

LGC/044
PARCEL NO.: 7268-022-009
TITLE REPORT NO.: 603813094-M10
PROJECT: PARKS DEPT. – CAL REC EXPANSION

29608

**AGREEMENT FOR ACQUISITION OF REAL PROPERTY
(ESCROW INSTRUCTIONS)**

THIS AGREEMENT is entered into this 10th day of May, 2006 by and between THE CITY OF LONG BEACH, A MUNICIPAL CORPORATION (hereinafter called "Buyer"), and the ESAU G. VELASQUEZ AND MAGNOLIA FUENTES, HUSBAND AND WIFE AS JOINT TENANTS, AS TO AN UNDIVIDED 50% INTEREST, AND BAYRON R. FUENTES, A SINGLE MAN, AS TO AN UNDIVIDED 50% INTEREST, ALL AS TENANTS IN COMMON (hereinafter called "Seller") for acquisition by Buyer of certain real property hereinafter set forth.

IT IS HEREBY MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. AGREEMENT TO SELL AND PURCHASE. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, upon the terms and for the consideration set forth in this agreement, all that certain real property (hereinafter called "Property") situated in the City of Long Beach, County of Los Angeles, State of California, and legally described as follows:

SEE EXHIBIT "A" ATTACHED HERETO
AND BY THIS REFERENCE MADE A PART HEREOF

2. PURCHASE PRICE. The total purchase price, payable in cash through escrow, shall be the sum of

NINE HUNDRED TEN THOUSAND AND NO/100 DOLLARS
(\$910,000.00)

3. CONVEYANCE OF TITLE. Seller agrees to convey by Grant Deed to Buyer marketable fee simple title to the Property free and clear of all recorded and unrecorded liens, encumbrances, assessments, easements, leases, and taxes EXCEPT:

- A. All taxes for the current fiscal year prorated as per paragraph 5 herein after.
- B. Quasi-public utility, public alley, public street easements, and rights of way of record.
- C. Preliminary Title Report to be provided by Chicago Title Company and approved in Escrow.

4. TITLE INSURANCE POLICY. Escrow Agent shall, following recording of deed to Buyer, provide Buyer with CLTA Standard Coverage Policy of Title Insurance in the amount of \$910,000.00 issued by Chicago Title Company showing the title to the property vested in Buyer, subject only to the exceptions set forth in Paragraph 3 and the printed exceptions and stipulations in said policy. Buyer agrees to pay the premium charged therefore.

5. ESCROW. Buyer agrees to open an escrow in accordance with this Agreement at International City Escrow, Attn.: Irene Brodie, 5000 East Spring Street, Suite 120, Long Beach, CA 90815. This Agreement constitutes the joint escrow instructions of Buyer and Seller, and Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to do all acts necessary to close this escrow in the shortest possible time.

Seller agrees to deposit with Escrow Agent prior to the Close of Escrow an original, fully executed and acknowledged grant deed prepared by Escrow Agent and any other customary agreements, consents, or documents reasonably necessary to effectuate the purchase of the subject property. Buyer agrees to deposit the purchase price and certificate of acceptance upon demand of Escrow Agent.

Insurance policies for fire or casualty are not to be transferred, and Seller will cancel his own policies after close of escrow.

All funds received in this escrow shall be deposited with other escrow funds in a general escrow account(s) and may be transferred to any other such escrow trust account in any State or National Bank doing business in the State of California. All disbursements shall be made by check from such account.

ESCROW AGENT IS AUTHORIZED AND IS INSTRUCTED TO COMPLY WITH THE FOLLOWING TAX ADJUSTMENT PROCEDURE:

- A. Pay and charge Seller for any unpaid delinquent taxes and/or penalties and interest thereon, and for any delinquent or non-delinquent assessments or bonds against the property;
- B. In the event this escrow closes between July 1 and November 1, and current tax information is not available from title insurer, Escrow Agent is instructed to withhold from Seller's proceeds an amount equal to 120% of the prorated amount due based upon the previous fiscal year's second half tax bill. At such time that the tax information is available, Escrow Agent shall make a check payable to the County Tax Collector for Seller's prorated portion of taxes and forward same to the Buyer and shall refund any difference to the Seller. In the event the amount withheld is not sufficient to pay Seller's prorated portion of taxes due, the Seller herein agrees to immediately pay the difference;

In the event said tax information is available, Seller's taxes shall be prorated in accordance with Paragraph "C" below.

