

Parcel Number: 094-012-036
Project Name: Orbisonia Heights - Redevelopment
Project Number: 4500-6X5489

Grantor: Carl Koontz
Address: 591 Bailey Road
Bay Point, CA 94565

**PURCHASE AND SALE AGREEMENT BETWEEN
THE *REDEVELOPMENT AGENCY*
AND
GRANTOR NAMED HEREIN**

This Agreement is entered into by and between Contra Costa County Redevelopment Agency, a body corporate and politic existing under the laws of the State of California, (hereinafter "Agency") Carl Koontz, Trustee of the Carl Koontz, Living Trust, dated November 20, 2002 (hereinafter "Grantor").

RECITALS

Grantor is the owner of approximately 6,350 square feet of real property located in the unincorporated community of Bay Point, Contra Costa County, California and described on Exhibit "A" attached hereto and incorporated herein by reference. The real property, including improvements thereon, if any, are collectively referred to herein as the "Property".

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 Agency's Governing Board. This Agreement is effective on the date approved by the Agency's Governing Board ("Effective Date"). This Agreement will be submitted to the Grantor first for approval, and thereafter to the Agency.
2. **Purchase and Sale.** Subject to the terms and conditions in this Agreement, Grantor agrees to sell and Agency agrees to purchase the Property.
3. **Purchase Price.** The purchase price for the Property shall be **FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000)** ("Purchase Price").
 - 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 Grantor as of the date title shall vest in Agency 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 Carl Koontz, Trustee of the Carl L. Koontz Living Trust dated November 20, 2002.
4. **Conditions to Agency's Performance.** The Agency's obligation to perform under this Agreement is subject to the following conditions:
 - 4.1. Grantor's representations and warranties in this Agreement being correct as of the date of this Agreement and as of the Close of Escrow.
 - 4.2. Grantor's performance of all obligations under this Agreement.

- 4.3. The vesting of title to the Property in the Agency 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 July 24, 2009, issued by North American Title Company:
- A. Covenants, conditions, restrictions and reservations of record, listed as exception(s) – None.
 - B. Easements or rights of way of record over said property, listed as exception – None.
 - C. Other approved exception(s) – 6 and 7
- 4.4. North American Title Company is 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 Agency determines that any of these conditions have not been met, Agency shall have the right to terminate this Agreement by delivering written notice to Grantor and, if applicable, the Escrow agent.

5. **Escrow.** By this Agreement, Agency and Grantor establish an escrow ("Escrow") with North American Title Company, 645 San Ramon Boulevard, Danville, CA 94526, their Escrow No. 54705-951568-09 ("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 Grantor 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.

Grantor hereby authorize Agency to prepare and file escrow instructions with said Title Company, on behalf of Grantor, 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 Agency shall pay all escrow and recording fees incurred in this transaction and, if title insurance is desired by the Agency, the premium charged therefor.
- 5.2. Grantor's Deposit into Escrow. On or before the Close of Escrow Grantor will deliver into Escrow with the Title Company the following documents:
- A. A grant deed, in recordable form and properly executed on behalf of Grantor, in a form approved by Agency ("Grant Deed") conveying to Agency 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 Agency has agreed in writing are to remain in effect after Agency takes title.
 - C. Grantor affidavit of nonforeign status as contemplated by Section 1445 of the Internal Revenue Code of 1986, as amended [26 USCA §1445] ("FIRPTA Affidavit"); and
 - D. Grantor affidavit as contemplated by the Revenue and Taxation Code § 18662 ("Withholding Affidavit").
- 5.3. Deposit of Purchase Price into Escrow by Agency. Prior to the Close of Escrow, Agency will deposit the Purchase Price into escrow with the Title Company.

5.4. Close of Escrow. Escrow shall close upon the conveyance of the Property to the Agency ("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 Agency care of David Kramer, Real Property Agent for the Agency (which shall be deemed delivery to the Agency);
- B. Issue the Title Policy, if requested to do so by the Agency;
- C. Prorate taxes, assessments, rents and other charges as provided by this Agreement;
- D. Disburse to the Grantor the Purchase Price, less prorated amounts and charges to be paid by or on behalf of Grantor;
- E. Prepare and deliver to the Agency and to the Grantor 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 Grantor and the Agency and retain all funds and documents pending receipt of further instructions from the Agency.

6. **Grantor's Representations and Warranties.** Grantor makes the following representations and warranties with the understanding that these representations and warranties are material and are being relied upon by Agency. Grantor represents and warrant to the Agency that as of the date of this Agreement and as of the Close of Escrow:

6.1 Relocation Benefits: Grantors' rights to relocation benefits, if any, (as set forth in California Government Code Section 7260 et seq. and 42 United States Code section 4601 et seq.) have been explained fully and are understood by Grantors. Grantors agree that the payment of compensation set forth herein includes full compensation for any relocation payments to which Grantors may be entitled. Grantors warrant and represent that Grantors do not have, nor shall they claim, any further right to relocation benefits arising out of or connected with the acquisition of the subject Property by the Agency; and Grantors knowingly waive any such right or claim.

