

**Draft Purchase and Sale  
Agreement and Summary report  
pursuant to Gov. Code section  
52201 for the property located  
at 1314 and 1370 S. Sanderson  
Avenue.**

**To be considered by the  
Anaheim City Council on  
November 1, 2022**

**PURCHASE AND SALE AGREEMENT**  
**BASIC TERMS**

**Seller:** City of Anaheim, a municipal corporation and charter city under the laws of the State of California

**Notice Address:**  
City of Anaheim  
Economic Development Department  
200 South Anaheim Blvd. Suite 733  
Anaheim, California 92805  
Attention: Sergio M. Ramirez, Director

**Copy to:**  
City of Anaheim  
200 South Anaheim Blvd., Suite 356  
Anaheim, California 92805  
Attention: Rob Fabela, City Attorney

**And to:**  
City Clerk  
200 South Anaheim Blvd., Second Floor  
Anaheim, California 92805  
Attention: Theresa Bass, City Clerk

**Buyer:** Powerline Properties, LLC, a California limited liability company

**Notice Address:**  
ocV!BE Sports & Entertainment, LLC  
1500 S. Douglass Road, Suite 100  
Anaheim, California 92806  
Attention: William Foltz, President & COO

**Copy to:**  
Allen Matkins Leck Gamble Mallory & Natsis LLP  
1900 Main Street, Fifth Floor  
Irvine, California 92614  
Attention: Gary S. McKitterick, Esq./  
Sandra A. Jacobson, Esq.

**And to:**  
H & S Ventures, LLC  
2101 East Coast Hwy, Third Floor  
Corona del Mar, California 92625  
Attention: Michael Schulman, Chairman

**And to:**  
H & S Ventures, LLC  
2101 East Coast Hwy, Third Floor  
Corona del Mar, California 92625  
Attention: General Counsel

**Escrow Holder:**  
First American Title Insurance Company

**Title Company:**  
First American Title Insurance Company

**Notice Address:**  
First American Title Insurance Company  
18500 Von Karman Ave., Suite 600  
Newport Beach, California 92612  
Attention: Patty Beverly

**Notice Address:**  
First American Title Insurance Company  
18500 Von Karman Ave., Suite 600  
Irvine, California 92612  
Attention: Devon Boyles

**Purchase Price:** Four Million Nine Hundred Seventy-Five Thousand Two Hundred Nineteen Dollars (\$4,975,219).

**Deposit:** Two Hundred Fifty Thousand Dollars (\$250,000) Non-Refundable.

**Inspection Deadline:** 5:00 p.m. Pacific Time on the date that is December 15, 2022 (i.e., 45 days after the Effective Date (as defined below)).

**Closing Date:** December 31, 2022, or such earlier or later date as mutually agreed upon by Buyer and Seller in writing.

## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”), dated for reference as of November 1, 2022, is made and entered into by and between Buyer and Seller to be effective on the latest date of execution shown on the signature page hereto (the “**Effective Date**”).

### RECITALS

A. Seller is the owner of the approximately 6.43 acres of land located at 1314 S. Sanderson Avenue and 1370 S. Sanderson Avenue, both in Anaheim, California as more particularly described on Exhibit “A”.

B. Pursuant to that certain Lease by and Between the City of Anaheim and Powerline Properties, LLC dated June 4, 2019, Seller leased, and granted to Buyer an option to purchase, the Property (as defined below).

C. On August 31, 2020, Buyer notified Seller of its election to exercise its option to purchase the Property.

D. Seller now desires to sell the Property to Buyer on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual undertakings of the parties hereto and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Incorporation of Recitals and Basic Terms. The above Recitals constitute part of this Agreement and each party shall be entitled to rely on the truth and accuracy of same. The terms set forth above in the Recitals and Basic Terms are hereby incorporated.

2. Purchase and Sale; Property Restrictions.

2.1 Agreement to Purchase and Sell. Upon the terms and conditions hereinafter set forth, Seller shall sell to Buyer, and Buyer shall purchase from Seller, the Property. As used herein, the “Property” means collectively, all right, title and interest of Seller in and to (a) the land described in Exhibit “A” attached hereto (the “**Land**”), (b) the rights appurtenant to the Land, except as otherwise expressly contemplated herein (the “**Appurtenances**”), (c) the building(s) and other permanent improvements and structures located upon the Land, if any (the “**Improvements**”; together with the Land and the Appurtenances, the “**Real Property**”), (d) any leases affecting the Land, and (e) any and all tangible personal property, if any, used in connection with, and on the Closing (as defined below) left on, the Real Property (the “**Personal Property**”). Notwithstanding the foregoing, the Property shall specifically exclude, and Seller expressly reserves any and all rights expressly reserved to Seller as provided herein.

3. Purchase Price.

3.1 Escrow Deposit. Within two (2) business days after the Effective Date, Buyer and Seller shall open an Escrow (as defined below) with Escrow Holder and Buyer shall deliver to Escrow Holder, by wire transfer of immediately available federal funds or by bank or cashier’s check drawn on a national bank, the Deposit. The Deposit, together with all interest earned thereon while being held by Escrow Holder, shall collectively be referred to herein as the “**Escrow Deposit**”. Unless Buyer terminates this Agreement prior to the expiration of the Inspection Deadline as provided herein, the Escrow Deposit

shall be immediately non-refundable to Buyer, except as expressly stated herein to the contrary, including without limitation, upon the occurrence of the Inspection Deadline. The Escrow Deposit shall be applied against the Purchase Price at Closing in accordance with the terms and provisions of this Agreement. Notwithstanding anything herein to the contrary, the parties acknowledge that Two Hundred and No/100 Dollars (\$200.00) of the Deposit shall be retained by Seller as independent consideration for Seller entering into this Agreement and the rights and privileges extended to Buyer as provided herein.

3.2 Closing Payment. The Purchase Price, as adjusted by the application of the Escrow Deposit and by the prorations and credits specified herein, shall be paid by wire transfer of immediately available federal funds through the Escrow as of the Closing (the amount to be paid under this Section being herein called the “**Closing Payment**”).

4. Contingencies and Conditions Precedent to Closing. The obligation of Buyer to acquire, and Seller to sell, the Property as contemplated by this Agreement is subject to satisfaction of each of the following contingencies and conditions precedent (which may be waived in writing by the party in whose favor such condition exists) on or before the applicable date specified for satisfaction of the applicable condition. Subject to the terms and conditions set forth below, if any of such conditions is not fulfilled (or waived) pursuant to the terms of this Agreement, then this Agreement may be terminated by delivery of written notice by the party in whose favor such condition exists on or before the applicable date specified for such condition and, in connection with any such termination made in accordance with this Section, Seller and Buyer shall be released from further obligation or liability hereunder (except for those obligations and liabilities which expressly survive such termination), and the Escrow Deposit (minus Escrow Holder’s and the Title Company’s cancellation fees) shall be returned to Buyer. The Closing shall constitute approval by each party of all matters to which such party has a right of approval and a waiver of all conditions precedent.

4.1 City Council Approval. As a condition precedent for Seller’s benefit, any and all approvals required by the City of Anaheim, including, without limitation, the Anaheim City Council approval shall have been obtained for the consummation of the transactions contemplated herein.

