

**AGREEMENT OF PURCHASE AND  
SALE OF REAL PROPERTY AND  
ESCROW INSTRUCTIONS**

ARTICLE 1

**1. Parties**

- 1.1. This Agreement of Purchase and Sale of Real Property and Escrow Instructions ("Agreement") is entered into by and between Ryan T. Miller, as Buyer, and the CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER, as Seller.

ARTICLE 2

**2. Recitals**

- 2.1. Seller is the owner of that certain real property located on Fulton Street, Bishop, County of Inyo, State of California, identified as a portion of Assessor's Parcel Number 001-172-06, consisting of approximately 0.16 acres of land, and more particularly described in Exhibit A, attached hereto and incorporated herein by this reference ("Property").
- 2.2. Buyer has leased the Property for the past twenty-two (22) years, and currently operates under that certain Business Lease BL 1313 ("Lease") that commenced on November 1, 2008, for its operation of a parking lot.
- 2.3. The Property is being sold without water or water rights and Seller will reserve and retain all water, oil, gas, petroleum, and mineral rights to the Property.
- 2.4. Buyer intends to continue to use the Property for a parking lot.
- 2.5. The Property has not been improved. Any and all improvements, appurtenances, and related Personal Property and intangible property are the property of and owned by the Buyer and are not being sold by this Agreement.
- 2.6. Seller caused the Property to be appraised by Norris Realty Advisors with a date of valuation on September 12, 2019. Seller has provided Buyer with a copy of the appraisal report dated October 2022, and Buyer acknowledges receipt. Buyer and Seller have determined the reasonable Purchase Price for the Property to be One Hundred Forty Thousand Dollars (\$140,000).
- 2.7. Stantec completed a Phase I Environmental Site Assessment (ESA Report) in November of 2019. The parties agree that the findings stated in the ESA Report will serve as the history and baseline for the environmental condition of the Property at the time of sale.

- 2.8. In consideration of the foregoing and of the benefits which will accrue to the parties hereto in carrying out the terms and conditions of this Agreement, Seller agrees to sell and convey the Property to Buyer, and Buyer agrees to purchase the Property from Seller, upon and subject to the terms and conditions herein.

### ARTICLE 3

#### **3. Purchase Price**

- 3.1. The purchase price ("Purchase Price") for the Property is One Hundred Forty Thousand Dollars (\$140,000).
- 3.1.1. The Purchase Price will not be changed to include or deduct any costs to Buyer or Seller related to this Transaction. Each party is responsible for any costs or attorney's fees related to the review of this Agreement or this Transaction.

### ARTICLE 4

#### **4. Definitions**

- 4.1. Additional Encumbrance is defined in Section 6.3.5.
- 4.2. Agreement is defined in Section 1.1.
- 4.3. Agricultural Chemicals means herbicides, pesticides, and fertilizers used in the regular course of farming or ranching operations in the State of California.
- 4.4. Appraisal is defined as an opinion of value.
- 4.5. Business Day means a day other than a Saturday, Sunday, or California State holiday.
- 4.6. Buyer's Closing Conditions is defined in Section 8.1.
- 4.7. Buyer's Representative is defined in Section 6.5.
- 4.8. City is defined as the City of Los Angeles, a municipal corporation.
- 4.9. Claims means any and all liens, claims of lien, suits, actions, causes of action, claims, charges, costs, fees (including, without limitation, attorneys' fees and consultants' fees), assessments, liabilities, damages, demands, judgments, fines, penalties, or losses of any kind or nature whatsoever, whether known or unknown, fixed or contingent.
- 4.10. Closing is defined as a meeting of the parties to a real estate transaction held to execute and/or deliver mortgage, title, and escrow documents, the Purchase Price, and other funds, including, without limitation, the documents

and funds as described in Article 9.

- 4.11. Closing Conditions are defined in Article 8.
- 4.12. Closing Date is defined in Section 9.1.
- 4.13. Condemnation is defined in Section 10.2.
- 4.14. Consent means the consent or approval of, or notice to or filing with, any Person or Governmental Entity.
- 4.15. Deed is defined in Section 9.2.1.
- 4.16. Due Diligence is defined in Section 6.4.
- 4.17. Effective Date is defined as the date the Agreement is fully executed by both parties.
- 4.18. Environmental Laws mean any and all existing or hereinafter adopted or amended federal, state, or local statutes, common law, ordinances, regulations, rules, orders, decrees, or governmental policies regulating, relating to, or imposing liability (including, but not limited to, response, removal, and remediation costs) or standards of conduct or performance concerning the natural environment, pollution control, Hazardous Substances, or toxic, dangerous, restricted, or designated substances, wastes, or materials. Environmental Laws include, without limitation, the following federal and state laws, amendments thereto, and all regulations, rules, orders, decrees, and governmental policies promulgated thereunder: (a) the Comprehensive Environmental Response, Compensation, and Liability Act (commonly referred to as CERCLA or Superfund), 42 U.S.C. § 9601, et seq.; (b) the Resource Conservation and Recovery Act (commonly referred to as RCRA), 42 U.S.C. § 6901, et seq.; (c) the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act), 33 U.S.C. § 1251, et seq.; (d) the Clean Air Act, 42 U.S.C. § 7401, et seq.; (e) the Hazardous Materials Transportation Act (commonly referred to as HMTA), 49 U.S.C. § 5101, et seq.; (f) the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq. (commonly referred to as TSCA); (g) the Federal Insecticide, Fungicide, and Rodenticide Act (commonly referred to as FIFRA), 7 U.S.C. § 136, et seq.; (h) the Emergency Planning and Community Right-to-Know Act (commonly referred to as EPCRA), 42 U.S.C. § 11001, et seq.; (i) the Atomic Energy Act and Low-Level Radioactive Waste Policy Amendments Act, 42 U.S.C. § 2011, et seq.; (j) the Nuclear Waste Policy Act, 42 U.S.C. § 10101, et seq. (commonly referred to as NWPA); (k) the Porter-Cologne Water Quality Control Act, California Water Code § 13000, et seq.; (l) the Carpenter-Presley-Tanner Hazardous Substance Account Act (commonly referred to as HSAA), California Health and Safety Code § 25300, et seq.; (m) the Safe Drinking Water and Toxic Enforcement Act (commonly referred to as

