of Site D-1 are located within the adjacent streets/rights-of-way.

RESIDENTIAL DEVELOPMENT ISSUES

Transit Center residential building heights are limited to five stories over parking, but with no specific height limit. The AvalonBay apartment complex across Iron Horse Parkway from Site D-1 is over 60 feet above street level. No particular architectural style or materials are required to be followed, although development on Site D-1 should be compatible with the wood, stucco, stone and tile used in the existing Transit Center residential developments.

The Transit Center on-site residential parking requirement is 1.5 spaces per unit, with lower ratios permitted if backed up by site-specific parking studies. To date, Transit Center projects have utilized a "wrap" design, with a five-level garage in the center of the project (the Eclipse) as well as podium parking (Elan and Camellia Place) and individual garages (Esprit). In all cases, the projects have been designed so that garage space cannot generally be seen from adjacent streets, other than Dublin Boulevard, with residential units at street level within the Transit Center area. The City does not approve of the use of "tandem" spaces within garages. There is limited on-street parking adjacent to the Site along Iron Horse Parkway, with additional on-street parking planned along Campus Drive. On-street parking within the Transit Center is generally limited to 2 hours during business hours to discourage use by BART patrons.

The main vehicular access to Site D-1 should be from the east (Campus Drive), although the City may permit an additional access point from Iron Horse Parkway if it doesn't conflict with the traffic in and out of the adjacent BART garage. No vehicular access (other than for emergency vehicles) should be planned for from Martinelli Way.

AFFORDABLE HOUSING ISSUES

Multi-family development of Site D-1 is required to make at least 15% of the total units affordable to lower-income residents because the Site is subject to affordable housing requirements imposed by the State Surplus Lands Act, as amended in 2014 by Assembly Bill 2135. Essentially, the amended Act now requires that surplus property first be offered for sale to affordable housing entities that provide written notice, if such entities agree to make at least 25% of the units developed affordable to lower income households. If no agreement can be reached between the affordable housing developer and the agency selling the surplus property, the agency is then free to sell the property as it sees fit but, if it is to be developed with 10 or more units, at least 15% of the units developed must be available and affordable to lower income households, with covenants or restrictions recorded against title to ensure continued affordability for a minimum of 55 years.

In July, 2015, following the release of an RFP for Site D-1, the Surplus Property Authority received notices from several affordable housing entities and proceeded to negotiate with one (Eden Housing, in conjunction with a for-profit developer of the market-rate units). The proposal was for 195 apartments on the Site, with Eden Housing developing 41 units for very-low income seniors on approximately ½ acre on the northeast corner of the Site, and the for-profit company developing the remaining 154 units, including 8 units for low-income residents. However, the for-profit developer was unable to secure sufficient financing for the market-rate potion and withdrew, ending the negotiation. Therefore, in accordance with the State Surplus Lands Act, the Authority is now free to release a new RFP to all parties, but with the stipulation that 15% of the total number of units be affordable to lower-income residents.

Monthly allowable rent (including utilities) for lower income residents for Fiscal Year 2016 are indicated in the following chart:

Unit Type	**No. of Residents**	**Monthly Allowable Rent**
Studio	1	$ 982.80
1 bedroom	2	$1,123.20
2 bedroom	3	$1,263.60
3 bedroom	4	$1,404.00

Proposals for the purchase and development of Site D-1 can comply with the affordable housing requirement by integrating the affordable units within a larger market-rate project (roughly matching the mix of bedroom types and sizes), with or without the assistance of an affordable housing entity, or by teaming up with an affordable housing entity to provide a stand-alone affordable project on a portion of the Site. Any stand-alone affordable housing project will need to be appropriately integrated into the overall development plan, and will likely be required to be constructed at the same time as the market-rate development.

Because of their familiarity with the Site and the City of Dublin generally, Eden Housing has expressed an interest in teaming up with other market-rate developers that wished to have Eden take on the development and long-term management of a stand-alone affordable housing project on a portion of the site (similar to their original proposal), leaving the remainder of the Site to be developed for market-rate housing. Even though their original proposal was for 41 units on approximately ½ acre of the Site, Eden has indicated that they would be comfortable developing and managing a stand-alone project as small as approximately 29 units (15% of the 195 units permitted on the Site). For more information about Eden, please contact Andrea Osgood, Director of Real Estate Development directly at aosgood@edenhousing.org. However, it should be noted that the Authority has worked and is very comfortable working with other affordable housing developers.

DENSITY BONUS PROVISIONS

Because of the requirement to make 15% of the total number of units available for lower income residents and Site D-1's location adjacent to BART, proposers are encouraged to consider the potential to utilize relevant provisions of the recently enacted amendments to Section 65915 of the Government Code regarding density bonuses for providing affordable housing.

By way of example, a proposal that provided 39 units affordable to low-income residents (similar in size to the Eden Housing proposal discussed above), the City would be required to grant a density bonus of 35% above the 195 permitted units for the Site, for a total of 260 units (taking into account that 15% of the total units must be affordable under the Surplus Lands Act). In addition, Section 65915, as amended, would also require the City to reduce the parking requirement of 1.5 spaces per unit to 0.5 spaces per bedroom, waive any development standards that physically preclude the construction, as well as provide two incentives or concessions proposed by the developer that would "result in identifiable and actual cost reductions". Because there is no requirement that all potential bonus density units be requested, a project with a smaller total number of units could also take advantage of the reduced parking requirements, development standards waivers and incentives, as long as 15% of the (overall) total number of units are made affordable to low income residents. The text of the amended Section 65915 can be found at http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160AB2501

DESIGN ISSUES BY FRONTAGE

West: Site D-1 is bounded by Iron Horse Parkway on the west, which separates the property from AvalonBay's five-story 505 unit Avalon Station project. Iron Horse Parkway has three travel lanes and on-street parking bays on either side. Back-of-curb improvements within the street right-of-way along the Site D-1 frontage, including 12-16 foot sidewalks and street trees, will be the responsibility of the selected developer.

Residential development along Iron Horse should provide appropriate pedestrian access directly to the street, similar to the AvalonBay project or the Esprit project north of Martinelli, with minimal to no setback from the sidewalk/street right-of-way. The use of balconies, terraces and projecting bay windows is encouraged. Podium parking or structures or individual garages should not be located along the street edge. Vehicular access from Iron Horse Parkway will be limited to a maximum of one access point, and may be limited by the City to right-in/right-out movements.

North: Site D-1 is bounded by Martinelli Way to the north, a two-lane road with a landscaped median. Across Martinelli Way is D.R. Horton's recently completed Esprit development, which consists of 105 three-story townhomes on 4.1 acres. The selected developer of Site D-1 will complete the section of Martinelli fronting the site, consisting of a bike lane and curb-and-gutter (at the Authority's cost) as well as frontage improvements that include 14' sidewalks with tree grates (at the developer's cost) – matching the improvements on the north side of the street. No vehicular access (other than potentially emergency vehicles) from Martinelli Way should be anticipated, although pedestrian access is encouraged and units along this frontage should present an appropriate face to the street, with a minimal landscaped set-back (similar to the Esprit project to the north).

East: Site D-1 is bounded by the right-of-way for Campus Drive, which is planned as a two-lane street with a middle turning lane, parking on both sides, and 12 foot sidewalks within a 76-78 foot right-of-way between Martinelli Way and Altimirano Avenue to the south. All utilities have already been constructed, so that street improvements will consist of grading, paving and curb-and-gutter installation (at the Authority's cost) as well as a 12-foot sidewalk and street trees within the street right-of-way (at the selected developer's cost).

While Campus Drive will be the major vehicular access point to the Site, the residential development on Site D-1 should present a "face" to Campus, with units fronting the street. Zero building setbacks from back of sidewalk are encouraged, and building edges should be articulated with stoops, entrances, porches or residential entry courts. Parking structures should not be located directly adjacent to the street.

The Transit Center Specific Plan amendment calls for a "landscape feature" or small public plaza that could contain public art (provided by the developer in lieu of public art fees) to be located on Site D-1 at the corner of Martinelli Way and Campus Drive. The Esprit project has a similar requirement at the corner of Dublin Boulevard and Iron Horse Parkway.

Across Campus Drive, Sites D-2 and E-2 are designated for Campus Office uses, permitting up to 1.5 million square feet of office development with buildings up to 10 stories high and with zero setback from the sidewalk. Either site could be utilized for construction staging areas and/or models by the selected developer of Site D-1 until such time as these sites are sold for development.

South: Directly to the south of Site D-1 is the seven-story BART garage (approximately 70 feet high) that is located approximately 10 feet from the property line, separated from Site D-1 by a landscape strip containing 20 foot-tall trees. The entrance to the BART garage from Iron Horse Parkway is located along the southwest corner of Site D-1, and separates the Site from a 120 foot-high lattice-style communication tower, as well as the sidewalk leading to the BART station entrance.

While the BART garage serves as an effective sound barrier from I-580 traffic noise, residential project proposals on Site D-1 should appropriately buffer residents from the garage, including potential light spill-over at night, as well as recognizing the considerable shadow cast by the garage during the winter months.

ATTACHMENT II

ASSUMED DEVELOPMENT FEES

REQUEST FOR PROPOSALS

MULTI-FAMILY RESIDENTIAL DEVELOPMENT SITE D-1
DUBLIN TRANSIT CENTER
DUBLIN, CALIFORNIA

NOVEMBER 28, 2016

ATTACHMENT II

ASSUMED DEVELOPMENT FEES*

DUBLIN TRANSIT CENTER

MULTI-FAMILY RESIDENTIAL DEVELOPMENT SITE D-1

FEE	High Density Apartment
City of Dublin Traffic Impact	**$4,366/unit**
City of Dublin Freeway Reimbursement	**$202/unit**
City of Dublin Regional Traffic (TVTC)	**$2,951/unit ($0/affordable)**
City of Dublin Public Facilities	**$25,896/unit**
City of Dublin Noise Impact	**$2.85/unit**
City of Dublin In-lieu Affordable Housing (1)	**NA**
City of Dublin Public Art (2)	**$1,000/unit**
Dublin Unified School District School Impact (3)	**$4,858/unit**
Dublin Fire Facility Fee	**$544/unit**
Dublin/San Ramon Services District Sewer Connection	**$11,420/unit**
Dublin/San Ramon Services District Potable Water Connection (4)	**$3,768/unit**
Dublin/San Ramon Services District Recycled Water Connection (5)	**$314/unit**
Zone 7 Potable Water Connection (4)	**$7,640/unit**
Zone 7 Drainage (6)	**$495/unit**
TOTAL FEES*	**$63,457/unit**

***NOTE: This list of assumed fees is provided as a convenience to proposers in developing a business proposal, and no warranty to its completeness or accuracy is made or implied. The purpose of this list is to provide a uniform basis for judging proposals. Proposers are encouraged to contact individual agencies to verify actual fee amounts. All fees are subject to change without notice. The above fees do not include planning processing fees, meter assembly fees, fire sprinkler or building inspection fees, which vary by project complexity and value. The notes on the following page should be reviewed to understand assumptions made regarding water, drainage and public art per unit fees.**

FEE TABLE NOTES:

1. 15% of the total number of units are required to be affordable to low-income residents. Therefore, there are no in-lieu affordable housing fee.

2. Public Art fee is calculated at .5% of construction value. For purposes of this RFP, it was assumed a per unit construction value of $200,000 for High Density Apartments.

3. The school fee amount (adjusted for inflation) is specified by the Dublin Unified School District Mitigation Agreement with the Surplus Property Authority, dated October, 2005.

