



WEST CONTRA COSTA HEALTHCARE DISTRICT
DOCTORS MEDICAL CENTER

BOARD OF DIRECTORS MEETING

WCCHD DOCTORS MEDICAL CENTER
BOARD OF DIRECTORS
MEETING
May 18, 2016 - 4:00 P.M. PST
San Pablo City Council Chambers
13831 San Pablo Ave.
San Pablo, CA 94806

Board of Directors

Eric Zell, Chair
Deborah Campbell, Vice Chair
Irma Anderson
Nancy Casazza
Beverly Wallace

AGENDA

1. **CALL TO ORDER** E. Zell, Chair
2. **ROLL CALL**
3. **PUBLIC COMMENTS** E. Zell, Chair
[At this time persons in the audience may speak on any items not on the agenda and any other matter within the jurisdiction of the District Board]
4. **APPROVAL OF MINUTES OF May 3, 2016**
5. **ADJOURN TO CLOSED SESSION** E. Shaffer, Attorney
Conference with Real Property Negotiators regarding:

Property:	34 th St and Moran Ave. Richmond
Negotiators:	E. Shaffer
Parties:	Potential purchasers including Robert Jackson, dba Jackson & Son Plumbing Kennedy Wilson Real Estate Brokers
6. **ANNOUNCEMENT OF REPORTABLE ACTION(S) TAKEN IN CLOSED SESSION, IF ANY**
7. **CONSIDERATION OF RESOLUTION APPROVING PURCHASE AND SALE AGREEMENT FOR WAREHOUSE PROPERTY AT 34TH STREET AND MORAN AVENUE IN RICHMOND WITH ROBERT JACKSON** E. Shaffer, Legal Council
 - a. Presentation
 - b. Public Comment
 - c. Discussion
 - d. *ACTION: Approval of Agreement*

8. ADJOURNMENT OF MEETING

E. Zell, Chair

In compliance with the Americans with Disabilities Act, if you require special accommodations to participate in a District meeting, please contact the District Clerk at 510-970-5250 at least 48 hours prior to the meeting.



West Contra Costa Healthcare District

BOARD OF DIRECTORS

WCCHD DOCTORS MEDICAL CENTER

BOARD OF DIRECTORS

May 3, 2016 – 4:30 P.M.

San Pablo City Council Chambers

13831 San Pablo Ave.

San Pablo, CA 94806

Board of Directors

Eric Zell, Chair

Deborah Campbell, Vice Chair

Irma Anderson

Nancy Casazza

Beverly Wallace

MINUTES

1. CALL TO ORDER

The meeting was called to order at 4:30 P.M.

2. ROLL CALL

Quorum was established and roll was called:

Present:

Eric Zell, Chair

Irma Anderson

Beverly Wallace

Nancy Casazza

Deborah Campbell

3. PUBLIC COMMENTS

There were no public comments.

4. APPROVAL OF MINUTES OF March 17, 2016

The motion made by Director Anderson and seconded by Director Wallace to approve the March 17, 2016 minutes passed unanimously.

5. CLOSED SESSION

The meeting adjourned to Closed Session at 4:35 pm.

6. ANNOUNCEMENT OF REPORTABLE ACTION(S) TAKEN IN CLOSED SESSION, IF ANY

There were no reportable actions from closed session.

7. OPERATIONS UPDATE

Bobbie Ellerston presented an update on the operations of the hospital. There are currently 4 core employees working 3 days/week with 4 per diem employees. We have contracted staff for IT and Plant Operations.

It was reported that phase II of the sale of the Generator and IT Equipment will be complete in May. We are continuing to complete our year-end financial/audit reports and basic maintenance continues. We will be moving to our Pinole office with staff being “virtual” in May.

Our ongoing duties include vendor management, the successful sale of the property and transitioning to a new District team. It was noted that the final transition will be made after the sale of the property. We will be identifying roles, responsibilities, and processes and will maintain communication via our website, phones, and e-mail.

PUBLIC COMMENTS

There were no public comments.

This report was informational only.

8. FINANCIAL UPDATE

Vickie Scharr presented a financial update. The District currently has an estimated cash shortfall of \$1M prior to the closing of the hospital facility sale. This is with an extended closing date of September 2016 after receipt of \$1M advance from the county.

The delay in the closing of the sale requires an additional \$1M in costs beyond the original close date of June 2016.

There are potential cash flow management options for covering the \$1M shortfall. These include renegotiating with certain vendors, delaying the August/September payment for workers’ compensation claims, reduction and control of other costs, including the relocation to a smaller office in Pinole, and a short-term loan from the City of San Pablo.

PUBLIC COMMENTS

M. Rodriguez

This report was informational only.

9. VENDOR IT EQUIPMENT DISPOSITION AGREEMENT

The Vendor IT Equipment Disposition Agreement with Surplus Services was provided for approval.

PUBLIC COMMENTS

There were no public comments.

The motion made by Director Anderson and seconded by Director Wallace to approve DMC staff to obtain the agreement from Surplus Services and to authorize Chair Zell to sign the Vendor IT Equipment Disposition Agreement passed with Director Campbell abstaining.

10. VENDOR GENERATOR/SWITCHES EQUIPMENT DISPOSITION AGREEMENT

The Vendor Generator/Switches Equipment Disposition Agreement with Centurion was provided for approval.

PUBLIC COMMENTS

There were no public comments.

The motion made by Director Casazza and seconded by Director Anderson to approve DMC staff to obtain the agreement from Centurion and to authorize Chair Zell to sign the Vendor Generator/Switches Equipment Disposition Agreement passed with Director Campbell abstaining.

11. AMENDMENT TO PURCHASE AND SALE AGREEMENT SELLING DOCTORS MEDICAL CENTER TO ROYAL GUEST HOTELS; EXTENDING BUYER'S CONTINGENCY PERIOD

The Amendment to Purchase and Sale Agreement Selling Doctors Medical Center to Royal Guest Hotels; Extending Buyer's Contingency Period was provided for review and approval.

PUBLIC COMMENTS

There were no public comments.

The Resolution Amending the Purchase and Sale Agreement and Authorizing the Board Chair and Management to Take Action Necessary to Complete the Transaction passed with the following vote:

Ayes– Chair Zell, Director Wallace, Director Anderson, Director Casazza

Nays – 0

Abstain – Director Campbell

Absent – 0

12. AMENDMENT TO AUTHORIZATION TO SELL AGREEMENT EXTENDING CONTRACT WITH KENNEDY WILSON PROPERTIES AND JOHN TROUGHTON TO MARKET DOCTORS MEDICAL CENTER PROPERTY TO DECEMBER 31, 2016

The Amendment to Authorize to Sell Agreement Extending Contract with Kennedy Wilson Properties and John Troughton to Market Doctors Medical Center Property to December 31, 2016 was provided for approval.

PUBLIC COMMENTS

There were no public comments.

The motion made by Director Wallace and seconded by Director Casazza to approve the Contract Extension passed with Director Campbell abstaining.

13. DISPOSITION OF WAREHOUSE PROPERTY AT 34TH STREET AND MORAN AVENUE IN RICHMOND

The disposition of the Warehouse Property at 34th Street and Moran Avenue in Richmond was provided for approval.

PUBLIC COMMENTS

There were no public comments.

The motion made by Director Casazza and seconded by Director Wallace to approve to Solicit Offers to Purchase Property passed unanimously with Director Campbell abstaining.

14. AUTHORIZATION TO SELL AGREEMENT WITH KENNEDY WILSON PROPERTIES AND JOHN TROUGHTON TO MARKET WAREHOUSE PROPERTY

The Authorization to Sell Agreement with Kennedy Wilson Properties and John Troughton to Market Warehouse Property was provided for approval.

PUBLIC COMMENTS

There were no public comments.

The motion made by Director Casazza and seconded by Director Wallace to approve the Authorization to Sell Agreement passed unanimously with Director Campbell abstaining.

15. PUBLIC HEARING ON PROPOSED AMENDMENTS TO TWO PROPERTY TAX TRANSFER AGREEMENTS WITH CONTRA COSTA COUNTY; EFFECT ON DISTRICT'S FEES, CHARGES, TAXES AND OTHER REVENUES

PUBLIC COMMENTS

There were no public comments.

The public hearing was closed.

