

**PURCHASE AND SALE AGREEMENT  
AND  
JOINT ESCROW INSTRUCTIONS**

**THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS** (this “**Agreement**”), dated as of \_\_\_\_\_, 2020 (the “**Agreement Date**”), is made by and between the **CITY OF LONG BEACH**, a municipal corporation, acting by and through its Board of Harbor Commissioners (“**Seller**”), and **LONG BEACH PUBLIC TRANSPORTATION COMPANY**, a California nonprofit corporation, which does business as “Long Beach Transit” (“**Purchaser**”). Capitalized terms used herein shall have the meanings ascribed to such words in this Agreement.

**R E C I T A L S:**

A. On the terms and conditions hereinafter set forth, Seller desires to sell to Purchaser and Purchaser desires to purchase from Seller:

(i) Seller’s leasehold estate in that certain real property commonly known as 4801 Airport Plaza Drive, City of Long Beach, County of Los Angeles, State of California, as more particularly described in **Exhibit A** attached hereto (the “**Land**”), which leasehold estate is created under and further described in that certain Lease Agreement (Parcel 2 of Parcel Map No. 17454 of Business Park) (Portion of Parcel 7 of Parcel Map No. 15307) made as of December 15, 1986 between the City of Long Beach, a municipal corporation, and Long Beach Airport Business Park, a California general partnership, the predecessor-in-interest to Seller, as amended by that certain Amendment to Ground Lease, dated July 12, 2004, and as amended by that certain Second Amendment to Ground Lease (Parcel 2 of Parcel Map 17454) dated August 13, 2019, a short form of which was recorded on December 16, 1986 as Instrument No. 86-1750032 in the Official Records of the County of Los Angeles, State of California (“**Official Records**”), as amended by that certain Memorandum of Ground Lease Amendment dated July 12, 2004 and recorded on July 26, 2004 as Instrument No. 04-1896819 in the Official Records, as further amended by that certain Memorandum of Ground Lease Amendment dated August 13, 2019 and recorded on February 11, 2020 as Instrument No. 20200167590 in the Official Records (collectively, as amended, the “**Lease**”), together with all easements, licenses, rights, privileges, and appurtenances benefiting the lessee under the Lease including without limitation that certain Parking Agreement dated as of May 25, 1990 and recorded on May 30, 1990 in the Official Records as Instrument No. 90-965129 (“**Parking Agreement**”) (such leasehold estate, easements, licenses, rights, privileges and appurtenances being collectively referred to herein as the “**Leasehold**”);

(ii) all of Seller’s right, title and interest in and to all improvements, structures and fixtures now or on the Closing Date (as hereinafter defined) located upon the

Land (all such improvement, structures and fixtures are collectively referred to herein as the “**Improvements**”):

(iii) all of Seller’s right, title and interest in and to all furnishings, systems, equipment, and other items of tangible personal property owned by Seller and currently used in the operation or maintenance of the Improvements or the Land or located at or on the Improvements or the Land except those items listed on **Schedule 1** hereto (collectively, the “**Personal Property**”); and

(iv) to the extent assignable, all of Seller’s right, title and interest in and to all warranties, guarantees, licenses, permits, entitlements, approvals and other intangible personal property related to or benefitting the Leasehold, the Improvements or the Land (the “**Intangible Property**”). The Leasehold, the Improvements, the Personal Property and the Intangible Property are collectively referred to herein as the “**Property**”.

B. The Land and Improvements (collectively, the “**Real Property**”) are located in a project commonly known as the Long Beach Airport Business Park (“**Project**”) and such Real Property is presently encumbered by those certain covenants, conditions and restrictions set forth in the (i) Maintenance Declaration (Long Beach Airport Business Park) dated January 31, 1983 and recorded on March 8, 1983 as Instrument No. 83-256290 in the Official Records (the “**Maintenance Declaration**”); and (ii) Declaration of Covenants, Conditions, and Restrictions Long Beach Airport Business Park A Planned Building Development Los Angeles County, California dated January 31, 1983 and recorded on March 9, 1983 as Instrument No. 83-262462 in the Official Records, as amended by that certain First Amendment to Declaration of Covenants, Conditions, and Restrictions Long Beach Airport Business Park dated June 2, 1988 and recorded on June 14, 1988 as Instrument No. 88-937726 in the Official Records, as amended by that certain Second Amendment to Declaration of Covenants, Conditions, and Restrictions Long Beach Airport Business Park dated May 29, 1990 and recorded on May 30, 1990 as Instrument No. 90-965276 in the Official Records, and, as amended by that certain Third Amendment to Declaration of Covenants, Conditions, and Restrictions Long Beach Airport Business Park dated March 15, 1996 and recorded on June 27, 1996 as Instrument No. 96-1024334 in the Official Records (as amended, the “**Office Declaration**”). The Maintenance Declaration and the Office Declaration are collectively referred to as the “**Project CCRs**”.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good or valuable consideration including but not limited to the Non-Refundable Consideration (as hereinafter defined), the receipt and sufficiency of which are hereby acknowledged by each of the parties, Seller and Purchaser agree as follows:

## **SECTION 1.**

### **PURCHASE AND SALE**

Subject to the terms and conditions of this Agreement, Seller agrees to sell and convey to Purchaser, and Purchaser agrees to purchase from Seller the Property.

## **SECTION 2.**

### **PURCHASE PRICE AND PAYMENT**

2.1 Amount. The purchase price (the “**Purchase Price**”) for the Property is Twenty-One Million and No/100 Dollars (\$21,000,000.00), and is subject to the prorations and adjustments set forth in this Agreement.