4. For the purpose of estimating the Water Meter Connection Fees, it is assumed that a residential development would require one 1" potable water meter for every 8 high-density apartments (assumed 195 total), as well as one 1.5" recycled water meter for the Site landscaping, based on the following rates:

WATER METER CONNECTION RATES

Meter Size	DSRSD Rate	Zone 7 Rate	Total
5/8"	$12,763	$25,320	$37,076
3/4"	$18,368	$37,245	$55,613
1"	$30,612	$62,075	$92,687
1.5"	$61,233	$124,150	$185,383
2"	$97,957	$198,640	$296,597

(These rates do not include meter assembly fees)

5. Recycled water meters for irrigation do not pay Zone 7 fees, only the DSRSD rate. The cost of a 1.5" meter is divided by the assumed number of units in #4 above to calculate an assumed amount per unit.

6. The Zone 7 impervious surface drainage fee is currently $1.00 per square foot of new impervious surface. Assuming 90% coverage, the total fee for the Site will be $96,442, which is divided by the assumed number of units in #4 above to calculate an assumed amount per unit.

ATTACHMENT III

EXCLUSIVE RIGHT TO NEGOTIATE

REQUEST FOR PROPOSALS

MULTI-FAMILY RESIDENTIAL DEVELOPMENT SITE D-1
DUBLIN TRANSIT CENTER
DUBLIN, CALIFORNIA

NOVEMBER 28, 2016

EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT

Site D-1

THIS EXCLUSIVE RIGHT TO NEGOTIATE (the "Agreement") is entered into as of the date this Agreement is executed by the Authority, as shown on the signature page hereof (the "Effective Date"), by and between the Surplus Property Authority of Alameda County, a public corporation (the "Authority"), and _____ (the "Developer"), on the basis of the following purposes, intentions, and facts:

RECITALS

A. The Authority is the owner of land (the "Authority Property") in the City of Dublin in the vicinity of the East Dublin/Pleasanton BART station, upon which the Authority intends to cause the development of a comprehensively planned mixed-use development, that will maximize the value of the Authority Property and the development that will occur thereon. The Authority intends to convey various portions of the Authority Property in a manner and at times that will achieve this objective.

B. The Authority is now considering the sale of a parcel of the Authority Property, consisting of approximately 2.46 acres ("Site D-1"), APN #986-0034-013-01, as generally shown on the map attached hereto as Exhibit A and incorporated herein by this reference, for purposes of multi-family development by a qualified developer, together with other ancillary features.

C. The Authority initiated the process to select a developer to whom it may sell Site D-1 (the "Parcel") in accordance with a request for proposals/developer selection process pursuant to the Authority's Rules and Procedures for Disposition of Property. As part of that process, the Authority distributed a Request for Proposals (the "RFP"), and the Developer submitted a proposal to acquire and develop the Parcel (the "Proposal"), which are attached to this Agreement as Exhibit B and Exhibit C, respectively, and incorporated herein by this reference.

D. On the basis of the Proposal, the Authority has selected the Developer as the entity with which to negotiate to seek to execute a mutually acceptable purchase and sale agreement and/or option agreement and related documentation (the "Conveyance Agreement").

E. The purpose of this Agreement is to establish procedures and standards for the negotiation by the Authority and the Developer of a Conveyance Agreement. As more fully set forth in Section 3.1, the parties acknowledge and agree that this Agreement in itself does not grant the Developer the right to acquire Site D-1, nor does it obligate the Developer to any activities or costs to acquire the Parcel, other than the activities and costs necessary to discharge the Developer's obligation to negotiate in good faith as contemplated by this Agreement.

NOW, THEREFORE, THE AUTHORITY AND THE DEVELOPER HEREBY AGREE AS FOLLOWS:

ARTICLE 1
EXCLUSIVE NEGOTIATIONS

Section 1.1 Good Faith Negotiations. The Authority and the Developer, acknowledging that time is of the essence, agree for the Negotiation Period set forth in Section 1.2 to negotiate diligently and in good faith to prepare and execute a Conveyance Agreement in the manner set forth in this Agreement. The Conveyance Agreement shall contain terms acceptable to the Authority and the Developer, in the respective exercise by each of its sole discretion. Such Conveyance Agreement shall include, without limitation, provisions regarding a period of time wherein the Developer shall satisfy itself, in its sole discretion, of the availability of all entitlements required by the Developer in order to enable it to develop, standard and customary title and survey review provisions with an opportunity to object, if necessary, and representations and warranties from the Authority. The purchase price and the other conveyance terms shall be subject to negotiation by the Authority and the Developer during the Negotiation Period. The RFP and the Proposal shall serve as the guide in the negotiation of the Conveyance Agreement, although the parties recognize that review of additional information and further discussion may lead to refinement of the issues and concepts set forth in the RFP and the Proposal. During the Negotiation Period, the Authority will negotiate solely with the Developer with respect to sale and development of the Parcel.

Section 1.2 Negotiation Period. The term of this Agreement (the "Negotiation Period") shall commence upon the Effective Date and shall expire on the earliest to occur of: (a) sixty days (60) from the Effective Date; (b) the termination of this Agreement as provided herein; or (c) full execution and receipt of the Conveyance Agreement by the Authority and the Developer. The Authority's Director may, in his discretion, agree to extend the initial Negotiation Period for up to an additional sixty (60) days. An extension shall be effective only if evidenced by a letter executed by authorized representatives of the Authority and the Developer.

If a Conveyance Agreement has not been executed by the Authority and the Developer by the expiration of the Negotiation Period (as the Negotiation Period may be extended by operation of the preceding paragraph), then this Agreement shall terminate and neither party shall have any further rights or obligations under this Agreement except as set forth in Sections 1.3 and 3.7. If a Conveyance Agreement is executed by the Authority and the Developer then, upon such execution, the Good Faith Deposit (as defined in Section 1.3) shall be retained by Escrow Holder pursuant to the Conveyance Agreement, this Agreement shall terminate, and all rights and obligations of the parties shall be as set forth in the executed Conveyance Agreement.

The Conveyance Agreement shall provide that the Good Faith Deposit shall be applicable to the purchase price for the Parcel, and shall become non-refundable to the Developer as set forth in the Conveyance Agreement.

The Developer acknowledges that time is of the essence to the Authority in negotiation of a Conveyance Agreement, sale of the Parcel and development thereon. Accordingly, it is essential to the Authority that the parties negotiate in good faith and, if the parties do not succeed in timely negotiating a Conveyance Agreement, that this Agreement expire as specified above so that the Authority may pursue other means to sell the Parcel and cause timely development.

Section 1.3 Good Faith Deposit. In connection with submission of the Proposal, the Developer deposited with the Authority the cash amount of Twenty-Five Thousand Dollars ($25,000). Within five (5) days of the Effective Date, the Authority shall deposit such sum with Chicago Title Insurance Company (the "Escrow Holder") and the Developer shall deposit with the Escrow Holder an additional cash amount of One Hundred Thousand Dollars ($100,000) that, when combined with the already deposited $25,000, will represent a total deposit of One Hundred Twenty-Five Thousand Dollars ($125,000) (the "Good Faith Deposit") to ensure that the Developer will negotiate in good faith and perform all of the Developer's obligations under this Agreement, and, upon execution of a Conveyance Agreement, to compensate the Authority in the event the Developer does not purchase the Parcel in accordance with the Conveyance Agreement, for any reason other than the Authority's default. If the Developer fails to provide such additional funds totaling the amount of required Good Faith Deposit within such five (5) day period, this Agreement shall immediately terminate and the Authority shall be entitled to retain the Twenty-Five Thousand Dollars ($25,000). The parties shall instruct Escrow Holder to deposit the Good Faith Deposit in an interest-bearing account and to hold the Good Faith Deposit in accordance with the provisions of this Agreement.

If this Agreement is terminated without execution of a Conveyance Agreement for any reason other than the Developer's breach of its obligation to make the full Good Faith Deposit or to negotiate in good faith, the Good Faith Deposit and any interest earned thereon shall be refunded promptly to the Developer.

If this Agreement is terminated by the Authority due to a breach of the Developer's obligation to negotiate in good faith, the Good Faith Deposit and any interest earned thereon shall be retained by the Authority, as more fully provided in Section 3.7.

If performance of this Agreement results in execution of a Conveyance Agreement, the disposition of the Good Faith Deposit and any interest earned thereon shall be as set forth in Section 1.2.

Section 1.4 Identity of Developer. The legal status of the Developer, its office address, and designated representatives to negotiate the Conveyance Agreement are as set forth in Exhibit D attached to this Agreement and incorporated herein by this reference.

ARTICLE 2
NEGOTIATION PROCESS AND RESPONSIBILITIES

Section 2.1 General Process. The negotiations hereunder shall be based on a development concept which shall include development as described in Recital B above, generally as set forth in the RFP and the Proposal. During the Negotiation Period, the Developer shall continue to develop the conceptual design and architecture of the development, shall continue to conduct marketing and feasibility analysis, and shall perform such other tasks as are reasonably necessary and appropriate to fulfill its obligation to negotiate in good faith with the Authority toward execution of a mutually acceptable Conveyance Agreement.

The Authority shall have the right in the exercise of its reasonable discretion to review and approve the design and architecture of development, including the conceptual aspects, and the exterior design and layout. In the exercise of its reasonable discretion the Authority shall respond to the Developer's written request for approval within ten (10) days of the Developer's request therefor or the items submitted for approval shall be deemed approved. If the Authority disapproves of the items submitted, it shall specifically state the reasons for such disapproval.

Concurrently with performance of negotiations under this Agreement, the Authority will be continuing its efforts, in cooperation with the City of Dublin (the "City") and other governmental entities, to perform economic, marketing, design, and other studies related to the master planning and development of the balance of the Authority Property. The Developer shall cooperate with the Authority in such efforts, and shall prepare its own studies and investigations with respect to the Parcel and shall negotiate the terms of the Conveyance Agreement in a manner that will promote development of a high quality development on the Parcel that is compatible with and supportive of the Authority's effort to ensure an integrated and coordinated mixed-use development of the entire Authority Property to achieve the objective set forth in Recital A.

Section 2.2 Reports, Studies, and Related Documents. The Developer shall provide the Authority with copies of all reports, studies, analyses, correspondence and similar documents, but excluding confidential or proprietary information and communications with the Developer's legal counsel, prepared or commissioned by the Developer with respect to this Agreement and the acquisition and development of the Parcel, promptly upon their completion. The Authority shall provide the Developer with copies of all reports, studies, analyses, correspondence and similar documents, but excluding confidential or proprietary information and communications with the Developer's legal counsel, prepared or commissioned by the Authority following execution of this Agreement with respect to development of the Parcel, promptly upon their completion.

While desiring to preserve its rights with respect to treatment of certain information on a confidential or proprietary basis, the Developer acknowledges that the Authority will need sufficient, detailed information about the proposed acquisition and development of the Parcel (including, without limitation, financial information) to make informed decisions about the content and approval of the Conveyance Agreement.

Upon reasonable notice, as from time to time requested by the Authority, the Developer shall make oral or written progress reports advising the Authority on studies being made and matters being evaluated by the Developer with respect to this Agreement and the acquisition and development of the Parcels.

Section 2.3 Entitlements. The Authority has received from the City, a general plan amendment, a specific plan, and a Stage I planned development zoning for development of the Authority Property, as well as a Master Development Agreement and Parcel Map. In general, and subject to more specific provisions to be negotiated in the Conveyance Agreement, Developer, at its sole cost, shall be responsible for obtaining all other land use entitlements, other governmental approvals, and utility rights from the City and other entities as may be necessary for Developer's contemplated development on the Parcel, including, but not limited to Stage II zoning, Site Development Review and any subdivision mapping desired within the parcel. In connection with their respective responsibilities, the Developer and the Authority may each negotiate directly with the City, other permitting entities and utility providers. The Developer and the Authority shall each cooperate with the other and keep the other reasonably informed of all such negotiations.

Section 2.4 Environmental Documents. As part of the overall entitlements for the Authority Property, the City of Dublin certified a Final Environmental Impact Report for development of the Authority Property in November, 2002. Subject to more specific discussions in connection with negotiation of the Conveyance Agreement, the Developer shall be responsible, at its sole cost, for preparation of any further environmental documents (if any) required under the California Environmental Quality Act for Developer's proposed development to proceed. The Authority shall cooperate with the Developer in preparing environmental documents for which the Developer is responsible (if any) by supplying available technical data and other available information concerning the proposed development of the Parcel.