16. AMENDMENTS TO TWO PROPERTY TAX AGREEMENTS WITH CONTRA COSTA COUNTY; REVISING ALLOCATION OF DISTRICT TAXES TO THE COUNTY

The property tax amendments were provided for review and approval. The amendment would provide more money to the District and extend the loan. Discussion ensued regarding specific allocations of the funds. The funds have no allocations at this time, other than to fulfill the District debt. The District Board would need to vote and authorize any specific allocations.

PUBLIC COMMENTS

There were no public comments.

The Resolution to Amend Two Property Tax Agreements and Authorize the Board Chair to Execute Amendments passed with the following vote:

Ayes – Chair Zell, Director Wallace, Director Anderson, Director Casazza

Nays – 0

Abstain – Director Campbell

Absent – 0

17. REQUEST APPROVAL OF A COUNTY SPONSORED/DRAFTED RESOLUTION CALLING FOR ELECTIONS FOR DISTRICT BOARD AND REQUEST CONSOLIDATION OF DISTRICT ELECTION WITH COUNTY-WIDE ELECTIONS

The county requires the Board to approve a resolution in order for an election to be called. LAFCO is currently doing a study regarding the future of the District and will provide its recommendations once complete. It was noted that the cost of an election is \$400,000.

PUBLIC COMMENTS

There were no public comments.

The motion made by Director Casazza and seconded by Director Anderson to approve the County Sponsored/Drafted Resolution passed unanimously.

18. ELIMINATION OF DISTRICT-COUNTY JOINT GOVERNING BOARD AS NO LONGER NECESSARY GIVEN CLOSURE OF DOCTORS MEDICAL CENTER

Due to the closure of Doctors Medical Center, the District-County Joint Governing Board is no longer necessary.

PUBLIC COMMENTS

There were no public comments.

The motion made by Director Wallace and seconded by Director Anderson to authorize the Board Chair and Management to discuss the elimination with the County passed unanimously.

19. ADJOURNMENT OF MEETING

THE MEETING WAS ADJORNED AT 5:50 P.M.



STANDARD OFFER, AGREEMENT AND ESCROW
INSTRUCTIONS FOR PURCHASE OF REAL ESTATE
(Non-Residential)
AIR Commercial Real Estate Association

May 10, 2016
(Date for Reference Purposes)

1. Buyer.

1.1 Robert Jackson, dba Jackson & Son Plumbing, ("Buyer") hereby offers to purchase the real property, hereinafter described, from the owner thereof ("Seller") (collectively, the "Parties" or individually, a "Party"), through an escrow ("Escrow") to close on or five days after the waiver or expiration of the Buyer's Contingencies, ("Expected Closing Date") to be held by Old Republic Title Company ("Escrow Holder") whose address is 555 12th Street, Suite 2000, Oakland CA 94607, Attn: Jennifer Senhaji, Escrow Officer, Phone No. 510.286.7710, Facsimile No. 510.208.5045

upon the terms and conditions set forth in this agreement ("Agreement"). Buyer shall have the right to assign Buyer's rights hereunder, but any such assignment shall not relieve Buyer of Buyer's obligations herein unless Seller expressly releases Buyer.

1.2 The term "Date of Agreement" as used herein shall be the date when by execution and delivery (as defined in paragraph 20.2) of this document or a subsequent counterpart thereto, Buyer and Seller have reached agreement in writing whereby Seller agrees to sell, and Buyer agrees to purchase, the Property upon terms accepted by both Parties.

2. Property.

2.1 The real property ("Property") that is the subject of this offer consists of (insert a brief physical description) 1.25 acre lot with a metal building on the corner of 34th and Moran

is located in the City of Richmond, County of Contra Costa, State of California, is commonly known by the street address of Moran Avenue, Richmond, CA

and is legally described as: per title report (Seller shall pay for title insurance, City of Richmond and Contra Costa County Seller Transfer Taxes)

(APN: 526-170-001-6)

2.2 If the legal description of the Property is not complete or is inaccurate, this Agreement shall not be invalid and the legal description shall be completed or corrected to meet the requirements of Old Republic Title (Buyer & Seller agree to split Escrow Fee (Title Company)), which shall issue the title policy hereinafter described. Buyer understands and agrees that it is solely responsible for any sewer lateral or other facility connections through the property that may be required by City of Richmond or any other governmental agency.

2.3 The Property includes, at no additional cost to Buyer, the permanent improvements thereon, including those items which pursuant to applicable law are a part of the property, as well as the following items, if any, owned by Seller and at present located on the Property: electrical distribution systems (power panel, bus ducting, conduits, disconnects, lighting fixtures); telephone distribution systems (lines, jacks and connections only); space heaters; heating, ventilating, air conditioning equipment ("HVAC"); air lines; fire sprinkler systems; security and fire detection systems; carpets; window coverings; wall coverings; and none.

(collectively, the "Improvements").

2.4 The fire sprinkler monitor: [] is owned by Seller and included in the Purchase Price, [] is leased by Seller, and Buyer will need to negotiate a new lease with the fire monitoring company, [] ownership will be determined during Escrow, or [X] there is no fire sprinkler monitor.

2.5 Except as provided in Paragraph 2.3, the Purchase Price does not include Seller's personal property, furniture and furnishings, and all of which shall be removed by Seller prior to Closing.

3. Purchase Price.

3.1 The purchase price ("Purchase Price") to be paid by Buyer to Seller for the Property shall be \$301,000.00, payable as follows:

Table with 2 columns: Description of payment terms and Amount. Includes items (a) Cash down payment, (b) Amount of New Loan, (c) Buyer shall take title to the Property subject to and/or assume the following existing deed(s) of trust, (i) An Existing Note ("First Note"), (ii) An Existing Note ("Second Note"), and (d) Buyer shall give Seller a deed of trust ("Purchase Money Deed of Trust"). Total Purchase Price: \$301,000.00

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3.2 If Buyer is taking title to the Property subject to, or assuming, an Existing Deed of Trust and such deed of trust permits the beneficiary to demand payment of fees including, but not limited to, points, processing fees, and appraisal fees as a condition to the transfer of the Property, Buyer agrees to pay such fees up to a maximum of 1.5% of the unpaid principal balance of the applicable Existing Note.

4. Deposits.

4.1 Buyer has delivered to Broker a check in the sum of \$25,000.00, payable to Escrow Holder, to be delivered by Broker to Escrow Holder within 2 or _____ business days after both Parties have executed this Agreement and the executed Agreement has been delivered to Escrow Holder, or within 2 or _____ business days after both Parties have executed this Agreement and the executed Agreement has been delivered to Escrow Holder. Buyer shall deliver to Escrow Holder a check in the sum of \$_____. If said check is not received by Escrow Holder within said time period then Seller may elect to unilaterally terminate this transaction by giving written notice of such election to Escrow Holder whereupon neither Party shall have any further liability to the other under this Agreement. Should Buyer and Seller not enter into an agreement for purchase and sale, Buyer's check or funds shall, upon request by Buyer, be promptly returned to Buyer.

4.2 Additional deposits:

- (a) Within 5 business days after the Date of Agreement, Buyer shall deposit with Escrow Holder the additional sum of \$_____ to be applied to the Purchase Price at the Closing.
- (b) Within 5 business days after the contingencies discussed in paragraph 9.1 (a) through (m) are approved or waived, Buyer shall deposit with Escrow Holder the additional sum of \$_____ to be applied to the Purchase Price at the Closing.
- (c) If an Additional Deposit is not received by Escrow Holder within the time period provided then Seller may notify Buyer, Escrow Holder, and Brokers, in writing that, unless the Additional Deposit is received by Escrow Holder within 2 business days following said notice, the Escrow shall be deemed terminated without further notice or instructions.

4.3 Escrow Holder shall deposit the funds deposited with it by Buyer pursuant to paragraphs 4.1 and 4.2 (collectively the "Deposit"), in a State or Federally chartered bank in an interest bearing account whose term is appropriate and consistent with the timing requirements of this transaction. The interest thereon shall accrue to the benefit of Buyer, who hereby acknowledges that there may be penalties or interest forfeitures if the applicable instrument is redeemed prior to its specified maturity. Buyer's Federal Tax Identification Number is _____. NOTE: Such interest bearing account cannot be opened until Buyer's Federal Tax Identification Number is provided.