2.2 Deposit.

(a) Deposit. Within two (2) business days after mutual execution of this Agreement, as a deposit against the Purchase Price, Purchaser shall deposit \$1,000,000.00 (the “**Deposit**”) into an escrow (the “**Escrow**”) to be opened with First American Title Insurance Company (the “**Escrow Holder**”), together with a fully executed copy of this Agreement. Escrow Holder’s contact information is set forth in Section 11.1 below. Escrow Holder shall confirm in writing to Purchaser and Seller the date of opening of Escrow (the “**Opening of Escrow**”), which shall be the date Escrow Holder has received this Agreement mutually executed by Purchaser and Seller, and the Deposit. If Purchaser terminates the Agreement prior to the end of the Inspection Period, the Net Deposit (as hereinafter defined) shall be refunded to Purchaser. If Purchaser delivers an Inspection Notice (as hereinafter defined) approving or is deemed to have elected to proceed with the purchase pursuant to Section 3.1, the Net Deposit shall be released to Seller pursuant to Section 3.1 below.

(b) Requirements for Deposits. Purchaser may make the Deposit in cash, certified funds or cashier’s check payable to the Escrow Holder or by wire transfer of immediately available funds (collectively, “**Immediately Available Funds**”). The Escrow Holder shall hold the Deposit in Escrow in an interest-bearing account or other liquid investment as may be approved by Purchaser and all interest, earnings and accumulations thereon will be for the account of Purchaser.

(c) Release of Consideration. \$1,000 of the Deposit (“**Non-Refundable Consideration**”) shall be immediately released to Seller and is non-refundable consideration for entering into this Agreement.

2.3 Seller Financing. A portion of the Purchase Price equal to \$10,500,000.00 shall be paid to Seller (“**Seller Loan**”) by Purchaser’s execution and delivery upon the Closing (as hereinafter defined) of a promissory note (“**Note**”), secured by a first priority deed of trust against the Property (“**Deed of Trust**”). The Note shall provide for an interest

rate of five percent (5%) per annum and a maturity date 10 years after the Closing Date (as hereinafter defined). Purchaser shall make monthly payments of interest and principal based on a ten (10) year amortization schedule. Purchaser may prepay the principal amount outstanding under the Note together with any accrued and unpaid interest thereon without penalty or premium of any kind.

2.4 Payment of Balance of Purchase Price. If the sale of the Property is consummated under this Agreement, the Deposit, together with all accrued interest, shall be paid to Seller and applied to the payment of the Purchase Price at Closing. At Closing, Purchaser shall pay to Seller through Escrow by depositing in Immediately Available Funds before at least one (1) business day prior to the Closing Date, an amount (collectively, the “**Closing Amount**”) equal to the Purchase Price (\$21,000,000.00), reduced by (i) the amount of the Deposit (\$1,000,000.00), (ii) the principal amount of the Seller Loan (\$10,500,000.00) and (iii) credits due Purchaser for any prorations and adjustments provided herein and interest on the Deposit, and increased by Closing costs payable by Purchaser pursuant to Section 8.7 of this Agreement and credits due Seller in accordance with the terms of this Agreement.

2.5 Release of Deposit Upon Termination. If this Agreement terminates for any reason other than Purchaser’s Default (as hereinafter defined), the Escrow Holder shall refund to Purchaser the Deposit less the Non-Refundable Consideration (“**Net Deposit**”), together with all accrued interest, and neither Seller nor Purchaser shall have any further obligation under this Agreement except for such obligations which by their terms expressly survive the Closing or other termination of this Agreement (the “**Surviving Obligations**”). Notwithstanding the foregoing, if Seller terminates this Agreement as a result of Purchaser’s Default, the Net Deposit, together with all accrued interest, shall be immediately released by Escrow Holder to Seller, to the extent not released to Seller earlier, as liquidated damages subject to and as provided in Section 10.2, and neither Seller nor Purchaser shall have any further obligation under this Agreement except for the Surviving Obligations.

### **SECTION 3.** **INSPECTIONS, TITLE AND SURVEY**

3.1 Inspection Period and Notice. During the period beginning on the date of mutual execution and delivery of a Right of Entry and Due Diligence Agreement between Purchaser and Seller (“**Entry Agreement**”) and Purchaser’s execution of this Agreement, and ending at 5:00 p.m., Pacific time, on the date which is forty-five (45) days thereafter (the “**Inspection Period**”), Purchaser shall have the right to examine and inspect the Property and the Inspection Documents referenced in Section 3.2 below to determine in its sole discretion whether the Property is suitable for Purchaser’s intended uses or investment. Escrow Holder shall confirm in writing the date of expiration of the Inspection Period upon the Opening of Escrow, as referenced above. Purchaser’s obligation to purchase the Property shall be expressly conditioned upon the Purchaser’s approval of the condition of

the Property as provided in this Section 3; and, in the event Purchaser determines in its sole discretion that the Property is not suitable for its purposes, Purchaser shall have the right to terminate this Agreement prior to the expiration of the Inspection Period. Prior to the end of the Inspection Period, Purchaser shall deliver to Seller written notice (an “**Inspection Notice**”) that Purchaser is either (i) satisfied with its inspections of the Property, in which case the parties shall proceed to Closing in accordance with this Agreement, or (ii) unsatisfied for any reason in its sole discretion as to the suitability of the Property, in which case this Agreement shall terminate. If Purchaser fails to deliver to Seller either an Inspection Notice prior to the end of the Inspection Period, Purchaser shall be deemed to be satisfied with its inspections and to have elected to proceed with the purchase. If Purchaser elects to terminate this Agreement pursuant to this Section 3.1, the provisions of Section 2.5 shall apply. If Purchaser elects to or is deemed to have elected to proceed with the purchase, the Net Deposit shall be released to Seller and shall be non-refundable except if the Closing fails to occur due to a Seller Default (as herewith defined), failure of a condition precedent for the benefit of Purchaser, or if Purchaser terminates this Agreement pursuant to Sections 4.3, 9.1, 9.2 or 10.1.