Section 2.5 Right of Entry. During the Negotiation Period, the Authority grants to the Developer and the Developer's agents the right to enter upon the Parcel, subject to the terms and conditions of this Section 2.5, for the sole and exclusive purpose of conducting studies and investigations that will assist the Developer in negotiating a Conveyance Agreement and performing its obligations hereunder. Such entry shall be made only during regular business hours and upon not less than two business days' advance telephonic or written facsimile notice to the Authority's Director.

Prior to exercise of the right of entry granted in this Section 2.5, the Developer shall provide the Authority with satisfactory evidence, in the form of a certificate of insurance, that the Developer's agents who obtain access to the Parcel are insured under comprehensive general liability and automobile liability insurance policy or policies terminable only after ten (10) days' advance written notice to the Authority, each policy to be in an amount of not less than Two Million Dollars ($2,000,000) combined single limit per occurrence for bodily injury and property damage. Each insurance policy shall name the Authority as an additional insured and shall contain a waiver of any right of subrogation against the Authority.

The Developer shall indemnify and defend the Authority, the County of Alameda, and their respective boardmembers, officers, employees, and agents (collectively the "Indemnified

Parties") against, and hold the Indemnified Parties and the Parcel harmless from and against, any and all costs, expenses (including, without limitation, attorneys' fees), damages, claims, liabilities, liens (including, without limitation, mechanics liens) encumbrances and charges arising out of or in any way related to any entry by the Developer or the Developer's agents upon the Parcels, unless such matters arise from the sole and active negligence or willful misconduct of the Authority or other Indemnified Party. The foregoing obligation of the Developer shall survive the expiration of this Agreement.

Section 2.6 Authority Cooperation. The Authority shall reasonably cooperate in providing the Developer with information in the Authority's possession relevant to development of the Parcel.

ARTICLE 3
GENERAL PROVISIONS

Section 3.1 Limitation on Effect of Agreement. This Agreement shall not obligate either the Authority or the Developer to enter into a Conveyance Agreement or to enter into any particular Conveyance Agreement. By execution of this Agreement, the Authority is not committing itself to or agreeing to undertake disposition of any property. Execution of this Agreement by the Authority is merely an agreement to conduct a period of exclusive negotiations in accordance with the terms hereof, reserving for subsequent Authority action the final discretion and approval regarding the execution of a Conveyance Agreement and all proceedings and decisions in connection therewith. Any Conveyance Agreement resulting from negotiations pursuant to this Agreement shall become effective only if and after such Conveyance Agreement has been considered and approved by the Authority following conduct of all legally required procedures.

Section 3.2 Notices. Each notice, request, demand, instruction or other document required or permitted to be given hereunder ("Notice") shall be in writing and shall be delivered personally (including messenger or courier service with evidence of receipt) or sent by depositing the same with the United States Postal Service, certified or registered mail, return receipt requested, with proper postage prepaid, addressed to the parties at the respective addresses set forth below and marked to the designated individual's attention. Each Notice shall be effective upon being so deposited, but the time period in which a response to any such Notice must be given or any action taken with respect thereto shall commence to run from the date of receipt of the Notice by the addressee thereof. Rejection or other refusal by the addressee to accept or the inability of any messenger, courier or the United States Postal Service to deliver because of a changed address of which no Notice was given shall be deemed to be the receipt of the Notice sent. Either party shall have the right from time to time to change the address to which a Notice to it shall be sent to another address in the continental United States (but not a post office box) by giving Notice to the other party of the changed address at least ten (10) days prior to such changes.

If to the Authority: Surplus Property Authority of Alameda County
Attention: Stuart Cook, Director
224 West Winton #110
Hayward, CA 94544

If to the Developer: To the address specified in Exhibit D

Section 3.3 Developer's Financial Capacity. The Developer has submitted to the Authority evidence of its ability to finance development of the Parcel pursuant to the Proposal. The Developer represents and warrants that such evidence is accurate and does not omit any material information as of the date of this Agreement. The Developer acknowledges that the Authority has relied on such evidence in selecting the Developer to enter into this Agreement, and in negotiating the terms of the Conveyance Agreement. The Developer shall maintain full disclosure to the Authority of its methods of financing to be used in the development of the Parcel, and shall promptly advise the Authority of any material adverse change in the Developer's financial status or ability to finance development of the Parcel.

Section 3.4 Real Estate Commissions. The Authority shall not be liable for any real estate commissions or brokerage fees, which may arise herefrom. The Authority represents that is has engaged no broker, agent or finder in connection with this transaction, and the Developer and the Authority each agrees to indemnify, protect, defend, and hold harmless the other from any claim by any broker, agency or finder retained, or allegedly retained, by the other party.

Section 3.5 Attorneys' Fees. In the event of a dispute between the parties arising out of or in connection with this Agreement, whether or not such dispute results in litigation, the prevailing party (whether resulting from settlement before or after litigation is commenced) shall be entitled to have and recover from the losing party reasonable attorneys' fees and costs of suit incurred by the prevailing party.

Section 3.6 Costs and Expenses. Each party shall be responsible for its own costs and expenses in connection with any activities and negotiations undertaken in connection with this Agreement, and the performance of each party's obligations under this Agreement.

Section 3.7 Defaults and Remedies.

(a) Default. Failure by either party to negotiate in good faith as provided in this Agreement shall constitute an event of default hereunder. The non-defaulting party shall give written notice of a default to the defaulting party, specifying the nature of the default and the required action to cure the default. If a default remains uncured ten (10) days after receipt by the defaulting party of such notice, the non-defaulting party may exercise the remedies set forth in subsection (b).

(b) Remedies. In the event of an uncured default by the Authority, the Developer's sole remedy shall be to terminate this Agreement, upon which termination the Developer shall be entitled to the return of the Good Faith Deposit and any interest earned thereon. Following such termination and the return of the Good Faith Deposit and any interest earned thereon, neither

party shall have any further right, remedy or obligation under this Agreement; provided, however, that the Developer's indemnification obligation pursuant to Sections 2.5 and 3.4 shall survive such termination.

In the event of an uncured default by the Developer, the Authority's sole remedy shall be to terminate this Agreement and to retain the Good Faith Deposit and any interest earned thereon. Following such termination, neither party shall have any right, remedy or obligation under this Agreement; provided, however, that the Developer's indemnification obligation pursuant to Sections 2.5 and 3.4 shall survive such termination.

Except as expressly provided above, neither party shall have any liability to the other for damages or otherwise for any default, nor shall either party have any other claims with respect to performance under this Agreement. Each party specifically waives and releases any such rights or claims they may otherwise have at law or in equity.

The parties agree that, based upon the circumstances now existing, both known and unknown, it would be impractical or extremely difficult to establish the damages to the non-defaulting party by reason of a default by the defaulting party. Therefore, it would be reasonable at the termination of this Agreement pursuant to this subsection (b) to award the non-defaulting party "liquidated damages" equal to the Good Faith Deposit (or, where the Developer is the non-defaulting party, return of the Good Faith Deposit) plus all accrued interest as the sole and exclusive remedy of the non-defaulting party.

Section 3.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 3.9 Entire Agreement. This Agreement constitutes the entire agreement of the parties regarding the subject matters of this Agreement.

Section 3.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set opposite their signatures. The Effective Date of this Agreement shall be the date this Agreement is signed by the Authority.

"Authority"

_____, 2017

Surplus Property Authority of Alameda County, a public corporation

By:_____
President, Surplus Property Authority Commission

"Developer"

_____, 2017

By:_____

Title:_____

APPROVED AS TO FORM:

Donna Ziegler, County Counsel

By:_____

ATTEST:

_____
Clerk, Board of Supervisors
and Surplus Property Authority,
County of Alameda

EXHIBIT A

DESCRIPTION OF LAND

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF DUBLIN, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

APN: 986-0034-013-01

EXHIBIT B

REQUEST FOR PROPOSALS

EXHIBIT C

DEVELOPER'S PROPOSAL

EXHIBIT D

DEVELOPER INFORMATION

Name: _____

Legal Status: _____

Address: _____

_____

_____

Negotiating Representative(s):

_____

_____

ATTACHMENT IV

FORM OF PURCHASE AND SALE AGREEMENT

REQUEST FOR PROPOSALS

MULTI-FAMILY RESIDENTIAL DEVELOPMENT SITE D-1
DUBLIN TRANSIT CENTER
DUBLIN, CALIFORNIA

NOVEMBER 28, 2016

AGREEMENT FOR PURCHASE AND SALE OF

REAL PROPERTY AND ESCROW INSTRUCTIONS

Between

SURPLUS PROPERTY AUTHORITY OF ALAMEDA COUNTY,

a public corporation

("Seller")

and

_____

("Buyer")

_____, 2017

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EXHIBITS:

ATTACHMENT IV

FORM OF PURCHASE AND SALE AGREEMENT

REQUEST FOR PROPOSALS

MULTI-FAMILY RESIDENTIAL DEVELOPMENT SITE D-1

DUBLIN TRANSIT CENTER

DUBLIN, CALIFORNIA

NOVEMBER 18, 2016

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND ESCROW INSTRUCTIONS

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND ESCROW INSTRUCTIONS ("**Agreement**") is made and entered into as of _____, 2017, ("**Effective Date**") by and between the SURPLUS PROPERTY AUTHORITY OF ALAMEDA COUNTY, a public corporation ("**Seller**"), _____ ("**Buyer**"), and CHICAGO TITLE COMPANY ("**Escrow Holder**").

RECITALS

A. Seller is the owner of that certain unimproved real property located in the City of Dublin ("**City**"), County of Alameda ("**County**"), State of California described in **Exhibit A** (the "**Land**") consisting of approximately two and forty six one-hundredths (2.46) acres.

B. Seller desires to sell the Property (defined in **Section 1.1**) to Buyer, and Buyer desires to purchase the Property from Seller, in accordance with the terms and conditions contained in this Agreement.

AGREEMENT

1. PURCHASE AND SALE.

1.1 Agreement to Buy and Sell. Subject to the provisions of this Agreement, Seller agrees to sell and convey to Buyer, and Buyer hereby agrees to acquire and purchase from Seller, the Property. As used in this Agreement, "**Property**" includes Seller's fee interest in the Land, and all of Seller's right, title, and interest in and to all privileges, rights, easements, mineral rights, oil and gas rights, water and water rights, and appurtenant rights related to the Property, if any.

1.2 Purchase Price. Subject to possible adjustments as provided in **Section 1.4**, the purchase price of the Property is _____ Dollars ($_____) (the "**Purchase Price**"). The Purchase Price is payable in cash on Close of Escrow (as defined in **Section 2.5**).

1.3 Deposits.

(a) First Deposit. No later than five (5) business days following the Effective Date, Buyer shall deposit with Escrow Holder the sum of _____ ($_____) (the "**Initial Deposit**").

(b) Additional Deposit. In addition to the Initial Deposit, Buyer shall deposit with Escrow Holder the following additional sums on the following dates (each sum referred to as the "Additional Deposit" and collectively the sums are referred to as the "Additional Deposits"): [INSERT AMOUNTS AND PAYMENT DATES OF ADDITIONAL DEPOSITS].

Buyer's failure to pay an Additional Deposit by the applicable due date shall constitute a default by Buyer under this Agreement, in which event Seller shall have the election

to any time after such default to terminate this Agreement and enforce Seller's remedies pursuant to **Section 7.2**.

(c) Provisions Applicable to Deposits. The Initial Deposit and Additional Deposits (including interest earned thereon) shall be referred to collectively as the "**Deposit**," except as otherwise provided in this Agreement. The parties shall instruct Escrow Holder to invest the Deposit in an interest bearing account(s) reasonably approved by the parties.

