

Parcel Number: 372-182-006
Project Name: 20 Allen Street, Martinez
Project Number: 5955-6X5024

Grantors: Moshy Martinez, LLC;
Anthony A. & Laura A. Cristiani;
and Kliegman Martinez, LLC
Address: 120 Camille Court
Alamo, CA 94507-0435

**PURCHASE AND SALE AGREEMENT BETWEEN
CONTRA COSTA COUNTY
AND
GRANTORS NAMED HEREIN**

This Agreement is entered into by and between Moshy Martinez, a limited liability company as to an undivided 1/3 interest; Anthony A. Cristiani and Laura A. Cristiani, husband and wife as community property with right of survivorship as to an undivided 1/3 interest; and Kliegman Martinez, a limited liability company as to an undivided 1/3 interest hereinafter collectively called "Grantors," and Contra Costa County, a political subdivision of the State of California, hereinafter called "County."

RECITALS

1. Grantors are the owners of approximately 2.23 acres of real property located at 20 Allen Street in Contra Costa County, California and described on Exhibit "A" attached hereto and incorporated herein by reference. The real property, including building improvements, is collectively referred to herein as the "Property".
2. County desires to acquire the exclusive right to purchase the Property in an "as is" physical condition at an agreed price and under the specific terms and conditions below.
3. Grantors propose to sell the Property at the negotiated gross purchase price of \$1,900,000, and have agreed to credit the County \$175,000 previously paid under an Option Agreement dated July 22, 2008 and the First Amendment to Option Agreement dated June 23, 2009, resulting in a net price of \$1,725,000.

AGREEMENT

NOW THEREFORE, in consideration of the agreements herein contained and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. **Effective Date.** It is understood that this Agreement is subject to approval by the County's Governing Board. This Agreement is effective on the date approved by the County's Governing Board ("Effective Date"). This Agreement will be submitted to the Grantors first for approval, and thereafter to the County.
2. **Purchase and Sale.** Subject to the terms and conditions in this Agreement, Grantors agree to sell and County agrees to purchase the Property.
3. **Purchase Price.** The total purchase price for the Property shall be \$1,900,000.00 ("Purchase Price") less \$175,000.00 paid under the Option to Purchase Agreement dated July 22, 2008 and First Amendment to Option Agreement dated June 23, 2009 resulting in a net price of One Million Seven Hundred Twenty Five Thousand Dollars (\$1,725,000.00).
 - 3.1. All ad valorem real property taxes and any penalties and costs thereon, and all installments of any bond or assessment that constitutes a lien on the Property shall be cleared and paid by Grantors as of the date title shall vest in County by the recordation of the deed herein pursuant to Sections 4986, 5082, and 5086 of the Revenue and Taxation Code of the State of California, if unpaid as of the date title vests.

3.2. The Purchase Price shall be paid to Moshy Martinez, a limited liability company as to an undivided 1/3 interest; Anthony A. Cristiani and Laura A. Cristiani, husband and wife as community property with right of survivorship as to an undivided 1/3 interest; and Kliegman Martinez, a limited liability company as to an undivided 1/3 interest.

4. **Conditions to County's Performance.** The County's obligation to perform under this Agreement is subject to the following conditions:

4.1. Grantors representations and warranties in this Agreement being correct as of the date of this Agreement and as of the Close of Escrow.

4.2. Grantors performance of all obligations under this Agreement.

4.3. The vesting of title to the Property in the County by grant deed in fee simple absolute, free and clear of all liens, encumbrances, assessments, leases (recorded and/or unrecorded), and taxes except the following "Approved Exceptions" as outlined in the Preliminary Report dated November 23, 2009, issued by First American Title Insurance Company:

A. Covenants, conditions, restrictions and reservations of record, if any, which have been approved in writing by County.

B. Easements or rights of way of record over said property, listed as exceptions 3 and 4.

C. An Option in favor of Contra Costa County, listed as exception 6.

D. Six leases affecting the property, copies of which were provided to the County on December 7, 2009; which will be assigned by Grantors to the County through escrow.

4.4. The Title Company being prepared to issue a CLTA title insurance policy in the full amount of the purchase price, subject only to the Approved Exceptions ("Title Policy").

If County determines that any of these conditions have not been met, County shall have the right to terminate this Agreement by delivering written notice to Grantors and, if applicable, the Escrow agent.