4.2 Performance by Seller. The performance and observance, in all material respects, by Seller of all covenants in this Agreement to be performed or observed by Seller prior to or on the Closing Date shall be a condition precedent to Buyer’s obligation to purchase the Property pursuant to this Agreement. Additionally, as a condition to Buyer’s obligation to close, all of Seller’s representations and warranties stated herein shall be true and correct in all material respects as of the Closing Date.

4.3 Performance by Buyer. The performance and observance, in all material respects, by Buyer of all covenants in this Agreement to be performed or observed by Buyer prior to or on the Closing Date shall be a condition precedent to Seller’s obligation to sell the Property pursuant to this Agreement. Additionally, as a condition to Seller’s obligation to close, all of Buyer’s representations and warranties stated herein shall be true and correct in all material respects as of the Closing Date.

4.4 Title and Survey Review. Buyer shall obtain a copy of a preliminary title report issued by the Title Company covering the Real Property (together with copies of all documents referenced therein, the “**Title Report**”). Buyer shall have the right, prior to 5:00 p.m. Pacific Time on the date that is five (5) business days before the expiration of the Inspection Deadline (the “**Title Notice Date**”), to deliver to Seller written notice (the “**Title Objection Notice**”) of any exceptions to title shown in the Title Report or other items that would be disclosed by a survey of the Real Property, which are disapproved by Buyer; provided, however, Buyer shall not have any right to disapprove of any real estate taxes or assessments not yet due and payable (prorated as provided herein). If Buyer fails to deliver the Title Objection Notice on or before the Title Notice Date, then Buyer shall be deemed to have approved the exceptions to title shown

on the Title Report, any matters that would be disclosed by a survey of the Real Property and all other title or survey matters, including, without limitation the availability of any ALTA extended coverage and any endorsements. If Buyer timely delivers the Title Objection Notice to Seller, then Seller shall have three (3) business days after receipt of the Title Objection Notice to advise Buyer in writing that Seller shall either (a) cause (i) such exceptions objected to by Buyer to be satisfied or discharged on or before the Closing, or (ii) the Title Company to issue an endorsement affirmatively insuring against such exception in a manner acceptable to Buyer in its sole discretion, at Seller's sole cost and expense, or (b) be unable or unwilling to remove, discharge or endorse the exception(s) (Seller's failure to notify Buyer being Seller's election to proceed as provided in clause (b) above), in which case Buyer will have until the Inspection Deadline to elect to (x) proceed with the purchase of the Property subject to such exception(s), or (y) cancel this Agreement by delivering written notice of such election to terminate (a "**Termination Notice**") to Seller and Escrow Holder, in which case the Escrow Deposit (minus Escrow Holder's and the Title Company's cancellation fees) shall be returned to Buyer, and neither party shall have any further rights or liabilities hereunder, except for those provisions which expressly survive the termination of this Agreement. Buyer's failure to notify Seller and Escrow Holder of its election between (x) and (y) in the immediately preceding sentence shall be deemed to be Buyer's election to proceed as provided in (x). In the event Seller determines at any time that it is unable or unwilling to remove any one or more of disapproved title or survey matters, Seller may give written notice to Buyer to such effect and Buyer may, at its option, terminate this Agreement upon delivering a Termination Notice to Seller and Escrow Holder, but only if given prior to the sooner to occur of the Closing Date or five (5) days after Buyer receives Seller's notice, in which case the Escrow Deposit (minus Escrow Holder's and the Title Company's cancellation fees) shall be returned to Buyer. If Buyer fails to give notice of Buyer's disapproval by such date, Buyer shall be deemed to have approved such matters. It is understood that Buyer may request a number of endorsements to the Title Policy (as defined below) and/or extended ALTA coverage; however, Buyer shall satisfy itself prior to the Title Notice Date that the Title Company will be willing to issue any extended ALTA coverage and any such endorsements in connection with the Title Policy and failure to deliver a Termination Notice by the Title Notice Date shall be deemed a waiver of any objections to title and survey, approval of all matters pertaining to title and survey, including, without limitation, the forms of the Title Policy and the availability of any endorsements.

4.5 Title Policy. It shall be a condition precedent for Buyer's benefit that, at Closing, the Title Company is willing to issue Buyer (subject to the payment of any premium, which shall be paid as provided below) on the Closing, the Title Policy in the face amount of the Purchase Price, showing title vested in Buyer in accordance with the requirements determined by Buyer and Seller prior to the expiration of the Inspection Deadline as provided in Section 4.4 above, provided that any ALTA extended coverage and endorsements shall not be conditions to Closing (it being acknowledged that Buyer satisfy itself as to the availability of same prior to the expiration of the Inspection Deadline). In the event this condition precedent is not satisfied on or at Closing, then Buyer may cancel this Agreement by delivery of written notice to Seller and Escrow Holder, in which case the Escrow Deposit (minus Escrow Holder's and the Title Company's cancellation fees) shall be immediately returned to Buyer, and thereafter neither party shall have any further rights or liabilities hereunder, except for those provisions which expressly survive the termination of this Agreement.

4.6 Environmental Review. Buyer shall have until the Inspection Deadline to obtain a phase I environmental report for the Real Property, to determine whether there are any Hazardous Materials (as defined below) in condition or amount that would require remediation under applicable laws that would impose an impediment to any proposed future development and to determine whether or not the environmental condition of the Property is satisfactory to Buyer, in its sole and absolute discretion. If on or before the Inspection Deadline, Buyer determines that it is not satisfied with the environmental condition of the Property, then Buyer shall promptly (but in all events prior to the Inspection Deadline) deliver a Termination Notice to Seller and Escrow Holder. If Buyer fails to deliver a Termination Notice prior to

the Inspection Deadline, Buyer shall be deemed to have agreed that all environmental matters and conditions are acceptable to Buyer and Buyer intends to proceed with the acquisition of the Property (and that Buyer shall have no further right to terminate this Agreement pursuant to this Section).