(d) Disposition of Deposit. The provisions of this **Section 2.1(d)** govern disposition of the Deposit if this Agreement terminates prior to Close of Escrow.

(i) During Feasibility Period. If this Agreement terminates prior to the expiration of the Feasibility Period pursuant to **Section 3.3**, the Initial Deposit and any Additional Deposits shall be returned to Buyer, provided that Buyer is not in default or breach of this Agreement at the time (after notice and opportunity to cure as provided in **Section 7.2**).

(ii) After Feasibility Period. Except as otherwise provided in **Sections 1.3(d)(iii)**, **(iv)** and **(v)**, and **3.1(b)**, if this Agreement terminates after expiration of the Feasibility Period, the Deposit shall be nonrefundable and retained by Seller in consideration of Seller entering into this Agreement, provided Seller is not in default of this Agreement at the time (after notice and opportunity to cure pursuant to **Section 7.1**).

(iii) Seller's Representations, Warranties and Covenants. If this Agreement terminates pursuant to Buyer's election to terminate in the last paragraph of **Section 5.1**, the Deposit shall be returned to Buyer, provided Buyer is not in default or breach of this Agreement at the time (after notice and opportunity to cure as provided in **Section 7.2**).

(iv) Condemnation. If this Agreement terminates pursuant to Buyer's election to terminate pursuant to **Section 6**, the Deposit shall be returned to Buyer, provided Buyer is not in default or breach of this Agreement at the time (after notice and opportunity to cure as provided in **Section 7.2**).

(v) Default of the Parties. **Section 7.1** shall govern disposition of the Deposit upon Seller's default or breach of this Agreement, and **Section 7.2** shall govern disposition of the Deposit upon Buyer's default or breach of this Agreement.

(e) Application of Deposit to Purchase Price. The provisions of this Section to the contrary notwithstanding, upon Close of Escrow the Deposit (and all interest accrued thereon) shall be delivered to Seller (if not previously delivered to Seller) and applied against the Purchase Price.

1.4 Use of Credits.

(a) Traffic Impact Fee Credits; Park Fee Credits. If Buyer closes escrow on the Property, and Buyer is required to pay so-called Category 1 and Category 2 traffic impact fees to the City that would otherwise be due, then Buyer agrees to purchase from Seller "Category 1" and "Category 2" traffic impact fee credits received by Seller from the City as a result of improvements previously constructed by Seller ("**Traffic Impact Fee Credits**"), as

provided in **Section 1.4(b)** below. If Buyer closes escrow on the Property, and Buyer is required to pay a public facility fee to the City in connection with the Project, then Buyer agrees to purchase from Seller park land credits received by Seller from the City as a result of park land previously dedicated by Seller ("**Park Fee Credits**"), as provided in **Section 1.4(b)** below. Therefore, in addition to the Purchase Price, Buyer agrees to make additional payments to Seller as set forth in **Section 1.4(b)**. Traffic Impact Fee Credits and Park Fee Credits may be referred to collectively as "**Fee Credits**."

(b) Buyer's Use of Fee Credits. Buyer will, to the maximum extent allowed by the City, satisfy its obligation to pay traffic impact fees and public facility fees for the Project with the available Traffic Impact Fee Credits and Park Fee Credits, respectively. Prior to paying any traffic impact fees or public facility fees to the City, Buyer will provide written notice to Seller specifying the total Traffic Impact Fee Credits and Park Fee Credits Buyer will require, and Seller shall transfer Traffic Impact Fee Credits and Park Fee Credits to Buyer in the manner established by the City's Administrative Rules, with Seller responsible for paying the City's administrative fee for such transfer(s). Buyer shall, to the extent traffic impact fees or public facility fees may be satisfied by the use of Seller's Fee Credits, pay to Seller the amount of the traffic impact fees and public facility fees otherwise payable by Buyer that may be satisfied by use of Seller's Fee Credits. Buyer shall make such payments no later than thirty (30) days after the earlier of (i) the date Buyer uses Seller's Fee Credits or (ii) the third anniversary of the Closing. Any sums not paid within such thirty (30) day period shall accrue interest from the date Seller's Fee Credits were used at the rate of one percent (1%) per month, compounded monthly, until such sums are paid in full. If Buyer's payment to Seller for Fee Credits becomes due pursuant to clause (ii) of the immediately preceding sentence before Buyer is in a position to use and apply the Fee Credits (for example, if building permits for the Project have not yet been requested or approved), the Fee Credits to be purchased by Buyer will be determined based on (aa) the Entitlements for the Project, as Approved (as "Entitlements" and "Approved" are defined in **Section 3.4**) and (bb) the City's then-current fee schedule.

The provisions of this **Section 1.4(b)** apply to Buyer's successors and assigns who initially develop and construct the Project, and Buyer shall include in any sale and purchase agreement, or other type of agreement, a provision similar to this **Section 1.4(b)** requiring any such successors and assigns to use Seller's available Fee Credits as provided in this **Section 1.4(b)** and to pay any amounts due to Seller for the use of such Fee Credits; provided, however, solely as between Buyer and Seller under this Agreement, Buyer shall remain liable under this **Section 1.4(b)** for the payment of any amounts payable hereunder if any such successors and assigns fail to pay any amounts payable to Seller under this **Section 1.4(b)**. Solely for the purpose of notifying third parties of the provisions of this **Section 1.4(b)**, immediately prior to Close of Escrow the parties shall execute that certain instrument titled "Restrictive Covenant – Fee Credit Reimbursement" in the form and content of **Exhibit B (**"**Buyer's Covenant**"**)**, and Buyer's Covenant shall be recorded in the Official Records on Close of Escrow pursuant to **Section 2.5**.

2. ESCROW AND CLOSING.

2.1 Opening of Escrow. An escrow (the "**Escrow**") has been previously opened with Escrow Holder at its office located at One Kaiser Plaza, Suite 745, Oakland, California

94612-3661. When this Agreement is executed by Seller and Buyer the parties shall deposit with Escrow Holder a copy of the fully executed Agreement, or executed counterparts hereof.

2.2 Escrow Fees and Other Charges. In connection with Close of Escrow, Buyer shall pay: (a) the premium cost of the Title Policy (as defined in **Section 3.2**); including any endorsements; (b) recording fees and charges; and (c) one half(1/2) of Escrow Holder's fees, if any. In connection with Close of Escrow, Seller shall pay: (a) all County and City transfer taxes; and (b) one half (1/2) of Escrow Holder's fees, if any. All other costs related to this transaction shall be paid by the parties in the manner consistent with common practice in commercial land transactions in Alameda County.

2.3 Closing Date. Subject to the termination provisions of **Sections 3.1**, **3.3** and **3.4**, Close of Escrow shall occur on the Closing Date, as defined herein. The "**Closing Date**" shall be a date no later than _____ (__) days following the date Buyer has approved or is deemed to have approved the Feasibility Matters. Buyer shall notify Seller and Escrow Holder of the scheduled Closing Date at least ten (10) days prior to the scheduled Closing Date.

2.4 Closing Documents. The parties shall deposit the following documents and matters with Escrow Holder prior to Close of Escrow.

(a) Buyer's Deliveries. Buyer shall deposit:

The Purchase Price;

Buyer's share of closing costs and prorations as provided in this Agreement; and

One (1) executed and notarized copy of Buyer's Covenant;

(b) Seller's Deliveries. Seller shall deposit a grant deed conveying fee title to the Property, executed by Seller and notarized. Seller shall also execute Buyer's Covenant referenced in **Section 2.4(a)(iii)**.

(c) Additional Instruments. Seller and Buyer shall each deposit such other escrow instructions, documents, and/or instruments as are reasonably required by Escrow Holder or otherwise required to proceed to Close of Escrow and consummate the sale and purchase of the Property in accordance with the terms of this Agreement.

2.5 Closing.

(a) Actions by Escrow Holder. On the Closing Date, Escrow Holder shall undertake and perform the following acts in the following order:

Record the grant deed in the Official Records (with any documentary transfer tax information to be affixed after recording) and obtain conformed copies thereof for delivery to the parties;

Record Buyer's Covenant in the Official Records immediately following recordation of the grant deed and obtain recordation conformed copies thereof for delivery to the parties;

Pay any transfer taxes;

Instruct the County Recorder to return the original grant deed to Buyer and the original Buyer's Covenant to Seller;

Distribute to Seller, or as Seller may instruct, the Purchase Price less Seller's share of closing costs and prorations as provided in this Agreement; and

Deliver to Buyer a pro forma copy of the Title Policy covering the Property subject only to the Permitted Exceptions, and deliver the actual Title Policy to Buyer within three (3) business days after Close of Escrow.

As used herein, "**Closing**" and "**Close of Escrow**" means the exchange of money and documents as described herein, and will be deemed to have occurred when (i) the grant deed and Buyer's Covenant are recorded consecutively in the Official Records as described above and (ii) Escrow Holder holds and can deliver the funds and remaining documents described above, and is irrevocably and unconditionally committed to issuing the Title Policy.

(b) Prorations. If applicable, real property taxes and assessments for the Property shall be prorated as of Close of Escrow on the basis of the most recent tax information. Prorations shall be based on a thirty (30) day month. Seller's portion of such taxes and assessments may be paid by using a portion of the Purchase Price at Close of Escrow at Seller's election.

2.6 Cancellation Charges. In the event Close of Escrow fails to occur due to the default of one of the parties (after notice and opportunity to cure pursuant to **Section 7**), the defaulting party shall bear the sole and full liability for paying any escrow and title cancellation fees and charges. Otherwise, each party shall pay fifty percent (50%) of such fees and charges.

3. ACTIONS PENDING CLOSING.

3.1 State of Title; Permitted Exceptions.

(a) State of Title. On Close of Escrow Seller shall convey fee title to the Property to Buyer and deliver possession of the Property to Buyer, subject only to Permitted Exceptions.

(b) Permitted Exceptions. "**Permitted Exceptions**" shall mean: (i) all exceptions appearing on the Preliminary Report issued by Escrow Holder and attached as **Exhibit C**; (ii) general and special real property taxes and assessments, a lien not yet delinquent (subject to the proration provisions of **Section 2.5(b)**); (iii) standard printed exceptions in the Title Policy issued by Escrow Holder; and (iv) any matters of record consented to by Buyer, and/or caused by the acts or omissions of Buyer and its Authorized Representatives (defined in the following paragraph).

The phrase "Authorized Representatives,' as used in this Section and elsewhere in this Agreement, means any director, officer, partner, employee, agent or independent contractor retained or employed by a party, acting within the authority given by that party.

"Permitted Exceptions" shall also include any additional exceptions set forth in any supplement to the Preliminary Report and not in the initial Preliminary Report which are not otherwise Permitted Exceptions as provided in this **Section 3.1(b)** ("**Supplemental Title Defects**"), provided such exceptions are not specifically disapproved by written notice from Buyer to Seller given within three (3) business days following the delivery to Buyer of such supplement to the Preliminary Report together with a copy of any recorded document referenced therein related to the Supplemental Title Defect; provided, however, that Buyer shall not have the right to disapprove any such additional exception unless such exception is a monetary lien or materially and adversely affects the development of the Property; and provided, further, in no event will Buyer have the right to disapprove any exception created or caused to be created by Buyer or Buyer's Authorized Representatives. If any Supplemental Title Defects are disapproved by Buyer, then unless Seller advises Buyer, within five (5) business days of receipt of Buyer's notice, that Seller will cause such title exception to be removed or endorsed over by the Close of Escrow, or Buyer waives its disapproval within such five (5) business days, this Agreement shall terminate. In the event of such termination, provided Buyer is not then in default (after notice and opportunity to cure pursuant to **Section 7.2**), the Deposit shall be returned to Buyer, and thereafter neither party shall have any further obligations under this Agreement, except for rights and obligations that accrue prior to termination, are expressly stated herein as surviving termination, or are required to be performed on or after termination ("**Surviving Obligations**").