Proposition 65), California Health and Safety Code § 25249.5, et seq.; (n) the California Hazardous Waste Control Law, California Health and Safety Code § 25100, et seq.; (o) California's hazardous materials release response plan and inventory laws set forth in California Health and Safety Code § 25500, et seq.; and (p) California's underground storage of hazardous substances laws set forth in California Health and Safety Code § 25280, et seq.

- 4.19. EPA means the United States Environmental Protection Agency.
- 4.20. ESA Report is defined in Section 2.7.
- 4.21. Escrow Holder is Inyo-Mono Title Company.
- 4.22. Exceptions are defined as any lien, encumbrance, condition, covenant, restriction, reservation, or limitation on the title or the Property.
- 4.23. Governmental Entity means any entity or body exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to federal, state, local, or municipal government, including any department, commission, board, agency, bureau, subdivision, instrumentality, official, or other regulatory, administrative or judicial authority thereof, including any authority or other quasi-governmental entity established by a Governmental Entity to perform any of such functions.
- 4.24. Hazardous Substance means (a) any substance, product, waste, or other material of any nature that is or becomes listed, regulated, or addressed under any Environmental Law; (b) any substance, product, waste, or other material of any nature that may give rise to liability under any Environmental Law or under any other statutory or common-law tort theory; (c) any substance, product, waste, or other material that is explosive, corrosive, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous to human health or the environment and is regulated by a Governmental Entity as a hazardous material; (d) petroleum, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, and synthetic gas useable for fuel, and any mixture thereof; (e) asbestos; (f) polychlorinated biphenyls; (g) urea formaldehyde foam insulation; (h) fossil fuel combustion wastes, including fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste; (i) solid wastes resulting from the extraction and processing of ore; (j) cement kiln dust wastes; (k) lead, arsenic, mercury, chromium, and other metals; (l) volatile organic compounds and semi-volatile organic compounds; (m) polycyclic/polynuclear aromatic hydrocarbons; (n) perchlorate; (o) radon gas; and (p) Agricultural Chemicals. Hazardous Substances also includes without limitation:
  - (i) Those substances included within the definitions of hazardous substance, hazardous waste, hazardous material, toxic substance, solid waste, or

pollutant or contaminant in CERCLA, RCRA, TSCA, HMTA, or under any other Environmental Law;

- (ii) Those substances listed in the United States Department of Transportation (hereinafter DOT) Table [49 CFR 172.101], or by the EPA, or any successor agency, as hazardous substances [40 CFR Part 302];
- (iii) Other substances, materials, and wastes that are regulated or classified as hazardous or toxic under federal, state, or local laws; and
- (iv) Any material, waste, or substance that is:
  - (1) a petroleum or refined petroleum product,
  - (2) asbestos,
  - (3) polychlorinated biphenyl,
  - (4) designated as a hazardous substance pursuant to 33 USCS §1321 or listed pursuant to 33 USCS §1317,
  - (5) a flammable explosive, or
  - (6) a radioactive material.

4.25. Improvement is defined as a building or other relatively permanent structure or development located on, or attached to, land.

4.26. Indemnifying Party is defined in Section 9.6.

4.27. Indemnitees means Seller, the Board of Water and Power Commissioners of the Department of Water and Power of the City of Los Angeles, the City, and all of their respective officers, agents, employees, insurers, successors, and assigns.

4.28. Lease is defined in Section 2.2.

4.29. Non-indemnifying Party is defined in Section 9.6.

4.30. Permitted Exceptions is defined in Section 6.3.2.

4.31. Personal Property is defined as all tangible property that is not classified as real estate.

4.32. Preliminary Title Report is defined as a report prepared by a title insurance provider that shows the ownership of a specific parcel of land, together with the liens and encumbrances thereon.

4.33. Property is defined in Section 2.1.

4.34. Purchase Price is defined in Section 3.1.

- 4.35. Release of Hazardous Substances means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into groundwater, surface water, soil, soil vapor, or air, or otherwise into the environment, as well as continuing migration through groundwater, surface water, soil, soil vapor, or air, or otherwise through the environment.
- 4.36. Seller's Closing Conditions is defined in Section 8.2.
- 4.37. Tax means any and all taxes imposed by a Governmental Entity, including charges for federal, state, local or foreign net or gross income, gross receipts, net proceeds, sales, use, ad valorem, franchise, withholding, payroll, employment, excise, property, deed, stamp, alternative or add-on minimum, environmental, profits, windfall profits, transaction, license, service, occupation, severance, transfer, unemployment, social security, workers' compensation, capital, premium and other Taxes, assessments, customs, duties, fees, levies or other governmental charges of any nature whatever, whether disputed or not, together with any interest, penalties, additions to Tax or additional amounts with respect thereto, excluding in all cases any expense related to any Permit.
- 4.38. Title Company is Inyo-Mono Title Company.
- 4.39. Title Objection is defined in Section 6.3.1.
- 4.40. Title Policy is defined in Section 8.1.1.
- 4.41. Transaction is defined as the purchase and sale of the Property as contemplated by this Agreement.