6.2 Compensation: Grantors warrant and represent that they have no other right or claim to compensation arising out of or connected with the acquisition of the subject Property by the Agency, or the work to be performed or actions taken as part of the project or pursuant to this Agreement, 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 the Agency's acquisition of the subject Property and agrees never to assert such a claim. Grantors expressly waive all rights provided by section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

6.3 Marketable Title. Grantor 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. No leases, licenses, or other agreements allowing any third party rights to use the Property are or will be in force unless prior consent has been given by the Agency in writing. Commencing with the full execution of this Agreement by both parties and until the Close of Escrow, Grantor shall not permit any liens, encumbrances or easements to be placed on the property other than the Approved Exceptions, nor shall Grantor enter into any

agreement that would affect the Property that would be binding on the Agency after the Close of Escrow without the prior written consent of the Agency.

- 6.4 Condition of Property. Grantor has disclosed to the Agency all information, records and studies maintained by Grantor in connection with the Property concerning hazardous substances and that Grantor are not concealing any knowledge of the presence of contamination or hazardous substances on, from or under the Property. Any information that Grantor have delivered to the Agency either directly or through Grantor agents is accurate and Grantor have disclosed all material facts with respect to the Property.
- 6.5 Other Matters Affecting Property. To the best of Grantor knowledge, there are not presently any actions, suits, or proceedings pending or, to the best of Grantor knowledge, threatened against or affecting the Property or the interest of Grantor in the Property or its use that would affect Grantor 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 Grantor knowledge there are not presently any pending or threatened condemnation, eminent domain or similar proceedings affecting the Property. Grantor shall promptly notify Agency of any of these matters arising in the future.
- 6.6 Grantor's Agency. That this Agreement and all other documents delivered prior to or at the Close of Escrow have been authorized, executed, and delivered by Grantor; are binding obligations of the Grantor; and are collectively sufficient to transfer all of Grantor rights to the Property.

In addition to any other remedies that may be available to the Agency as the result of a breach of any of the foregoing warranties or representations, Grantor agree to defend and hold the Agency harmless and reimburse the Agency 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. **Agency's Representations and Warranties.** Agency warrants that, upon approval of this Agreement by the Agency's governing body, this Agreement shall constitute a binding obligation of the Agency.
8. **HAZ MAT CLAUSE 1030.f (Not Tested-Unknown Hazardous Material Use.** The Grantor hereby represent and warrant that during the period of Grantor ownership of the property, there have been no disposals, releases or threatened releases of hazardous substances or hazardous waste on, from, or under the property. Other than what has been disclosed in Exhibit "C" pursuant to clause 6.4 above.
9. **Rental Agreement** It is agreed that the Grantor shall have a fifteen (15) day grace period commencing on the day following the date of recordation of the deed conveying title to the County, and thereafter, the County will rent the property to the Grantor using the County's standard form of Rental Agreement commencing the day following the termination of the grace period.

The rental rate shall be \$800.00 per month subject to all the terms and conditions as contained in said rental agreement, including the right of either party to cancel and terminate such rental agreement upon thirty (30) days written notice. Said rental rate shall remain in effect for a period of at least one year, if the property is available for occupancy for that period, and subject to the right of the County to establish a new rental rate after one year if the property remains available for rent.

10. **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.

11. **Possession of the Property.** Possession of the Property shall be delivered to the Agency at the Close of Escrow.
12. **Notices.** All notices (including requests, demands, approvals or other communications) under this Agreement shall be in writing. The place for delivery of all notices given under this Agreement shall be as follows:

Grantor: Carl Koontz
591 Bailey Road
Bay Point, CA 94565
Telephone: 925-458-1168

Agency: Contra Costa County Public Works Department
Real Property Division
255 Glacier Drive
Martinez, CA 94553
Telephone: 925-313-2012

or to such other addresses as Agency and Grantor may respectively designate by written notice to the other.

13. **Entire Agreement.** The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the Agency of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement. Grantor have no other right or claim to compensation arising out of or connected with the acquisition of the subject property by the Agency, 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 Agency's acquisition of the subject property and agrees never to assert such a claim.
14. **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.
15. **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.
16. **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
17. **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.