4.7 No General Due Diligence Contingency; Entry. Buyer acknowledges and agrees that (a) Buyer is a sophisticated real estate investor and operator and is intimately familiar with the Property, and (b) prior to the Inspection Deadline, Buyer shall perform certain of Buyer's due diligence examinations, reviews and inspections of all matters pertaining to the purchase of the Property, including, without limitation, all soils and engineering reports and studies, all agreements and contracts, sewer and water conditions, utilities service information, zoning information, access information, financial information, assessments and fees, development conditions and approvals, operating expenses and legal, physical and compliance matters and conditions respecting the Property. If Buyer disapproves such matters prior to the expiration of the Inspection Deadline, Buyer shall have the right to terminate this Agreement and receive a refund of the Deposit. In connection with Buyer's entry onto the Property pursuant to Sections 4.4 and 4.6 above, Buyer shall at all times ensure such entry by Buyer or its employees, agents or contractors is in full compliance with all applicable laws and governmental regulations, in a manner so as to not cause any Claims (as defined below) to Seller or the Property and so as to not interfere with or disturb Seller or any occupants or users, if any, of the Property and Buyer will indemnify, defend, and hold Seller and the Property harmless from and against any and all Claims arising out of or related to any entry by Buyer or its employees, agents or contractors; provided that such indemnity shall not apply to Buyer's mere discovery of any adverse pre-existing condition at the Property. Prior to entry upon the Real Property, to the extent that same is not already in the possession of Seller, Buyer shall provide Seller with copies of certificates of insurance evidencing commercial general liability insurance policies (naming Seller as an additional insured) which shall be maintained by Buyer and its agents and contractors in connection with its entry upon the Real Property, with limits, coverages and insurers under such policies reasonably satisfactory to Seller. Without limitation of the foregoing, in no event shall Buyer conduct any physical or intrusive testing without Seller's express written consent (which consent may be given or withheld in Seller's sole and absolute discretion), and Buyer shall in all events promptly return the Property to its substantially prior similar condition, and Seller may further condition its approval of any entry on, among other things, Seller's approval of the following: (i) the insurance coverage of the agent or contractor who will be entering onto the Property, (ii) the nature and timing of such entry, (iii) a written confidentiality agreement in form reasonably satisfactory to Seller, and (iv) the requirement that split samples be made. Seller shall have the right, at its option, to cause a representative or Seller to be present at any potentially destructive or other physically invasive inspections, reviews and examinations conducted hereunder. Upon request, Buyer shall promptly deliver to Seller copies of any written reports, data or other information regarding the Property and/or derived from any investigation activities, including, without limitation, environmental inspections and testing relating to the Property prepared for or on behalf of Buyer by any third party (other than reports regarding the value of the Property or attorney-client protected materials). All such reports shall be delivered AS-IS without any representation or warranty. In the event of any termination of this Agreement, Buyer shall immediately return all documents and other materials furnished by Seller hereunder (and destroy any copies thereof made by Buyer or its agents or representatives) and deliver copies of any final written reports, data or other information to Seller as provided above. All such reports shall be delivered AS-IS without any representation or warranty. Buyer shall keep all information or data received or discovered in connection with any of the inspections, reviews or examinations strictly confidential, except for disclosures to representatives, investors, lenders, counsel and agents, provided such disclosures are on an as-needed basis for Buyer's acquisition and such persons are instructed to keep the information confidential. Buyer shall be responsible to Seller for any breaches of the foregoing confidentiality restriction by any person or entity to whom information was given by or through Buyer as though the breach were committed by Buyer itself. The provisions of this Section shall survive any termination of this Agreement or the Closing.

5. Closing Procedure. The closing of the purchase and sale of the Property as contemplated by this Agreement (the “**Closing**”) shall be affected through an escrow (the “**Escrow**”) on or prior to the Closing Date. To fully effectuate this Agreement, Seller and Buyer agree to execute such separate or additional escrow instructions or other documents reasonably requested by Escrow Holder, the terms and conditions of same to be mutually agreed to by the parties hereto. This Agreement shall not be merged into any such separate or additional escrow instructions, but the latter shall be deemed auxiliary to this Agreement and the provisions of this Agreement shall be controlling as between the parties hereto and any such separate or additional escrow instructions shall expressly so provide.

5.1 Seller’s Closing Deliveries. On or before the day that is one (1) business day prior to the Closing Date, Seller shall deliver to Escrow Holder the following: (a) one (1) duly executed and notarized original of the grant deed (the “**Deed**”) in the form of Exhibit “B” attached hereto, (b), if required by Buyer, four (4) duly executed originals of the quitclaim bill of sale (the “**Bill of Sale**”) in the form of Exhibit “C” attached hereto, (c) one (1) duly executed original certificate of non-foreign status on Escrow Holder’s customary form (as reasonably revised by Seller) and the California Form 593, (d) one (1) closing statement (“**Closing Statement**”) executed or initialed by Seller reflecting the Purchase Price and the adjustments and prorations required hereunder, (e) evidence reasonably satisfactory to the Title Company respecting the due organization of Seller and the due authorization and execution by Seller of this Agreement and the documents required to be delivered hereunder, and (f) such additional documents as may be reasonably required by the Title Company or Buyer in order to consummate the transactions hereunder (provided the same do not increase in any material respect the costs to, or liability or obligations of, Seller in a manner not otherwise provided for herein).

5.2 Buyer’s Closing Deliveries. On or before the day that is one (1) business day prior to the Closing Date, Buyer shall deliver to Escrow Holder the following: (a) the Closing Payment by wire transfer of immediately available federal funds (provided that Buyer shall have the right to deliver same on or before 10:00 a.m. Pacific Time on the morning of the Closing Date), (b) if required by Buyer pursuant to Section 5.1, four (4) duly executed originals of the Bill of Sale, (c) one (1) Closing Statement executed or initialed by Buyer, (d) evidence reasonably satisfactory to the Title Company respecting the due organization of Buyer and the due authorization and execution by Buyer of this Agreement and the documents required to be delivered hereunder, and (e) such additional documents as may be reasonably required by the Title Company or Seller in or to consummate the transactions hereunder (provided the same do not increase in any material respect the costs to, or liability or obligations of, Buyer in a manner not otherwise provided for herein).

5.3 Escrow Holder’s Actions. Upon receipt of the items described in Sections 5.1 and 5.2 above, Escrow Holder shall take the following actions: (a) wire the amount due Seller and Buyer under the Closing Statement in accordance with wiring instructions from Seller and Buyer respectively, (b) deliver the respective amounts due third parties under the Closing Statement in accordance with the respective instructions from such third parties, (c) record the Deed in the Official Records, (d) cause the Title Company to issue a CLTA standard owner’s title insurance policy (or ALTA extended coverage owner’s title insurance policy if the requirements and conditions to same have been satisfied, provided such ALTA extended coverage shall not be a condition to Closing) in the standard form issued in the State of California for the Property in the amount of the Purchase Price, which policy shall show title to the Real Property to be vested in Buyer (the “**Title Policy**”), and deliver the same to Buyer, (e) file all information returns required under Section 6045 of the Internal Revenue Code and take all other reporting actions as may be required in connection therewith, and (f) deliver three (3) originals to Seller and, if required by Buyer pursuant to Section 5.1, one (1) original to Buyer and Seller of the Bill of Sale and a conformed electronic copy to Seller and Buyer of the recorded Deed.

5.4 Closing Costs. Seller shall pay (a) the cost of the premium for the standard CLTA coverage Title Policy, and (b) one-half (1/2) of Escrow Holder's fees (except in the event of a default by Buyer, in which case Buyer shall be solely responsible for all Escrow charges). Buyer shall pay (i) the cost of the Title Policy to the extent such cost exceeds the cost of standard CLTA owner's policy of title insurance, including extended coverage and policy endorsements, (ii) one-half (1/2) of Escrow Holder's fees (except in the event of a default by Seller, in which case Seller shall be solely responsible for all Escrow charges), (iii) the cost to record the Deed, (iv) any and all transfer taxes due or owing in connection with the conveyance of the Property from Seller to Buyer, and (v) all fees, costs or expenses in connection with Buyer's inspections, including any new surveys of the Real Property or updates of existing surveys. Any other closing costs shall be allocated in accordance with local custom in Orange County, California. Seller and Buyer shall pay their respective legal fees.