4.4 Notwithstanding the foregoing, within 5 days after Escrow Holder receives the monies described in paragraph 4.1 above, Escrow Holder shall release \$100 of said monies to Seller as and for independent consideration for Seller's execution of this Agreement and the granting of the contingency period to Buyer as herein provided. Such independent consideration is non-refundable to Buyer but shall be credited to the Purchase Price in the event that the purchase of the Property is completed.

4.5 Upon waiver of all of Buyer's contingencies the Deposit shall become non-refundable but applicable to the Purchase Price except in the event of a Seller breach.

5. Financing Contingency. (Strike if not applicable)

5.1 This offer is contingent upon Buyer obtaining from an insurance company, financial institution or other lender, a commitment to lend to Buyer a sum equal to at least _____% of the Purchase Price, on terms reasonably acceptable to Buyer. Such loan ("New Loan") shall be secured by a first deed of trust or mortgage on the Property. If this Agreement provides for Seller to carry back junior financing, then Seller shall have the right to approve the terms of the New Loan. Seller shall have 7 days from receipt of the commitment setting forth the proposed terms of the New Loan to approve or disapprove of such proposed terms. If Seller fails to notify Escrow Holder, in writing, of the disapproval within said 7 days it shall be conclusively presumed that Seller has approved the terms of the New Loan.

5.2 Buyer hereby agrees to diligently pursue obtaining the New Loan. If Buyer shall fail to notify its Broker, Escrow Holder and Seller, in writing within _____ days following the Date of Agreement, that the New Loan has not been obtained, it shall be conclusively presumed that Buyer has either obtained said New Loan or has waived this New Loan contingency.

5.3 If, after due diligence, Buyer shall notify its Broker, Escrow Holder and Seller, in writing, within the time specified in paragraph 5.2 hereof, that Buyer has not obtained said New Loan, this Agreement shall be terminated, and Buyer shall be entitled to the prompt return of the Deposit, plus any interest earned thereon, less only Escrow Holder and Title Company cancellation fees and costs, which Buyer shall pay.

6. Seller Financing (Purchase Money Note). (Strike if not applicable)

6.1 If Seller approves Buyer's financials (see paragraph 6.5) the Purchase Money Note shall provide for interest on unpaid principal at the rate of _____% per annum, with principal and interest paid as follows: _____

The Purchase Money Note and Purchase Money Deed of Trust shall be on the current forms commonly used by Escrow Holder, and be junior and subordinate only to the Existing Note(s) and/or the New Loan expressly called for by this Agreement.

6.2 The Purchase Money Note and/or the Purchase Money Deed of Trust shall contain provisions regarding the following (see also paragraph 10.3 (b)):

- (a) Prepayment: Principal may be prepaid in whole or in part at any time without penalty, at the option of the Buyer.
- (b) Late Charge: A late charge of 5% shall be payable with respect to any payment of principal, interest, or other charges, not made within 10 days after it is due.
- (c) Due On Sale: In the event the Buyer sells or transfers title to the Property or any portion thereof, then the Seller may, at Seller's option, require the entire unpaid balance of said Note to be paid in full.

6.3 If the Purchase Money Deed of Trust is to be subordinate to other financing, Escrow Holder shall, at Buyer's expense prepare and record on Seller's behalf a request for notice of default and/or sale with regard to each mortgage or deed of trust to which it will be subordinate.

6.4 WARNING: CALIFORNIA LAW DOES NOT ALLOW DEFICIENCY JUDGEMENTS ON SELLER FINANCING. IF BUYER ULTIMATELY DEFAULTS ON THE LOAN, SELLER'S SOLE REMEDY IS TO FORECLOSE ON THE PROPERTY.

6.5 Seller's obligation to provide financing is contingent upon Seller's reasonable approval of Buyer's financial condition. Buyer to provide a current financial statement and copies of its Federal tax returns for the last 2 years to Seller within 10 days following the Date of Agreement. Seller has 10 days following receipt of such documentation to satisfy itself with regard to Buyer's financial condition and to notify Escrow Holder as to whether or not Buyer's financial condition is acceptable. If Seller fails to notify Escrow Holder, in writing, of the disapproval of this contingency within said time period, it shall be conclusively presumed that Seller has approved Buyer's financial condition. If Seller is not satisfied with Buyer's financial condition or if Buyer fails to deliver the required documentation than Seller may notify Escrow Holder in writing that Seller Financing will not be available, and Buyer shall have the option, within 10 days of the receipt of such notice, to either terminate this transaction or to purchase the Property without Seller financing. If Buyer fails to notify Escrow Holder within said time period of its election to terminate this transaction then Buyer shall be conclusively presumed to have elected to purchase the Property without Seller financing. If Buyer elects to terminate, Buyer's Deposit shall be refunded less Title Company and Escrow Holder cancellation fees and costs, all of which shall be Buyer's obligation.

7. Real Estate Brokers.

7.1 The following real estate broker(s) ("Brokers") and brokerage relationships exist in this transaction and are consented to by the Parties (check the applicable boxes):

- Kennedy Wilson _____ represents Seller exclusively ("Seller's Broker");
- none _____ represents Buyer exclusively ("Buyer's Broker"); or
- none _____ represents both Seller and Buyer ("Dual Agency").

The Parties acknowledge that other than the Brokers listed above, there are no other brokers representing the Parties or due any fees and/or commissions under this Agreement. See paragraph 24 regarding the nature of a real estate agency relationship. Buyer shall use the services of Buyer's Broker exclusively in connection with any and all negotiations and offers with respect to the Property for a period of 1 year from the date inserted for reference purposes at the top of page 1.

7.2 Buyer and Seller each represent and warrant to the other that he/she/it has had no dealings with any person, firm, broker or finder in connection with the negotiation of this Agreement and/or the consummation of the purchase and sale contemplated herein, other than the Brokers named in paragraph 7.1, and no broker or other person, firm or entity, other than said Brokers is/are entitled to any commission or finder's fee in connection with this transaction as the result of any dealings or acts of such Party. Buyer and Seller do each hereby agree to indemnify, defend, protect and hold the other harmless from and against any costs, expenses or liability for compensation, commission or charges which may be claimed by any

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broker, finder or other similar party, other than said named Brokers by reason of any dealings or act of the Indemnifying Party.

B. Escrow and Closing.

8.1 Upon acceptance hereof by Seller, this Agreement, including any counterparts incorporated herein by the Parties, shall constitute not only the agreement of purchase and sale between Buyer and Seller, but also instructions to Escrow Holder for the consummation of the Agreement through the Escrow. Escrow Holder shall not prepare any further escrow instructions restating or amending the Agreement unless specifically so instructed by the Parties or a Broker herein. Subject to the reasonable approval of the Parties, Escrow Holder may, however, include its standard general escrow provisions. In the event that there is any conflict between the provisions of the Agreement and the provisions of any additional escrow instructions the provisions of the Agreement shall prevail as to the Parties and the Escrow Holder.

8.2 As soon as practical after the receipt of this Agreement and any relevant counterparts, Escrow Holder shall ascertain the Date of Agreement as defined in paragraphs 1.2 and 20.2 and advise the Parties and Brokers, in writing, of the date ascertained.

8.3 Escrow Holder is hereby authorized and instructed to conduct the Escrow in accordance with this Agreement, applicable law and custom and practice of the community in which Escrow Holder is located, including any reporting requirements of the Internal Revenue Code. In the event of a conflict between the law of the state where the Property is located and the law of the state where the Escrow Holder is located, the law of the state where the Property is located shall prevail.

8.4 Subject to satisfaction of the contingencies herein described, Escrow Holder shall close this escrow (the "Closing") by recording a general warranty deed (a grant deed in California) and the other documents required to be recorded, and by disbursing the funds and documents in accordance with this Agreement.

8.5 Buyer and Seller shall each pay one-half of the Escrow Holder's charges and Seller shall pay the usual recording fees and any required documentary transfer taxes. Seller shall pay the premium for a standard coverage owner's or joint protection policy of life insurance. (See also paragraph 11)

8.6 Escrow Holder shall verify that all of Buyer's contingencies have been satisfied or waived prior to Closing. The matters contained in paragraphs 9.1 subparagraphs (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), and (n), and (o), 9.4, 12, 13, 14, 16, 18, 20, 21, 22, and 24 are, however, matters of agreement between the Parties only and are not instructions to Escrow Holder.