18. **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
REDEVELOPMENT AGENCY**

RECOMMENDED FOR APPROVAL:

By _____

GRANTOR

By Carl Koontz trustee
Carl Koontz, Trustee

Date: 1-13-10
(Date Signed by Grantor)

APPROVED:

By _____
Redevelopment Agency Director

Date _____
(Date of Board Approval)

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

Exhibit A - Legal Description

(FORM APPROVED BY COUNTY COUNSEL 6/99)

DK:sr
G:\RealProp\2007-Files\07-8 - C. Koontz P&S Agree. (AG.12).doc
1/13/2010

Exhibit "A"

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property situated in an Unincorporated Area, County of Contra Costa, State of California, described as follows:

Lot 17, as delineated upon that certain map entitled "Map of Orbisonia Heights", Contra Costa County, California, filed April 22, 1930 in Map Book 21, Pages 593 and 594 in the office of the recorder of the County of Contra Costa, State of California.

APN: 094-012-036

ARB: None

EXHIBIT "B"



PB
95

STATE HIGHWAY 4

NOTE: THIS MAP WAS PREPARED FOR ASSASSIN IN
FORCES ONLY NO LIABILITY IS ASSUMED
FOR ANY LOSS OR DAMAGE TO ANY PROPERTY
RELICATED HEREON ASSASSIN'S PARTIAL
MAY NOT BE USED FOR ANY OTHER
OR BARRING THE COURTESY

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JUL 22 2002
ASSESSOR'S MAP
BOOK 94 PAGE 01
CONTRA COSTA COUNTY, CALIF.

ORRISONIA HEIGHTS & POR SE 1/4 SEC. 14 T2N R1W M.D.B.M.

03

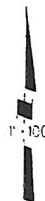
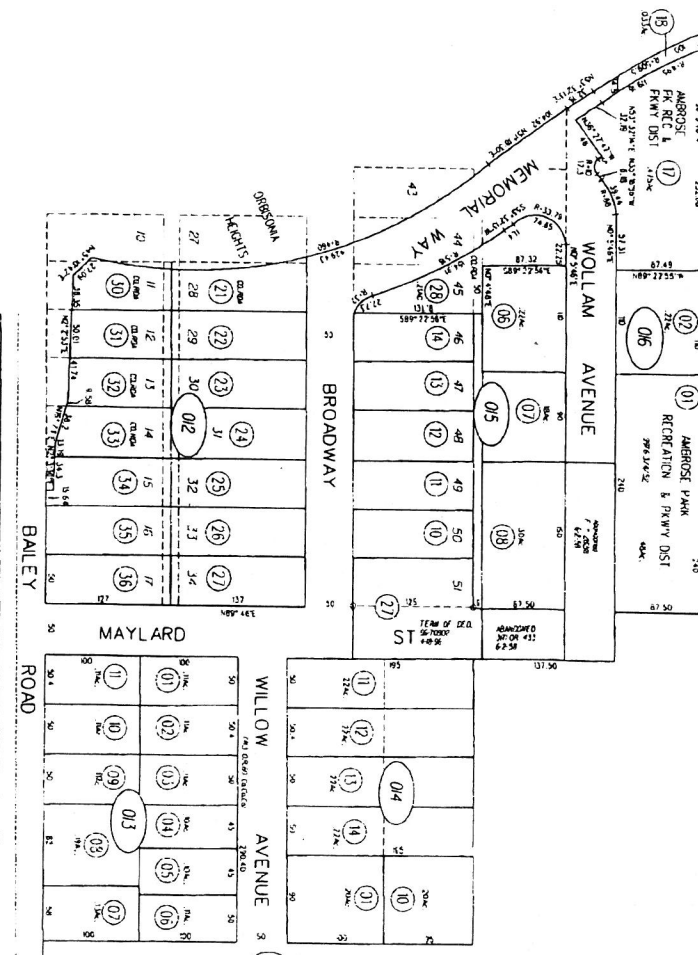


EXHIBIT "C"

Disclosure Regarding Possible Environmental Contamination of 591 Bailey Road, Bay Point, CA ("the Property")

The real property located at the above address was originally owned by my father Floyd Koontz. I have no knowledge of his use of the Property and whether he may have released and hazardous materials on the Property. I do know that he operated an electric motor repair shop on the Property from 1958 to 1964 and my brother, John Koontz ran the electric motor repair shop from 1977 to 1984.

I believe that up to perhaps one gallon of "thinner" a petroleum distillate product which was used to dilute glyptal, which is used for coils, armatures and other electrical apparatus. Also used as a primer, sealer for screws, pipes, vacuum systems and hydraulic fluid chambers. I do not believe that this material was spilled into the soil.

Approximately 10 gallons of commercial auto parts "solvent" was used on the Property from 1958 to 1964 and again between 1977 and 1984 for cleaning auto parts and electric motor parts. It is unknown whether any of this material spilled onto the soil.

I am also aware that unknown persons who may have changed their oil in their automobiles may have dumped used motor oil on the East end of the Property. It is unknown as to the quantity of petroleum products that may have been deposited there.

If the County of Contra Costa has any concerns regarding any of this information, the County should arrange for a Phase I Environmental Study to be performed on the Property before the close of escrow.