## ARTICLE 5

### **5. Opening of Escrow/Escrow Holder**

- 5.1. Escrow. Escrow will be opened with Escrow Holder on the full execution of this Agreement. Upon the Escrow Holder's request, Buyer and Seller will promptly execute such additional escrow instructions as are reasonably required to consummate the Transaction and that are not inconsistent with this Agreement.
- 5.2. Escrow Deposit: Buyer shall deliver to Escrow Holder the amount of monies required by Escrow Holder to open the escrow.

## ARTICLE 6

### **6. Buyer's Contingencies**

- 6.1. Within ten (10) Business Days after the opening of escrow, Escrow Holder

shall issue to Buyer (with a copy to Seller) a Preliminary Title Report, together with a legible copy of all Exceptions shown in the Preliminary Title Report for the Property, including each document, map, and survey referred to in the Preliminary Title Report.

- 6.2. ESA Report. Buyer acknowledges receipt of the ESA Report. The parties agree that the findings stated in the ESA Report will serve as a history and baseline for the environmental condition of the Property as of the Closing Date.
- 6.3. Approval of Title. Buyer's obligation to purchase the Property is expressly conditioned on Buyer's approval of the condition of title of the Property in accordance with the following procedure:
  - 6.3.1. Buyer's Approval of Preliminary Title Report. Buyer will have twenty-one (21) days after issuance to review the Preliminary Title Report and to deliver written notice of any objection to the Exceptions and other matters disclosed therein ("Title Objection") to Seller. If Buyer fails to give such notice to Seller on or before twenty-one (21) days after receipt, Buyer will be deemed to have accepted the Exceptions and other matters disclosed in the Preliminary Title Report.
  - 6.3.2. Permitted Exceptions. The following Exceptions are deemed approved by Buyer, including, but not limited to: (a) any lien for local real estate Taxes and assessments not yet due or payable, including, without limitation, special Taxes under Gov. Code §§53311-53368.3 or installment assessments under Streets & Highways Code §§8500-8887; (b) the standard preprinted exceptions and exclusions of the Title Company; (c) any matters approved or deemed approved by Buyer pursuant to this Section 6.3; and (d) any matters which would be disclosed by an accurate survey or physical inspection of the Property (collectively, "Permitted Exceptions").
  - 6.3.3. Title Objections. With respect to any Title Objection, Seller will have thirty (30) days after receipt of Buyer's Title Objection to give notice to Buyer in writing, stating either (a) the manner in which Seller will remove or cure such Title Objection or (b) that Seller will not remove or cure such Title Objection. If Seller fails to deliver such notice within the time specified in this Section 6.3.3, Seller shall be deemed to have elected not to remove or cure such Title Objection.
  - 6.3.4. Seller Elects Not to Cure. If Seller elects not to cure or remove a Title Objection (or is deemed to have so elected), or Seller's cure is not acceptable to Buyer, then Buyer will have fifteen (15) days thereafter to provide Seller with written notice that Buyer (a) accepts the

Exceptions and condition of title, waives such Title Objection, and will proceed with the purchase of the Property, or (b) is terminating this Agreement. If Buyer fails to give either notice, Buyer will be deemed to have elected (a) above.

- 6.3.5. Additional Encumbrances. If any encumbrance or other exception to title arises or is discovered after the delivery of the Preliminary Title Report ("Additional Encumbrance"), the party discovering such Additional Encumbrance must promptly give written notice to the other. No later than five (5) days after delivery of the notice of such Additional Encumbrance, Buyer will deliver written notice to Seller specifying whether the Additional Encumbrance is a Title Objection or a Permitted Exception. If Buyer objects to the Additional Encumbrance, the parties will proceed in the same manner as set forth above for Title Objections in Sections 6.3.3 and 6.3.4.
- 6.4. Due Diligence. Buyer's obligation to purchase the Property is expressly conditioned on its approval, in its sole discretion, of the condition of the Property and all other matters concerning the Property, including, without limitation, economic, financial, and accounting matters relating to or affecting the Property or its value, and the physical and environmental condition of the Property. Buyer will have ninety (90) days after the Effective Date to conduct such investigations as Buyer may choose ("Due Diligence") to determine, in its sole discretion, whether this contingency is met. On or before expiration of such ninety (90) day period, Buyer will deliver written notice to Seller either (i) accepting the Property, which acceptance shall only be conditioned upon satisfaction of Buyer's Closing Conditions, or (ii) terminating this Agreement. If Buyer fails to give either notice, Buyer will be deemed to have accepted the Property and elected to proceed with the purchase of the Property.
- 6.5. Access to Property. Buyer acknowledges that it is thoroughly familiar with the Property and that it has exclusively occupied and used the Property as a parking lot for more than twenty-two (22) years. As part of its Due Diligence, Buyer may investigate economic, financial, and accounting matters relating to or affecting the Property or its value, and conduct inspections, tests and studies with respect to the physical and environmental condition of the Property and Seller recommends that Buyer do so. Buyer and Buyer's consultants, agents, engineers, inspectors, contractors, and employees ("Buyer's Representatives") must be given reasonable access to the Property during regular business hours for the purpose of performing such Due Diligence. Buyer will undertake the Due Diligence at its sole cost and expense. Buyer will indemnify and hold the Indemnitees harmless, and at the option of the City, defend the Indemnitees with counsel satisfactory to the City, from any and all Claims arising from the acts or activities of Buyer or Buyer's Representatives in, on, or about the Property during or arising in connection with Buyer's inspections of the Property. This indemnity shall

survive the expiration or termination of this Agreement and the delivery of the Deed and the Closing.