### 3.2 Inspection and Access.

#### (a) Inspection Documents.

(1) Due Diligence Documents. Seller shall deliver or make available to Purchaser, all Inspection Documents defined in the Entry Agreement for examination by Purchaser and its employees, officers, directors, commissioners, asset managers, engineers, surveyors, appraisers, attorneys, consultants, advisors, agents, accountants and other representatives (collectively, “**Purchaser Representatives**”), all to the extent the Inspection Documents are in the possession or control of Seller. Subject to Section 3.2(c), Purchaser shall have the right to make copies of such Inspection Documents and to extract therefrom such information as it may deem necessary, all as more particularly set forth in the Entry Agreement. Capitalized terms used herein with reference to the Entry Agreement shall have the meanings set forth in the Entry Agreement (notwithstanding any expiration or termination thereof). In the event of any conflict between the provisions of this Agreement and the provisions of the Entry Agreement, the provisions of this Agreement shall control. Purchaser hereby knowingly, voluntarily and intentionally waives its right to assert against Seller any and all claims, causes of action, demands, obligations, losses, damages, liabilities, judgments, costs and expenses including, without limitation, attorneys’ fees, charges and disbursements (collectively, “**Claims**”) with respect to any facts, information or other matters contained in or referred to by such Inspection Documents, and hereby releases Seller from any and all Claims which Purchaser may incur as a result thereof; provided, however, said waiver and release shall not relate to or include within its scope: any claims due to the fraud or willful misconduct by Seller.

(2) Due Diligence Deliveries. To the extent not already provided, within two (2) business days after the mutual execution of the Entry Agreement by

Purchaser and Seller, and Purchaser's execution of this Agreement, Seller shall make available to Purchaser the Inspection Documents. The Inspection Documents may be made available to Purchaser by e-mail or by uploading to a data room (or such similar site) or by disk.

(b) Physical Inspection. At all times during the Inspection Period and prior to Closing or earlier termination of this Agreement, Purchaser shall have the right to enter upon the Property to inspect, test, investigate, study, and survey the Property (collectively, the "**Inspections**"), all subject to and in accordance with the terms and conditions of Section 2.2 of the Entry Agreement, hereby incorporated herein by this reference.

(c) Confidentiality of Due Diligence Materials. Subject to applicable laws, (i) all Inspection Documents; and (ii) information obtained by Purchaser from unaffiliated third parties relating to the Property in the course of Purchaser's review (other than information publicly available), including, without limitation, any environmental assessment or audit (the "**Consultant Reports**"), shall be treated as confidential information by Purchaser; provided, however, Purchaser may disclose such information to a Purchaser Representative in connection with this transaction so long as such Purchaser Representative is obligated to keep all such materials confidential as referenced herein, or as such disclosure is otherwise required by law or judicial order. Purchaser shall instruct all parties reviewing such Inspection Documents and Consultant Reports as to the confidentiality of all such information. In the event that this transaction fails to close for any reason, Purchaser shall return all copies of the Inspection Documents, maintain the confidentiality of the Inspection Documents and Consultant Reports, and direct all Purchaser Representatives not to disclose any such information to any other party, except as may be required by law or judicial order. Purchaser agrees to deliver to Seller, upon Seller's written request, copies of any third party inspection reports prepared with respect to the Property; provided, however, that (i) Purchaser shall not be liable in any manner for any information or statements contained in the Consultant Reports, and (ii) Purchaser shall have no obligation to deliver the Consultant Reports to Seller to the extent prohibited from doing so by the provider of the Consultant Reports (but upon Seller's request, Purchaser shall make an effort to obtain such provider's consent). The obligation of Purchaser to return the Inspection Documents and to deliver to Seller the Consultant Reports upon Seller's written request shall survive Purchaser's termination of this Agreement. In the event that the transaction contemplated by this Agreement is consummated, Purchaser shall have no further obligation under this Section 3.2(c).

(d) Damage to the Property. If Purchaser or any Purchaser Representative, during its Inspection of the Property, in any way damages the Property, then Purchaser shall promptly repair such damage. Purchaser shall indemnify, defend and hold harmless Seller and its employees, officers, directors, property managers and agents (collectively, "**Seller Representatives**") from any liability for any personal injury or

property damage resulting from or arising out of any such Inspection, whether occasioned by the acts of Purchaser or any Purchaser Representative; provided, however, that Purchaser shall have no obligation to so indemnify, defend and hold harmless Seller and Seller Representatives with respect to any liability to the extent resulting from (i) Seller's or any Seller Representative's gross negligence or willful misconduct; (ii) any preexisting Hazardous Materials; or (iii) any preexisting dangerous or defective condition at the Real Property. Purchaser's obligations contained in Sections 3.2(b), (c) and (d) shall survive the Closing or the termination of this Agreement, as applicable.

3.3 Contracts. No service contracts shall be assigned at Closing. Purchaser shall be responsible for engaging its own service providers at Closing.

3.4 Title and Survey.

(a) Title Examination and Commitment. Prior to the date hereof, Seller has caused First American Title Insurance Company (the "**Title Company**") to deliver to Purchaser a preliminary title report (the "**PTR**") covering the Real Property.