8.7 If this transaction is terminated for non-satisfaction and non-waiver of a Buyer's Contingency, as defined in paragraph 9.2, then neither of the Parties shall thereafter have any liability to the other under this Agreement, except to the extent of a breach of any affirmative covenant or warranty in this Agreement. In the event of such termination, Buyer shall, subject to the provisions of paragraph 8.10, be promptly refunded all funds deposited by Buyer with Escrow Holder, less only the \$100 provided for in paragraph 4.4 and the Title Company and Escrow Holder cancellation fees and costs, all of which shall be Buyer's obligation. If this transaction is terminated as a result of Seller's breach of this Agreement then Seller shall pay the Title Company and Escrow Holder cancellation fees and costs.

8.8 The Closing shall occur on the Expected Closing Date, or as soon thereafter as the Escrow is in condition for Closing; provided, however, that if the Closing does not occur by the Expected Closing Date and said Date is not extended by mutual instructions of the Parties, a Party not then in default under this Agreement may notify the other Party, Escrow Holder, and Brokers, in writing that, unless the Closing occurs within 5 business days following said notice, the Escrow shall be deemed terminated without further notice or instructions.

8.9 Except as otherwise provided herein, the termination of Escrow shall not relieve or release either Party from any obligation to pay Escrow Holder's fees and costs or constitute a waiver, release or discharge of any breach or default that has occurred in the performance of the obligations, agreements, covenants or warranties contained therein.

8.10 If this sale of the Property is not consummated for any reason other than Seller's breach or default, then at Seller's request, and as a condition to any obligation to return Buyer's deposit (see paragraph 21), Buyer shall within 5 days after written request deliver to Seller, at no charge, copies of all surveys, engineering studies, soil reports, maps, master plans, feasibility studies and other similar items prepared by or for Buyer that pertain to the Property. Provided, however, that Buyer shall not be required to deliver any such report if the written contract which Buyer entered into with the consultant who prepared such report specifically forbids the dissemination of the report to others.

9. Contingencies to Closing. SEE PARAGRAPH 26

9.1 The Closing of this transaction is contingent upon the satisfaction or waiver of the following contingencies. **IF BUYER FAILS TO NOTIFY ESCROW HOLDER, IN WRITING, OF THE DISAPPROVAL OF ANY OF SAID CONTINGENCIES WITHIN THE TIME SPECIFIED THEREIN, IT SHALL BE CONCLUSIVELY PRESUMED THAT BUYER HAS APPROVED SUCH ITEM, MATTER OR DOCUMENT.** Buyer's conditional approval shall constitute disapproval, unless provision is made by the Seller within the time specified therefore by the Buyer in such conditional approval or by this Agreement, whichever is later, for the satisfaction of the condition imposed by the Buyer. Escrow Holder shall promptly provide all Parties with copies of any written disapproval or conditional approval which it receives. With regard to subparagraphs (a) through (m) the pre-printed time periods shall control unless a different number of days is inserted in the spaces provided:

(a) **Disclosures.** Seller shall make to Buyer, through Escrow, all of the applicable disclosures required by law (See AIR Commercial Real Estate Association ("AIR") standard form entitled "Seller's Mandatory Disclosure Statement") and provide Buyer with a completed Property Information Sheet ("Property Information Sheet") concerning the Property, duly executed by or on behalf of Seller in the current form or equivalent to that published by the AIR within 10 or _____ days following the Date of Agreement. Buyer has 10 days from the receipt of said disclosures to approve or disapprove the matters disclosed.

(b) **Physical Inspection.** Buyer has 10 or _____ days from the receipt of the Property Information Sheet or the Date of Agreement, whichever is later, to satisfy itself with regard to the physical aspects and size of the Property.

(c) **Hazardous Substance Condition Report.** Buyer has 30 or _____ days from the receipt of the Property Information Sheet or the Date of Agreement, whichever is later, to satisfy itself with regard to the environmental aspects of the Property. Seller recommends that Buyer obtain a Hazardous Substance Condition Report concerning the Property and relevant adjoining properties. Any such report shall be paid for by Buyer. A "Hazardous Substance" for purposes of this Agreement is defined as any substance whose nature and/or quantity of existence, use, manufacture, disposal or effect, render it subject to Federal, state or local regulation, investigation, remediation or removal as potentially injurious to public health or welfare. A "Hazardous Substance Condition" for purposes of this Agreement is defined as the existence on, under or reasonably adjacent to the Property of a Hazardous Substance that would require remediation and/or removal under applicable Federal, state or local law.

(d) **Soil Inspection.** Buyer has 30 or _____ days from the receipt of the Property Information Sheet or the Date of Agreement, whichever is later, to satisfy itself with regard to the condition of the soils on the Property. Seller recommends that Buyer obtain a soil test report. Any such report shall be paid for by Buyer. Seller shall provide Buyer copies of any soil report that Seller may have within 10 days of the Date of Agreement.

(e) **Governmental Approvals.** Buyer has 30 or _____ days from the Date of Agreement to satisfy itself with regard to approvals and permits from governmental agencies or departments which have or may have jurisdiction over the Property and which Buyer deems necessary or desirable in connection with its intended use of the Property, including, but not limited to, permits and approvals required with respect to zoning, planning, building and safety, fire, police, handicapped and Americans with Disabilities Act requirements, transportation and environmental matters.

(f) **Conditions of Title.** Escrow Holder shall cause a current commitment for title insurance ("Title Commitment") concerning the Property issued by the Title Company, as well as legible copies of all documents referred to in the Title Commitment ("Underlying Documents"), and a scaled and dimensioned plot showing the location of any easements to be delivered to Buyer within 10 or _____ 5 days following the Date of Agreement. Buyer has 10 days from the receipt of the Title Commitment, the Underlying Documents and the plot plan to satisfy itself with regard to the condition of title. The disapproval by Buyer of any monetary encumbrance, which by the terms of this Agreement is not to remain against the Property after the Closing, shall not be considered a failure of this contingency, as Seller shall have the obligation, at Seller's expense, to satisfy and remove such disapproved monetary encumbrance at or before the Closing.

(g) **Survey.** Buyer has 30 or _____ days from the receipt of the Title Commitment and Underlying Documents to satisfy itself with regard to any ALTA title supplement based upon a survey prepared to American Land Title Association ("ALTA") standards for an owner's policy by a licensed surveyor, showing the legal description and boundary lines of the Property, any easements of record, and any improvements, poles, structures and things located within 10 feet of either side of the Property boundary lines. Any such survey shall be prepared at Buyer's direction and expense. If Buyer has obtained a survey and approved the ALTA title supplement, Buyer may elect within the period allowed for Buyer's approval of a survey to have an ALTA extended coverage owner's form of title policy, in which event Buyer shall pay any additional premium attributable thereto.

(h) **Existing Lessees and Tenancy Statements.** Seller shall within 10 or _____ days of the Date of Agreement provide both Buyer and Escrow Holder with legible copies of all leases, subleases or rental arrangements (collectively, "Existing Lessees") affecting the Property, and with a tenancy statement ("Escoppel Certificate") in the latest form or equivalent to that published by the AIR, executed by Seller and/or each tenant and substantial of the Property. Seller shall use its best efforts to have each tenant complete and execute an Escoppel Certificate. If any tenant fails or refuses to provide an Escoppel Certificate then Seller shall complete and execute an Escoppel Certificate for that tenancy. Buyer has 10 days from the receipt of said Existing Lessees and Escoppel Certificates to satisfy itself with regard to the Existing Lessees and any other tenancy issues.

(i) **Owner's Association.** Seller shall within 10 or _____ days of the Date of Agreement provide Buyer with a statement and transfer package from any owner's association servicing the Property. Such transfer package shall at a minimum include: copies of the association's bylaws, articles of incorporation, current budget and financial statement. Buyer has 10 days from the receipt of such documents to satisfy itself with regard to

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the acceleration.

(j) **Other Agreements.** Seller shall within 10 or _____ days of the Date of Agreement provide Buyer with legible copies of all other agreements ("Other Agreements") known to Seller that will affect the Property after Closing. Buyer has 10 days from the receipt of said Other Agreements to satisfy itself with regard to such Agreements.