5. **Escrow.** By this Agreement, County and Grantors establish an escrow ("Escrow") with First American Title Insurance Company, 1850 Mt. Diablo Blvd., Suite 300, Walnut Creek, California, their Escrow No. NCS-396069-CC ("Title Company"). If, for any reason, the named Title Company is unable to handle this transaction through the Close of Escrow, the County's Real Property Agent assigned to oversee this Property acquisition will select an alternate title company to handle the transaction, and notify Grantors in writing of the identity and address of the successor title company and the new escrow number. Thereafter, the successor company will be the "Title Company" for purposes of this Agreement. Grantors hereby authorize County to prepare escrow instructions and file escrow instructions with said Title Company, on behalf of Grantors, in accordance with this Agreement. This includes authorization of the Title Company to withhold pro rata taxes, liens, and assessments on the Property conveyed.

5.1. Fees and Title Insurance. The County shall pay all escrow and recording fees incurred in this transaction and, if title insurance is desired by the County, the premium charged therefor.

5.2. Grantors Deposit into Escrow. On or before the Close of Escrow, Grantors will deliver into Escrow with the Title Company the following documents:

A. A Grant Deed, in recordable form and properly executed on behalf of Grantors, in a form approved by County ("Grant Deed") conveying to County the Property in fee simple absolute, subject only to the Approved Exceptions.

- B. Copies of any effective leases, rental agreements or any other agreements, if any, which the County has agreed in writing are to remain in effect after County takes title.
 - C. Grantors affidavit of nonforeign status as contemplated by Section 1445 of the Internal Revenue Code of 1986, as amended [26 USCA §1445] ("FIRPTA Affidavit"); and
 - E. Grantors affidavit as contemplated by the Revenue and Taxation Code § 18662 ("Withholding Affidavit").
- 5.3. Deposit of Purchase Price into Escrow by County. Prior to the Close of Escrow, County will deposit One Million Seven Hundred Five Thousand dollars (\$1,725,000.00) into escrow with the Title Company.
- 5.4. Close of Escrow. Escrow shall close upon the conveyance of the Property to the County ("Close of Escrow). On the closing date, the Title Company shall close Escrow as follows:
- A. Record the Grant Deed, marked for return to the County care of Carmen Piña-Sandoval, Real Property Agent for the County (which shall be deemed delivery to the County);
 - B. Issue the Title Policy, if requested to do so by the County;
 - C. Prorate taxes, assessments, rents and other charges as provided by this Agreement;
 - D. Disburse to the Grantors the Purchase Price, less prorated amounts and charges to be paid by or on behalf of Grantors;
 - E. Prepare and deliver to the County and to the Grantors one signed copy of the Title Company's closing statement showing all receipts and disbursements of the Escrow.

If the Title Company is unable to simultaneously perform all of the instructions set forth above, the Title Company shall notify the Grantors and the County and retain all funds and documents pending receipt of further instructions from the County. Conditioned on the foregoing, escrow will close no later than February 1, 2010; provided, however, that if escrow does not close by February 1, 2010, due to factors outside of County's control, the sale will be consummated through escrow as soon thereafter as practicable.

6. **Grantors Representations and Warranties.** Grantors make the following representations and warranties with the understanding that these representations and warranties are material and are being relied upon by County. Grantors represent and warrant to the County that as of the date of this Agreement and as of the Close of Escrow:
- 6.1. Marketable Title. Grantors are the owners of the Property and have marketable and insurable fee simple title to the Property clear of restrictions, leases, liens and other encumbrances, subject only to the Approved Exceptions. Commencing with the full execution of this Agreement by both parties and until the Close of Escrow, Grantors shall not permit any liens, encumbrances or easements to be placed on the property other than the Approved Exceptions, nor shall Grantors enter into any agreement that would affect the Property that would be binding on the County after the Close of Escrow without the prior written consent of the County.
- 6.2. Condition of Property. Grantors represent and warrant to County that Grantors have disclosed to County all facts concerning any knowledge of the presence of hazardous substances and underground storage tanks to the best knowledge of the current officers and managers of the Grantors over such matters and the Property. County has been a long-term occupant of the Property and currently occupies a portion of it for parking. County is generally aware of the physical and structural condition of the portion of the Property the County uses for parking space

and the portion it formerly used for office space. Grantors have made no substantive changes, other than minor apartment upgrades, during the Grantors' brief ownership period. Grantors warrant and represent that they have disclosed to County all studies, reports, analyses, and other pertinent information in Grantors' possession relating to the condition of the Property, and have previously provided to the County all such items, including but not limited to structural condition, significant maintenance problems or deferred maintenance, and code violations on the Property. Grantors have previously provided to County, or its agents, copies of all maintenance or operation manuals, building or site plans, warranty information, and similar documents which they have in their possession, and shall authorize County to obtain copies of any such documents which are in the possession of others. Any information that Grantors have delivered to the County either directly or through Grantors' agents is accurate and Grantors have disclosed all material facts with respect to the Property.