5.5 Expenses. Buyer shall be responsible for any and all expenses and taxes related to the Property from and after the Closing Date. This paragraph shall survive the Closing.

6. Casualty and Condemnation.

6.1 Casualty. If after the Effective Date, but prior to the Closing, the Real Property is damaged or destroyed by any casualty, Seller shall have no obligation to repair or restore any such damage or destruction and Buyer shall proceed with the consummation of the transaction contemplated by this Agreement without any reduction in the Purchase Price, and Seller shall assign its rights to insurance proceeds, if any, to Buyer (and in such event, Seller shall not compromise, settle or adjust any claims without Buyer's consent). Notwithstanding the foregoing, in the event Seller's licensed architect or general contract estimates that the costs to restore or repair such casualty (the "**Repair Estimate**") is likely to exceed \$200,000.00, then Buyer shall have the right within ten (10) days after Seller delivers the Repair Estimate to notify Seller in writing of Buyer's election to terminate this Agreement; provided, however, if Buyer timely delivers its termination notice as provided above, Seller shall have the right to nullify such termination notice by providing a credit against the Purchase Price at Closing in an amount equal to the uninsured amount set forth in the Repair Estimate. In the event this Agreement is terminated pursuant to this Section, the Escrow Deposit (minus any Escrow Holder or Title Company cancellation charges) shall be refunded to Buyer and neither party shall have any further rights or obligations hereunder except for those that expressly survive termination.

6.2 Condemnation. If after the Effective Date, but prior to the Closing, more than twenty-five percent (25%) of the Real Property is taken pursuant to eminent domain proceedings not initiated by Seller, Buyer shall have the right to terminate this Agreement with respect to the parcel so affected, by giving written notice thereof to Seller within ten (10) business days after receiving notice of such condemnation. If Buyer fails to give written notice of termination to the Seller within said ten (10) business day period, or if the portion of the Real Property so taken is twenty-five percent (25%) or less of such Real Property, then this Agreement shall remain in full force and effect, Buyer and Seller shall close this transaction as provided herein without any reduction in the Purchase Price, and upon Closing, Seller shall assign and/or transfer to Buyer, effective on the Closing, all of Seller's right, title and interest to any award allocated to such Land taken. In such event, Seller shall not compromise, settle or adjust any claims without the prior written consent of Buyer, not to be unreasonably withheld. In the event this Agreement is terminated with respect to all or a portion of the Property pursuant to this Section, the portion of the Escrow Deposit which is allocable on a pro rata basis to the Property removed from the transaction contemplated hereby (minus any Escrow or Title Company's cancellation charges) shall be returned to Buyer and neither party hereto shall have any further obligation in connection with the portion of the Property for which this Agreement is terminated, except under those provisions that expressly survive a termination of this Agreement.



6.3 Waiver. To the maximum extent permitted by applicable law, Buyer waives any rights or remedies not set forth herein with respect to any right to terminate this Agreement in connection with any casualty or condemnation.

7. Representations and Warranties.

7.1 Representations and Warranties of Seller. Subject to obtaining Anaheim City Council approval, Seller hereby represents and warrants to Buyer as of the Effective Date and as of the Closing Date that Seller has full authority to enter into and perform this Agreement and the person or persons signing this Agreement and any documents executed pursuant hereto on Seller's behalf have full power and authority to bind Seller. Subject to obtaining Anaheim City Council Approval, the execution, delivery and performance of this Agreement do not, and the consummation of the transaction contemplated hereby will not, violate the organizational documents, or other agreements made by or binding upon, Seller. Notwithstanding any contrary provision of this Agreement, if during the pendency of this Agreement prior to Closing, Seller discloses any matters which make any of Seller's representations and warranties untrue in any material respect or in the event that Buyer otherwise becomes aware during the pendency of this Agreement prior to Closing of any matters which make any of Seller's representations or warranties untrue in any material respect, such representations and warranties shall be deemed modified to reflect such matters and Seller shall bear no liability for such matters, but Buyer shall have the right to elect in writing within five (5) business days after becoming aware of any such matter, but in no event later than the Closing Date, (a) to terminate this Agreement (in which event the Escrow Deposit, minus Escrow Holder's and the Title Company's cancellation fees, shall be returned to Buyer), or (b) to waive such matter and complete the purchase of the Property without reduction of the Purchase Price in accordance with the terms of this Agreement (and any failure to give notice under clause (a) shall be deemed to constitute such a waiver). Seller's representations and warranties contained in this Section 7.1 shall not survive the Closing and shall merge with the recordation of the Deed. Notwithstanding the foregoing, if Buyer acquires the Property with actual knowledge of an untrue or incorrect representation or warranty, then upon the Closing, Buyer shall be deemed to have fully and unconditionally waived and released any and all Claims whatsoever with respect to such untrue or incorrect representation or warranty. The provisions of the preceding sentence shall survive Closing or any termination of this Agreement.

7.2 Covenants, Representations and Warranties of Buyer. Buyer hereby represents and warrants to Seller as of the Effective Date and the Closing Date that:

7.2.1 Authority; No Conflict. Buyer is duly organized and validly existing under the laws of the State of California, has full authority to enter into and perform this Agreement and the person or persons signing this Agreement and any documents executed pursuant hereto on Buyer's behalf have full power and authority to bind Buyer. The execution, delivery and performance of this Agreement do not, and the consummation of the transaction contemplated hereby will not, violate the organizational documents, or other agreements made by or binding upon, Buyer.

7.2.2 OFAC. (a) Buyer is in compliance with the requirements of Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 23, 2001) (the "**Order**") and other similar requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury ("**OFAC**") and in any enabling legislation or other executive orders or regulations in respect thereof (the Order and such other rules, regulations, legislation, or orders are collectively called the "**Orders**"), and (b) neither Buyer, nor any beneficial owner of Buyer, is (i) listed on the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to the Order and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Orders (such lists are collectively referred to as the "**Lists**"), (ii) a person who has been determined by competent authority to be subject to the prohibitions contained in the Orders, or (iii) owned

or controlled by, or acts for or on behalf of, any person on the Lists or any other person who has been determined by competent authority to be subject to the prohibitions contained in the Orders. In the event Buyer obtains actual knowledge that Buyer or any of its beneficial owners becomes listed on the Lists, then (A) Buyer shall immediately notify Seller in writing, and (B) Buyer shall immediately remove such party from any interest in Buyer or Seller may, without limitation of its other remedies permitted hereunder, terminate this Agreement and be entitled to so much of the Escrow Deposit necessary to reimburse Seller for any and all costs incurred by Seller in connection with this Agreement, which amount Escrow Holder shall release to Seller upon demand therefor without the need for further instructions.

7.2.3 Bankruptcy. Buyer has not filed and has not been the subject of any filing of a petition under the federal bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors.

7.2.4 No Tax Credits. Buyer agrees that during the term of this Agreement and after the Closing Date, Buyer will receive no reimbursement for property, sales or transit occupancy taxes received by Seller unless otherwise agreed to by Seller.

