

**PURCHASE AND SALE AGREEMENT BETWEEN
CONTRA COSTA COUNTY
AND
CITY OF ANTIOCH**

This Purchase and Sale Agreement ("Agreement") is entered into as of the Effective Date (defined in Section 1, below) by and between Contra Costa County, a political subdivision of the State of California (hereinafter "County") and the City of Antioch, a California municipal corporation (hereinafter "Grantee"). The County and the Grantee are sometimes referred to herein together as the "Parties" and each as a "Party."

RECITALS

- A. The County is the owner of approximately 1.423 acres of real property located in Contra Costa County, California, commonly identified as Assessor's Parcel Nos. 067-342-001, -002, and -013, and more particularly described in the Grant Deed attached hereto as Exhibit "A" ("Grant Deed") and incorporated herein by reference. The real property described in the Grant Deed, including any improvements located upon, in, over, under, and across the Property, if any, and the Drainage Facilities (defined in Recital B), together with the County's rights, if any, in and to (a) privileges, rights, easements, and appurtenances belonging to the real property, including, without limitation, minerals, oil, gas, and other hydrocarbon substances on and under the real property, (b) development rights, air rights, water, water rights, and water stock relating to the real property, and (c) any land lying in the bed of any street, alley, road, or avenue adjacent to, abutting, or exclusively used in connection with such real property, to the centerline thereof to the extent included in the legal description of such real property. All of the foregoing in this Recital A are collectively referred to herein as the "Property."
- B. The County acquired the Property for drainage purposes. Two complete 10-foot diameter drainage pipes were constructed across the Property, and a third 10-foot diameter drainage pipe was constructed and terminates on the Property (collectively, the "Drainage Facilities"). It is expected that the third pipe will be extended to cross the Property in the future.
- C. The County has determined that the Property is surplus and no longer necessary for County purposes. The Grantee desires to acquire the Property for its purposes, which may include housing to address homelessness within the City of Antioch. The Grantee is still evaluating possible uses for the Property.
- D. The County is authorized to enter into this Agreement pursuant to Government Code section 25365. The Grantee is authorized to enter into this Agreement pursuant to Government Code section 37350. This Agreement also is entered into pursuant to Section 16 of the "Stipulation for Judgment and Final Order of Condemnation" ("Stipulation") executed by the Parties and filed on August 30, 2019, in the case titled *Contra Costa County Flood Control and Water Conservation District, et al. v. Gary A. Eames, et al.*, Contra Costa County Superior Court Case No. C15-02052.

A G R E E M E N T

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 Parties' governing bodies. This Agreement will be submitted to the County first for approval, and thereafter to the Grantee. This Agreement is effective on the date the last of the Parties executes this Agreement following the approval of the Agreement by the governing bodies of both Parties ("Effective Date").
2. **Conveyance.** Subject to the terms and conditions in this Agreement, the County shall convey, and the Grantee shall accept, fee title to the Property, which will be conveyed to the Grantee by the Grant Deed. The County will pay any ad valorem real property taxes and assessments, and any penalties and costs thereon, remaining unpaid as of the date title to the Property vests in the Grantee.
3. **Delivery and Recording of the Grant Deed.** Within five business days after the Effective Date, the County shall deliver to the Grantee an executed Grant Deed, in recordable form and substantially in the form attached hereto as Exhibit A, conveying the Property to the Grantee in fee. Within five days after the Grantee receives the executed Grant Deed from the County, the Grantee shall do both of the following: (a) cause the Grant Deed to be recorded, together with Grantee's certificate or resolution of acceptance, in the Official Records of the Contra Costa County Clerk-Recorder, and (b) deliver a copy of the recorded Grant Deed and the recorded certificate or resolution of acceptance to the County.
4. **County's Representations and Warranties.** The County represents that it holds fee title to the Property as of the Effective Date. The County represents and warrants that, as of the Effective Date, this Agreement constitutes an obligation of the County.
5. **Grantee's Obligations; "As Is" Condition; Releases; Indemnification.**
 - 5.1 **Grantee's Obligations.** Effective upon the recording the Grant Deed, the Grantee shall be solely responsible for the use, operation, maintenance, repair, replacement, and improvement of the Property, the Drainage Facilities, and all other facilities upon, in, over, under, and across the Property. Upon the recording of the Grant Deed, the County and the Contra Costa County Flood Control and Water Conservation District ("District") shall have no further obligation related to the use, operation, maintenance, repair, replacement, and improvement of the Property, the Drainage Facilities, or any other facilities upon, in, over, under, and across the Property. Upon the recording of the Grant Deed, the District shall have no further obligation to the Grantee under Section 16 of the Stipulation.
 - 5.2 **As-Is Condition; Release.** Effective upon the recording of the Grant Deed, the Grantee accepts the Property in its "as-is" condition, subject to all liens, licenses, leases, easements, and other encumbrances, whether or not of record. Neither the County, nor its employees, agents, attorneys, officers, divisions, related agencies and entities, affiliates, successors, and assigns (collectively, "County Parties") has made any representation to the Grantee concerning any of the following (collectively "Subjects of Release"): (a) any matter related to the Property, including but not limited to, the