(b) Survey. Purchaser may, at its sole cost and expense, update and/or re-certify any existing survey or obtain a new survey of the Real Property (such updated or new survey being referred to hereinafter as the "**Survey**").

(c) Title Objections. The terms of Section 3(c) of the Entry Agreement are hereby incorporated into this Agreement by this reference.

(d) Cure of Title Objections. Except as otherwise provided herein, Seller shall have no obligation to take any action or proceeding or otherwise to incur any expense to eliminate or modify any Title Objections. However, Seller, at its sole option, may attempt to eliminate, modify or obtain endorsements to the Purchaser's Title Policy (as hereinafter defined) reasonably acceptable to Purchaser with respect to all or a portion of such Title Objections. In the event Seller is willing to eliminate or modify any or all of the Title Objections to the reasonable satisfaction of Purchaser, Seller may provide written notice thereof to Purchaser within three (3) business days of its receipt of Purchaser's Title Objections (the "**Seller's Notice**"). Purchaser may (i) elect to close notwithstanding any uncured Title Objections by delivering a written notice to Seller and the Escrow Holder (an "**Objection Waiver Notice**") no later than five (5) business days after delivery of Purchaser's Title Objections stating that Purchaser has waived its Title Objections and has elected to proceed with the purchase, in which case Purchaser shall take the Real Property subject to such Title Matters, or (ii) elect (as its sole and exclusive remedy) to terminate this Agreement by delivering notice thereof in writing to Seller no later than five (5) business days after delivery of Purchaser's Title Objections, and the provisions of Section 2.5 shall apply. In the event that Purchaser fails to deliver a timely Objection Waiver Notice with respect to each such Title Objection, Purchaser shall be deemed to have elected to proceed to Closing notwithstanding such Title Objections.

(e) Conveyance of Title. At Closing, Seller shall convey and transfer to Purchaser such title to the Real Property as will enable the Title Company to issue to Purchaser a standard coverage CLTA Owner's Policy of Title Insurance covering the Leasehold in the full amount of the Purchase Price, and, if Purchaser wishes to obtain at its incremental additional cost for extended title insurance coverage, an ALTA extended coverage Owner's Policy of Title Insurance covering the Leasehold in the full amount of the Purchase Price (the "**Purchaser's Title Policy**"). It is acknowledged that Purchaser may elect to obtain additional endorsements to the Purchaser's Title Policy, but the issuance thereof shall not be a condition to Closing. Other than as is contemplated by Section 2.3 above, Seller shall cause all mortgages, deeds of trust, security interests in the Leasehold, monetary liens, and any other encumbrances securing monetary obligations affecting the Leasehold, other than non-delinquent taxes (collectively, the "**Monetary Liens**"), to be released and discharged of record on or prior to the Closing Date, or in Seller's sole discretion in the case of any mechanics' or judgment liens, to be bonded over so that Purchaser shall take title to the Leasehold free of the same. At Closing, the Leasehold and Improvements shall be conveyed subject to the following matters: (i) local, state and federal laws, ordinances or governmental regulations, now or hereafter in effect relating to the Land; (ii) Title Matters appearing of record or shown on the Survey and not objected to by Purchaser with its Title Objections; (iii) any Title Objections not cured by Seller and waived by Purchaser; and (iv) the lien of the Seller Loan against the Property (items (i) through (iv) are, collectively, the "**Permitted Exceptions**"). Further, at Closing, the Title Company shall issue to Seller an ALTA extended coverage Lender's Policy of Title Insurance in the name of Seller in the amount of the Seller Loan, insuring the Deed of Trust as a first priority lien against the Property, together with any endorsements Seller may elect, subject only to the Permitted Exceptions ("**Lender's Title Policy**").

(f) Title Matters Discovered or Disclosed after the Inspection Period; Extension of Closing to Cure Title Defects. Whether or not Purchaser shall have furnished to Seller timely written notice of any Title Objection prior to the expiration of the Title Review Period, Purchaser may notify Seller in writing of any objections to title first disclosed after the expiration of the Title Review Period, but prior to Closing ("**Additional Title Objections**"), in which case, Seller shall have the same option to cure such Additional Title Objections and Purchaser shall have the same option to accept title subject to such Additional Title Objections or to terminate this Agreement as provided in Section 3.4(d). If Seller elects to attempt to cure any Title Objections or Additional Title Objections, but Seller's cure cannot be accomplished by Closing notwithstanding Seller's diligence in pursuit thereof, the date for Closing shall be automatically extended by a reasonable additional time to effect such a cure, but in no event shall the extension exceed thirty (30) days after the initial Closing Date set forth in Section 8.1 hereof.



## **SECTION 4.**

### **REPRESENTATIONS AND WARRANTIES**

4.1 Purchaser's Representations and Warranties. Purchaser represents and warrants to Seller that:

(a) Organization. Purchaser is a nonprofit corporation duly incorporated and validly existing under the laws of the State of California, and is in good standing and qualified to do business in the State of California.

(b) Power and Authority. Purchaser has legal power and full authority to enter into, be bound by, and comply with the terms of this Agreement, and has obtained all necessary authorizations, consents and approvals required for the execution, delivery and performance of this Agreement and the consummation of the transaction contemplated herein.

(c) Conflicts. The execution and delivery of this Agreement, the consummation of the transaction contemplated hereby, and the performance of or compliance with the terms, conditions and covenants of this Agreement will not violate or conflict with or result in the breach of any of the terms, conditions or provisions of any agreement, judicial order or instrument to which Purchaser is a party or by which Purchaser or any of Purchaser's assets are bound.