- 6.6. Assumption of Risk. Subject to the other provisions of this Agreement, Buyer agrees that it assumes the risk that an adverse condition of the Property may not have been revealed by its own Due Diligence. Buyer agrees that Seller will have no obligation to repair, correct, or compensate Buyer for any condition of the Property, including contamination, the presence of Hazardous Substances or Release of Hazardous Substances, defects in the Improvements, noncompliance with applicable laws including, without limitation, zoning laws, building codes, and the Americans with Disabilities Act, whether or not such condition of the Property would have been disclosed by Buyer's Due Diligence.
- 6.7. Termination for Failure of a Contingency. Any cancellation fee or other costs of the Escrow Holder or the Title Company resulting from the termination for failure of a contingency will be borne by the terminating party or the party whose action or failure to act resulted in the termination.
- 6.8. Survival. The provisions of this Article 6 shall survive the expiration or termination of this Agreement and the delivery of the Deed and the Closing.

## ARTICLE 7

### **7. Representations and Warranties**

- 7.1. Effect of Representations and Warranties. Each representation and warranty in this Article 7: (a) is material and being relied on by the party to which the representation and warranty is made; (b) is true in all respects as of the Effective Date; (c) must be true in all respects on the Closing Date; and (d) will survive the delivery of the Deed and the Closing, except as otherwise provided in this Agreement.
- 7.2. Buyer's Representations and Warranties. Buyer warrants and represents, and specifically discloses and indemnifies Indemnitees, as follows:
  - 7.2.1. Environmental Site Declaration. Buyer has made use of the Property consistent with its Lease, and all Environmental Laws, and all other local, state, and federal laws.
  - 7.2.2. Indemnity. Buyer, on behalf of itself and its successors and assigns, hereby undertakes and agrees to indemnify and hold the Indemnitees harmless, and at the option of the City, defend the Indemnitees with counsel satisfactory to the City, from and against any and all Claims that the Indemnitees may pay, sustain, suffer, or incur by reason of or in connection with Buyer's tenancy, ownership, use, and/or occupancy of the Property, and/or performance of any obligation under this Agreement. Buyer shall not settle any claim without the prior written

approval of Seller. Seller shall not unreasonably withhold such approval. This indemnity shall survive the expiration or termination of this Agreement and the delivery of the Deed and the Closing.

7.2.3. Environmental Indemnity. Buyer, on behalf of itself and its successors and assigns, further undertakes and agrees to indemnify and hold the Indemnitees harmless, and at the option of the City, defend the Indemnitees with counsel satisfactory to the City, from and against any and all Claims that are incurred by or asserted against the Indemnitees as a result of or in connection with (a) Buyer's failure to comply with any Environmental Law; (b) the Release of Hazardous Substances on, under, or from the Property; or (c) the presence of Hazardous Substances on or under any other properties, lands, or waters as a result of the Release of Hazardous Substances or other acts, errors, or omissions by Buyer or Buyer's officers, employees, agents, contractors, customers, guests, invitees, or lessees. Buyer's environmental indemnification obligations shall exist regardless of any negligence on the part of Indemnitees, except for the sole negligence or willful misconduct of the Indemnitees. Further, Buyer's environmental indemnification obligations shall apply and be effective for all accidents, occurrences, and events that give rise to Claims, even if the Claims are asserted against the Indemnitees after Closing. The Indemnitees' right to indemnification under this Section 7.2.3 shall be in addition to any other rights or remedies that the Indemnitees have under law or under other provisions of this Agreement. This indemnity shall survive the expiration or termination of this Agreement and the delivery of the Deed and the Closing.

Seller's Initials:     *RU*    

Buyer's Initials:     *RU*    

7.2.4. Purchase Price. Buyer independently determined and agrees that the reasonable price for the Property is One Hundred Forty Thousand Dollars (\$140,000).

7.3. "As-Is" Purchase. As a material inducement to Seller's extension and delivery of this Agreement, Buyer does hereby acknowledge, represent, warrant and agree to and with Seller that: (a) Buyer is thoroughly familiar with the Property as the exclusive occupant and user of the Property for more than twenty-two (22) years, including the environmental condition of the Property; (b) Buyer is expressly purchasing the Property in its existing condition "as is, where is, and with faults" and specifically and expressly without any warranties, representations or guarantees, either express or implied, of any kind, nature, or type whatsoever from or on behalf of Seller with respect to all facts, circumstances, conditions and defects; (c) Seller has specifically bargained

for the assumption by Buyer of all responsibility for past, present, and future actual and potential liability with the Property of any kind, source and/or nature and for Buyer's assumption of all responsibility to inspect and investigate the Property and of all risk; (d) Buyer is and will be relying strictly and solely upon such inspections and examinations and the advice and counsel of its own consultants, agents, legal counsel and officers, and Buyer is and will be fully satisfied that the Purchase Price is fair and reasonable consideration for the Property and any or all known and unknown actual or potential liabilities associated with it; (e) Seller is not making and has not made any warranty or representation with respect to any materials or other data provided by Seller to Buyer (whether prepared by or for Seller or others) or the education, skills, competence or diligence of the preparers thereof or the physical condition or any other aspect of all or any part of the Property as an inducement to Buyer to enter into this Agreement and thereafter to purchase the Property or for any other purpose; and (f) by reason of all the foregoing, Buyer assumes the full risk of any liability, loss or damage occasioned by any fact, circumstance, condition or defect pertaining to the Property. Seller hereby disclaims all warranties of any kind or nature whatsoever (including warranties of condition, merchantability, habitability and fitness for particular purposes) whether expressed or implied, including, but not limited to, warranties with respect to the Property, Tax liabilities, zoning, land value, subdivision or land use, availability of access or utilities, ingress or egress, governmental approvals, or the soil conditions of the Property. Buyer further acknowledges that Buyer is buying the Property "as is" and in its present condition and that except as otherwise expressly provided in this Agreement, Buyer is not relying upon any representation of any kind or nature made by Seller, or any of its employees or agents with respect to the Property, and that, in fact, no such representations were made except as expressly set forth in this Agreement. Further and without in any way limiting any other provision of this Agreement, Seller makes no warranty with respect to the presence of Hazardous Substances on or under the Property (or any parcel in proximity thereto), or the Release of Hazardous Substances on, under, or from the Property. By acceptance of this Agreement and the Deed, Buyer acknowledges that Buyer's opportunity for inspection and investigation of the Property has been adequate to enable Buyer to make Buyer's own determination with respect to the presence of Hazardous Substances on or under the Property (or any parcel in proximity thereto), and as to any Release of Hazardous Substances on, under, or from the Property. Furthermore, the Closing hereunder shall be deemed to constitute an express waiver of Buyer's and its successors' and assigns' rights to sue Seller and of Buyer's right to cause Seller to be joined in an action brought under any Environmental Law. Buyer and Seller intend for Section 7.2 and this Section 7.3 to be construed as an agreement made in accordance with 42 U.S.C. § 9607(e) and California Health and Safety Code § 25364.