(k) **Financing.** If paragraph 5 hereof dealing with a financing contingency has not been stricken, the satisfaction or waiver of such New Loan contingency.

(l) **Existing Notes.** If paragraph 2.1(c) has not been stricken, Seller shall within 10 or _____ days of the Date of Agreement provide Buyer with legible copies of the Existing Notes, Existing Deeds of Trust and related agreements (collectively, "Loan Documents") to which the Property will remain subject after the Closing. Escrow Holder shall promptly request from the holders of the Existing Notes a beneficiary statement ("Beneficiary Statement") confirming: (1) the amount of the unpaid principal balance, the current interest rate, and the date to which interest is paid, and (2) the nature and amount of any impounds held by the beneficiary in connection with such loan. Buyer has 10 or _____ days from the receipt of the Loan Documents and Beneficiary Statements to satisfy itself with regard to such financing. Buyer's obligation to close is conditioned upon Buyer being able to purchase the Property without acceleration or change in the terms of any Existing Notes or charges to Buyer except as otherwise provided in this Agreement or approved by Buyer, provided, however, Buyer shall pay the transfer fee referred to in paragraph 3.2 hereof. Likewise if Seller is to carry back a Purchase Money Note then Seller shall within 10 or _____ days of the Date of Agreement provide Buyer with a copy of the proposed Purchase Money Note and Purchase Money Deed of Trust. Buyer has 10 or _____ days from the receipt of such documents to satisfy itself with regard to the form and content thereof.

(m) **Personal Property.** In the event that any personal property is included in the Purchase Price, Buyer has 10 or _____ days from the Date of Agreement to satisfy itself with regard to the title condition of such personal property. Seller recommends that Buyer obtain a UCC-1 report. Any such report shall be paid for by Buyer. Seller shall provide Buyer copies of any liens or encumbrances affecting such personal property that it is aware of within 10 or _____ days of the Date of Agreement.

(n) **Destruction, Damage or Loss.** Subsequent to the Date of Agreement and prior to Closing there shall not have occurred a destruction, or damage or loss to, the Property or any portion thereof, from any cause whatsoever, which would cost more than \$10,000.00 to repair or cure. If the cost of repair or cure is \$10,000.00 or less, Seller shall repair or cure the loss prior to the Closing. Buyer shall have the option, within 10 days after receipt of written notice of a loss costing more than \$10,000.00 to repair or cure, to either terminate this Agreement or to purchase the Property notwithstanding such loss, but without deduction or offset against the Purchase Price. If the cost to repair or cure is more than \$10,000.00, and Buyer does not elect to terminate this Agreement, Buyer shall be entitled to any insurance proceeds applicable to such loss. Unless otherwise notified in writing, Escrow Holder shall assume no such destruction, damage or loss has occurred prior to Closing.

(o) **Material Change.** Buyer shall have 10 days following receipt of written notice of a Material Change within which to satisfy itself with regard to such change. "Material Change" shall mean a substantial adverse change in the use, occupancy, tenancy, title, or condition of the Property that occurs after the date of this offer and prior to the Closing. Unless otherwise notified in writing, Escrow Holder shall assume that no Material Change has occurred prior to the Closing.

(p) **Seller Performance.** The delivery of all documents and the due performance by Seller of each and every undertaking and agreement to be performed by Seller under this Agreement.

(q) **Brokerage Fee.** Payment at the Closing of such brokerage fee as is specified in this Agreement or later written instructions to Escrow Holder executed by Seller and Brokers ("Brokerage Fee"). It is agreed by the Parties and Escrow Holder that Brokers are a third party beneficiary of this Agreement insofar as the Brokerage Fee is concerned, and that no change shall be made with respect to the payment of the Brokerage Fee specified in this Agreement, without the written consent of Brokers.

9.2 All of the contingencies specified in subparagraphs (a) through (m) of paragraph 9.1 are for the benefit of, and may be waived by, Buyer, and may be elsewhere herein referred to as "Buyer's Contingencies."

9.3 If any of Buyer's Contingencies or any other matter subject to Buyer's approval is disapproved as provided for herein in a timely manner ("Disapproved Item"), Seller shall have the right within 10 days following the receipt of notice of Buyer's disapproval to elect to cure such Disapproved Item prior to the Expected Closing Date ("Seller's Election"). Seller's failure to give to Buyer within such period, written notice of Seller's commitment to cure such Disapproved Item on or before the Expected Closing Date shall be conclusively presumed to be Seller's Election not to cure such Disapproved Item. If Seller elects, either by written notice or failure to give written notice, not to cure a Disapproved Item, Buyer shall have the right, within 10 days after Seller's Election to either accept title to the Property subject to such Disapproved Item, or to terminate this Agreement. Buyer's failure to notify Seller in writing of Buyer's election to accept title to the Property subject to the Disapproved Item without deduction or offset shall constitute Buyer's election to terminate this Agreement. The above time periods only apply once for each Disapproved Item. Unless expressly provided otherwise herein, Seller's right to cure shall not apply to the remediation of Hazardous Substance Conditions or to the Financing Contingency. Unless the Parties mutually instruct otherwise, if the time periods for the satisfaction of contingencies or for Seller's and Buyer's elections would expire on a date after the Expected Closing Date, the Expected Closing Date shall be deemed extended for 3 business days following the expiration of: (a) the applicable contingency period(s), (b) the period within which the Seller may elect to cure the Disapproved Item, or (c) if Seller elects not to cure, the period within which Buyer may elect to proceed with this transaction, whichever is later.

9.4 The Parties acknowledge that extensive local, state and Federal legislation establish broad liability upon owners and/or users of real property for the investigation and remediation of Hazardous Substances. The determination of the existence of a Hazardous Substance Condition and the evaluation of the impact of such a condition are highly technical and beyond the expertise of Brokers. The Parties acknowledge that they have been advised by Brokers to consult their own technical and legal experts with respect to the possible presence of Hazardous Substances on the Property or adjoining properties, and Buyer and Seller are not relying upon any investigation by or statement of Brokers with respect thereto. The Parties hereby assume all responsibility for the impact of such Hazardous Substances upon their respective interests herein.

10. Documents Required at or Before Closing:

10.1 Five days prior to the Closing date Escrow Holder shall obtain an updated Title Commitment concerning the Property from the Title Company and provide copies thereof to each of the Parties.

10.2 Seller shall deliver to Escrow Holder in time for delivery to Buyer at the Closing:

- (a) Grant or general warranty deed, duly executed and in recordable form, conveying fee title to the Property to Buyer.
- (b) If applicable, the Beneficiary Statements concerning Existing Notes.
- (c) If applicable, the Existing Leases and Other Agreements together with duly executed assignments thereof by Seller and Buyer. The assignment of Existing Leases shall be on the most recent Assignment and Assumption of Lessor's Interest in Lease form published by the AIR or its equivalent.

(d) If applicable, Estoppel Certificates executed by Seller and/or the tenant(s) of the Property.

(e) An affidavit executed by Seller to the effect that Seller is not a "foreign person" within the meaning of Internal Revenue Code Section 1445 or successor statutes. If Seller does not provide such affidavit in form reasonably satisfactory to Buyer at least 3 business days prior to the Closing, Escrow Holder shall at the Closing deduct from Seller's proceeds and remit to the Internal Revenue Service such sum as is required by applicable Federal law with respect to purchases from foreign sellers.

(f) If the Property is located in California, an affidavit executed by Seller to the effect that Seller is not a "nonresident" within the meaning of California Revenue and Tax Code Section 18662 or successor statutes. If Seller does not provide such affidavit in form reasonably satisfactory to Buyer at least 3 business days prior to the Closing, Escrow Holder shall at the Closing deduct from Seller's proceeds and remit to the Franchise Tax Board such sum as is required by such statute.

(g) If applicable, a bill of sale, duly executed, conveying title to any included personal property to Buyer.

(h) If the Seller is a corporation, a duly executed corporate resolution authorizing the execution of this Agreement and the sale of the Property.