- C. From the date that tax information is available, as per Paragraph "B", up to and including June 30th, Seller's current taxes, if unpaid, shall be prorated to date of close of escrow on the basis of a 365 day year in accordance with Tax Collector's proration requirements, together with penalties and interest, if said current taxes are unpaid after December 10 and/or April 10. At close of escrow, check payable to the County

Tax Collector for Seller's prorata portion of taxes shall be forwarded to Buyer with closing statement;

- D. Any taxes which have been paid by Seller, prior to opening of this escrow, shall not be prorated between Buyer and Seller, but Seller shall have the sole right, after close of escrow, to apply to the County Tax Collector of said county for refund. This refund would apply to the period after Buyer's acquisition, pursuant to Revenue and Taxation Code Section 5096.7.

ESCROW AGENT IS AUTHORIZED TO, AND SHALL:

- E. Pay and charge Seller, upon Seller's written approval, for any amount necessary to place title in the condition necessary to satisfy Paragraph 3 of this Agreement, excluding any penalty for prepayment to any lienholder in compliance with 1265.240 of the Eminent Domain Law;
- F. Pay and charge Buyer for any escrow fees, charges, and costs payable under Paragraph 6 of this Agreement;
- G. Disburse funds and deliver deed when conditions of this escrow have been fulfilled by Buyer and Seller.

The term "close of escrow", if and where written in these instructions, shall mean the date necessary instruments of conveyance are recorded in the office of the County Recorder. Recordation of instruments delivered through this escrow is authorized if necessary or proper in the issuance of said policy of title insurance.

All time limits within which any matter herein specified is to be performed may be extended by mutual agreement of the parties hereto. Any amendment of, or supplement to, any instructions must be in writing.

TIME IS OF THE ESSENCE IN THESE INSTRUCTIONS AND ESCROW IS TO CLOSE AS SOON AS POSSIBLE. If (except for deposit of money by Buyer, which shall be made by Buyer upon demand of Escrow Agent before close of escrow) this escrow is not in condition to close within 60 days from date of these instructions, any party who then shall have fully complied with his instructions may, in writing, demand the return of his money or property; but if none have complied no demand for return thereof shall be recognized until five (5) days after Escrow Agent shall have mailed copies of such demand to all other parties at the respective addresses shown in these escrow instructions, and if any objections are raised within said five (5) day period, Escrow Agent is authorized to hold all papers and documents until instructed by a court of competent jurisdiction or mutual instructions. If no demands are made, proceed with closing of this escrow as soon as possible.

Responsibility for Escrow Agent under this Agreement is expressly limited to Paragraphs 1, 2, 3, 4, 5, 6, 7, 9, 10, 18, 19 and to its liability under any policy of title insurance issued in regard to this transaction.

6. ESCROW FEES, CHARGES AND COSTS. Buyer agrees to pay all Buyer's and Seller's usual fees, charges, and costs which arise in this escrow.

7. RENTAL AND OCCUPANCY BY SELLER. Seller agrees to execute a complete, current, and correct statement of rentals, on a form furnished to Seller, along with estoppel certificates executed by each of Seller's tenants, in a form consistent with Exhibit "B" attached hereto, and deliver same to Buyer within fifteen (15) days hereof with copies of any written leases or rental agreements attached. All rents will be prorated as of the close of escrow on the basis of a 30-day month consistent with that Statement, subject to approval of Buyer. Seller hereby agrees not to rent any units on the premises which are now vacant, or which may be vacated by present occupants prior to close of escrow.