7.4. General Release. Without in any way limiting the generality of the preceding

paragraphs, Buyer, on behalf of itself, its successors and assigns, specifically acknowledges and agrees that it forever waives, releases and discharges any claim it has, might have had or may have against Seller, with respect to the Property or the condition of the Property, any and all known and unknown, either patent or latent, actual and/or potential liabilities associated with the Property and the compliance with any Environmental Law, or occupational protection, subdivision or land use laws or requirements or liability for violations thereof, and any other state of facts which exist with respect to the Property. Buyer waives the benefit of California Civil Code Section 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

Seller and Buyer have each initialed this Section 7.4 to further indicate their awareness and acceptance of each and every provision of this Agreement.

Seller's Initials: \_\_\_\_\_

Buyer's Initials:     *RL*    

- 7.5. Buyer specifically acknowledges that Buyer has carefully reviewed the foregoing provisions and discussed its import with legal counsel, is fully aware of its consequences, and that the provisions of this paragraph are a material part of this Agreement. Further, Buyer and Seller specifically acknowledge and agree that each and every provision of Article 7 shall survive the expiration or termination of this Agreement and the delivery of the Deed and the Closing.

## ARTICLE 8

### 8. Closing Conditions

8.1. Buyer's Closing Conditions. All obligations of Buyer under this Agreement are subject to the fulfillment, before or at the Closing, of each of the following conditions (“Buyer's Closing Conditions”). Buyer's Closing Conditions are solely for Buyer's benefit and any or all of Buyer's Closing Conditions may be waived in writing by Buyer in whole or in part without prior notice.

8.1.1. Title. It is a Buyer's Closing Condition that, on the Closing Date, Seller convey to Buyer fee simple title to the Property by execution and delivery of the Deed, and that Buyer is able to obtain a title insurance policy (“Title Policy”) at closing in a form acceptable to Buyer.

- 8.2. Seller's Closing Conditions. Seller's obligation to sell the Property is expressly conditioned on the fulfillment of each condition precedent at or before the Closing ("Seller's Closing Conditions"). Seller's Closing Conditions are solely for Seller's benefit and any of Seller's Closing Conditions may be waived in writing by Seller in whole or in part without prior notice.
- 8.2.1. City Approval. Seller's ability to sell the Property is subject to the approval of this Agreement by the Board of Water and Power Commissioners of the Department of Water and Power of the City of Los Angeles and possible subsequent action and review by the Los Angeles City Council pursuant to Charter. Pursuant to FSPP v. City of Los Angeles (1998) 65 Cal. App. 4th 650, 661, and the laws of the State of California, Buyer realizes and acknowledges that it cannot rely upon the representations of anyone acting on behalf of, or claiming to act on behalf of Seller or as Seller's agent relating to the probability of the Agreement being approved and that this Transaction may or may not be consummated.
- 8.2.2. Record of Survey. Seller will monument the Property and file the Record of Survey, if applicable.
- 8.2.3. Purchase Price. Buyer must have delivered funds in the amount of the Purchase Price to Escrow Holder.
- 8.2.4. Buyer's Representations, Warranties, and Covenants. The representations and warranties of Buyer in this Agreement must be true in all material respects on and as of the Closing Date with the same effect as if such representations and warranties had been made on and as of the Closing Date. Buyer must have performed and complied with all covenants, agreements, and conditions required by this Agreement to be performed or complied with by it before or on the Closing Date.
- 8.3. Termination for Failure of a Closing Condition. This Transaction is structured as a completely voluntary transaction. If Buyer's Closing Conditions or Seller's Closing Conditions, as the case may be, have not been previously approved or waived, this Agreement may be terminated by the party in whose favor the Closing Condition runs by written notice to the other. If this Agreement is so terminated, the parties will have no further obligation or liability under this Agreement or right to specific performance, declaratory relief or money damages. Any cancellation fee or other costs of the Escrow Holder or the Title Company resulting from this termination for failure of a closing condition will be borne by Buyer, unless satisfaction of the condition(s) is within the control of Seller, in which case such cancellation fee and costs will be equally borne by Buyer and Seller.

