

**PURCHASE AND SALE AGREEMENT BETWEEN
CONTRA COSTA COUNTY
AND
YOUNG MEN'S CHRISTIAN ASSOCIATION OF THE EAST BAY dba
YMCA of the EAST BAY**

This purchase and sale agreement ("Agreement") is dated February 11, 2019 (the "Effective Date"), and is between the County of Contra Costa, a political subdivision of the State of California, (the "County") and the Young Men's Christian Association of the East Bay (dba YMCA of the East Bay), a California non-profit corporation ("Grantee").

RECITALS

- A. The County is the owner of approximately 0.36 acres (approximately 15,681 square feet) of real property (the "Property") commonly identified as Assessor's Parcel Numbers 357-054-016, located at 200 Lake Avenue (aka 323 Second Street), in the unincorporated community of Rodeo, County of Contra Costa, California. The Property is more particularly described in the Grant Deed attached hereto as Exhibit "A", and incorporated herein by reference. The Property is improved with and includes a 4,492 square-foot building and adjacent outdoor space.
- B. The Grantee is an organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code. The Grantee is organized for the care, teaching, or training of children. The Grantee leases the Property from the County under an unrecorded lease dated October 2, 1990 (the "Lease").
- C. The County has determined that the Property is surplus and no longer required for County use. In accordance with Government Code section 25372, the County desires to donate, and the Grantee desires to accept, the Property in an as-is condition under the terms and conditions of this Agreement.

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. **Approval Required.** This Agreement is subject to approval by the County's Board of Supervisors. This Agreement is being submitted to the Grantee first for approval, and, thereafter, to the County. This Agreement is not effective unless and until it is approved by the County's Board of Supervisors.
2. **Donation; Termination of Lease.** The County agrees to donate, and the Grantee agrees to accept, the Property under the terms of this Agreement and subject to all liens, encumbrances, and encroachments, whether or not of record. The Lease shall terminate upon the conveyance of the Property to the Grantee pursuant to Government Code section 25372, on the express condition that the Property only be used and forever held for the purpose of the care, teaching, or training of children or developmentally disabled children ("Approved Uses"). Grantee hereby covenants to Grantor that Grantee agrees to use the Property only for the Approved Uses. Grantee further

covenants to Grantor that Grantee will include this paragraph in any deed Grantee uses to convey the Property to another party. If the Property is used by Grantee, its successors or assigns, for any uses other than the Approved Uses, Grantor may enforce the requirements of this paragraph as a covenant between Grantor and Grantee, on behalf of Grantee and its successors and assigns. The requirements of this paragraph run with the land. The parties agree that the requirements of this Section 2 shall be enforceable until the later of the times listed in Civil Code section 885.030, regardless of the legal nature of the obligations created by this section.

3. **Condition of the Property.** The County, its agents and employees, make no warranty, guarantee, or representation concerning any matter or thing affecting or relating to the Property, and do not assume any responsibility for the conformance to codes or permit regulations of the city or county within which the Property is located. Grantee takes title to the Property in its "AS-IS" condition, with all faults known and unknown. The County has not made, and does not make, any representation as to the physical condition of the Property.
4. **Release.** The Grantee, on behalf of itself and its employees, agents, representatives, successors, and assigns, hereby releases and discharges the County and its employees, agents, representatives, successors, and assigns, from any claims, demands, causes of action, obligations, damages, costs, expenses, and liabilities (collectively, "Liabilities") that the Grantee now has or could assert in any manner related to or arising from (a) the physical condition of the Property, (b) the suitability of the Property for a particular use, (c) matters affecting title to the Property, (d) the physical and environmental condition of the property, including the presence of any hazardous materials on, in, or under the Property, (e) the County's obligations under the Lease, or (f) the physical or legal limitations that affect the current or future use of the Property, including but not limited to the Property's conformance to codes or permit regulations of the city or county within which the Property is located. The Grantee knowingly waives the right to make any claim against the County for Liabilities set forth in this section, and the Grantee expressly waives all rights provided under 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 OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

5. **Grantee Representations and Warranties.** The Grantee represents and warrants all of the following to the County as of the Effective Date, and as of the date the Property is transferred to the Grantee:
 - 5.1 The Grantee is a duly formed and validly existing non-profit public benefit corporation organized under the laws of the State of California, and is qualified under the laws of the State of California to conduct business herein.
 - 5.2 The Grantee is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, and the Grantee is organized for the care, teaching, or training of children.

- 5.3 The Grantee has the full legal right, power, and authority to execute and deliver this Agreement and to consummate the transaction contemplated hereby, and to perform its obligations under this Agreement.
6. **Conditions of County's Performance.** The County's obligation to perform under this Agreement is subject to the following conditions:
- 6.1 The Grantee's representations and warranties in this Agreement being correct as of the Effective Date, and as of the date the Property is transferred to the Grantee.
7. **Closing.** To complete the conveyance of the Property to the Grantee, the Parties shall take the following steps:
- 7.1 After the County Board of Supervisors approves this Agreement, the County will submit to the Grantee (a) a copy of the executed Grant Deed, in the form attached hereto as Exhibit "A", and (b) a copy of the board order by which the Board of Supervisors approved this Agreement.
- 7.2 Within 30 days after receiving a copy of the Grant Deed from the County, the Grantee shall accept the Grant Deed and provide an original of the acceptance instrument to the Real Estate Division of the County's Public Works Department for recording purposes.
- 7.3 Upon receipt of the original acceptance instrument from the Grantee, the Real Estate Division of the County's Public Works Department will (a) record the original, executed Grant Deed and the acceptance instrument in the Official Records of the County's Clerk-Recorder's Office, and (b) deliver a conforming copy of the recorded Grant Deed and acceptance instrument to the Grantee.
8. **Indemnification.** The Grantee shall defend, indemnify, protect, save, and hold harmless the County, its officers, agents, employees, and representatives from any and all claims, costs and liability for any damages, sickness, death, or injury to persons or property, including without limitation all consequential damages, from any cause whatsoever, from or connected with (1) the present or future condition of the Property, or (2) the occupancy and use of the Property by the Grantee, its officers, agents, employees, representatives, licensees, and invitees, or (3) any representations, misrepresentations, or non-representations regarding the Property's condition or use, and the Grantee will make good to and reimburse the County for any expenditures, including reasonable attorneys' fees, that the County may make by reason of such matters and, if requested by the County, the Grantee will defend any such suits at the Grantee's sole expense.
9. **Transaction Costs.** All escrow fees, recording fees, documentary transfer taxes, and other real estate transaction taxes or fees, by whatever name known, including broker's commission, if any, and personal property sales taxes where applicable, (collectively, "Transaction Costs") will be paid solely by the County.