Purchaser's representations and warranties set forth in this Section 4.1 shall survive the Closing. Prior to the Closing Date, Purchaser shall notify Seller in writing of any facts, conditions or circumstances which render any of the representations and warranties set forth in this Section 4.1 in any way inaccurate, incomplete, incorrect or misleading.

4.2 Seller's Representations and Warranties.

(a) Power and Authority. Seller has legal power and full authority to enter into, be bound by, and comply with the terms of this Agreement, and has obtained all necessary authorizations, consents and approvals required for the execution, delivery and performance of this Agreement and the consummation of the transaction contemplated herein.

(b) Conflicts. The execution and delivery of this Agreement, the consummation of the transaction contemplated hereby, the fulfillment of or compliance with the terms, conditions and covenants of this Agreement do not violate or conflict with or result in the breach of any of the terms, conditions or provisions of any agreement, judicial order or instrument to which Seller is a party or by which Seller, or any of Seller's assets are bound.

(c) Leases. There are no leases, subleases, occupancies or tenancies in effect pertaining to the Property other than the Lease.

(d) Parking Agreement. Purchaser and Seller acknowledge that the current amounts paid by Seller to the ground lessee of the land covered by the Parking Agreement (“**Parcel 3 Lessee**”) are pursuant to a separate agreement between the parties and are not consistent with the terms of the Parking Agreement.

(e) Pending Litigation. Except as set forth in the Inspection Documents or on **Schedule 2**, there exists no pending litigation, arbitration, or other legal or administrative suit, action or other adversarial or investigative legal proceeding (collectively, “**Proceeding**”) against Seller or Seller’s interest in the Property and pertaining to the Property or the operation thereof, and, to Seller’s Knowledge, and except as set forth in the Inspection Documents or on **Schedule 2**, no Proceeding has been threatened in writing against Seller or Seller’s interest in the Property and pertaining to the Property or the operation thereof.

(f) Compliance with Laws. To Seller’s knowledge and except as set forth in the Inspection Documents, Seller has received no written notice of the existence of a violation of laws pertaining to the Property or the operation thereof, including without limitation, zoning, building, subdivision, fire, air pollution, business, occupancy or environmental protection laws, rules, regulations, ordinances, judgments, orders, or covenants, conditions and restrictions, whether federal, state, local, foreign or private, relating to the Property, and including all applicable provisions of the Americans with Disabilities Act of 1990, and all amendments thereto.

(g) Environmental Contamination. To Seller’s knowledge, and except as disclosed in the Inspection Documents, Seller has received no written notice of the existence of any violation of any federal, state, or local law, ordinance, or regulation relating to industrial hygiene or to the environmental conditions on, under, or about the Property, including but not limited to soil and groundwater conditions or pertaining to any flammable explosives, radioactive materials, hazardous wastes, toxic substances, or related materials (“**Hazardous Materials**”), which for purposes of this Agreement includes, but is not limited to, substances defined as “hazardous substances, hazardous materials, or toxic substances” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 United States Code §§9601 et seq.); the Hazardous Materials Transportation Act (49 United States Code §§1801 et seq.); the Resource Conservation and Recovery Act (42 United States Code §§6901 et seq.); the substances defined as “hazardous wastes” in California Health and Safety Code §25117 or as “hazardous substances” in California Health and Safety Code §25316; and the chemicals known to cause cancer or reproductive toxicity as published in the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code §25249.5 et seq.); and in the regulations adopted and publications promulgated under each of the aforesaid laws.

(h) Foreign Person Status. Seller is not a “foreign person” as defined in Section 1445 of the Internal Revenue Code of 1986, as amended (the “**Code**”) and any

related regulations and is not subject to the provisions of Sections 897(a) or 1445 of the Code related to the withholding of sales proceeds to foreign persons.

(i) Major Agreements. To Seller's knowledge and except as set forth in the Inspection Documents or any estoppel pertaining thereto, and subject to Section 4.2(d) above; the Parking Agreement, Office Declaration and Maintenance Declaration are in full force and effect, they have not been amended, modified or supplemented except as described above.

(j) Notifications of Intent to Sell Surplus Property. Pursuant to California Government Code section 54222, Seller sent a notification to each of the agencies and entities listed below notifying them of the intent to sell the Property as surplus property. The notices in subsections (i) through (viii) below were sent on April 29, 2019, and the notices in subsections (ix) through (xvi) were sent on May 1, 2019. Copies of the notifications sent by Seller are attached hereto as **Exhibit G**. Seller received no response from any of such agencies or entities so notified that any of them desired to purchase or lease the Property or to enter into any form of discussion with regard to the same. The agencies and entities to which the Seller sent such notices are:

- (i) Bella Communities;
- (ii) Home Ownership for Personal Empowerment;
- (iii) Jamboree Housing;
- (iv) Long Beach Affordable Housing Coalition;
- (v) LINC Housing Corporation;
- (vi) Thomas Safran & Associates;
- (vii) Chelsea Investment Company;
- (viii) Southern California Association of Non Profit Housing;
- (ix) the California Natural Resources Agency;
- (x) the City of Long Beach as Successor Agency to the Long Beach Redevelopment Agency;
- (xi) the County of Los Angeles Department of Parks and Recreation;
- (xii) the Los Angeles County Regional Park and Open Space District;

- (xiii) the Long Beach Department of Parks, Recreation, and Marine;
- (xiv) the Housing Authority of the City of Long Beach;
- (xv) the Long Beach Community Investment Company; and
- (xvi) the Long Beach Unified School District.