10.3 Buyer shall deliver to Seller through Escrow:

(a) The cash portion of the Purchase Price and such additional sums as are required of Buyer under this Agreement shall be deposited by Buyer with Escrow Holder, by federal funds wire transfer, or any other method acceptable to Escrow Holder in immediately collectable funds, no later than 2:00 P.M. on the business day prior to the Expected Closing Date provided, however, that Buyer shall not be required to deposit such monies into Escrow if at the time set for the deposit of such monies Seller is in default or has indicated that it will not perform any of its obligations hereunder. Instead, in such circumstances in order to reserve its rights to proceed Buyer need only provide Escrow with evidence establishing that the required monies were available.

(b) If a Purchase Money Note and Purchase Money Deed of Trust are called for by this Agreement, the duly executed originals of those documents, the Purchase Money Deed of Trust being in recordable form, together with evidence of fire insurance on the improvements in the amount of the full replacement cost naming Seller as a mortgagee, and a real estate tax service contract (at Buyer's expense), assuring Seller of notice of the status of payment of real property taxes during the life of the Purchase Money Note.

(c) The Assignment and Assumption of Lessor's Interest in Lease form specified in paragraph 10.2(c) above, duly executed by Buyer.

(d) Assumptions duly executed by Buyer of the obligations of Seller that accrue after Closing under any Other Agreements.

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(e) If applicable, a written assumption duly executed by Buyer of the loan documents with respect to Existing Notes.

(f) If the Buyer is a corporation, a duly executed corporate resolution authorizing the execution of this Agreement and the purchase of the Property.

10.4 At Closing, Escrow Holder shall cause to be issued to Buyer a standard coverage (or ALTA extended, if elected pursuant to 9.1(g)) owner's form policy of title insurance effective as of the Closing, issued by the Title Company in the full amount of the Purchase Price, insuring title to the Property vested in Buyer, subject only to the exceptions approved by Buyer. In the event there is a Purchase Money Deed of Trust in this transaction, the policy of title insurance shall be a joint protection policy insuring both Buyer and Seller.

IMPORTANT: IN A PURCHASE OR EXCHANGE OF REAL PROPERTY, IT MAY BE ADVISABLE TO OBTAIN TITLE INSURANCE IN CONNECTION WITH THE CLOSE OF ESCROW SINCE THERE MAY BE PRIOR RECORDED LIENS AND ENCUMBRANCES WHICH AFFECT YOUR INTEREST IN THE PROPERTY BEING ACQUIRED. A NEW POLICY OF TITLE INSURANCE SHOULD BE OBTAINED IN ORDER TO ENSURE YOUR INTEREST IN THE PROPERTY THAT YOU ARE ACQUIRING.

11. Prorations and Adjustments.

11.1 **Taxes.** Applicable real property taxes and special assessment bonds shall be prorated through Escrow as of the date of the Closing, based upon the latest tax bill available. The Parties agree to prorate as of the Closing any taxes assessed against the Property by supplemental bill levied by reason of events occurring prior to the Closing. Payment of the prorated amount shall be made promptly in cash upon receipt of a copy of any supplemental bill.

11.2 **Insurance.** WARNING: Any insurance which Seller may have maintained will terminate on the Closing. Buyer is advised to obtain appropriate insurance to cover the Property.

11.3 **Rentals, Interest and Expenses.** Scheduled rentals, interest on Existing Notes, utilities, and operating expenses shall be prorated as of the date of Closing. The Parties agree to promptly adjust between themselves outside of Escrow any rents received after the Closing.

11.4 **Security Deposit.** Security Deposits held by Seller shall be given to Buyer as a credit to the cash required of Buyer at the Closing.

11.5 **Post Closing Matters.** Any item to be prorated that is not determined or determinable at the Closing shall be promptly adjusted by the Parties by appropriate cash payment outside of the Escrow when the amount due is determined.

11.6 **Variations in Existing Note Balances.** In the event that Buyer is purchasing the Property subject to an Existing Deed of Trust(s), and in the event that a Beneficiary Statement as to the applicable Existing Note(s) discloses that the unpaid principal balance of such Existing Note(s) at the closing will be more or less than the amount set forth in paragraph 3.1(c) hereof ("Existing Note Variation"), then the Purchase Money Note(s) shall be reduced or increased by an amount equal to such Existing Note Variation. If there is to be no Purchase Money Note, the cash required at the Closing per paragraph 3.1(a) shall be reduced or increased by the amount of such Existing Note Variation.

11.7 **Variations in New Loan Balance.** In the event Buyer is obtaining a New Loan and the amount ultimately obtained exceeds the amount set forth in paragraph 5.1, then the amount of the Purchase Money Note, if any, shall be reduced by the amount of such excess.

11.8 **Owner's Association Fees.** Escrow Holder shall: (i) bring Seller's account with the association current and pay any delinquencies or transfer fees from Seller's proceeds, and (ii) pay any up front fees required by the association from Buyer's funds.

12. Representations and Warranties of Seller and Disclaimers.

12.1 Seller's warranties and representations shall survive the Closing and delivery of the deed for a period of 3 years, and any lawsuit or action based upon them must be commenced within such time period. Seller's warranties and representations are true, material and relied upon by Buyer and Brokers in all respects. Seller hereby makes the following warranties and representations to Buyer and Brokers:

(a) **Authority of Seller.** Seller is the owner of the Property and/or has the full right, power and authority to sell, convey and transfer the Property to Buyer as provided herein, and to perform Seller's obligations hereunder.

(b) **Maintenance During Escrow and Equipment Condition At Closing.** Except as otherwise provided in paragraph 9.1(n) hereof, Seller shall maintain the Property until the Closing in its present condition, ordinary wear and tear excepted.

(c) **Hazardous Substances/Storage Tanks.** Seller has no knowledge, except as otherwise disclosed to Buyer in writing, of the existence or prior existence on the Property of any Hazardous Substance, nor of the existence or prior existence of any above or below ground storage tank.

(d) **Compliance.** Seller has no knowledge of any aspect or condition of the Property which violates applicable laws, rules, regulations, codes or covenants, conditions or restrictions, or of improvements or alterations made to the Property without a permit where one was required, or of any unfulfilled order or directive of any applicable governmental agency or casualty insurance company requiring any investigation, remediation, repair, maintenance or improvement be performed on the Property.

(e) **Changes in Agreements.** Prior to the Closing, Seller will not violate or modify any Existing Lease or Other Agreement, or create any new leases or other agreements affecting the Property, without Buyer's written approval, which approval will not be unreasonably withheld.

(f) **Possessory Rights.** Seller has no knowledge that anyone will, at the Closing, have any right to possession of the Property, except as disclosed by this Agreement or otherwise in writing to Buyer.

(g) **Mechanics' Liens.** There are no unsatisfied mechanics' or materials' lien rights concerning the Property.

(h) **Actions, Suits or Proceedings.** Seller has no knowledge of any actions, suits or proceedings pending or threatened before any commission, board, bureau, agency, arbitrator, court or tribunal that would affect the Property or the right to occupy or utilize same.

(i) **Notice of Changes.** Seller will promptly notify Buyer and Brokers in writing of any Material Change (see paragraph 9.1(o)) affecting the Property that becomes known to Seller prior to the Closing.

(j) **No Tenant Bankruptcy Proceedings.** Seller has no notice or knowledge that any tenant of the Property is the subject of a bankruptcy or insolvency proceeding.

(k) **No Seller Bankruptcy Proceedings.** Seller is not the subject of a bankruptcy, insolvency or probate proceeding.

(l) **Personal Property.** Seller has no knowledge that anyone will, at the Closing, have any right to possession of any personal property included in the Purchase Price nor knowledge of any liens or encumbrances affecting such personal property, except as disclosed by this Agreement or otherwise in writing to Buyer.

12.2 Buyer hereby acknowledges that, except as otherwise stated in this Agreement, Buyer is purchasing the Property in its existing condition and will, by the time called for herein, make or have waived all inspections of the Property Buyer believes are necessary to protect its own interest in, and its contemplated use of, the Property. The Parties acknowledge that, except as otherwise stated in this Agreement, no representations, inducements, promises, agreements, assurances, oral or written, concerning the Property, or any aspect of the occupational safety and health laws, Hazardous Substance laws, or any other act, ordinance or law, have been made by either Party or Brokers, or relied upon by either Party hereto.