Grantors represent and warrant to County that Grantors are not in violation or subject to any existing, pending or threatened investigation by any governmental authority under any applicable federal, state or local law, regulation or ordinance pertaining to air and water quality, the handling, transportation, storage, treatment, usage or disposal of hazardous substances, air emissions, other environmental matters and all zoning and other land use matters.

Grantors agree to immediately notify County in writing of any of the following matters that occur prior to the Close of Escrow: (1) any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed or threatened pursuant to any environmental or other law; (2) any claim made or threatened by any person against Grantor, the Property, or any improvements relating to damage, contribution cost, recovery compensation, loss or injury resulting from or claimed to result from any hazardous substances or otherwise, and (3) any reports made to any environmental agency arising out of or in connection with any hazardous substances in or removed from the Property, including any complaints, notices, warnings or asserted violations in connection therewith.

6.3 Other Matters Affecting Property. To the best of Grantors' knowledge, there are not presently any actions, suits, or proceedings pending or, to the best of Grantors' knowledge, threatened against or affecting the Property or the interest of Grantors in the Property or its use that would affect Grantors' ability to consummate the transaction contemplated by this Agreement. Further, there are not any outstanding and unpaid arbitration awards or judgments affecting title to any portion of the Property. To the best of Grantors' knowledge there are not presently any pending or threatened condemnation, eminent domain or similar proceedings affecting the Property. Grantors shall promptly notify County of any of these matters arising in the future.

6.4 Grantors' Agency. That this Agreement and all other documents delivered prior to or at the Close of Escrow have been authorized, executed, and delivered by Grantors; are binding obligations of the Grantors; and are collectively sufficient to transfer all of Grantors rights to the Property.

In addition to any other remedies that may be available to the County as the result of a breach of any of the foregoing warranties or representations, Grantors agree to defend and hold the County harmless and reimburse the County for any and all loss, cost, liability, expense, damage or other injury, including without limitation, attorneys fees, incurred by reason of, or in any manner resulting from the breach of any of the warranties and representations contained in this Agreement and all third-party claims arising out of or related to any facts or circumstances with respect to the period prior to the Close of Escrow.

7. **County's Representations and Warranties.** County warrants that, upon approval of this Agreement by the County's governing body, this Agreement shall constitute a binding obligation of the County.

8. **Survival.** All of the terms, provisions, representations, warranties and covenants of the parties under this Agreement shall survive the assignment, expiration or termination of this Agreement and shall not merge in the deed or other documents following the delivery and recordation of said deed or other documents.
9. **Possession of the Property.** Possession of the Property shall be delivered to the County at the Close of Escrow.
10. **Assignment and Successors.** This Agreement shall inure to the benefit of and shall be binding upon the parties to this Agreement and their respective heirs, successors, and assigns.
11. **Notices.** All notices (including requests, demands, approvals or other communications) under this Agreement shall be in writing.

a. Notice shall be sufficiently given for all purposes as follows:

- (1) When delivered by first class mail, postage prepaid, notice shall be deemed delivered three (3) business days after deposit in the United States mail.
- (2) When mailed by certified mail with return receipt requested, notice is effective on the date signed for by the recipient.
- (3) When delivered by overnight delivery by a nationally recognized overnight courier, notice shall be deemed delivered one (1) business day after the deposit with that courier.
- (4) When personally delivered to the recipient, notice shall be deemed delivered on the date personally delivered.

b. The place for delivery of all notices given under this Agreement shall be as follows:

Grantors: Moshy Martinez, LLC; Kliegman Martinez, LLC;
and Anthony A. and Laura A. Cristiani
120 Camille Court
Alamo, CA 94507-0435
Telephone: 925-785-8948 (Anthony)

With a copy to:

David Frey
Foley, McIntosh, Frey & Clayton
3675 Mt. Diablo Blvd. Suite 250
Lafayette, CA 94549
Telephone: 925-284-3020

County and County Staff:

Stephen G. Harris, Ph.D.
Director, Planning and Evaluation
Contra Costa Health Services
50 Douglas Dr., Ste 310
Martinez, CA 94553
Telephone: 925-957-5416

With a copy to:
Real Property Division
Public Works Department
255 Glacier Drive
Martinez, CA 94553
Attn: Carmen Piña-Sandoval

or to such other addresses as County and Grantors may respectively designate by written notice to the other.