As used herein, the term “**Seller’s knowledge**” or “**to the knowledge of Seller**” shall mean and include the actual knowledge of Eamonn Killeen Director of Real Estate of Seller, without any duty of inquiry or investigation and without any personal liability therefor. The representations and warranties set forth in this Section 4.2 are made as of the Agreement Date and the Closing Date. Prior to the Closing Date, Seller shall notify Purchaser in writing of any facts, conditions or circumstances which render any of the representations and warranties set forth in this Section 4.2 in any way inaccurate, incomplete, incorrect or misleading.

#### 4.3 Effect of Discoveries Prior to Closing.

(a) By Seller. In the event that, prior to Closing, Seller discovers or learns that any of Seller’s representations or warranties contained in this Agreement is untrue or will be untrue as of the Closing Date, Seller shall give written notice thereof to Purchaser and Seller’s representations and warranties shall be deemed qualified and amended as set forth in such notice. Then, within three (3) business days after receipt of such notice, Purchaser, as its sole and exclusive remedy at law or in equity on account of such notice from Seller, all other rights and remedies being hereby waived, may elect by written notice to Seller either to (X) terminate this Agreement, in which case the provisions of Section 2.5 shall apply, or (Y) accept and approve Seller’s representations and warranties as so qualified and amended and proceed with the Closing without any right or remedy on account thereof. Purchaser’s failure to give timely written notice of such election to Seller shall constitute Purchaser’s irrevocable election to accept and approve Seller’s representations and warranties as so qualified and amended and proceed with the Closing without any right or remedy on account thereof. Notwithstanding anything to the contrary herein, in no event shall Purchaser have any right to terminate this Agreement following the expiration of the Inspection Period as a result of any change to a representation or warranty of Seller unless and to the extent such change constitutes a breach by Seller of its representations or warranties when made, or a breach by Seller of its covenants under this Agreement.

(b) By Purchaser. Anything contained herein to the contrary notwithstanding, if Purchaser has knowledge of any inaccuracy in any Seller representation or warranty, and the same is not as a result of notice from Seller provided pursuant to Section 4.3(a) above, but instead results from Purchaser’s own investigations or inquiries, including, without limitation, Purchaser’s review of information contained in any material

provided or made available to Purchaser by Seller or received by Purchaser from any third party (including without limitation any report provided to Purchaser by any contractor or consultant engaged by Purchaser in connection with Purchaser's investigation of the Property), then Purchaser shall provide notice of the same to Seller, Seller shall then be deemed to have discovered or learned of the same and, therefore, the parties shall proceed as set forth in Section 4.3(a) above. Notwithstanding the foregoing, however, if Purchaser does not provide to Seller any notice required by this Section 4.3 and nonetheless proceeds with the Closing, then Seller's representations and warranties shall be deemed qualified and amended to the full extent of Purchaser's knowledge and such inconsistent information, Purchaser shall be deemed to have accepted and approved Seller's representations and warranties as so qualified and amended, and Purchaser shall have no right or remedy, and Seller shall have no obligation or liability, on account thereof.

## **SECTION 5.**

### **NO OTHER REPRESENTATIONS OR WARRANTIES BY SELLER**

### **ACCEPTANCE OF PROPERTY**

5.1 Disclaimer of Seller Representations and Warranties. Except as stated in Section 4.2 or in any document of conveyance or assignment of the Property to Purchaser from Seller, neither Seller nor any Seller Representative (collectively, the "**Seller Parties**") is making or shall be deemed to have made any express or implied representation or warranty of any kind or nature as to the Property or the transactions contemplated in this Agreement, including, without limitation, (i) the financial status of the Property, including without limitation, income or expenses generated, paid or incurred in connection with the Property, (ii) the nature, physical or environmental condition, safety or any other aspect of the Property or the Property's compliance with applicable laws, ordinances, rules and regulations, including, without limitation, zoning ordinances, building codes, the Americans with Disabilities Act, and environmental, hazardous material and endangered species statutes, (iii) the accuracy or completeness of the PTR, the Survey, the Inspection Documents, or any other information or data provided or to be provided by Seller Parties, including, without limitation, copies of any reports or documents prepared for Seller Parties whether by third parties or otherwise which may be included with such information, or (iv) any other matter relating to the Property or Seller. Without limiting the foregoing, Purchaser hereby acknowledges that the Property will be sold to Purchaser, and Purchaser will acquire the Property "AS IS", "WHERE IS" and "WITH ALL FAULTS" and, except for the Seller representations and warranties contained in Section 4.2 hereof or any document of conveyance or assignment of the Property to Purchaser from Seller, there are no representations or warranties, express or implied, made by Seller Parties in connection with the transactions contemplated in this Agreement. Purchaser acknowledges and agrees that, except for the representations and warranties in Section 4.2 above or in any documents of conveyance or assignment of the Property to Purchaser from Seller, (V) Purchaser shall rely upon Purchaser's own due diligence in determining whether the Property is suitable for purchase by Purchaser; (W) Purchaser has been given a reasonable opportunity to

inspect and investigate the Property, including without limitation all Improvements, Personal Property, Lease, Intangible Property, and all aspects relating thereto, either independently or through agents and experts of Purchaser's choosing; and (X) Purchaser is acquiring the Property based exclusively upon Purchaser's own investigations and Inspections thereof, (Y) Seller has no obligation to repair or correct any facts, circumstances, conditions or defects or compensate Purchaser therefor; and (Z) by reason of all of the foregoing, Purchaser shall assume the full risk of any loss or damage occasioned by any fact, circumstance, condition or defect pertaining to the Property.