12.3 In the event that Buyer learns that a Seller representation or warranty might be untrue prior to the Closing, and Buyer elects to purchase the Property anyway then, and in that event, Buyer waives any right that it may have to bring an action or proceeding against Seller or Brokers regarding said representation or warranty.

12.4 Any environmental reports, soils reports, surveys, and other similar documents which were prepared by third party consultants and provided to Buyer by Seller or Seller's representatives, have been delivered as an accommodation to Buyer and without any representation or warranty as to the sufficiency, accuracy, completeness, and/or validity of said documents, all of which Buyer relies on at its own risk. Seller believes said documents to be accurate, but Buyer is advised to retain appropriate consultants to review said documents and investigate the Property.

13. Possession.

Possession of the Property shall be given to Buyer at the Closing subject to the rights of tenants under Existing Leases.

14. Buyer's Entry.

At any time during the Escrow period, Buyer, and its agents and representatives, shall have the right at reasonable times and subject to rights of tenants, to enter upon the Property for the purpose of making inspections and tests specified in this Agreement. No destructive testing shall be conducted, however, without Seller's prior approval which shall not be unreasonably withheld. Following any such entry or work, unless otherwise directed in writing by Seller, Buyer shall return the Property to the condition it was in prior to such entry or work, including the recompaction or removal of any disrupted soil or material as Seller may reasonably direct. All such inspections and tests and any other work conducted or materials furnished with respect to the Property by or for Buyer shall be paid for by Buyer as and when due and Buyer shall indemnify, defend, protect and hold harmless Seller and the Property of and from any and all claims, liabilities, losses, expenses (including reasonable attorneys' fees), damages, including those for injury to person or property, arising out of or relating to any such work or materials or the acts or omissions of Buyer, its agents or employees in connection therewith.

15. Further Documents and Assurances.

The Parties shall each, diligently and in good faith, undertake all actions and procedures reasonably required to place the Escrow in condition for Closing as and when required by this Agreement. The Parties agree to provide all further information, and to execute and deliver all further documents, reasonably required by Escrow Holder or the Title Company.

16. Attorneys' Fees.

If any Party or Broker brings an action or proceeding (including arbitration) involving the Property whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief

23.3 Time of Essence. Time is of the essence of this Agreement.
 23.4 Counterparts. This Agreement may be executed by Buyer and Seller in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Escrow Holder, after verifying that the counterparts are identical except for the signatures, is authorized and instructed to combine the signed signature pages on one of the counterparts, which shall then constitute the Agreement.
 23.5 Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.
 23.6 Conflict. Any conflict between the printed provisions of this Agreement and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions. Seller and Buyer must initial any and all handwritten provisions.
 23.7 1031 Exchanges. Both Seller and Buyer agree to cooperate with each other in the event that either or both wish to participate in a 1031 exchange. Any party initiating an exchange shall bear all costs of such exchange. The cooperating Party shall not have any liability (special or otherwise) for damages to the exchanging Party in the event that the sale is delayed and/or that the sale otherwise fails to qualify as a 1031 exchange.
 23.8 Days. Unless otherwise specifically indicated to the contrary, the word "days" as used in this Agreement shall mean and refer to calendar days.

24. Disclosures Regarding The Nature of a Real Estate Agency Relationship.
 24.1 The Parties and Brokers agree that their relationship(s) shall be governed by the principles set forth in the applicable sections of the California Civil Code, as summarized in paragraph 24.2.
 24.2 When entering into a discussion with a real estate agent regarding a real estate transaction, a Buyer or Seller should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Buyer and Seller acknowledge being advised by the Brokers in this transaction, as follows:

(a) Seller's Agent. A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or subagent has the following affirmative obligations: (1) To the Seller: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller. (2) To the Buyer and the Seller: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(b) Buyer's Agent. A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In those situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations: (1) To the Buyer: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer. (2) To the Buyer and the Seller: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(c) Agent Representing Both Seller and Buyer. A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer. (1) In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Seller or the Buyer. b. Other duties to the Seller and the Buyer as stated above in their respective sections (a) or (b) of this paragraph 24.2. (2) In representing both Seller and Buyer, the agent may not without the express permission of the respective Party, disclose to the other Party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered. (3) The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect their own interests. Buyer and Seller should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(d) Further Disclosures. Throughout this transaction Buyer and Seller may receive more than one disclosure, depending upon the number of agents assisting in the transaction. Buyer and Seller should each read its contents each time it is presented, considering the relationship between them and the real estate agent in this transaction and that disclosure. Buyer and Seller each acknowledge receipt of a disclosure of the possibility of multiple representation by the Broker representing that principal. This disclosure may be part of a listing agreement, buyer representation agreement or separate document. Buyer understands that Broker representing Buyer may also represent other potential buyers, who may consider, make offers on or ultimately acquire the Property. Seller understands that Broker representing Seller may also represent other sellers with competing properties that may be of interest to this Buyer. Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this transaction may be brought against Broker more than one year after the Date of Agreement and that the liability (including court costs and attorneys' fees), of any Broker with respect to any breach of duty, error or omission relating to this Agreement shall not exceed the fee received by such Broker pursuant to this Agreement; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

24.3 Confidential Information: Buyer and Seller agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

25. Construction of Agreement. In construing this Agreement, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Agreement. Whenever required by the context, the singular shall include the plural and vice versa. This Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

26 Additional Provisions: Additional provisions of this offer, if any, are as follows or are attached hereto by an addendum or addenda consisting of paragraphs _____ through _____. (If there are no additional provisions write "NONE".)
 a energy disclosure addendum is attached;

RE 4.1: Buyer acknowledges that Seller must obtain the consent of its Board of Directors before this Agreement may be signed. The initial \$25,000 deposit shall be refundable to Buyer if the Board does not approve the sale.

RE 9.1(b): Buyer acknowledges that a portion of the Property consists of a creek and its bank. Buyer understands that this may affect use of the Property and Buyer's obligations regarding the creek and bank. Buyer affirms that Seller has made no representations or warranties regarding Buyer's ability to use the Property or Buyer's obligations.

RE 9.1(e): Buyer acknowledges that the Property is designated by the City of Richmond

General Plan as "Public, Cultural and Institutional" and is zoned as "Public and Civic Uses". Buyer understands that these designations may affect use of the Property. Buyer affirms that Seller has made no representations or warranties regarding Buyer's ability

to use the Property. In addition to providing notice to Seller as specified below, a copy of all notices to Seller shall be sent as follows:

Edward Shaffer
 Archer Norris
 2033 N. Main Street, Suite 800
 Walnut Creek, CA 94596
 Phone: (925) 930-6600 / Fax: (925) 930-6620 / email: eshaffer@archernorris.com

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY

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BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS AGREEMENT OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

- SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS AGREEMENT.
- RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PROPERTY. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PROPERTY, THE INTEGRITY AND CONDITION OF ANY STRUCTURES AND OPERATING SYSTEMS, AND THE SUITABILITY OF THE PROPERTY FOR BUYER'S INTENDED USE.

WARNING: IF THE PROPERTY IS LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THIS AGREEMENT MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED.

NOTE:

- THIS FORM IS NOT FOR USE IN CONNECTION WITH THE SALE OF RESIDENTIAL PROPERTY.
- IF EITHER PARTY IS A CORPORATION, IT IS RECOMMENDED THAT THIS AGREEMENT BE SIGNED BY TWO CORPORATE OFFICERS.

The undersigned Buyer offers and agrees to buy the Property on the terms and conditions stated and acknowledges receipt of a copy hereof.

BROKER: _____

BUYER: Jackson & Son Plumbing

Attn: _____ By: *Robert Jackson*

Title: _____ Date: _____

Address: _____ Name Printed: Robert Jackson

Telephone: () _____ Title: _____

Facsimile: () _____ Telephone: (510) 815-0302

Email: _____ Email: jspumbing@gmail.com

Federal ID No. _____

Broker/Agent BRE License #: _____

By: _____

Date: _____

Name Printed: _____

Title: _____

Address: 211 Montego Drive

Hercules, CA 94547

Telephone: () _____

Facsimile: () _____

Email: _____

Federal ID No. _____

27. Acceptance.
- 27.1 Seller accepts the foregoing offer to purchase the Property and hereby agrees to sell the Property to Buyer on the terms and conditions therein specified.
- 27.2 Seller acknowledges that Brokers have been retained to locate a Buyer and are the procuring cause of the purchase and sale of the Property set forth in this Agreement. In consideration of real estate brokerage service rendered by Brokers, Seller agrees to pay Brokers a real estate Brokerage Fee in a sum equal to 4% of the Purchase Price to be divided between the Brokers as follows: Seller's Broker 4% and Buyer's Broker 0%. This Agreement shall serve as an irrevocable instruction to Escrow Holder to pay such Brokerage Fee to Brokers out of the proceeds accruing to the account of Seller at the Closing.
- 27.3 Seller acknowledges receipt of a copy hereof and authorizes Brokers to deliver a signed copy to Buyer.