Seller hereby warrants that the rental statement referred to shall include the terms of all rental agreements, tenancies, and leases (written, unwritten, recorded, or unrecorded) and Seller agrees to hold Buyer harmless from all liability from any such leases or agreements. Seller also warrants that there are no oral or written leases on all or any portion of property exceeding a period of one month, and Seller further agrees to hold Buyer harmless and reimburse Buyer for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of Seller for a period exceeding one month, except: None.

8. PERMISSION TO ENTER ON PREMISES. Seller hereby grants to Buyer, or its authorized agents, permission to enter upon the Property at all reasonable times prior to close of escrow for the purpose of making necessary or appropriate inspections.

9. COUNTERPARTS. This agreement may be executed in counterparts, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and all such counterparts together shall constitute one and the same instrument.

10. CLOSING STATEMENT. Seller instructs Escrow Agent to release a copy of Seller's statement to Buyer and to Overland, Pacific & Cutler, Inc., 100 West Broadway, Suite 500, Long Beach, California 90802; purpose being to ascertain if any reimbursements are due Seller.

11. LOSS OR DAMAGE TO IMPROVEMENTS. Loss or damage to the real property or any improvements thereon, by fire or other casualty, occurring prior to the recordation of the Deed shall be at the risk of Seller. In the event that loss or damage to the real property or any improvements thereon, by fire or other casualty, occurs prior to the recordation of the Deed, Buyer may elect to require that the Seller pay to Buyer the proceeds of any insurance which may become payable to Seller by reason thereof, or to permit such proceeds to be used for the restoration of the damage done, or to reduce the total price by an amount equal to the diminution in value of said property by reason of such loss or damage or the amount of insurance payable to Seller, whichever is greater.

12. EMINENT DOMAIN DISMISSAL. Seller and Buyer acknowledge that this transaction is a negotiated settlement in lieu of condemnation, and Seller hereby agrees and consents to the dismissal or abandonment of any eminent domain action in the Superior Court of the State of California in and for the County of Los Angeles, wherein the herein described property is included and also waives any and all claims to any money on deposit in said action and further waives all attorney's fees, costs, disbursements, and expenses incurred in connection therewith. If, prior to the close of the execution of this transaction, Seller is served with a Summons and Complaint in Eminent Domain in which Seller is a named defendant, upon the closing of this transaction, Seller agrees and consents to Buyer taking a Default in said action.

13. POSSESSION OF REAL PROPERTY AND DISPOSITION OF SELLER'S FURNITURE. Possession of real property shall be given to Buyer upon the recording of Seller's deed. All Seller's furniture and furnishings shall remain the property of Seller and Seller shall have the right at any time to remove or otherwise dispose of all or any portion of same, provided that all tenants occupying the premises at the time Seller's deed is recorded shall be entitled to continue to use the furniture and furnishings then being used by them until they vacate each of their respective apartments or living spaces, and provided that within ten (10) days after notice from Buyer that the premises have been vacated, Seller will remove or otherwise dispose of all such furniture and furnishings. All furniture and furnishings remaining on the premises after ten (10) days shall become the property of Buyer and Buyer may dispose of same without liability as it alone sees fit. Buyer shall not be liable for any loss of or damage to said furniture or furnishings, regardless of when such loss or damage occurs.

14. WARRANTIES, REPRESENTATIONS, AND COVENANTS OF SELLER. Seller hereby warrants, represents, and/or covenants to Buyer that:

- A. To the best of Seller's knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the property or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign.
- B. To the best of Seller's knowledge, there are no encroachments onto the property by improvements on any adjoining property, nor do any buildings or improvements encroach on other properties.
- C. Until the closing, Seller shall maintain the property in good condition and state of repair and maintenance, and shall perform all of its obligations under any service contracts or other contracts affecting the property.
- D. Until the closing, Seller shall not do anything which would impair Seller's title to any of the property.
- E. All utilities including gas, electricity, water, sewage, and telephone, are available to the property, and to the best of Seller's knowledge, all such items are in good working order.