3.2 Title Policy. At Close of Escrow, as a condition of Buyer's obligation to close escrow, Escrow Holder shall be irrevocably committed to issue, at Buyer's sole cost, a CLTA owner's policy insuring fee title to the Property vested in Buyer as of the Close of Escrow, with liability equal to the Purchase Price, subject only to the Permitted Exceptions (the "**Title Policy**"). At Buyer's election and sole cost, the Title Policy may be an ALTA Owner's Extended Coverage Policy, provided that Buyer, as its sole cost, provides Escrow Holder with an ALTA survey and provided that Buyer's decision to obtain extended coverage shall not delay the Closing Date. The issuance of the Title Policy shall conclusively establish Seller's conveyance of title to the Property as required by this Agreement.

3.3 Feasibility Period. Buyer shall have until 5:00 p.m. Pacific Time on the _____ (__) day following the date of the Exclusive Right to Negotiate previously executed by Seller and Buyer (the "Decision Date") (which period of time is referred to as the he "**Feasibility Period**") to:

review, in Buyer's sole and absolute discretion, the documents delivered by Seller pursuant to **Section 3.4**, and any other contracts and agreements affecting the Property, the suitability of the Property for Buyer's use and development, including, without limitation, any governmental land regulations, zoning ordinances, architectural and design requirements, development costs, financial and market feasibility studies, the status of the entitlements of the Property, availability of utility services, the presence of Hazardous Substances (as defined in **Section 4.3(a)**), existing or potential assessments imposed on the Property, and the physical condition of the Property, including compaction, stability and load bearing capacity of the soils, and the seismic integrity of the Property (the "**Feasibility Matters**");

approve or disapprove of the Feasibility Matters in Buyer's sole and absolute discretion; and/or

deliver to Seller written notice of Buyer's approval or disapproval of the Feasibility Matters or any of them ("**Feasibility Approval Notice**") as herein provided.

Failure by Buyer to timely give notice of its approval or disapproval of the Feasibility Matters on or before the Decision Date shall be deemed Buyer's disapproval thereof. If Buyer timely disapproves, or is deemed to have disapproved, the Feasibility Matters or any of them, then this Agreement shall terminate, the parties shall be released of further obligations under this Agreement except for Surviving Obligations, and the Deposit shall be returned to Buyer, provided Buyer is not in default or breach of this Agreement at the time (after notice and opportunity to cure as provided in **Section 7.2**).

The provisions of this **Section 3.2** to the contrary notwithstanding, at any time prior to the earlier of the Decision Date or the date Buyer gives a Feasibility Approval Notice to Seller, Buyer shall have the election to terminate this Agreement, in which event the parties shall be relieved of further rights and obligations under this Agreement except for Surviving Obligations, and the Deposit shall be returned to Buyer, provided Buyer is not in default or breach of this Agreement at the time (after notice and opportunity to cure as provided in **Section 7.2**).

3.4 Entitlements. Buyer shall have until 5:00 pm on _____ [INSERT APPROPRIATE DATE] (which shall be referred to herein as the "**Entitlement Decision Date**") to obtain from the City and any other Authorities (as defined in this Section) Approval (as defined in this Section) of all Entitlements (as defined in this Section) that are required in order for Buyer to develop and construct the Project (as defined in this Section) on the Property.

The terms "**Authority**" and "**Authorities**" means any governmental authorities and agencies having jurisdiction over the Property, whose approval is required in order to obtain Entitlements for the Project. The word "**Entitlements**" refers to all discretionary approvals, permits, and authorizations (excluding building permits) from the City and other Authorities. The word "**Project**" refers to the construction of [INSERT DESCRIPTION OF THE PROJECT].

At the earliest possible date, Buyer shall submit to the City (and to any other applicable Authorities) a fully completed application(s) necessary to obtain the City's Approval of all required Entitlements, and Buyer shall obtain from the City its written acknowledgement that Buyer's application(s) is/are fully complete and accepted by the City. Buyer shall deliver a copy of such written acknowledgement to Seller. Buyer shall exercise commercially reasonable efforts to obtain all required Entitlements at the earliest possible date. Buyer shall notify Seller when Buyer obtains all required Entitlements. All costs of seeking and obtaining Approvals of Entitlements shall be paid by Buyer.

As used in this Agreement, the terms "Approved" or "Approval" shall mean that the City or any other applicable Authority voted or otherwise acted to approve such item or matter, and all administrative and judicial appeals periods, if applicable, have expired without the filing of an appeal or judicial proceeding, or if an administrative appeal or judicial proceeding is filed, that the administrative appeal and/or judicial appeal is resolved on terms satisfactory to Buyer; provided, if no person or entity has standing to file an administrative appeal and/or judicial

proceeding (including, without limitation, by reason of no issues having been raised in the public hearing or in written correspondence delivered to the City of other applicable Authority prior to, or at, the public hearing, for purposes of California Government Code Section 65009(b)), then for the purposes of this Section, all administrative and judicial appeal periods shall be deemed to have expired.

If on or before the Entitlement Decision Date, the City affirmatively denies Approval of Buyer's Project, this Agreement shall terminate and the parties shall be relieved of further rights and obligations under this Agreement, except for Surviving Obligations.

3.5 Access to Property Prior to Closing. From and after the Execution Date through the Close of Escrow or the sooner termination of this Agreement, Buyer and Buyer's designated Authorized Representatives the right to enter upon the Property, subject to the terms and conditions of this **Section 3.4**, for the sole purpose of conducting studies and investigations of the Property. Such entry shall be made only during regular business hours and upon not less than two (2) business days' advance telephonic, written facsimile, or other electronic notice to Seller's Project Director (identified in **Section 5.1**).

Prior to exercise of the right of entry granted in this **Section 3.4**, Buyer shall provide Seller with satisfactory evidence, in the form of a certificate of insurance, that Buyer's Authorized Representatives who obtain access to the Property are insured under commercial general liability and automobile liability insurance policies terminable only after ten (10) days advance written notice to Seller, each policy to be in an amount of not less than Two Million Dollars ($2,000,000) combined single limit per occurrence for bodily injury and property damage. Each insurance policy shall name Seller as an additional insured.

Buyer shall protect, indemnify, defend, and hold harmless Seller, the County of Alameda, and their respective board members, and Authorized Representatives (collectively the "**Indemnified Parties**"), and the Property, from and against any and all costs, expenses (including, without limitation, reasonable attorneys' fees), damages, claims, liabilities, liens (including, without limitation, mechanics' liens) encumbrances, and charges arising out of any entry by Buyer or Buyer's designated Authorized Representatives upon the Property, except to the extent such matters arise from the negligence or willful misconduct of the Indemnified Parties. The foregoing obligations of Buyer shall survive Close of Escrow or termination of this Agreement.

The provisions of this **Section 3.4** to the contrary notwithstanding, Buyer shall not conduct any invasive investigation, inspection, or tests on the Property without prior written notice to Seller of the proposed invasive investigation, inspection, or tests (including, with respect to any Hazardous Substances invasive testing, a written plan for such testing), and Seller's approval thereof which will not be unreasonably withheld, conditioned or delayed. Additionally, Buyer shall provide to Seller copies of drafts of any reports prepared in connection with any such activities prior to them becoming final and submitted to third parties (including governmental agencies) for Seller's review and approval (which approval will not be unreasonably withheld, conditioned, or delayed).

No later than three (3) business days after the Execution Date, Seller shall, to the extent Seller has not previously done so, provide Buyer with copies of all non-confidential reports, studies, surveys, contracts, agreements and analyses relating to the physical and/or environmental condition of the Property in Seller's possession or control (collectively, "**Documents and Materials**"). Seller shall not be deemed to make any representations to Buyer regarding the accuracy, completeness, methodology or current status of third party reports, nor shall Seller assume any liability with respect to any matter or information referred to or contained in such reports, nor shall Buyer have any claim against Seller or any consultant or contractor of Seller arising out of the contents of such reports.

Buyer shall provide Seller with copies of all reports, studies and analyses directly relating to the development of the Property, but excluding confidential or proprietary information or communications with Buyer's legal counsel, prepared or commissioned by Buyer, that directly relate to the acquisition and development of the Property, promptly upon their completion.

4. "AS IS" PHYSICAL CONDITION OF THE PROPERTY.

4.1 "As Is" Condition. Buyer acknowledges and agrees that the Property is to be sold and conveyed to and accepted by Buyer in an "as is" condition with all faults. Except as specifically set forth in **Section 5.1**, Seller does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Property or any of such related matters. Buyer acknowledges that it is entering into this Agreement on the basis of Buyer's own investigation of the physical and environmental conditions of the Property, including all subsurface conditions, and Buyer assumes the risk that adverse physical, environmental or other conditions may not have been revealed by its investigation. The provisions of this Section shall survive Close of Escrow.

4.2 Release. Except for those claims or actions arising from the breach of any representation or warranty made by Seller in **Section 5.1**, Buyer, for itself, its successors and assigns, hereby waives, releases, acquits and forever discharges Seller, of and from, any claims, actions, causes of action, demands, rights, damages, costs, expenses, penalties, fines or compensation whatsoever, direct or indirect, at any time on account of or in any way arising out of or in connection with the known or unknown physical and environmental or other condition of the Property. Buyer expressly waives the provisions of California Civil Code §1542, which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

4.3 Hazardous Substances; Environmental Laws.

(a) Hazardous Substances. "**Hazardous Substances**" shall mean any toxic or hazardous wastes, asbestos, PCBs, petroleum products and byproducts, substances defined or listed as "hazardous substances" or "toxic substances" or similarly identified in or pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 et seq.; hazardous materials identified in or pursuant to the Hazardous Materials Transportation Act, 49 U. S.C. §1802 et seq.; hazardous wastes identified in or pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; any

chemical, substance or mixture regulated under the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. §2601 et seq.; any "toxic pollutant" under the Clean Water Act, 33 U.S.C. §466 et seq.; as amended, any hazardous air pollutant under the Clean Air Act, 42 U.S.C. §7401 et seq.; and any other substance or pollutant which is present at, on or under the Property in a form and quantity which is regulated under any applicable state law concerning air quality or water quality.

(b) Environmental Laws. "**Environmental Laws**" means any and all present and future federal, state and local laws, ordinances, regulations, policies and any other requirements of governmental agencies relating to health, safety, the environment or to any Hazardous Substances, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("**CERCLA**"), the Resource Conservation Recovery Act ("**RCRA**"), the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Endangered Species Act, the Clean Water Act, the Occupational Safety and Health Act, the California Environmental Quality Act and the applicable provisions of the California Health and Safety Code, California Labor Code and the California Water Code, each as hereafter amended from time to time, and the present and future rules, regulations and guidance documents promulgated under any of the foregoing.

5. REPRESENTATIONS, WARRANTIES AND COVENANTS.

5.1 Seller's Representations, Warranties and Covenants. Seller hereby represents, warrants and covenants to Buyer as follows, all of which shall survive Close of Escrow and any investigation or knowledge of Buyer prior to Close of Escrow:

Seller owns the Property in fee simple and has the right, capacity, power, and authority to enter into and carry out the terms of this Agreement. The entering into and performance by Seller of the transactions contemplated by this Agreement will not violate or breach any agreement, covenant, or obligation binding on Seller. This Agreement has been duly authorized and executed by Seller and the parties signing on behalf of Seller.

There are no mechanics' or materialmen's liens or similar claims or liens now asserted against the Property for work performed on behalf of Seller and that was commenced prior to the Execution Date.

To the best of Seller's knowledge, neither Seller nor, except as disclosed in the reports as identified in **Exhibit D** (the "**Environmental Reports**"), any third party has used, generated, manufactured, stored or disposed any Hazardous Substances in, at, on, under or about the Property or transported any Hazardous Substances to or from the Property. To the best of Seller's knowledge, the Property is not in violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene, worker health and safety, or to the environmental conditions in, at, on, under or about the Property, including, without limitation, soil and groundwater conditions. To the best of Seller's knowledge, except as disclosed in the Environmental Reports, there has been no discharge, migration or release of any Hazardous Substances from, into, on, under or about the Property, and there is not now, nor has there ever been on or in the Property underground storage tanks or surface or below grade impoundments

of Hazardous Substances, any asbestos containing materials, or any polychlorinated biphenyls used in hydraulic oils, electrical transformers, or other equipment.