condition of the soil, geology, or seismic conditions of the Property; (b) the presence of known or unknown faults, on, in, or under the Property;; (c) the environmental condition of the Property; (d) the suitability of the Property for Grantee's use; (e) the presence of hazardous materials upon, in, under, around, or adjacent to the Property or neighboring properties; (f) the conformance of the Property with the codes or permit regulations of the city or County within which the Property is located; (g) the condition of title to the Property or existence or extent of any liens, licenses, leases, easements, and other encumbrances on the Property, whether or not of record; and (h) the use, operation, maintenance, repair, replacement, and improvement of the Property, the Drainage Facilities, and any other facilities upon, in, over, under, and across the Property. As used in this Agreement, "hazardous materials" includes petroleum, asbestos, radioactive materials or substances defined as "hazardous substances," "hazardous materials" or "toxic substances" (or words of similar import) in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.), and under the applicable California environmental laws. The Grantee relies solely on the Grantee's own judgment, experience, and investigations as to the present and future condition of the Property or its suitability for the Grantee's intended uses; and the Grantee is not relying on any disclosure or representation from the County, excepting only the County's express representations in Section 4. Effective upon the recording of the Grant Deed, the Grantee hereby releases and discharges the County Parties from any and all claims, demands, causes of action, obligations, damages, liabilities, penalties, fines, costs, and expenses (collectively, "Liabilities") that the Grantee now has or could assert in any manner related to or arising from the Subjects of Release. As to the Subjects of Release, the Grantee knowingly waives the right to make any claim against the County Parties for such damages, and the Grantee expressly waives 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 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."

- 5.3 Indemnification. Effective on the recording of the Grant Deed and continuing thereafter, the Grantee shall indemnify, defend, and hold harmless the County Parties from and against all Liabilities that arise from or are connected with any of the following: (a) the acquisition, occupancy, use, development, maintenance, repair, improvement, or disposition of the Property by the Grantee, its officers, employees, contractors, agents, invitees, lessees, or licensees; (b) any of the Subjects of Release, regardless of when those Liabilities arise; or (c) the Grantee's compliance with applicable laws and regulations that the Grantee must satisfy in connection with the acquisition, occupancy, use, development, maintenance, repair, improvement, or disposition of the Property, the Drainage Facilities, or any other facilities upon, in, over, under, and across the Property. The Grantee will make good to and reimburse the County for any expenditures, including reasonable attorney's fees, that the County may make by reason of such matters and, if requested by the County, will defend any such suits at the Grantee's sole expense. However, notwithstanding the foregoing, the Grantee is under no obligation to indemnify the County Parties from any Liabilities that arise from the sole negligence or sole willful misconduct of any of the County Parties.