## ARTICLE 9

### 9. Closing

- 9.1. Closing Date. Seller and Buyer agree that the Closing will occur on the "Closing Date." The Closing Date will be a date mutually agreeable to Buyer and Seller, but no later than one hundred twenty (120) days after the opening of escrow unless otherwise agreed to in writing by the parties. The Closing will be at the offices of Escrow Holder or such other place as the parties may agree.
- 9.2. Seller's Deposit of Documents. Seller must deposit into escrow the following:
  - 9.2.1. Deed: The duly executed and acknowledged grant deed ("Deed") conveying the Property to Buyer, substantially in the form and substance of Exhibit B, attached hereto and incorporated herein by this reference.
  - 9.2.2. Additional Documents: Such additional documents, including written escrow instructions consistent with this Agreement, as may be necessary or desirable to convey the Property in accordance with this Agreement.
- 9.3. Buyer's Deposit of Documents and Funds. Buyer must deposit into escrow the following:
  - 9.3.1. Purchase Price: The Purchase Price in immediately available funds in accordance with Article 3 above, plus Buyer's share of closing costs and prorations.
  - 9.3.2. Additional Documents: Such documents, including written escrow instructions consistent with this Agreement, as may be necessary or desirable for conveyance of the Property in accordance with this Agreement.
- 9.4. Closing Costs. Closing costs will be allocated as follows:
  - 9.4.1. Buyer will pay all of the escrow costs, including without limitation, Escrow Holder's costs.
  - 9.4.2. Buyer will pay all recording charges in connection with the recordation of the Deed, governmental conveyance fees and Taxes due upon transfer of the Property, including Document Transfer Stamp fees.
  - 9.4.3. Buyer will pay all of the costs associated with Buyer obtaining a Title Policy.
  - 9.4.4. Taxes will be prorated at the Closing based upon the latest Tax bill

and notice increases and adjustments, if any. If any real estate or special Taxes, charges or assessments have not been fully assessed or computed as of the Closing Date for the current fiscal year of the taxing authority, then the same shall be adjusted on a preliminary settlement statement prepared by Escrow Holder and submitted, together with reasonably detailed supporting documentation based upon the most recently issued bills therefor and the parties hereto agree to a re-adjustment outside of the escrow when final bills are issued.

9.5. Closing Settlement. On the Closing Date, Escrow Holder shall close escrow as follows:

9.5.1. Record the Deed (marked to return to Buyer) with the Inyo County Recorder (which shall be deemed delivery to Buyer);

9.5.2. Issue the Title Policy to Buyer if purchased by Buyer;

9.5.3. Disburse to Seller funds in the amount of the Purchase Price;

9.5.4. Charge Buyer for those closing costs, fees and expenses to be paid by Buyer pursuant to this Agreement; and

9.5.5. Prepare and deliver to both Buyer and Seller one signed copy of Escrow Holder's closing statement showing all receipts and disbursements of the escrow.

9.6. Broker's Commission; Indemnity. Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this Transaction, through any licensed real estate broker or person who can claim a commission or finder's fee as a procuring cause of the sale contemplated in this Agreement. If any other broker or finder perfects a claim for a commission or finder's fee based on any contract, dealings, or communication with a party ("Indemnifying Party"), then the Indemnifying Party must indemnify, defend, and hold the other party ("Non-indemnifying Party") harmless from all costs and expenses (including reasonable attorneys' fees and costs of defense) incurred by the Non-indemnifying Party in connection with such claim. This indemnity shall survive the expiration or termination of this Agreement and the delivery of the Deed and the Closing.

9.7. Possession. Seller will deliver possession of the Property to Buyer on the Closing Date.

## ARTICLE 10

### **10. Damage or Destruction; Condemnation**

- 10.1. **Damage or Destruction.** If the Property or any portion of it is damaged or destroyed before the Closing Date from any cause whatsoever, whether an insured risk or not, including, but not limited to, fire, flood, accident or other casualty which, according to the Buyer's and Seller's best estimate, would cost more than ten percent (10%) of the Purchase Price to repair, Buyer shall have the option, upon written notice to Seller, to either (i) terminate this Agreement; or (ii) proceed with the Closing without modifying the terms of this Agreement and without reducing the Purchase Price. Buyer must exercise its option as provided in this Section 10.1 within ten (10) days after notice of such damage or destruction. If Buyer elects to terminate this Agreement pursuant to this Section 10.1, (i) any and all sums and interest accrued thereon and documents deposited in escrow shall be returned to the party who respectively deposited the same in escrow without further instruction from either party to this Agreement, and (ii) any title and escrow fees incurred shall be paid by Buyer.
- 10.2. **Condemnation.** If before the Closing Date any action or proceeding is commenced for the condemnation or exercise of the rights of eminent domain of the Property or any portion of it, or if Seller is notified by the duly authorized officer of a duly empowered condemning authority of the intent to commence such action or proceeding ("Condemnation") and if such Condemnation would materially and adversely affect the use or operation of the Property, have the effect of decreasing the square footage of the Improvements, or reduce or eliminate access to the Property, then Buyer may either (a) terminate this Agreement or (b) proceed with the Closing without modifying the terms of this Agreement and without reducing the Purchase Price, on the condition that Seller must assign and turn over, and Buyer will be entitled to keep, all awards for the Condemnation that accrue to Seller. Seller may not negotiate, resist, or stipulate to any Condemnation without Buyer's written consent, which shall not be unreasonably withheld or delayed. Buyer must exercise its option as provided in this Section 10.2 within ten (10) days after notice of such Condemnation. If Buyer elects to terminate this Agreement pursuant to this Section 10.2, (i) any and all sums and interest accrued thereon and documents deposited in escrow shall be returned to the party who respectively deposited the same in escrow without further instruction from either party to this Agreement, and (ii) any title and escrow fees incurred shall be paid by Buyer.

## ARTICLE 11

### **11. Remedies for Default**

- 11.1. **WAIVER OF RIGHT TO SPECIFIC PERFORMANCE AND DAMAGES.**  
**NEITHER BUYER NOR SELLER WILL HAVE THE RIGHT TO SPECIFIC PERFORMANCE OR TO RECOVER DAMAGES IF THE OTHER PARTY**

FAILS TO CONVEY (OR TO PURCHASE) THE PROPERTY IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT, AND IF SUCH FAILURE CONSTITUTES A DEFAULT UNDER THIS AGREEMENT, NEITHER BUYER NOR SELLER WILL HAVE THE RIGHT TO RECEIVE ANY MONEY DAMAGES. SELLER AND BUYER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THIS SECTION 11.1 AND BY THEIR INITIALS IMMEDIATELY BELOW AGREE TO BE BOUND BY ITS TERMS.