Seller is not bankrupt or insolvent under any applicable Federal or state statute, has not filed for protection or relief under any applicable bankruptcy or creditor protection statute, and has not been threatened by creditors with an involuntary application of any applicable bankruptcy or creditor protection statute.

To the best of Seller's knowledge, no seismic safety problem relating to the Property would prevent development of the Property.

To the best of Seller's knowledge, there are no suits, administrative proceedings, or governmental actions or investigations pending or threatened against or affecting Seller or the Property that would prevent Seller from meeting any of its obligations under this Agreement.

Each of the representations and warranties made by Seller in this Agreement shall be true and correct in all material respects on the Execution Date, and shall be deemed to be made again as of Close of Escrow, and shall then be true and correct in all material respects; except for the warranties and representations in items (c), (d), (e), and (f) as relates to events and occurrences between the Execution Date and Close of Escrow that are beyond the control of Seller. Seller makes no representation or warranty other than those specifically and expressly stated in this **Section 5.1**. Seller makes no representation, express or implied, that the Property or its condition is suitable for the Buyer's intended use. The phrase "to the best of Seller's knowledge" as used in this Agreement, refers only to the actual knowledge of Stuart Cook, Project Director of Seller, without having conducted any independent investigation or study.

Seller shall notify Buyer of any facts or circumstances which are contrary to the foregoing representations and warranties contained in this **Section 5.1**, or which are contrary to the representations and warranties contained in items (c), (d), (e), and (f) as relates to events and occurrences between the Execution Date and the Closing Date that are beyond the reasonable control of Seller. In the event any such contrary facts or circumstances shall prevent or materially impair Buyer from financing, developing, constructing and/or operating the Project, following notice to Seller and a reasonable opportunity to cure, in no event less than thirty (30) days or longer than forty-five (45) days, Buyer shall have the right to terminate this Agreement, in which event, the parties shall be relieved of further obligations under this Agreement except for Surviving Obligations, and the Deposit shall be returned to Buyer, provided Buyer is not then in default of this Agreement (after notice and opportunity to cure pursuant to **Section 7.2**).

5.2 Buyer's Representations, Warranties and Covenants. Buyer hereby represents and warrants to Seller as follows, all of which shall survive Close of Escrow and any investigation or knowledge of Seller, prior to Close of Escrow:

Buyer is a _____ [STATE THE NATURE OF BUYER'S ENTITY] duly organized, validly existing and in good standing in the State of _____, is qualified to conduct business in the State of California, and has the capacity and full power and authority to enter into and carry out the agreements contained in, and the transactions contemplated by, this Agreement, and this Agreement has been duly authorized and executed by Buyer and, upon

delivery to and execution by Seller, shall be a valid and binding agreement of Buyer. Within ten (10) days following the Execution Date, Buyer shall deliver to Seller certified copies of applicable certificates evidencing that Buyer is organized and in good standing in the State of _____, and authorized to do business in California, and evidence reasonably acceptable to Seller authorizing execution of this Agreement by Buyer and the individuals executing this Agreement on behalf of Buyer.

To the best of Buyer's knowledge, there is no pending or threatened suit, action or arbitration, or legal, or administrative proceeding, which adversely affect Buyer's ability to perform its obligations under this Agreement.

Neither Buyer and any individual or entity that owns or controls Buyer; (i) is bankrupt or insolvent under any applicable Federal or state statute, or (ii) has filed for protection or relief under any applicable bankruptcy or creditor protection statute, or (iii) has been threatened by creditors with an involuntary application or any applicable bankruptcy or creditor protection statute.

Neither this Agreement, nor any document, certificate, statement, or other materials referred to herein or furnished to Seller in connection with the transaction contemplated herein (whether delivered prior to, simultaneously with, or subsequent to the execution of this Agreement) contains any untrue statement of material fact or omits to state a material fact necessary to prevent the facts stated from being materially misleading, in any way concerning the Property, or otherwise affecting or concerning the transaction contemplated hereby.

Each of the representations and warranties made by Buyer in this **Section 5.2**, shall be true and correct in all material respects on the Execution Date, and shall be deemed to be made again as of the Close of Escrow, and shall then be true and correct in all material respects.

6. CONDEMNATION. If, prior to Close of Escrow, any portion of the Property is taken by any entity by condemnation or with the power of eminent domain, or if access to the Property is prevented (or is the subject of a pending taking which has not yet been consummated), Seller shall immediately notify Buyer of such fact. In such event, Buyer shall have the right, in Buyer's sole discretion, to terminate this Agreement upon written notice to Seller not later than seven (7) business days after receipt of Seller's notice thereof. If this Agreement is terminated, the parties shall be relieved of further rights and obligations under this Agreement except for Surviving Obligations, and the Deposit shall be returned to Buyer provided Buyer is not in default of this Agreement (after notice and opportunity to cure pursuant to **Section 7.2**). Alternatively, Buyer may proceed to consummate this transaction, at Buyer's sole election, in which event Seller shall assign and turn over, and Buyer shall be entitled to receive and keep, any and all awards made or to be made in connection with such condemnation or eminent domain, and the parties shall proceed to Close of Escrow pursuant to the terms hereof, without any reduction in the Purchase Price.

7. LIQUIDATED DAMAGES; BUYER'S RIGHT TO SPECIFIC PERFORMANCE.

7.1 Seller's Default. BUYER AND SELLER EACH AGREE THAT IN THE EVENT OF A DEFAULT OF THIS AGREEMENT BY SELLER PRIOR TO CLOSE OF

ESCROW THE DAMAGES TO BUYER WOULD BE EXTREMELY DIFFICULT AND IMPRACTICABLE TO ASCERTAIN, AND THAT THEREFORE, IN THE EVENT OF A DEFAULT BY SELLER, WHICH DEFAULT OR BREACH IS NOT CURED WITHIN THIRTY (30) DAYS AFTER WRITTEN NOTICE IS GIVEN BY BUYER TO SELLER ("**SELLER'S EVENT OF DEFAULT**"), THE DEPOSIT SHALL BE RETURNED TO BUYER, AND SELLER SHALL PAY TO BUYER AN ADDITIONAL AMOUNT EQUAL TO THE FIRST DEPOSIT PAID BY BUYER PURSUANT TO **SECTION 1.3(a)** ("**BUYER'S LIQUIDATED DAMAGES AMOUNT**") AS LIQUIDATED DAMAGES FOR SELLER'S EVENT OF DEFAULT, WHICH AMOUNT IS A REASONABLE ESTIMATE OF THE DAMAGES TO BUYER, INCLUDING COSTS OF NEGOTIATING AND DRAFTING THIS AGREEMENT, COSTS OF COOPERATING IN SATISFYING CONDITIONS TO CLOSING, LOST OPPORTUNITY COSTS AND OTHER COSTS INCURRED IN CONNECTION HEREWITH. RETURN BY SELLER OF THE DEPOSITS, THE EXTENSION CONSIDERATION (IF APPLICABLE), AND THE PAYMENT BY SELLER TO BUYER OF BUYER'S LIQUIDATED DAMAGES AMOUNT SHALL BE BUYER'S SOLE AND EXCLUSIVE REMEDY FOR DAMAGES AGAINST SELLER IN THE EVENT OF A SELLER'S EVENT OF DEFAULT. THE PAYMENT AND RETENTION OF THE ABOVE AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO BUYER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671,1676 AND 1677. UPON ANY SELLER'S EVENT OF DEFAULT, THIS AGREEMENT SHALL BE TERMINATED, AT BUYER'S ELECTION, AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO THE OTHER, EXCEPT FOR THE RIGHT OF BUYER TO RECEIVE A RETURN OF THE DEPOSIT, AND BUYER'S LIQUIDATED DAMAGES AMOUNT AS SPECIFIED ABOVE.

Seller's Initials:_____ Buyer's Initials:_____

7.2 Buyer's Default. BUYER AND SELLER EACH AGREE THAT IN THE EVENT OF A DEFAULT OF THIS AGREEMENT BY BUYER PRIOR TO CLOSE OF ESCROW, THE DAMAGES TO SELLER WOULD BE EXTREMELY DIFFICULT AND IMPRACTICABLE TO ASCERTAIN, AND THAT THEREFORE, IN THE EVENT OF A DEFAULT BY BUYER, WHICH DEFAULT IS NOT CURED WITHIN THIRTY (30) DAYS AFTER WRITTEN NOTICE IS GIVEN BY SELLER TO BUYER ("**BUYER'S EVENT OF DEFAULT**"), THE DEPOSIT SHALL SERVE AS LIQUIDATED DAMAGES FOR BUYER'S EVENT OF DEFAULT, AS A REASONABLE ESTIMATE OF THE DAMAGES TO SELLER, INCLUDING COSTS OF NEGOTIATING AND DRAFTING THIS AGREEMENT, COSTS OF COOPERATING IN SATISFYING CONDITIONS TO CLOSING, COSTS OF SEEKING ANOTHER BUYER, OPPORTUNITY COSTS IN KEEPING THE PROPERTY OUT OF THE MARKETPLACE, AND OTHER COSTS INCURRED IN CONNECTIONS HEREWITH. DELIVERY TO AND RETENTION OF THE DEPOSIT SHALL BE SELLER'S SOLE AND EXCLUSIVE REMEDY AT LAW OR IN EQUITY AGAINST BUYER IN THE EVENT OF A BUYER'S EVENT OF DEFAULT, AND SELLER WAIVES ANY AND ALL RIGHT TO SEEK OTHER RIGHTS OR REMEDIES AGAINST BUYER, INCLUDING, WITHOUT LIMITATION, SPECIFIC PERFORMANCE. THE PAYMENT AND RETENTION OF SUCH AMOUNTS AS LIQUIDATED DAMAGES IS

NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671,1676 AND 1677. SELLER HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389. UPON BUYER'S EVENT OF DEFAULT, THIS AGREEMENT SHALL BE TERMINATED, AT SELLER'S ELECTION, AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO OTHER, EXCEPT FOR THE RIGHT OF SELLER TO RETAIN SUCH LIQUIDATED DAMAGES.

Seller's Initials:_____ Buyer's Initials:_____

7.3 Buyer's Right to Specific Performance. The provisions of **Section 7.1** to the contrary notwithstanding, in the event Buyer is not in default of its obligations under this Agreement, if Seller defaults in its obligations to Close Escrow as provided herein, Buyer shall have the right to bring an action for specific performance against Seller to compel Seller to perform its obligations that are required hereunder in order for Close of Escrow to occur. Except in the particular instance described in the preceding sentence, Buyer shall not have the right to specific performance against Seller.

8. BROKERS. Seller represents and warrants that Seller has had no dealings with any real estate broker, agent, or finder in connection with the negotiation or execution of this Agreement. Buyer represents and warrants that Buyer has had no dealings with any real estate broker, agent, or finder in connection with the negotiation or execution of this Agreement. A party (the "**Indemnifying Party**") shall indemnify, protect, defend, and hold harmless the other party (the "**Indemnified Party**") from commissions, other compensation and/or charges claimed by any broker, agent, and/or finder based on the alleged acts of the Indemnifying Party in connection with this Agreement.

The representations, warranties, indemnities and agreements contained in this **Section 8** shall survive Close of Escrow or earlier termination of this Agreement.