10. **Survival.** All of the terms, provisions, representations, warranties, and covenants of the parties under this Agreement will survive and remain fully enforceable after the conveyance of the Property to the Grantee, and after any assignment, expiration, or termination of this Agreement, and will not merge in the Grant Deed or other documents.
11. **Assignment and Successors; No Third-Party Beneficiaries.** This Agreement inures to the benefit of and binds the Parties to this Agreement and their respective heirs, successors, and assigns. The Grantee may not assign this Agreement to any third party without the advance written approval of the County, which shall be within the County's sole discretion to provide. Nothing in this Agreement, express or implied, is intended to confer on any person, other than the Parties and their respective heirs, successors, and assigns, any rights or remedies under or by reason of this Agreement.
12. **Notices.** All notices (including requests, demands, approvals or other communications) under this Agreement must be in writing and delivered in person, by overnight carrier, or First Class U.S. Mail with postage prepaid, to the following:

County: Real Estate Division
Public Works Department
40 Muir Road, 2nd Floor
Martinez, CA 94553
Telephone: (925) 957-2467
Attn: Principal Real Property Agent

Grantee: YMCA of the East Bay
2330 Broadway
Oakland, CA 94612
Telephone: (510) 451-8039
Attn: President/Chief Executive Officer-CEO

or to such other addresses as County and Grantee may respectively designate by written notice to the other. A notice will be deemed given on the same day it is delivered if delivered in person, on the next business day if delivered by overnight carrier, and on the fifth day after mailing if delivered by First Class U.S. Mail.

13. **Entire Agreement.** This Agreement and the Grant Deed constitute the entire agreement between the parties and supersede all prior and contemporaneous agreements and understandings of the parties regarding the subject matter of this Agreement.

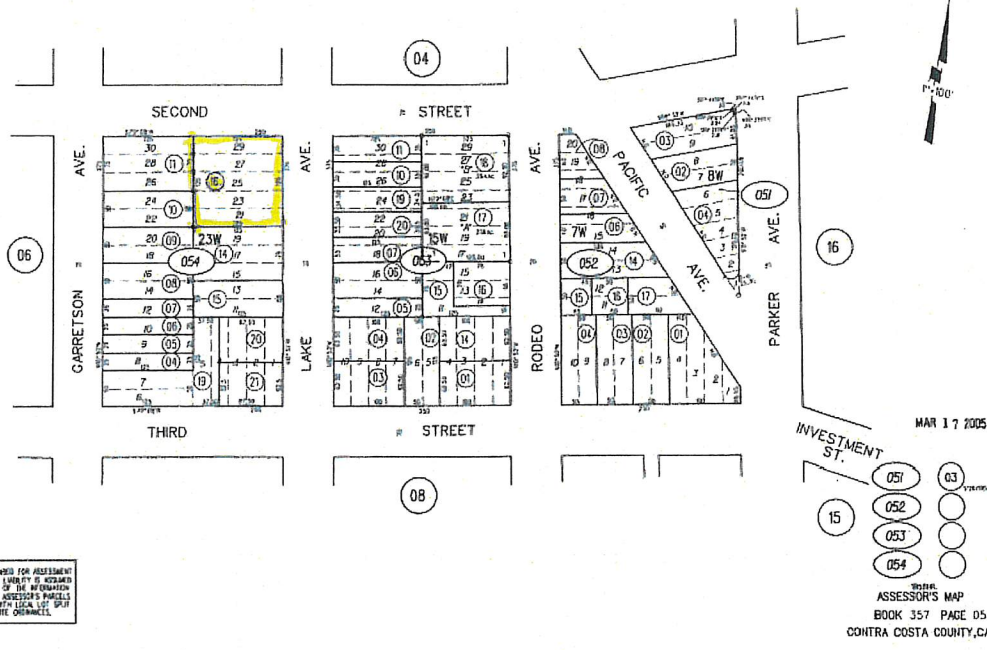
14. **Construction.** The section headings and captions of this Agreement are, and the arrangement of this instrument is, for the sole convenience of the parties to this Agreement. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this Agreement. This Agreement is not to 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 does not apply to the interpretation of this Agreement. The Recitals are, and are 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.

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EXHIBIT "A"

MAP OF RODEO 0-91
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NOTE: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OR THE INFORMATION CONTAINED HEREON. ASSESSOR'S PARCELS MAY NOT CORRELATE WITH LOCAL, STATE, FEDERAL OR FEDERAL SITE CHARACTERISTICS.

ASSASSOR'S MAP
BOOK 357 PAGE 05
CONTRA COSTA COUNTY, CALIF.