Seller's Initials: \_\_\_\_\_

Buyer's Initials: RM

## ARTICLE 12

### **12. General**

12.1. **Notices.** Any notices relating to this Agreement must be given in writing and will be deemed sufficiently given and served for all purposes when delivered personally, by generally recognized overnight courier service, by facsimile (provided that sender retains a printed confirmation of delivery to the facsimile number provided below), or five (5) days after deposit in the United States mail certified or registered, return receipt requested, with postage prepaid, addressed as follows:

**If to Buyer:**

Ryan T. Miller  
476 West Line Street  
Bishop, CA 93514

**If to Seller:**

Manager of Aqueduct  
Attention: Real Estate  
City of Los Angeles  
Department of Water and Power  
300 Mandich Street  
Bishop, CA 93514-3449

**With copy to:**

Office of the City Attorney  
City of Los Angeles  
Department of Water and Power  
221 North Figueroa Plaza, Suite 1000  
Los Angeles, CA 90012

Either party may change its address by written notice to the other given in the manner set forth above.

- 12.2. Entire Agreement. This Agreement and all exhibits referred to in this Agreement constitute the complete, exclusive, and final statement of the terms of the agreement with respect to the Property between Buyer and Seller and may not be contradicted by evidence of any prior or contemporaneous agreement. This Agreement specifically supersedes any prior written or oral agreements between the parties. The language in all parts of this Agreement will be construed as a whole in accordance with its fair meaning and without regard to California Civil Code §1654 or similar statutes. Neither party has been induced to enter into this Agreement by, and neither party is relying on, any representation or warranty outside those expressly set forth in this Agreement.
- 12.3. Amendments and Waivers. No addition to or modification of this Agreement will be effective unless it is made in writing and signed by the party against whom the addition or modification is sought to be enforced. The party benefited by any condition or obligation may waive the same, but such waiver will not be enforceable by another party unless it is made in writing and signed by the waiving party.
- 12.4. Invalidity of Provision. If any provision of this Agreement as applied to either party or to any circumstance is adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, this fact will in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.
- 12.5. No Merger. This Agreement, each provision of it, and all warranties and representations in this Agreement will survive the Closing and will not merge in any instrument conveying title to Buyer. All representations, warranties, agreements, and obligations of the parties will, despite any investigation made by any party to this Agreement, survive Closing, and the same will inure to the benefit of and be binding on the parties' respective successors and assigns.
- 12.6. References. Unless otherwise indicated, (a) all article and section references are to the articles and sections of this Agreement; and (b) all references to days are to calendar days. Whenever, under the terms of this Agreement, the time for performance of a covenant or condition falls on a Saturday, Sunday, or California state holiday, such time for performance will be extended to the next Business Day. The headings used in this Agreement are provided for convenience only and this Agreement will be interpreted without reference to

any headings. The date of this Agreement is for reference purposes only and is not necessarily the date on which it was entered into.

- 12.7. Governing Law. This Agreement shall be governed by, interpreted and enforced in accordance with the laws of the State of California without regard to conflict of law principles.
- 12.8. Exclusive Venue. All litigation arising out of, or relating to this Agreement shall be brought in a State or Federal court in the County of Los Angeles in the State of California. The parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of forum non conveniens.
- 12.9. Jointly Drafted by the Parties. Each of the parties hereto acknowledges that it had a full and fair opportunity to review and revise the terms of this Agreement and that this Agreement has been drafted jointly by all of the parties hereto. Accordingly, each of the parties hereto acknowledges and agrees that the terms of this Agreement shall not be construed against or in favor of another party.
- 12.10. Time. Time is of the essence in the performance of the parties' respective obligations under this Agreement.
- 12.11. Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.
- 12.12. No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties to it and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third person to any party to this Agreement or give any third person any right of subrogation or action over or against any party to this Agreement.
- 12.13. Interpretation. Throughout this Agreement, (a) the plural and singular numbers will each be considered to include the other; (b) the masculine, feminine, and neuter genders will each be considered to include the others; (c) "shall," "will," "must," "agrees," and "covenants" are each mandatory; (d) "may" is permissive; (e) "or" is not exclusive; and (f) "includes" and "including" are not limiting.
- 12.14. No Attorney's Fees. In the event of any action or suit under, or to enforce, this Agreement, the parties shall be responsible for their own costs, expenses and attorneys' fees incurred. The prevailing party shall not be entitled to

reasonable attorneys' fees.

- 12.15. No Consequential/Punitive Damages. In no event shall either party be liable to the other party under any provision of this Agreement for any indirect, incidental, punitive or consequential damages, losses, costs or expenses including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole in or in part in contract, in tort, including negligence, strict liability, or any other theory of liability.
- 12.16. Independent Counsel. Each party was represented by legal counsel during the negotiation and execution of this Agreement. Each party shall be responsible for its own, respective fees and expenses of legal counsel and consultants incurred as a result of this Agreement or the Transaction contemplated thereby.
- 12.17. Authority. Buyer and Seller agree that the person executing this Agreement on behalf of Buyer and Seller, respectively, has the authority and power to do so and to bind Buyer and Seller, respectively, in accordance with the provisions set forth herein.
- 12.18. Assignment. Buyer may not assign any of its rights under this Agreement.
- 12.19. Modification. This Agreement may not be modified except by a written instrument executed by all parties or their permitted successors in interest.
- 12.20. No Joint Venture. Nothing herein contained shall be construed to create a joint venture or partnership or to create the relationship of principal and agent or of any association between the parties hereto.
- 12.21. Further Assurances. Each party hereto agrees to execute any and all documents and writings which may be necessary or expedient and do such other acts as will further the purposes hereof.