NOTE: A PROPERTY INFORMATION SHEET IS REQUIRED TO BE DELIVERED TO BUYER BY SELLER UNDER THIS AGREEMENT.

BROKER: Kennedy Wilson

SELLER: West Contra Costa Hospital District

Attn: John Troughton By: _____

Title: Vice President Date: _____

Address: 1860 Howe Avenue, Suite 210 Name Printed: _____

Sacramento, CA 95825 Title: _____

Telephone: (510) 908-5007 Telephone: () _____

Facsimile: () _____ Facsimile: () _____

Email: jtroughton@kennedywilson.com Email: _____

Federal ID No.: _____

Broker/Agent BRE License #: 01137509

By: _____

Date: _____

Name Printed: _____

Title: _____

Address: _____

Telephone: () _____

Facsimile: () _____

Email: _____

Federal ID No.: _____

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203.

Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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OLD REPUBLIC TITLE COMPANY

A MEMBER OF THE OLD REPUBLIC TITLE INSURANCE GROUP

3260 Blume Drive, Ste. 400 • Richmond CA • 94806 • (510) 222-7170 • FAX (510) 223-4448

ESCROW TRUST RECEIPT

Receipt No.: 126093
Escrow No.: 9090001922-WH
Date: 5/11/2016

Company No.: 01
Office No.: 90

Received From: Robert Jackson

Property Address: 34th Street Moran Avenue Richmond, CA 94801

Amount: \$25,000.00

Type of Deposit: Transfer

Check No.: N/A

ABA/Wire Confirmation No.: N/A

Transfer To Company No.: 11 Office No.: 17 Escrow No.: 1117016769

Received after Banking Hours? No

Payment of Invoice No.: N/A

By: Lanie Caderao

5/11/2016 11:17:09 AM

WEST CONTRA COSTA HEALTHCARE DISTRICT

RESOLUTION NO. 2016-05

RESOLUTION AUTHORIZING AND DIRECTING EXECUTION OF AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND RELATED DOCUMENTS, AND DIRECTING CERTAIN ACTIONS WITH RESPECT THERETO

RESOLVED, by the Board of Directors (the "Board") of the West Contra Costa Healthcare District, Contra Costa County, California (the "District"), as follows:

WHEREAS, pursuant to Section 32121 (c) of the California Health and Safety Code, the District has the power to buy and sell interests, including leaseholds and easements, in real property;

WHEREAS, Robert Jackson, dba Jackson & Son Plumbing ("Jackson") offered to purchase from the District certain real property in the City of Richmond at 34th Street and Moran Avenue (Assessor Parcel No. 526-170-001-6) consisting of approximately 1.25 acres on which a metal building of approximately 5,120 square feet is located, which the District previously used as a warehouse supporting Doctors Medical Center, which now is closed;

WHEREAS, the District and Jackson negotiated a purchase price of \$301,000, in accordance with the terms and conditions set forth in that certain Standard Offer, Agreement and Escrow Instructions for Purchase of Real Estate attached to this Resolution as Attachment 1 (the "PSA"), and the Board finds based on information provided and arms' length negotiations with Jackson that this represents fair value;

WHEREAS, Jackson's purchase of the District property permits the District to meet certain financial obligations, in a manner that it would not be able to otherwise meet in a timely fashion;

WHEREAS, members of the Board have reviewed the PSA with the aid of its management;

WHEREAS, the Board has considered whether the proposed transaction requires consideration under the California Environmental Quality Act;

NOW, THEREFORE, the Board of Directors hereby DECLARES and ORDERS, as follows:

1. The Board of Directors of the West Contra Costa Healthcare District hereby approves the proposed transaction generally as described in the PSA and hereby directs and authorizes the Chair of the Board and/or the District's Chief Executive Officer ("CEO") to

finalize and execute the following documents, each of which incorporates the terms and conditions set forth in the PSA, and otherwise contains such terms and conditions that are consistent therewith and are deemed in the Chair's or CEO's judgment to be reasonable and necessary to effectuate the transaction: the PSA; a recordable grant deed; and such other documents deemed in the Chair's or CEO's judgment to be reasonable and necessary to effectuate the transaction.

2. All actions heretofore taken by the officers and agents of the District with respect to the execution, delivery and completion of the transaction approved by this Resolution are hereby approved, confirmed and ratified.

3. The Chair and CEO are authorized to take such other steps and do such acts and things, all as in their judgment may be necessary, appropriate or desirable on behalf of and in the name of the District to carry out, observe and perform and enforce the performance by others of, and comply with, the terms and provisions of the proposed transaction, and to consummate the transaction herein contemplated.

4. The Board finds that sale of the District's property is exempt from the need for consideration under Public Resources Code section 21000 et seq., the California Environmental Quality Act ("CEQA"), and under California Code of Regulations Title 14, Chapter 3 (the "CEQA Guidelines"), (a) pursuant to CEQA Guidelines section 15301 ("Existing Facilities – minor alteration") as they involve proposed continued use of an existing building that will not have a significant effect on the environment, (b) pursuant to CEQA Guidelines section 15312 ("Surplus Government Property Sales"), (c) pursuant to the general "common sense" exemption in CEQA Guidelines section 15061(b)(3) where no physical alterations to the properties are intended and it can be concluded with certainty that there is no risk of mere change in ownership causing significant environmental impacts, and (d) the transactions do not qualify as a "project" under CEQA Guidelines section 15378 because they do not have the potential to result in a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and each grounds for exemption independently is sufficient to support this finding. The Board further finds that to the extent Jackson's future use of the property may require discretionary approvals by the City of Richmond or other public agencies, those agencies will be required to comply with CEQA before granting such approvals and allowing such uses, and it would be premature and overly speculative for the District to undertake CEQA review before approving and consummating this transaction.

5. This Resolution shall take effect upon its adoption by this Board.

PASSED AND ADOPTED this 18th day of May, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Eric Zell, Chair of the Board of Directors
West Contra Costa Healthcare District

Nancy Casazza, Secretary of the Board of Directors
West Contra Costa Healthcare District

Secretary's Certification

I, the undersigned Secretary of the West Contra Costa Healthcare District, hereby certify that the foregoing is a full, true and correct copy of a resolution duly adopted by the Board of Directors of the District at a meeting thereof held on the 18th day of May, 2016.

Nancy Casazza, Secretary of the Board of Directors
West Contra Costa Healthcare District

Motion to Approve Real Estate Transaction

On May 18, 2016, at a duly noticed and held public hearing of the Board of Directors of West Contra Costa Healthcare District, a political subdivision of the State of California dba Doctor's Medical Center, the Board by a vote of _____ adopted the following motion:

To enter into and implement a Purchase and Sale Agreement with Robert Jackson, dba Jackson & Son Plumbing ("Jackson"), by which the District will convey to Jackson the District's real property located at 34th Street and Moran Avenue in Richmond, California (Assessor Parcel No. 526-170-001-6) and the warehouse building thereon, and carry out such other terms and conditions as described in the Purchase and Sale Agreement, in return for payment by Jackson of \$301,000 subject to the terms and conditions in the Purchase and Sale Agreement.

To authorize Eric Zell, the Board's Chair, and/or Kathy White, as interim CEO, the power to finalize and sign the Purchase and Sale Agreement and implement its terms, including but not limited to signing all deeds, agreements and other documents on behalf of West Contra Costa Healthcare District, a political subdivision of the State of California, as necessary or desired to complete the transaction.

West Contra Costa Healthcare District,
a political subdivision of the State of California

By: Eric Zell
Chair of the Board
Dated: _____

West Contra Costa Healthcare District,
a political subdivision of the State of California