9. OFFSITE IMPROVEMENTS.

9.1 Descriptions of Offsite Improvements. The parties acknowledge that the Purchase Price payable by Buyer has been calculated to take into consideration the obligations of Seller pursuant to this **Section 9** to reimburse Buyer for the cost of constructing those offsite improvements generally described on the attached **Exhibit E** (the "**Offsite Improvements**"). The parties agree that **Exhibit E** contains a preliminary and not a final description of the Offsite Improvements. A final description of the Offsite Improvements, and a construction schedule for the Offsite Improvements, will be agreed upon prior to Close of Escrow and included as part of the Escrow Holdback Agreement described below. The provisions of this **Section 9** shall survive the Close of Escrow.

9.2 Construction of Offsite Improvements; Escrow Holdback; Indemnity. Buyer shall construct the Offsite Improvements after Close of Escrow, at Seller's sole cost and expense. A portion of the Purchase Price shall be withheld at Close of Escrow to fund the cost of

constructing the Offsite Improvements, including the amount of contingencies agreed upon by Seller and Buyer (the "**Escrow Holdback Amount**"). Buyer and Seller shall, within ten (10) days prior to the Closing Date, determine the Escrow Holdback Amount, which shall be an amount estimated by an engineer mutually agreed by the parties to be reasonably sufficient to cover all hard and soft costs of completing the Offsite Improvements, including without limitation, insurance, required bonds and a reasonable contingency. If, upon execution of one or more contracts for the construction of the Offsite Improvements, or during the construction of the Offsite Improvements, it becomes apparent that the Escrow Holdback Amount is insufficient to fund all such costs, Seller shall promptly increase the amount of the Escrow Holdback Amount so that it at all times will be sufficient to fund all costs reasonably anticipated to be incurred by Buyer in connection with the completion of the Offsite Improvements. At Close of Escrow, the Escrow Holdback Amount shall be retained and disbursed by Escrow Holder pursuant to the provisions of an Escrow Holdback Agreement substantially in the form and content of Exhibit F (the "**Escrow Holdback Agreement**"), which the parties shall execute prior to the Closing Date.

Buyer shall obtain any required subdivision improvement bond under which Seller shall be a co-obligee, securing completion of the Offsite Improvements, or to the extent of any Offsite Improvements for which such a bond is not required, shall obtain payment and performance bonds, each for an amount not less than the total cost of such work. Seller and Buyer shall be dual obligees under any such payment and performance bonds.

Buyer shall protect, defend (with counsel reasonably approved by Seller), indemnify, and hold harmless Seller and the County of Alameda from and against all claims, liabilities, damages, costs, and expenses (including, without limitation, attorneys' fees) of any nature whatsoever, including, without limitation, bodily injury and property damage, arising out of and/or in connection with Buyer and its Authorized Representatives' design and construction of the Offsite Improvements, except for any claim, liability, damage, cost or expense caused by the negligence or willful misconduct of Seller.

9.3 Competitive Bidding. Subject to the following paragraph, Buyer shall solicit bids from at least three (3) contractors for the construction of the Offsite Improvements, and shall afford Seller the opportunity to review all responses (including all materials submitted as part of each response) and to participate in the selection of the general contractor or contractors to perform the work. In general, low, responsible bidders shall be selected.

9.4 Completion of Work. The Offsite Improvements shall be deemed to be complete under this Agreement when finally accepted by the City, when finally accepted by another Authority if another Authority has jurisdiction over the work, and/or when finally accepted by a public utility if a public utility has jurisdiction over the work.

10. GENERAL PROVISIONS.

10.1 Counterparts; Facsimile and Electronic Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument. A signed copy of this Agreement

transmitted by facsimile or other electronic means to the other parties shall be binding on the signatory thereto.

10.2 Entire Agreement. This Agreement, together with all Exhibits, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement, and supersedes all prior understandings or agreements. This Agreement may be modified only by a writing signed by both parties. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement whether or not actually attached.

10.3 Partial Invalidity. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect and shall in no way be impaired or invalidated, and the parties agree to substitute for the invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

10.4 Choice of Law. This Agreement and each and every related document are to be governed by and construed in accordance with the laws of the State of California.

10.5 Waiver of Covenants, Conditions or Remedies. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement.

10.6 Legal Advice. Each party has received independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. The provisions of this Agreement shall be construed as to the fair meaning and not for or against any party based upon any attribution of such party as the sole source of the language in question.

10.7 Time of the Essence. Time shall be of the essence as to all dates and times of performance.

10.8 Attorneys' Fees. In the event that any party hereto institutes an action or proceeding (including arbitration) for a declaration of the rights of the parties under this Agreement, for injunctive relief, for an alleged breach or default of, or any other action arising out of this Agreement, or the transactions contemplated hereby, or in the event any party is in default of its obligations under this Agreement, whether or not suit is filed or prosecuted to final judgment, the nondefaulting party or prevailing party shall be entitled to its actual attorneys' fees and to any court costs incurred in addition to any other damages or relief awarded.

10.9 Assignment. Buyer may not assign this Agreement and its rights and obligations hereunder without first obtaining Seller's written approval of such assignment, which approval will not be unreasonably withheld, delayed, or conditioned. Seller's approval of a proposed assignment shall be based upon the proposed assignee's experience, financial resources and access to credit, and capability to successfully carry out the development of the Project to

completion. Subject to the preceding sentences, this Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assignees of the parties to this Agreement.

10.10 Notices. Each notice, request, demand, instruction or other document required, or permitted to be given hereunder ("**Notice**") shall be in writing and shall be delivered personally (including messenger or courier service with evidence of receipt) or sent by depositing the same with the United States Postal Service, certified mail, return receipt requested, with proper postage prepaid, addressed to each of the parties at the respective addresses set forth in this Section and marked to the designated individual's attention. Each Notice shall be effective upon being so deposited, but the time period in which a response to any such Notice must be given or any action taken with respect thereto shall commence to run from the date of actual receipt of the Notice by the addressee (except with respect to Notices to Buyer, receipt by one addressee shall be deemed to be receipt by the other addressees). In the event of the rejection of the acceptance of a Notice, or the inability of any messenger, courier or the United States Postal Service to deliver a Notice because of a changed address of which no Notice was given, then the date of the Notice shall be deemed the date of actual receipt of the Notice by the addressee. Either party shall have the right from time to time to change the address to which a Notice to it shall be sent to another address in the continental United States (but not a post office box) by giving Notice to the other party of the changed address at least ten (10) days prior to such changes.

Initial addresses of the parties are:

If to Seller:	Surplus Property Authority of Alameda County 224 West Winton Avenue, Room 110 Hayward, California 94544 Attn.: Director of Community Development
With a copy to:	Surplus Property Authority of Alameda County 224 West Winton Avenue, Room 110 Hayward, California 94544 Attn.: Stuart Cook, Director
With an additional copy to:	Wendel, Rosen, Black & Dean, LLP 1111 Broadway, Suite 2400 Oakland, California 94607 Attn.: Michael A. Dean
If to Buyer:	_____ _____ _____

10.11 County Regulatory Authority. Buyer acknowledges and understands that Buyer may be required to seek approvals of the County with regard to the Project, acting in its regulatory capacity as the county in which the Property is located. Nothing in this Agreement or in Seller's relationship to County shall limit the discretion of County in acting in that regulatory capacity, and no action or inaction by the County acting in that regulatory capacity shall be a breach or default under this Agreement.

10.12 Buyer's Documents Concerning the Property. If Buyer does not purchase the Property for any reason other than a default or breach hereunder by Seller, Buyer shall, at Seller's election, assign to Seller all Entitlements and other approvals obtained by Buyer with respect to the Property and all related studies, documents and engineering work for the Property (collectively, the "**Project Documents**"), excluding any information proprietary to Buyer, and subject to proprietary rights of any engineer or other consultant preparing the same and any limitations on use imposed by them. Seller acknowledges that Buyer shall make no warranties or representations regarding the adequacy of the Project Documents.

10.13 Agreement Survives Close of Escrow. All obligations referring to or required to be performed at a time or times after Close of Escrow shall survive Close of Escrow.

10.14 No Partnership or Joint Venture. Seller or Buyer shall not, by virtue of this Agreement, or any action performed pursuant to this Agreement, in any way or for any reason be deemed to be or have become a partner of the other in the conduct of its business or otherwise, or a joint venturer.

10.15 Alameda County Based Contractors. Buyer shall exercise good faith, reasonable efforts to hire and/or retain, and to cause Buyer's general contractor to hire and/or retain, Alameda County based firms, vendors, contractors, and subcontractors covering a minimum of twenty-five percent (25%) of the total development and construction costs (both soft and hard costs) of Buyer's project at the Property.

To enable Seller to monitor compliance by Buyer with its obligations in the preceding paragraph, Buyer shall from time to time, upon Seller's written request, provide Seller with written reports, in form and content reasonably acceptable to Seller, stating Buyer's efforts and results to date to achieve the goal in the preceding paragraph. This Section **9.15** shall survive the Close of Escrow.

[SIGNATURES ON FOLLOWING PAGE]

EXECUTED as of the Execution Date.

SELLER:	**BUYER:**
SURPLUS PROPERTY AUTHORITY ALAMEDA COUNTY, a public corporation	_____, a _____
By: _____ Name: _____ Title: _____	By: _____ Name: _____ Title: _____

APPROVED AS TO FORM:

By: _____

ATTEST:

_____
Clerk Board of Supervisors and Surplus
Property Authority, County of Alameda

ACCEPTANCE BY ESCROW HOLDER

Escrow Holder hereby acknowledges that it has received a fully executed counterpart of the foregoing Agreement for Purchase and Sale of Real Property and Escrow Instructions and agrees to act as Escrow Holder thereunder and to be bound by and perform the terms there of as such terms apply to Escrow Holder.

CHICAGO TITLE COMPANY

Dated: _____, 2017

By: _____
Name: _____
Title: _____

EXHIBIT A

DESCRIPTION OF LAND

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF DUBLIN, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

APN: 986-0034-013-01

EXHIBIT B

BUYER'S COVENANT

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Wendel, Rosen, Black & Dean LLP
Attn: Michael A. Dean
1111 Broadway, 24th Floor
Oakland, CA 94607

(Space above this line for Recorder's Use Only)

RESTRICTIVE COVENANT – FEE CREDIT REIMBURSEMENT

THIS RESTRICTIVE COVENANT FEE CREDIT REIMBURSEMENT ("**Restrictive Covenant**") is entered into as of _____, 20____, between SURPLUS PROPERTY AUTHORITY OF ALAMEDA COUNTY, a public corporation ("**County**") and _____, a _____ ("**Buyer**"), who agree as follows:

1. Recitals; Purchase Agreement. County and Buyer have previously entered into that agreement titled "Agreement for Purchase and Sale of Real Property and Escrow Instructions" dated _____, 20____ ("**Purchase Agreement**") pursuant to which Buyer has acquired, and is now the fee owner, of that certain real property located in the City of Dublin, Alameda County, California described in **Exhibit A** (the "**Property**").

Pursuant to Section 1.4 of the Purchase Agreement, Buyer and its successors and assigns are obligated to pay to County certain Assigned Credits, which Section is stated in full in **Section 2** of this Restrictive Covenant.

2. Assigned Credits. Section 1.4 of the Purchase Agreement provides, in pertinenet part, as follows:

> **1.4 Use of Credits.**
>
> **(a) Traffic Impact Fee Credits; Park Fee Credits.** If Buyer closes escrow on the Property, and Buyer is required to pay so-called Category 1 and Category 2 traffic impact fees to the City that would otherwise be due, then Buyer agrees to purchase from Seller "Category 1" and "Category 2" traffic impact fee credits received by Seller from the City as a result of improvements previously constructed by Seller ("**Traffic Impact Fee Credits**"), as provided in **Section 1.4(b)** below. If Buyer closes escrow on the Property, and Buyer is required to pay a public facility fee to the City in connection with the Project, then Buyer agrees to

purchase from Seller park land credits received by Seller from the City as a result of park land previously dedicated by Seller ("**Park Fee Credits**"), as provided in **Section 1.4(b)** below. Therefore, in addition to the Purchase Price, Buyer agrees to make additional payments to Seller as set forth in **Section 1.4(b)**. Traffic Impact Fee Credits and Park Fee Credits may be referred to collectively as "**Fee Credits**."