- F. To the best of Seller's knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, or other agreement or instrument to which Seller's property may be bound.
- G. Until the closing, Seller shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Warranties, Representations, and Covenants of Seller Section not to be true as of closing, immediately give written notice of such fact or condition to Buyer.

15. **HAZARDOUS WASTE.** Neither Seller nor, to the best of Seller's knowledge, any previous owner, tenant, occupant, or user of the Property used, generated, released, discharged, stored, or disposed of any hazardous waste, toxic substances, or related materials ("Hazardous Materials") on, under, in, or about the Property, or transported any Hazardous Materials to or from the Property. Seller shall not cause or permit the presence, use, generation, release, discharge, storage, or disposal of any Hazardous Materials on, under, in, or about, or the transportation of any Hazardous Materials to or from, the Property. The term "Hazardous Material" shall mean any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste", "extremely hazardous waste", or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material", "hazardous substance", or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) asbestos, (vii) polychlorinated byphenyls, (viii) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ix) designated as a "hazardous substances" pursuant to Section 311 of the Clean Water Act, (33 U.S.C. S1317), (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. S6901 *et seq.* (42 U.S.C. S6903) or (xi) defined as a "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, as amended by Liability Act, 42. U.S.C. S9601 *et seq.* (42 U.S.C. S9601).

16. **COMPLIANCE WITH ENVIRONMENTAL LAWS.** To the best of Seller's knowledge the Property complies with all applicable laws and governmental regulations including, without limitation, all applicable federal, state, and local laws pertaining to air and water quality, hazardous waste, waste disposal, and other environmental matters, including, but not limited to, the Clean Water, Clean Air, Federal Water Pollution Control, Solid Waste Disposal, Resource Conservation Recovery and Comprehensive Environmental Response Compensation and Liability Acts, and the California Environment Quality Act, and the rules, regulations, and ordinances of the city within which the subject property is located, the California Department of Health Services, the Regional

Water Quality Control Board, the State Water Resources Control Board, the Environmental Protection Agency, and all applicable federal, state, and local agencies and bureaus.

17. INDEMNITY. Seller agrees to indemnify, defend and hold Buyer harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, attorneys' fees), resulting from, arising out of, or based upon (i) the presence, release, use, generation, discharge, storage, or disposal of any Hazardous Material on, under, in or about, or the transportation of any such materials to or from, the Property, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment, or license relating to the use, generation, release, discharge, storage, disposal, or transportation of Hazardous Materials on, under, in, or about, to or from, the Property. This indemnity shall include, without limitation, any damage, liability, fine, penalty, punitive damage, cost, or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease, or death, tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, pollution, contamination, leak, spill, release, or other adverse effect on the environment). This indemnity extends only to liability created prior to or up to the date this escrow shall close. Seller shall not be responsible for acts or omissions to act post close of this escrow.

18. SOIL TESTING. It is understood and agreed upon and between the parties hereto that this escrow is subject to and conditioned upon acceptable soils conditions and the absence from the property of toxic or hazardous substances and any other kind of soil or water contamination and Seller further authorized the Buyer, its agents or assigns to enter upon the subject property for the purpose of conducting a soils, toxic, and hazardous substance test.

Any other provision of this Agreement notwithstanding, at Buyer's discretion, either may elect to rescind this Agreement and cancel any escrow which may have been opened pursuant hereto in the event soils conditions are not acceptable to Buyer or there is present on the Property toxic or hazardous substances or any other kind of soil or water contamination.

19. CONTINGENCY. It is understood and agreed between the parties hereto that the completion of this transaction, and the escrow created hereby, is contingent upon the specific acceptance and approval of the Buyer herein. The execution of these documents and the delivery of same to Escrow Agent constitutes said acceptance and approval.