5.2 Release. Except for the Seller's representations and warranties, covenants and indemnities as set forth in Section 4.2, and in documents delivered by Seller at Closing and the "Excluded Claims" (as defined in this Section 5.2), Purchaser, for itself and its partners, members, shareholders, directors, officers, affiliates, agents and employees, and their respective successors and assigns ("**Purchaser Parties**"), hereby releases Seller and each of the Seller Parties from, and waives all claims and liability against Seller and each of the Seller Parties for or attributable to, the following: (a) any and all statements or opinions heretofore or hereafter made, or information furnished, by the Seller or the Seller Parties to Purchaser or any of the Purchaser Parties relating to the matters disclaimed in Section 5.1 above or otherwise relating to the Property; and (b) any and all losses, costs, claims, liabilities, expenses, demands or obligations of any kind or nature whatsoever attributable to the Property, whether arising or accruing before, on or after the date hereof and whether attributable to events or circumstances which have heretofore or may hereafter occur, including, without limitation: (i) all losses, costs, claims, liabilities, expenses, demands and obligations with respect to the physical or environmental condition of the Property; (ii) all losses, costs, claims, liabilities, expenses, demands and obligations relating to the release of or the presence, discovery or removal of any hazardous materials in, at, about or under the Property, or for, connected with or arising out of any and all claims or causes of action based upon CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. section 9601 et seq., as amended by SARA (Superfund Amendment and Reauthorization Act of 1986) and as may be further amended from time to time), the Resource Conservation and Recovery Act of 1976, 42 U.S.C. section 6901 et seq., or any related claims or causes of action or any other federal, state or municipal based statutory or regulatory causes of action for environmental contamination at, in, about or under the Property; and (iii) any tort claims made or brought with respect to the Property or the use or operation thereof.

In addition, Purchaser expressly understands and acknowledges that it is possible that unknown losses, costs, claims, liabilities, expenses, demands and obligations of any kind or nature, may exist with respect to the Property and that Purchaser explicitly took that possibility into account in determining and agreeing to the Purchase Price, and that a portion of such consideration, having been bargained for between parties with the knowledge of the possibility of such unknown losses, costs, claims, liabilities, expenses, demands and obligations of any kind or nature, shall be given in exchange for a full accord

and satisfaction and discharge of all such unknown losses, costs, claims, liabilities, expenses, demands and obligations of any kind or nature.

WITH RESPECT TO THE UNKNOWN LOSSES, COSTS, CLAIMS, LIABILITIES, EXPENSES, DEMANDS AND OBLIGATIONS OF ANY KIND OR NATURE, THAT ARE RELEASED IN SECTION 5.2 AND ONLY WITH RESPECT TO SUCH UNKNOWN LOSSES, COSTS, CLAIMS, LIABILITIES, EXPENSES, DEMANDS AND OBLIGATIONS OF ANY KIND OR NATURE, PURCHASER EXPRESSLY WAIVES THE BENEFITS OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE, 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.”

PURCHASER HAS BEEN ADVISED BY ITS LEGAL COUNSEL AND UNDERSTANDS THE SIGNIFICANCE OF THIS WAIVER OF SECTION 1542 RELATING TO UNKNOWN, UNSUSPECTED AND CONCEALED LOSSES, COSTS, CLAIMS, LIABILITIES, EXPENSES, DEMANDS AND OBLIGATIONS OF ANY KIND OR NATURE. BY ITS INITIALS BELOW, PURCHASER ACKNOWLEDGES THAT IT FULLY UNDERSTANDS, APPRECIATES AND ACCEPTS ALL OF THE TERMS OF THIS SECTION 5.2.

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PURCHASER INITIALS

The provisions of this Section 5.2 shall survive indefinitely the Closing or termination of this Agreement and shall not be merged into the Closing documents. Notwithstanding anything herein to the contrary, the release and waiver set forth in Section 5.2 shall not include within its scope and effect any losses, costs, claims, liabilities, expenses, demands or obligations of any kind or nature, due to any of the following acts, actions and(or) omissions of Seller and(or) any of the Seller Parties: (a) fraud; (b) willful misconduct; and (c) pre-Closing personal injury or third-party property damage claims or liability with respect to the Property (other than those personal injury or property damage claims or liability relating to or arising out of hazardous substances, hazardous materials, toxic substances or soil conditions) (collectively, “**Excluded Claims**”).

**SECTION 6.**  
**PRE-CLOSING COVENANTS OF SELLER AND PURCHASER**

6.1 Maintenance. From the execution of this Agreement until the Closing or earlier termination of this Agreement:

(a) Seller shall operate and maintain the Property in substantially the same manner, condition and repair and to the same standards as Seller did immediately prior to signing the Entry Agreement, provided that Seller shall not be required to make capital expenditures outside of the ordinary course. Seller shall keep its existing insurance coverages with respect to the Property in full force and effect.

(b) Seller shall not make any material structural alterations or additions to the Property except (i) in the ordinary course of operating the Property, (ii) required maintenance and repair, (iii) alterations required by the Lease, or (iv) alterations required by this Agreement or applicable laws.

(c) Subject to Section 6.2 below, Seller shall not sell, transfer, or encumber the Property or any portion thereof and Seller shall not take any action resulting in, or through inaction permit, any changes in the Title Matters.

(d) Seller shall not file any application or request with any governmental or quasi-governmental agency which would or could lead to any change in zoning, parcelization, licenses, permits or other entitlements or any other investigation or restriction on the use of the Property or any part thereof except for filings or requests approved in advance by Purchaser.