7.2.5 Survival. The covenants in Section 7.2.4 of this Agreement shall survive the Close of Escrow and shall not be merged with the recordation of the Deed. All of the other representations and covenants of Buyer set forth in this Section 7.2. shall not survive the Close of Escrow and shall be merged with the recordation of the Deed.

8. Energy Disclosures. Buyer acknowledges that the Real Property may be subject to Assembly Bill Nos. 1103 and 531, California Public Resources Code Section 25402.10 and similar laws pertaining to the energy efficiency and/or utility usage (the “**Energy Laws**”). Buyer waives, to the maximum extent allowed by applicable law, any and all obligations of Seller to deliver any information or other reporting under the Energy Laws whether such failure occurs prior to execution and delivery of this Agreement or prior to the Closing. This provision shall survive the Closing.

9. Natural Hazard Disclosure. As used herein, the term “**Act**” shall mean the Natural Hazard Disclosure Act, California Government Code Sections 8589.3, 8589.4 and 51183.5, and California Public Resources Code Sections 2621.9, 2694 and 4136, and any successor statutes or laws. Buyer hereby acknowledges and agrees that (a) Seller has retained, or shall retain, the services of a third party company to examine the maps and other information made available to the public by government agencies for the purpose of enabling Seller to fulfill its disclosure obligations with respect to the Act and to prepare the written report of the result of its examination (the “**Report**”), (b) Seller has provided, or shall provide, Buyer with a natural hazard disclosure statement (the “**Disclosure Statement**”) in a form required by the Act, (c) the Report fully and completely discharges Seller from its disclosure obligations under the Act and under California Civil Code Sections 1102 through 1102.17 and all other laws, (d) the matters set forth in the Disclosure Statement or Report may change on or prior to the Closing and that Seller has no obligation to update, modify or supplement the Disclosure Statement or Report, and (e) Seller shall have no right to terminate this Agreement based upon the matters contained in the Report and/or the Disclosure Statement.

10. California Health and Safety Code Section 25359.7 Disclosure. California Health and Safety Code Section 25359.7 requires owners of nonresidential property who know or have reasonable cause to believe that a release of a hazardous material has come to be located on or beneath real property to provide written notice of that condition to a buyer of said real property. Buyer and Seller acknowledge that, among other things, all or a portion of the Real Property may contain Hazardous Materials in, on, under or about the Real Property. By Buyer’s execution of this Agreement, Buyer (a) acknowledges Buyer’s receipt of the foregoing disclosure and notice given pursuant to Section 25359.7 of the California Health and Safety Code, (b) is fully aware of the condition of the Property, and (c) after receiving advice

of Buyer's legal counsel, waives any and all rights or remedies whatsoever, express, implied, statutory or by operation of law, Buyer may have against Seller arising under Section 25359.7 of the California Health and Safety Code and/or with respect to the condition of the Property, and/or to terminate this Agreement as a result thereof. This provision shall survive the Closing.

11. AS-IS, RELEASE. AS AN ESSENTIAL INDUCEMENT TO SELLER TO ENTER INTO THIS AGREEMENT, AND AS PART OF THE DETERMINATION OF THE PURCHASE PRICE, BUYER ACKNOWLEDGES, UNDERSTANDS AND AGREES AS OF THE EFFECTIVE DATE AND AS OF THE CLOSING TO THE PROVISIONS SET FORTH BELOW.

11.1 AS-IS, WHERE-IS. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN SECTION 7.1 ABOVE, BUYER ACKNOWLEDGES AND AGREES THAT (A) THE SALE OF THE PROPERTY HEREUNDER IS AND WILL BE MADE ON AN "AS IS, WHERE IS, WITH ALL FAULTS" BASIS, WITH BUYER ASSUMING THE PROPERTY IN SUCH CONDITION AND AGREEING THAT SELLER SHALL NOT HAVE ANY RESPONSIBILITY FOR THE CONDITION OF THE PROPERTY (OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE REPAIR OF ANY PORTION OF THE PROPERTY AND/OR FOR THE CONSTRUCTION OF ANY IMPROVEMENTS), (B) SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY OR ANY OTHER MATTER WHATSOEVER (INCLUDING, WITHOUT LIMITATION ANY REPRESENTATIONS OR WARRANTIES REGARDING ANY HAZARDOUS MATERIALS IN, ON, UNDER OR ABOUT THE PROPERTY OR THE CONSTRUCTION OF ANY IMPROVEMENTS), (C) BUYER HAS CONFIRMED OR WILL CONFIRM INDEPENDENTLY ALL INFORMATION THAT IT CONSIDERS MATERIAL TO ITS PURCHASE OF THE PROPERTY OR THE TRANSACTION CONTEMPLATED HEREBY (INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE REAL PROPERTY AND TITLE TO THE PROPERTY), (D) BUYER IS A SOPHISTICATED BUYER AND ACKNOWLEDGES THAT TO THE FULLEST EXTENT AT LAW, SELLER SHALL NOT BE RESPONSIBLE FOR ANY MATTERS AFFECTING THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY REMEDIATION OF ANY HAZARDOUS MATERIALS OR CONSTRUCTION OF ANY IMPROVEMENTS OR OTHERWISE WITH RESPECT TO THE PROPERTY, AND (E) ANY INFORMATION PROVIDED WITH RESPECT TO THE PROPERTY IS SOLELY FOR BUYER'S CONVENIENCE AND SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF THE SAME. AS USED HEREIN, "**HAZARDOUS MATERIALS**" MEANS ANY HAZARDOUS, TOXIC OR DANGEROUS WASTE, SUBSTANCE OR MATERIAL, POLLUTANT OR CONTAMINANT, AS DEFINED FOR PURPOSES OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980 (42 U.S.C. SECTION 9601 ET SEQ.), AS AMENDED, OR THE RESOURCE CONSERVATION AND RECOVERY ACT (42 U.S.C. SECTION 6901 ET SEQ.), AS AMENDED, OR ANY OTHER LAWS, OR ANY SUBSTANCE WHICH IS TOXIC, EXPLOSIVE, CORROSIVE, FLAMMABLE, INFECTIOUS, RADIOACTIVE, CARCINOGENIC, MUTAGENIC, OR OTHERWISE HAZARDOUS, OR ANY SUBSTANCE WHICH CONTAINS GASOLINE, DIESEL FUEL OR OTHER PETROLEUM HYDROCARBONS, POLYCHLORINATED BIPHENYLS (PCBS), OR RADON GAS, UREA FORMALDEHYDE, ASBESTOS OR LEAD.