(b) Buyer's Use of Fee Credits. Buyer will, to the maximum extent allowed by the City, satisfy its obligation to pay traffic impact fees and public facility fees for the Project with the available Traffic Impact Fee Credits and Park Fee Credits, respectively. Prior to paying any traffic impact fees or public facility fees to the City, Buyer will provide written notice to Seller specifying the total Traffic Impact Fee Credits and Park Fee Credits Buyer will require, and Seller shall transfer Traffic Impact Fee Credits and Park Fee Credits to Buyer in the manner established by the City's Administrative Rules, with Seller responsible for paying the City's administrative fee for such transfer(s). Buyer shall, to the extent traffic impact fees or public facility fees may be satisfied by the use of Seller's Fee Credits, pay to Seller the amount of the traffic impact fees and public facility fees otherwise payable by Buyer that may be satisfied by use of Seller's Fee Credits. Buyer shall make such payments no later than thirty (30) days after the earlier of (i) the date Buyer uses Seller's Fee Credits or (ii) the third anniversary of the Closing. Any sums not paid within such thirty (30) day period shall accrue interest from the date Seller's Fee Credits were used at the rate of one percent (1%) per month, compounded monthly, until such sums are paid in full. If Buyer's payment to Seller for Fee Credits becomes due pursuant to clause (ii) of the immediately preceding sentence before Buyer is in a position to use and apply the Fee Credits (for example, if building permits for the Project have not yet been requested or approved), the Fee Credits to be purchased by Buyer will be determined based on (aa) the Entitlements for the Project, as Approved (as "**Entitlements**" and "**Approved**" are defined in **Section 3.4**) and (bb) the City's then-current fee schedule.

The provisions of this **Section 1.4(b)** apply to Buyer's successors and assigns who initially develop and construct the Project, and Buyer shall include in any sale and purchase agreement, or other type of agreement, a provision similar to this **Section 1.4(b)** requiring any such successors and assigns to use Seller's available Fee Credits as provided in this **Section 1.4(b)** and to pay any amounts due to Seller for the use of such Fee Credits; provided, however, solely as between Buyer and Seller

under this Agreement, Buyer shall remain liable under this **Section 1.4(b)** for the payment of any amounts payable hereunder if any such successors and assigns fail to pay any amounts payable to Seller under this **Section 1.4(b)**.

3. Purpose of Restrictive Covenant. The purpose of this Restrictive Covenant is to put third parties, including the successors and assigns of Buyer, on notice of the obligations and requirements of Section 1.4 of the Purchase Agreement.

4. Restrictive Covenant Runs With the Land. Buyer on behalf of itself and its successors and assigns agrees that this Restrictive Covenant is intended by County and Buyer to be a covenant that runs with the land and is binding on Buyer and its successors and assigns. Upon breach of this Restrictive Covenant, County, including its successors and assigns, shall have the right to seek injunctive and other relief, in addition to all other rights and remedies pursuant to applicable California law.

5. Termination of Restrictive Covenant; Recordation of Quitclaim Deed. Upon full satisfaction of Buyer's (including its successors and assigns) obligations pursuant to Section 1.4 of the Purchase Agreement, County shall execute a quitclaim deed terminating this Restrictive Covenant and shall record the quitclaim deed in the Official Records of Alameda County, California.

Executed on the date first stated above.

COUNTY:	**BUYER:**
SURPLUS PROPERTY AUTHORITY OF ALAMEDA COUNTY, a public corporation	_____, a _____
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

STATE OF CALIFORNIA)

) ss.

COUNTY OF _____)

On _____, 20___ before me, _____, a Notary Public in and for said State, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____

Notary Public

STATE OF CALIFORNIA)

) ss.

COUNTY OF _____)

On _____, 20___ before me, _____, a Notary Public in and for said State, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____

Notary Public

EXHIBIT C

PRELIMINARY REPORT

EXHIBIT D

ENVIRONMENTAL REPORTS

EXHIBIT E

PRELIMINARY DESCRIPTION OF OFFSITE IMPROVEMENTS

EXHIBIT F

ESCROW HOLDBACK AGREEMENT

ESCROW HOLDBACK AGREEMENT

THIS ESCROW HOLDBACK AGREEMENT (this "Agreement") is entered into as of _____, 20___, by and between the SURPLUS PROPERTY AUTHORITY OF ALAMEDA COUNTY, a public corporation ("**Seller**"), _____ ("**Buyer**"), and CHICAGO TITLE COMPANY ("**Escrow Holder**").

RECITALS

A. Pursuant to that certain Agreement for Purchase and Sale of Real Property and Escrow Instructions dated as of _____, 20__ (the "**Purchase Agreement**"), by and between Seller, as Seller, and Buyer, as Buyer, Seller agreed to sell to Buyer and Buyer agreed to purchase from Seller, certain unimproved real property located in Alameda County, California and more particularly described in Exhibit A to the Purchase Agreement (the "**Property**").

B. Escrow Holder is acting as the escrow agent under the Purchase Agreement.

C. Pursuant to the terms of Section 9 of the Purchase Agreement, Buyer is to construct certain improvements defined as the "Offsite Improvements" after Close of Escrow, but at Seller's cost, and the Escrow Holdback Amount (as provided in **Section 4** of this Agreement) is to be escrowed with Escrow Holder to secure the cost of constructing the Offsite Improvements.

D. Seller and Buyer desire that Escrow Holder receive, hold and disburse the Escrow Holdback Amount in accordance with terms, conditions and provisions of this Agreement, and Escrow Holder is willing to do so.

AGREEMENT

1. **Capitalized Terms**. Capitalized terms not otherwise defined in this Agreement shall have the same meanings given such terms in the Purchase Agreement.

2. **Appointment of Escrow Holder**. Escrow Holder is hereby appointed by Seller and Buyer as the escrow agent to receive, hold and disburse the Escrow Holdback Amount in accordance with the terms and conditions hereof.

3. **Acceptance by Escrow Holder**. Subject to the terms and conditions contained herein, Escrow Holder agrees to hold and disburse the Escrow Holdback Amount pursuant to this Agreement.

4. **Escrow Holdback Amount**. Escrow Holder shall hold back _____ Dollars ($_____) of the Purchase Price as the Escrow Holdback Amount to be held and disbursed in accordance with the terms and conditions of this Agreement. Seller further agrees to comply with its obligation in the Purchase Agreement to pay additional sums into the Escrow Holdback account established under this Agreement in the amounts and at the times required by the Purchase Agreement.

5. **Investment of Escrow Holdback Amount**. Escrow Holder is hereby instructed by Seller and Buyer to invest the Escrow Holdback Amount throughout the term of the escrow established under this Agreement at the written direction of Seller and Buyer. All interest or other income earned from the Escrow Holdback Amount shall be added to, and shall become part of the Escrow Holdback Amount. Escrow Holder hereby acknowledges that it does not have and will not have any interest in the Escrow Holdback Amount or any interest or income earned thereon, and is serving only as an escrow agent for Seller and Buyer, and will have only possession of the Escrow Holdback Amount without any right, title or interest therein, including, without limitation, any setoff or other such rights. Escrow Holder hereby represents and warrants to Seller and Buyer that it is not being, and will not in the future be, compensated either directly or indirectly for the investment of the Escrow Holdback Amount.

6. **Release of Holdback Amount**.

6.1 **Periodic Releases of Portions of Escrow Holdback Amount**. Within three (3) business days of following Escrow Holder's receipt from Buyer of invoices for the performance of the Offsite Improvements as described on **Exhibit A** to this Agreement, together with written approval of such invoices from Seller specifying the amount of approved invoices, Escrow Holder shall disburse to Buyer or to a third party designated by Buyer and approved by Seller, from the Escrow Holdback Amount, funds in the amount of the approved invoices. Invoices shall be submitted to Seller, and thereafter to Escrow Holder, not more often than monthly. Seller will review all requests for payment and approve or disapprove them within fifteen (15) days of receipt from Buyer. Any disapproval shall specify which items are disapproved, and all items not disapproved shall be approved and paid. In recognition of Seller's agreement to review and approve requests for payment promptly, Buyer agrees that Seller's approval of an invoice shall not preclude Seller from objecting to the cost in question at the time of final reconciliation of the amount payable for the Offsite Improvements.

6.2 **Final Release of Escrow Holdback Amount**. Within three (3) business days following Escrow Holder's receipt of written acknowledgement from both Seller and Buyer that the Offsite Improvements have been completed in accordance with the terms of Section 9 of the Purchase Agreement and that Buyer has been fully reimbursed for the cost of the Offsite Improvements, Escrow Holder shall promptly disburse the balance of the Escrow Holdback Amount, plus all remaining interest accrued thereon, less all reasonable costs, fees, and charges of Escrow Holder that are payable by Seller as herein provided, to Seller.

7. **Certain Rights, Duties, Liabilities, Privileges and Immunities of Escrow Holder**.

7.1 **Disagreements Between Parties**. In the event of any disagreement between any of the parties to this Agreement, or between them or any of them or any other person or entity resulting in adverse claims or demands being made in connection with the subject matter of the escrow established hereunder, or in the event that Escrow Holder, in good faith, is in doubt as to what action it should take hereunder, Escrow Holder may, at its option, refuse to comply with any claims or demands on it, or refuse to take any other action hereunder, so long as such disagreement continues or such doubt exists, and, in any such event, Escrow Holder shall not be or become liable in any way or to any person or entity for its failure or

refusal to act, and Escrow Holder shall be entitled to continue to refrain from action until all disagreements have been resolved by agreement, judgment or other dispute resolution procedure among all of the interested persons or entities, and Escrow Holder shall have been notified thereof in writing signed by all such persons or entitles.

7.2 **No Offset Rights**. Escrow Holder shall not offset, withhold from disbursement, or otherwise seek to use any of the Escrow Holdback Amount for its own benefit, whether or not a debt is owed to Escrow Holder by any party hereto.

8. **Notices**. Any notice, consent, waiver or demand pursuant to or in connection with this Agreement shall be in writing and delivered in accordance with the terms of Section 11.11 of the Purchase Agreement.

9. **Successors and Assigns**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

10. **Attorneys' Fees; Escrow Costs**. In any proceedings (including arbitration proceedings) hereunder for declaratory relief or to enforce or interpret the provisions of this Agreement, or in any action at law or in equity, the prevailing party or parties shall be entitled to recover reasonable costs and attorneys' fees from the other party (other than Escrow Holder). Such costs and attorneys' fees may be apportioned among the parties as may be appropriate and shall be in addition to any other relief that may be awarded. The reasonable charges, fees and costs charged by Escrow Holder for establishing and maintaining the escrow established hereby shall be paid one-half (1/2) by Seller and one-half (1/2) by Buyer.

11. **Counterparts; Facsimile Signatures**. This Agreement may be executed in a number of identical counterparts, each of which for all purposes is to be deemed an original, and all of which constitute, collectively, one agreement. A signed copy of this Agreement transmitted by facsimile to the other parties shall be binding on the signatory thereto.

12. **Governing Law**. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

13. **Conflicts**. This Agreement does not supersede the provisions of the Purchase Agreement; and, if a specific provision of this Agreement conflicts with a provision or provisions in the Purchase Agreement, the specific provision in the Purchase Agreement shall govern.

[SIGNATURES ON FOLLOWING PAGE]

EXECUTED on the above-stated date.

SELLER:

SURPLUS PROPERTY AUTHORITY OF ALAMEDA COUNTY, a public corporation

By: _____
Name: _____
Title: _____

BUYER:

_____,
a _____

By: _____
Name: _____
Title: _____

ESCROW HOLDER:

CHICAGO TITLE COMPANY

By: _____
Name: _____
Title: _____

EXHIBIT A TO

ESCROW HOLDBACK AGREEMENT

DESCRIPTION OF OFFSITE IMPROVEMENTS