20. FULL AND COMPLETE SETTLEMENT. Seller hereby acknowledges that the compensation paid to Seller through this Agreement constitutes the full and complete settlement of any and all claims against Buyer, by reason of Buyer's acquisition of the property and any dislocation of Seller from same, specifically including, but not limited to, any and all rights to participation in the redevelopment of property in the Redevelopment Project Area, the value of the Property, any and all claims in inverse condemnation and for pre-condemnation damages, any and all relocation benefits that Seller may be entitled to, the nature of which is fully known by Seller and any and all other claim that Seller may have, whether or not specifically mentioned here, relating directly or indirectly to the acquisition by Buyer of this Property, however Seller and Buyer, and each and all of their individual and collective agents', representatives, attorneys, principals, predecessors, successors,

assigns, administrators, executors, heirs, and beneficiaries, hereby release the other party, and each of them from any and all obligations, liabilities, claims, costs, expenses, demands, debts, controversies, damages, causes of action, including without limitation those relating to just compensation, damages, which any of them now have, or might hereafter have by reason of any matter or thing arising out or in any way relating to any condemnation action affecting the subject property. The terms and conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereto.

The terms and conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereto.

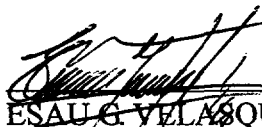
This Agreement contains the entire agreement between both parties, neither party relies upon any warranty or representation not contained in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year set forth hereinabove.

MAILING ADDRESS OF SELLER

1046 EAST 16TH STREET
LONG BEACH, CA 90813

SELLER



ESAU G. VELASQUEZ



MAGNOLIA FUENTES



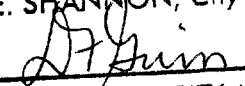
BYRON R. FUENTES

MAILING ADDRESS OF BUYER


333 WEST OCEAN BLVD., 3RD FLOOR
LONG BEACH, CA 90802

BUYER

THE CITY OF LONG BEACH, A
MUNICIPAL CORPORATION

APPROVED AS TO FORM
5/10, 20 06
ROBERT E. SHANNON, City Attorney
BY 

SENIOR DEPUTY CITY ATTORNEY

BY: 

GERALD R. MILLER
ITS: CITY MANAGER

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE WEST 50 FEET OF THE NORTH 135 FEET OF LOT 16, OF THE ROOSEVELT TRACT, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 5 PAGE(S) 106 MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Exhibit "A"

TENANT ESTOPPEL CERTIFICATE

DATE: _____, 20____, at _____, California

FACTS:

This certificate pertains to conditions under the following agreement:

Lease

Month-to-month rental

Other: _____

Dated _____, 20____, at _____, California

Entered into by:

Landlord: _____

Tenant: _____

Premises address _____

STATEMENT:

Tenant certifies as follows:

1. The lease or rental agreement is

Unmodified and in effect.

Modified and in effect under agreement dated _____, 20____

Number and length of remaining options to renew or extend, if any: _____

2. Tenant is in possession of the premises.

3. If the agreement is a lease, the current term is for _____ years, ending _____, 20____

4. The amount of monthly rent is \$ _____.

4.1 No incentives, bonuses, free rent, discounts, or refunds on the rental amount were given Tenant, except: _____

4.2 Rent is paid through the period ending _____, 20____

4.3 Tenant has not prepaid future rent, except the amount of \$ _____ for the period of _____

4.4 No tenant liens, claims, offsets, or charges exist against the landlord, except: _____

5. A security deposit of \$ _____ is held by the landlord to cover any expenses or losses caused by the Tenant's breach of the agreement. Other deposit(s) \$ _____.

6. Any improvements required to have been made by the Landlord or Tenant have been satisfactorily completed.

7. No breach of the agreement by Landlord or Tenant presently exists.

8. Tenant holds no contract or option to buy any interest in the real estate.

9. Tenant understands this certificate will be relied on by a buyer of the property or a lender secured by the real estate.

TENANT:

I certify the above is true and correct.

Date: _____, 20____

Name: _____

Phone No: (____) _____

Signature: _____

Exhibit "B"