11.2 RELEASE. AS A MATERIAL PART OF THE CONSIDERATION TO SELLER FOR THE SALE OF THE PROPERTY, AS OF THE CLOSING, BUYER WAIVES, RELEASES, AND ACQUITS AND SHALL DEFEND SELLER AND SELLER'S COUNCILS, BOARDS, COMMISSIONS,

PARTNERS, AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, ATTORNEYS, AND THEIR RESPECTIVE COUNCILS, BOARDS, COMMISSIONS, DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS AND ATTORNEYS (COLLECTIVELY "SELLER'S PARTIES") FROM ANY AND ALL LOSSES, COSTS, CLAIMS, LIABILITIES, EXPENSES, CAUSES OF ACTION, DEMANDS, FEES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) AND OBLIGATIONS (COLLECTIVELY, "CLAIMS"), WHETHER OR NOT LATENT, KNOWN AND UNKNOWN, FORESEEN AND UNFORESEEN AND WHETHER OR NOT NOW ACCRUED, INCLUDING, WITHOUT LIMITATION, ANY RIGHTS TO, OR CLAIM FOR, CONTRIBUTIONS OR INDEMNITY THAT ARE BASED DIRECTLY OR INDIRECTLY ON, ARISE FROM OR IN CONNECTION WITH, OR ARE RELATED TO (IN ANY WAY) (A) ANY PAST, PRESENT OR FUTURE CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, THE PRESENCE OF ANY HAZARDOUS MATERIALS IN, ON, UNDER OR ABOUT THE PROPERTY OR THE CONSTRUCTION OF ANY IMPROVEMENTS), (B) ANY AND ALL STATEMENTS, REPRESENTATIONS, WARRANTIES, DETERMINATIONS, CONCLUSIONS, ASSESSMENTS, ASSERTIONS OR ANY OTHER INFORMATION CONTAINED IN ANY OF THE MATERIAL PROVIDED BY SELLER OR SELLER'S PARTIES, (C) ANY DEFECT, INACCURACY OR INADEQUACY IN TITLE OF THE PROPERTY OR THE CONSTRUCTION OF ANY IMPROVEMENTS, AND (D) THE PROPERTY OR THE USE OR OPERATION THEREOF. BUYER HEREBY ACKNOWLEDGES AND AGREES THAT (I) BUYER MAY HEREAFTER DISCOVER FACTS DIFFERENT FROM, OR IN ADDITION TO, THOSE NOW OR AS OF THE CLOSING KNOWN OR BELIEVED TO BE TRUE REGARDING THE PROPERTY AND/OR MATERIAL PROVIDED BY SELLER OR SELLER'S PARTIES, AND SELLER SHALL HAVE NO LIABILITY IN CONNECTION THEREWITH (BUYER HEREBY BEING SOLELY RESPONSIBLE FOR THE SAME), AND (II) BUYER'S AGREEMENT TO RELEASE, ACQUIT AND DISCHARGE SELLER AND SELLER'S PARTIES AS SET FORTH HEREIN SHALL REMAIN IN FULL FORCE AND EFFECT, NOTWITHSTANDING THE EXISTENCE OR DISCOVERY OF ANY SUCH DIFFERENT OR ADDITIONAL FACTS.

WITH RESPECT TO THE RELEASES AND WAIVERS SET FORTH IN THIS SECTION, AS OF THE CLOSING, BUYER EXPRESSLY WAIVES THE BENEFITS OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE, WHICH PROVIDES AS FOLLOWS:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH 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 WHICH IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

BUYER HAS BEEN ADVISED BY ITS LEGAL COUNSEL AND UNDERSTANDS THE SIGNIFICANCE OF THIS WAIVER OF SECTION 1542 RELATING TO UNKNOWN, UNSUSPECTED AND CONCEALED CLAIMS. BY ITS INITIALS BELOW, BUYER ACKNOWLEDGES THAT IT FULLY UNDERSTANDS, APPRECIATES AND ACCEPTS ALL OF THE TERMS OF THIS SECTION.

\_\_\_\_\_ BUYER'S INITIALS

THE FOREGOING RELEASE SHALL IN NO EVENT OPERATE TO RELEASE SELLER FOR SELLER'S FRAUD OR ANY BREACH OF SELLER'S REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 7.1 OF THIS AGREEMENT.

11.3 Indemnity. Except to the extent of Seller's breach of the representations and warranties set forth in Section 7.1 above, Buyer agrees to defend (with counsel of Seller's choice), hold harmless and indemnify Seller and all Seller's Parties from and against any and all Claims which relate to, are connected with or in any manner arising: (a) out of the incorrectness of any representation or warranty of Buyer set forth in this Agreement, or (b) out of Buyer's default under this Agreement during the term of this Agreement. It is the intention of the parties that this indemnity does not require payment as a condition precedent to recovery by Seller against Buyer under this indemnity.

11.4 Survival. This Section 11 shall survive the termination of this Agreement and the Closing.

12. Default; Remedies.

12.1 Default by Seller. In the event the Closing fails to occur due to a default by Seller hereunder (and provided that all conditions precedent to Seller's obligations have been satisfied), Buyer's sole and exclusive remedy shall be to either (a) terminate this Agreement and obtain the return of the Escrow Deposit, or (b) bring an action for specific performance, provided that such action is commenced within sixty (60) days after Seller's alleged default and as a condition precedent to any such action, and Buyer must comply with all requirements at law for purposes of bringing an action for specific performance. Buyer waives its right to bring any action for damages against Seller. This provision shall survive the termination of this Agreement.

12.2 Default by Buyer. In the event the Closing fails to occur due to a default by Buyer hereunder (and provided that all conditions precedent to Buyer's obligations have been satisfied or waived), Seller's sole and exclusive remedy shall be to either (a) terminate this Agreement and commence an action for actual damages, provided that Buyer's liability in connection with such action shall not exceed the amount of the Escrow Deposit (and provided further that such limitation shall not apply to any indemnification claims or to the extent of any fraud by Buyer), or (b) bring an action for specific performance, provided that such action is commenced within sixty (60) days after the later of (i) the scheduled Closing Date, or (ii) Buyer's alleged default.

13. Limit on Liability. Notwithstanding anything to the contrary contained herein: (a) the liability of Seller under this Agreement and any documents executed in connection herewith shall not exceed, in the aggregate, an amount equal to the Escrow Deposit, and (b) no Seller Parties shall be personally liable for the performance of Seller's obligations under this Agreement.

14. Miscellaneous.

14.1 Brokers. Each party represents and warrants to the other that it has not dealt with any real estate broker, agent or finder in connection with this transaction. Buyer agrees to indemnify and hold Seller harmless from and against any and all Claims arising out of any claim to a commission or fee by any party claiming by or through Buyer. Seller agrees to indemnify and hold Buyer harmless from and against any and all Claims arising out of any claim to a commission or fee by any party claiming by or through Seller. This provision shall survive the termination of this Agreement and the Closing.

14.2 Construction. The exhibits attached hereto are hereby incorporated herein as if fully set forth in this Agreement. This Agreement contains the entire agreement between the parties respecting the matters herein set forth and supersedes all prior agreements between the parties hereto respecting such matters. Words used in the singular shall include the plural, and vice versa. Whenever the words "including", "include" or "includes" are used in this Agreement, they shall be interpreted in a non-exclusive manner. The captions and headings of the sections of this Agreement are for convenience only.