(Signatures follow on next page)

IN WITNESS WHEREOF, the parties have executed this Agreement on:

**BUYER:**

RYAN T. MILLER

By:

  
\_\_\_\_\_  
RYAN T. MILLER

Date:

09-12-23

**AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY AND ESCROW INSTRUCTIONS** is entered into and accepted on the dates indicated by our signatures affixed hereto.

**SELLER:**

DEPARTMENT OF WATER AND POWER  
OF THE CITY OF LOS ANGELES BY  
BOARD OF WATER AND POWER COMMISSIONERS

By signing below, the signatories attest that they have no personal, financial, beneficial, or familial interest in this contract.

By: \_\_\_\_\_  
JANISSE QUIÑONES  
Chief Executive Officer and Chief Engineer

Date: \_\_\_\_\_

And: \_\_\_\_\_  
CHANTE L. MITCHELL  
Board Secretary

**AUTHORIZED BY:**

Resolution No. .... \_\_\_\_\_  
Adopted ..... \_\_\_\_\_  
Approved by Council on... \_\_\_\_\_  
Council File No. .... \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY  
HYDEE FELDSTEIN SOTO, CITY ATTORNEY

MAY 29 2025  
BY John Bealum  
JOHN BEANUM  
DEPUTY CITY ATTORNEY

**EXHIBIT A**  
**(Legal Description)**

Lot 4, Block BW, of the John B. Clarke Addition, in the City of Bishop, County of Inyo, State of California as shown on Map recorded in Miscellaneous Map Book 1, page 22, in the Office of the County Recorder of said County.

Containing 0.16 acres, more or less.

**END OF DESCRIPTION**

**SUBJECT TO** all outstanding taxes and assessments, if any.

**SUBJECT TO** any and all agreements, covenants, conditions, restrictions, easements, reservations, rights and rights-of-way of record, and other matters of record.

**SUBJECT TO** any rights-of-way which may be apparent if a visual inspection is made of said real property.

**EXCEPTING AND RESERVING TO** the City of Los Angeles all water and water rights, whether surface, subsurface, or of any other kind, and all water and water rights appurtenant or in anywise incident to the real property herein described, or used thereon or in connection therewith, together with the right to develop, take, transport, control, regulate, and use all such water; and reserving unto the City of Los Angeles all oil, gas, petroleum, or other mineral or hydrocarbon substances in and under said land, without the right to enter upon the surface of said land for such use.

EXHIBIT B  
(Grant Deed)

RECORDING REQUESTED BY:  
**Ryan T. Miller**

WHEN RECORDED, MAIL TO:  
**Ryan T. Miller**  
**476 Lest Line Street**  
**Bishop, CA 93514**

THE AREA ABOVE THIS LINE IS FOR RECORDER'S USE

DOCUMENT TITLE(S)

<b>DEED</b>	<b>Ryan T. Miller</b> <b>Fulton Street</b>
APN(s):	<b>Por. 001-172-06</b>

THIS DOCUMENT IS EXEMPT FROM DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11922 OF THE CALIFORNIA REVENUE AND TAXATION CODE AND EXEMPT FROM FEES FOR RECORDING PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 6103.

As authorized by the Board of Water and Power Commissioners by Resolution No. \_\_\_\_\_ adopted on \_\_\_\_\_, 20\_\_, receipt of which is hereby acknowledged, the CITY OF LOS ANGELES, a municipal corporation, grants to Ryan T. Miller, that certain real property owned by the City of Los Angeles and under the management and control of the Los Angeles Department of Water and Power, in the County of Inyo, State of California, described as follows:

Lot 4, Block BW, of the John B. Clarke Addition, in the City of Bishop, County of Inyo, State of California as shown on Map recorded in Miscellaneous Map Book 1, page 22, in the Office of the County Recorder of said County.

Containing 0.16 acres, more or less.

**END OF DESCRIPTION**

**SUBJECT TO** all outstanding taxes and assessments, if any.

**SUBJECT TO** any and all agreements, covenants, conditions, restrictions, easements, reservations, rights and rights-of-way of record, and other matters of record.

**SUBJECT TO any rights-of-way which may be apparent if a visual inspection is made of said real property.**

**EXCEPTING AND RESERVING TO the City of Los Angeles all water and water rights, whether surface, subsurface, or of any other kind, and all water and water rights appurtenant or in anywise incident to the real property herein described, or used thereon or in connection therewith, together with the right to develop, take, transport, control, regulate, and use all such water; and reserving unto the City of Los Angeles all oil, gas, petroleum, or other mineral or hydrocarbon substances in and under said land, without the right to enter upon the surface of said land for such use.**

DEPARTMENT OF WATER AND POWER  
OF THE CITY OF LOS ANGELES BY  
BOARD OF WATER AND POWER COMMISSIONERS

By signing below, the signatories attest that they have no personal, financial, beneficial, or familial interest in this contract.

By: \_\_\_\_\_  
JANISSE QUIÑONES  
Chief Executive Officer and Chief Engineer

Date: \_\_\_\_\_

And: \_\_\_\_\_  
CHANTE L. MITCHELL  
Board Secretary

AUTHORIZED BY:

Resolution No. .... \_\_\_\_\_  
Adopted ..... \_\_\_\_\_  
Approved by Council on ..... \_\_\_\_\_  
Council File No. .... \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }  
County of \_\_\_\_\_ }

On \_\_\_\_\_ before me, \_\_\_\_\_  
DATE Here Insert Name and Title of the Officer

personally appeared \_\_\_\_\_  
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.

Place Notary Seal Above

Signature \_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