12. **Entire Agreement.** The parties have herein set forth the whole of their agreement. This agreement supersedes all previous agreements between the parties. The performance of this agreement constitutes the entire consideration for said document and shall relieve the County of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement. Grantors have no other right or claim to compensation arising out of or connected with the acquisition of the subject property by the County, except as specifically set forth in this Agreement, including but not limited to all claims for compensation for improvements pertaining to realty, all claims for compensation for fixtures, equipment or machinery, attorneys' fees, costs or damages of every kind and nature by reason of County's acquisition of the subject Property and agree never to assert such a claim.
13. **Construction.** The section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. The parties to this Agreement and their counsel have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement. The Recitals are and shall be enforceable as a part of this Agreement.
14. **Further Assurances.** Whenever requested to do so by the other party, each party shall execute, acknowledge and deliver all further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents and all further instruments and documents as may be necessary, expedient, or proper in order to complete all conveyances, transfers, sales, and assignments under this Agreement, and do all other acts and to execute, acknowledge, and deliver all documents as requested in order to carry out the intent and purpose of this Agreement.
15. **Waiver.** A waiver or breach of any covenant or provision in this Agreement shall not be deemed a waiver of any other covenant or provision in this Agreement and no waiver shall be valid unless in writing and executed by the waiving party.
16. **Severability.** If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

REMAINDER OF PAGE

INTENTIONALLY

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17. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with California law. The venue of any litigation pertaining to this Agreement shall be Contra Costa County, California.

CONTRA COSTA COUNTY

By _____
Chair, Board of Supervisors

Attest: David J. Twa County
Administrator and Clerk of the Board
of Supervisors

By _____
Deputy

RECOMMENDED FOR APPROVAL:

By _____
Karen A. Laws
Principal Real Property Agent

By _____
Patrick Godley
Chief Operating Officer and
Chief Financial Officer

APPROVED AS TO FORM
County Counsel

By _____
Sharon L. Anderson
Chief Assistant County Counsel

Date: _____
(Date of Board approval)

GRANTORS

By _____
Moshy Martinez, a limited liability Company

By _____
Kliegman Martinez, a limited liability Company

By _____
Anthony A. Cristiani

By _____
Laura A. Cristiani

Date: 12/8/09
(Date Signed by Grantors)

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

Exhibit A - Legal Description

From:

825 646 0288

12/08/2009 17:46

#231 P.002/011

17. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with California law. The venue of any litigation pertaining to this Agreement shall be Contra Costa County, California.

CONTRA COSTA COUNTY

GRANTORS

By _____
Chair, Board of Supervisors

By _____
Moshy Martinez, a limited liability Company

Attest: David J. Twa County
Administrator and Clerk of the Board
of Supervisors

By _____
Kliegman Martinez, a limited liability Company

By _____
Deputy

By _____
Anthony A. Cristiani

RECOMMENDED FOR APPROVAL:

By _____
Laura A. Cristiani

By _____
Karen A. Laws
Principal Real Property Agent

Date: _____
(Date Signed by Grantors)

By _____
Patrick Godley
Chief Operating Officer and
Chief Financial Officer

APPROVED AS TO FORM
County Counsel

By _____
Sharon L. Anderson
Chief Assistant County Counsel

Date: _____
(Date of Board approval)

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

Exhibit A - Legal Description

17. **Governing Law and Venue.** This Agreement shall be governed and construed in accordance with California law. The venue of any litigation pertaining to this Agreement shall be Contra Costa County, California.

CONTRA COSTA COUNTY

GRANTORS

By _____
Chair, Board of Supervisors

By _____
Moshy Martinez, a limited liability Company

Attest: David J. Twa County
Administrator and Clerk of the Board
of Supervisors

By _____
Kliegman Martinez, a limited liability Company

By _____
Deputy

By Anthony A. Cristiani
Anthony A. Cristiani

RECOMMENDED FOR APPROVAL:

By Laura A. Cristiani
Laura A. Cristiani

By _____
Karen A. Laws
Principal Real Property Agent

Date: 12-8-09
(Date Signed by Grantors)

By _____
Patrick Godley
Chief Operating Officer and
Chief Financial Officer

APPROVED AS TO FORM
County Counsel

By _____
Sharon L. Anderson
Chief Assistant County Counsel

Date: _____
(Date of Board approval)

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

Exhibit A - Legal Description

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Sacramento

On 12/8/09
Date

before me, Beverly M. Rager
Here Insert Name and Title of the Officer

personally appeared Steven Kregman
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Beverly M. Rager
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Purchase and Sale Agreement with

Document Date: Contra Costa County Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

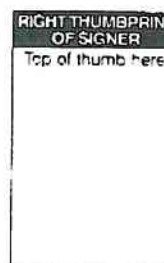
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____