Except as otherwise indicated, all exhibit and section references in this Agreement shall be deemed to refer to the exhibits and sections in this Agreement. Each party acknowledges and agrees that this Agreement is the product of negotiations between the parties and shall not be deemed prepared or drafted by any one party. In the event of any dispute between the parties concerning this Agreement, the parties agree that any ambiguity in the language of the Agreement is to not to be resolved against Seller or Buyer, but shall be given a reasonable interpretation in accordance with the plain meaning of the terms of this Agreement and the intent of the parties as manifested hereby. This Agreement may be amended only by a written agreement executed by all parties. In no event shall any draft of this Agreement create any obligations or liabilities, it being intended that only a fully executed and delivered copy of this Agreement will bind the parties hereto. In no event shall this Agreement or any document or other memorandum related to the subject matter of this Agreement be recorded without the prior written consent of Seller and Buyer agrees that in no event shall it file any lis pendens against the Real Property in connection herewith except in accordance with bringing an action for specific performance as provided herein. This Agreement does not and shall not be construed to create a partnership, joint venture or any other relationship between the parties hereto, except the relationship of the seller and buyer specifically established hereby.

14.3 Time of the Essence. Time is of the essence of this Agreement. Whenever action must be taken under this Agreement during a certain period of time that ends on a non-business day, then such period shall be extended until the immediately following business day. As used herein, "business day" means any day other than a Saturday, Sunday or federal or California State holiday.

14.4 Successors and Assigns; Affiliate(s). Buyer may not assign or transfer its rights or obligations under this Agreement either directly or indirectly (whether by outright transfer, transfer of ownership interests or otherwise) without the prior written consent of Seller (which may be given or withheld in its sole and absolute discretion); provided, however, Seller shall not be required to consent to any assignment by Buyer of its interest in this Agreement on or before the Closing to an entity which is an Affiliate so long as Buyer gives Seller at least ten (10) business days' advance written notice thereof and Buyer and the assignee execute and deliver a commercially reasonable assignment and assumption agreement to Seller. In the event of a transfer, the transferee shall assume in writing all of the transferor's obligations hereunder, but such transferor shall not be released from its obligations hereunder. No consent given by Seller to any transfer or assignment of Buyer's rights or obligations hereunder shall be construed as a consent to any other transfer or assignment of Buyer's rights or obligations hereunder. No transfer or assignment in violation of the provisions hereof shall be valid or enforceable. Subject to the foregoing, this Agreement and the terms and provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties. As used herein "Affiliate(s)" means any entity controlling, controlled by or under common control with H & S Ventures, LLC, a California limited liability company, and/or which is managed by H & S Ventures, LLC, a California limited liability company. The term "control," as used in the immediately preceding sentence, means, with respect to an entity, the right to exercise at least 50% of the voting rights of the controlled entity.

14.5 Notices. Any notice which a party is required or may desire to give the other shall be in writing and shall be sent by personal delivery or by mail (either (a) by United States registered or certified mail, return receipt requested, postage prepaid, or (b) by Federal Express or similar generally recognized overnight carrier regularly providing proof of delivery), addressed as set forth in the Basic Terms section of this Agreement (subject to the right of a party to designate a different address for itself by notice similarly given at least five (5) days in advance). Any notice so given by mail shall be deemed to have been given as of the date of delivery (whether accepted or refused) established by U.S. Post Office return receipt or the overnight carrier's proof of delivery, as the case may be. Any such notice not so given shall be deemed given upon actual receipt of the same by the party to whom the same is to be given.

14.6 Third Parties. No third party shall be entitled to enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this Agreement. This provision shall survive the termination of this Agreement and the Closing.

14.7 Severability. If any term or provision of this Agreement shall be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and that portion which is found to be unenforceable shall be deemed to be a statement of intention by the parties; and the parties further agree that in such event they shall take all steps necessary to comply with such public hearings and/or notice requirements as may be necessary in order to make valid that portion which is found to be unenforceable.

14.8 Waiver. Any party may waive any of the conditions to its obligations hereunder, but any such waiver shall be effective only if contained in a writing signed by such party. No such waiver shall reduce the rights or remedies of a party by reason of any breach by the other party hereunder. No failure or delay by one party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default of this Agreement or shall prevent the exercise of any right by such party.

14.9 Initiative Measures; Cooperation in the event of Challenge. Should an initiative, measure, moratorium, referendum, statute, ordinance, or other limitation be enacted by the citizens of Anaheim which would prevent the consummation of all or any part of the transaction contemplated herein, and to the extent such initiative, measure, moratorium, referendum, statute, ordinance or other limitation be determined by a court of competent jurisdiction to invalidate or prevail over all or any part of this Agreement, Buyer shall have no recourse against Seller hereunder, but shall retain all other rights, claims and causes of action under this Agreement not so invalidated and any and all other rights, claims and causes of action at law or in equity which Buyer may have independent of this Agreement. The foregoing shall not be deemed to limit Buyer's right to appeal any such determination that such initiative, measure, referendum, statute, ordinance or other limitation invalidates or prevails over all or any part of this Agreement. Seller agrees to cooperate with Buyer in all reasonable manners in order to keep this Agreement in full force and effect, provided Buyer shall reimburse Seller for its out-of-pocket expenses incurred directly in connection with such cooperation and Seller shall not be obligated to institute a lawsuit or other court proceedings in this connection. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate fully with each other in defending said action and the validity of each provision of this Agreement, however, Buyer shall be liable for all legal expenses and costs incurred in defending any such action. Buyer shall be entitled to choose legal counsel to defend against any such legal action and shall pay any attorneys' fees awarded against Seller or Buyer, or both, resulting from any such legal action. Buyer shall be entitled to any award of attorneys' fees arising out of any such legal action.

14.10 Counterparts. This Agreement may be executed in one or more originally executed counterparts, all of which, when taken together, shall constitute one and the same instrument.

***[SIGNATURES ON FOLLOWING PAGE]***

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

**SELLER:**

CITY OF ANAHEIM,  
a municipal corporation and charter city

By: \_\_\_\_\_  
Sergio M. Ramirez  
Director of Economic Development

**Attest:**

\_\_\_\_\_  
Theresa Bass, City Clerk

**Approved as to Form:**

\_\_\_\_\_  
Leonie H. Mulvihill, Assistant City Attorney

Date of Execution: October \_\_\_\_, 2022

**BUYER:**

POWERLINE PROPERTIES, LLC,  
a California limited liability company

By: \_\_\_\_\_  
William Foltz  
President and Chief Operating Officer

Date of Execution: October \_\_\_\_, 2022



**ESCROW HOLDER'S ACKNOWLEDGEMENT**

The undersigned hereby executes this Agreement to evidence its receipt of a fully executed version of this Agreement and agrees to act as Escrow Holder in accordance with the terms of this Agreement.

**ESCROW HOLDER:**

FIRST AMERICAN TITLE INSURANCE COMPANY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

## **EXHIBIT LIST**

- Exhibit "A" - Legal Description of Property
- Exhibit "B" - Form of Deed
- Exhibit "C" - Form of Bill of Sale

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

Order Number: NCS-1113703-SA1  
Page Number: 11

**LEGAL DESCRIPTION**

Real property in the City of Anaheim, County of Orange, State of California, described as follows:

PARCEL I:

PARCELS 3 AND 4 OF PARCEL MAP NO. 90-179, IN THE CITY OF ANAHEIM, COUNTY OF ORANGE COUNTY, STATE OF CALIFORNIA AS PER MAP FILED IN [BOOK 279, PAGES 45 TO 47](#) OF PARCEL MAPS IN THE COUNTY RECORDER OF SAID COUNTY.