6. **Survival.** All of the terms, provisions, representations, warranties and covenants of the Parties under this Agreement, including but not limited to Sections 5.1, 5.2, and 5.3, shall survive the assignment, expiration or termination of this Agreement and shall not merge into the Grant Deed or other documents following the delivery and recordation of said deed or other documents.
7. **Possession of the Property.** Possession of the Property shall be delivered to the Grantee upon the recording of the Grant Deed, which shall cause title to vest in the Grantee.
8. **Notices.** All notices (including requests, demands, approvals or other communications) under this Agreement shall be in writing and delivered in person, by First Class U.S. Mail with postage prepaid, or by an overnight carrier with delivery fees prepaid and timely deposited for next business day delivery. The place for delivery of all notices given under this Agreement shall be as follows:

Grantee: City of Antioch
Attn: City Manager
P.O. Box 5007
Antioch, CA 94531
Phone: 925-779-7011
Email: rbernal@ci.antioch.ca.us

Copy to: City of Antioch
Attn: City Attorney
P.O. Box 5007
Phone: 925-779-7015
Email: tsmith@ci.antioch.ca.us

County: Contra Costa County Public Works Department
Real Estate Division
Attn: Principal Real Property Agent
255 Glacier Drive
Martinez, CA 94553
Telephone: 925-313-2000
Email: Jessica.dillingham@pw.cccounty.us

Copy to: Contra Costa County Counsel's Office
Attn: Stephen M. Siptroth
651 Pine Street, 9th Floor
Martinez, CA 94553
925-335-1817
Email: Stephen.Siptroth@cc.cccounty.us

or to such other addresses as a Party may designate by written notice to the other Party. A notice (including requests, demands, approvals or other communications) will be deemed given (a) on the day of delivery if delivered in person, (b) five days after the postmark date if delivered by First Class U.S. Mail with postage prepaid, or (c) the next business day if delivered by an overnight carrier with delivery fees prepaid and timely deposited for next business day delivery. A courtesy copy of any notice may be sent by email to the email addresses listed above, but that courtesy copy does not substitute for delivery using one of

the approved methods of delivery listed above.

9. **Entire Agreement.** This Agreement, including the attached Grant Deed, contains the entire agreement between the Parties pertaining to the subject matter hereof and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter of this Agreement, including any agreements contained in Section 16 of the Stipulation.
10. **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 hereby incorporated in this Agreement, and they shall be enforceable as a part hereof.
11. **No Third-Party Beneficiaries.** The District is a third-party beneficiary of this Agreement under Section 5.1 only for the purposes of asserting that the District has satisfied its obligations under Section 16 of the Stipulation. Otherwise, nothing in this Agreement is intended to confer any benefits on, or impose any obligations on, on any person or entity other than the Parties hereto.
13. **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.
14. **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
15. **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.
16. **Governing Law.** This Agreement shall be governed and construed in accordance with California law.

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CONTRA COSTA COUNTY, a political subdivision of the State of California

By _____
Brian M. Balbas
Public Works Director

Date of Board Approval: _____

RECOMMENDED FOR APPROVAL:

By _____
Jessica Dillingham
Principal Real Property Agent

Approved as to form:
Sharon L. Anderson, County Counsel

By _____
Stephen M. Siptroth
Deputy County Counsel

CITY OF ANTIOCH, a California municipal corporation

By _____
Ron Bernal
City Manager

Date of Council Approval: _____

Attest:

By _____
Arne Simonsen
City Clerk

Approved as to form:

By _____
Thomas Lloyd Smith
City Attorney

NO OBLIGATION OTHER THAN THOSE SET FORTH HEREIN WILL BE RECOGNIZED

Exhibit A – Grant Deed with Legal Description

(FORM APPROVED BY COUNTY COUNSEL 6/99)

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