PARCEL II:

A NON-EXCLUSIVE EASEMENT FOR UTILITY, DRAINAGE AND ACCESS PURPOSES AS CREATED BY THAT CERTAIN DOCUMENT ENTITLED "GRANT OF EASEMENT AND TERMINATION OF LICENSE" DATED DECEMBER 30, 1993 AND RECORDED APRIL 18, 1994 AS INSTRUMENT NO. [94-0267550](#) OF OFFICIAL RECORDS.

APN: 253-631-27 (Affects Parcel 3) and 253-631-28 (Affects Parcel 4)

*First American Title Insurance Company*

**EXHIBIT "B"**  
**FORM OF DEED**

**EXHIBIT "C"**

**FORM OF BILL OF SALE**

[IF REQUIRED BY BUYER]

**SUMMARY REPORT PURSUANT TO  
SECTIONS 52200 – 52201  
OF THE CALIFORNIA GOVERNMENT CODE  
ON  
THE PURCHASE AND SALE AGREEMENT  
BY AND BETWEEN THE  
CITY OF ANAHEIM  
AND  
POWERLINE PROPERTIES, LLC**

The following Summary Report has been prepared pursuant to Section 52200 - 52201 of the California Government Code. The report sets forth certain details of the proposed Purchase and Sale Agreement (Agreement) between the City of Anaheim (City) and Powerline Properties, LLC (Buyer). The site is approximately 6.4 acres located at 1314 and 1370 S. Sanderson Avenue (Site).

**BACKGROUND STATEMENT**

The following Summary Report is based upon information contained within the Agreement, and is organized into the following six sections:

- I. Salient Points of the Agreement:** This section includes a description of the project; and the major responsibilities imposed on the City and the Buyer by the Agreement.
- II. Cost of the Agreement to the City:** This section details the total cost to the City associated with implementing the Agreement.
- III. Estimated Value of the Interests to be Conveyed Determined at the Highest Use Permitted Under the Redevelopment Plan:** This section estimates the value of the interests to be conveyed determined at the highest use permitted under the existing zoning and the requirements imposed by the Redevelopment Plan.
- IV. Estimated Reuse Value of the Interests to be Conveyed:** This section summarizes the valuation estimate for the Site based on the required use, and with the conditions and covenants required by the Agreement.
- V. Consideration Received and Comparison with the Established Value of the Site:** This section describes the compensation to be received by the City, and explains any difference between the compensation to be received and the established value of the Site.

**VI. Creation of Economic Opportunity:** This section describes the how the Project will assist in the creation of economic opportunity.

This Summary Report and the Agreement are to be made available for public inspection prior to the approval of the Agreement.

## **I. SALIENT POINTS OF THE AGREEMENT**

### **A. Project Description**

The Site is located at 1314 and 1370 Sanderson Avenue. The Site is a parcel of vacant land containing an area of 6.43 acres or 280,091 square feet. The property is zoned C-G, General Commercial, which permits a wide range of commercial uses. The land is impacted by a Southern California Edison transmission line that extends across the property, severely limiting the Site's potential uses. Because of the pads holding the transmission towers, the Site has 5.53 net useable acres (241,091 square feet). The Site includes a permanent irrevocable easement for a bike path along its southern edge totaling 14,509 square feet. The presence of the proposed easement will affect or restrict the normal use of this area more than if it is unencumbered; consequently, the Buyer will essentially lose the surface use of the area. Powerline Properties, LLC. Buyer proposes to develop the Site as off-site parking to support Honda Center operations and ocV!BE development.

### **B. City Responsibilities**

The Agreement requires the City to accept the following responsibilities:

1. Pursuant to the lease between the City the Buyer, dated June 4, 2019, the City granted the Buyer an option to purchase the Site. The Buyer notified the City on August 31, 2020 of its election to exercise its option to purchase the Site. The City will sell the Site As-Is to the Buyer for \$4,975,219.
2. City shall deliver to escrow one duly executed and notarized original of the grant deed one business day prior to the closing date.
3. City shall pay the cost of the premium for the standard CLTA coverage title policy and one-half of the escrow holder's fees.

### **C. Buyer Responsibilities**

The Agreement imposes the following responsibilities on the Buyer:

1. The Buyer will purchase the Site from the City for \$4,975,219.

2. On or before the day that is one day before the closing date, the Buyer shall deliver to escrow, the following:
  - a. Closing payment by wire transfer of immediately available federal funds
  - b. Four duly executed originals of the bill of sale
  - c. Executed closing statement
  - d. Necessary documents required by title company
3. The Buyer will be responsible for any and all expenses and taxes related to the Site after the closing date.

## **II. COST OF THE AGREEMENT TO THE CITY**

The City has not incurred any development costs under this agreement.

## **III. ESTIMATED VALUE OF THE INTERESTS TO BE CONVEYED DETERMINED AT THE HIGHEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN**

Section 52201 of the California Government Code requires the City to identify the value of the interests being conveyed at the highest use allowed by the Site's zoning and the requirements imposed by the Redevelopment Plan and the General Plan. The valuation must be based on the assumption that near-term development is required. The City retained Mr. J. Richard Donahue, MAI, to estimate the fair market value of the Site. Mr. Donahue, in an appraisal dated May 16, 2022, concluded the Site has a fair market value of \$5,294,410.

After completing the appraisal, the City's Public Works Department indicated it is considering an irrevocable easement for a bike path on the southern edge of Site. To that end, Mr. Donahue prepared an Appraisal Addendum Letter dated September 7, 2022 to value the 14,509 square foot easement, as its presence affects or restricts the normal use of these areas more than if it is unencumbered. The letter indicates the proposed easement will have a measurable loss of surface use for the property owner. The land considered does not fall under the transmission lines, thus is potentially more useful land. The loss is essentially considered a full acquisition valued at \$319,192. After consideration of the permanent acquisition of the easement, the remainder parcel value is \$4,975,219, the proposed purchase price.

## **IV. ESTIMATED REUSE VALUE OF THE INTERESTS TO BE CONVEYED**

As discussed above, the City is conveying the Site to the Buyer for \$4,975,219, the remainder value of the Site. Payment for the Site will be made at the close of escrow.



## **V. CONSIDERATION RECEIVED AND COMPARISON WITH THE ESTABLISHED FAIR MARKET VALUE OF THE SITE**

Under the agreement, the City is conveying the Site to the Buyer for \$4,975,219, the remainder value of the Site.

## **VI. CREATION OF ECONOMIC OPPORTUNITY**

The Buyer proposes to develop off-site parking to support the operations of the Honda Center and facilitate the development and operations of the ocV!BE mixed-use project. The Site will help support the ocV!BE mixed-use project and create economic opportunity in the following ways:

1. Provide Off-site parking to support the operations of the Honda Center and facilitate the development and operations of the ocV!BE mixed-use project.
2. According to a Financial Feasibility and Fiscal Benefit Assessment of ocV!BE prepared by EPS on September 20, 2022, the project could provide \$9.2 million in annual fiscal benefits to the City through:
  - a. Property tax - \$3.0 million
  - b. Transient occupancy tax - \$4.8 million
  - c. Sales tax - \$1.4 million