(e) Seller shall maintain and not cancel, amend or modify, in a manner materially adverse to the Property, any license or permit held by Seller with respect to the Property or any part thereof which Purchaser desires to assume or which would otherwise be binding upon Purchaser after the Closing.

6.2 Changes to the Lease. From execution of this Agreement until the Closing or earlier termination of this Agreement, Seller shall not modify the Lease without Purchaser's consent, which consent shall not be unreasonably withheld, conditioned or delayed. If Seller requests Purchaser's consent pursuant to this Section 6.2, Purchaser shall be deemed to have provided such consent if Seller does not receive Purchaser's approval or disapproval within five (5) business days from Seller's request.

**SECTION 7.**  
**CONDITIONS TO CLOSING**

7.1 Conditions Precedent to Obligation of Purchaser. The obligation of Purchaser to consummate the transaction contemplated hereby shall be subject to the



fulfillment on or before the Closing Date of all of the following conditions, any or all of which may be waived by Purchaser in its sole discretion:

(a) Due Diligence Investigations. Seller shall have received an Inspection Notice from Purchaser approving Purchaser's Inspections of the Property, or Purchaser shall be deemed to have elected to proceed to Closing in accordance with Section 3.1.

(b) Title to Property. As of the Closing, the Title Company shall be irrevocably committed to issue the Purchaser's Title Policy dated as of the date and time of the Closing in the full amount of the Purchase Price. In addition, at the Closing, the Property shall be subject to no liens, exceptions or encumbrances other than the Permitted Exceptions. At the Closing there shall be no liens against the Personal Property or Intangible Property.

(c) No Default. Seller shall not be in default under the Lease, and Seller shall have performed and observed in all material respects, all covenants set forth herein to be performed and observed by Seller as of the date of Closing.

(d) Delivery of Closing Items. Seller shall have delivered to Escrow Holder all documents and other items required to be delivered by Seller pursuant to Section 8.3.

(e) Adverse Actions. There shall exist no pending or threatened Proceedings against Seller or regarding the Property that would materially and adversely affect Seller's ability to perform its obligations under this Agreement or Purchaser's title to the Property.

(f) Representations and Warranties. All of the representations and warranties of Seller contained in this Agreement, as they may be updated in accordance with the terms of Section 4.3 above, shall be true, correct, and complete as of the Closing Date.

(g) Estoppels. On or before the Estoppel Deadline Date, the Estoppel Delivery Requirement (both as defined in the Entry Agreement) shall have been satisfied.

(h) Ground Lessor's Consent to Assignment of Lease. The lessor under the Lease ("**Ground Lessor**") shall have consented in writing to the assignment of the Lease to Purchaser.

7.2 Conditions Precedent to Obligation of Seller. The obligation of Seller to consummate the transaction contemplated hereby shall be subject to the fulfillment on or before the Closing Date of all of the following conditions, any or all of which may be waived by Seller in its sole discretion:

(a) Closing Amount. Escrow Holder shall have received the Closing Amount and all other required funds pursuant to and payable to Seller in the manner provided for in this Agreement.

(b) Delivery of Closing Items. Purchaser shall have delivered to Escrow Holder all documents and other items required to be delivered by Purchaser pursuant to Section 8.2.

(c) Representations and Warranties. All of the representations and warranties of Purchaser contained in this Agreement shall be true, correct and complete as of the date of Closing Date.

(d) No Default. Purchaser shall have performed and observed, in all material respects, all covenants set forth herein to be performed and observed by Purchaser as of the Closing Date.

(e) Ground Lessor's Consent to Assignment of Lease. Ground Lessor shall have consented in writing to the assignment of the Lease to Purchaser.

(f) Lender's Title Policy. As of the Closing, the Title Company shall be irrevocably committed to issue the Lender's Title Policy dated as of the date and time of the Closing in the amount of the Seller Loan, subject only to the Permitted Exceptions.

### 7.3 Termination for Failure of a Condition.

(a) If Purchaser's closing conditions or Seller's closing conditions, as the case may be, have not been satisfied 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 shall have no further obligation or liability under this Agreement, except for the Surviving Obligations and the provisions of Section 2.5 shall apply. In the event of any such cancellation due to a failure of a condition precedent to Closing as set forth above, any cancellation fee or other costs of the Escrow Holder shall be borne equally by Seller and Purchaser and each party shall pay its own expenses.

(b) Notwithstanding Section 7.3(a) above, if the reason a party's Closing conditions are not satisfied or waived results from the other party's breach, default or failure to perform, then the party which has not breached, defaulted or failed to perform may instead proceed pursuant to Section 10.1(a) or Section 10.2(a), as appropriate.

(c) Purchaser's consent to the Closing pursuant to this Agreement shall waive any remaining unfulfilled conditions, and any liability on the part of Seller for breaches of representations, warranties and covenants, to the extent the same survive the Closing, of which Purchaser had knowledge as of the Closing.

## **SECTION 8.**

### **CLOSING**

8.1 Closing. The exchange of money and documents described in this Section 8 (the “**Closing**”) shall be deemed to have occurred when each of the concurrent conditions set forth in Sections 8.2 and 8.3 have been either satisfied or waived. The Closing of the purchase and sale transaction contemplated herein shall be conducted through the Escrow held by the Escrow Holder on the date which is thirty (30) days after the expiration of the Inspection Period, or on such other date as Purchaser and Seller mutually agree (the “**Closing Date**”). At or prior to the Closing, each of the parties shall perform the obligations set forth in, respectively, Sections 8.2 and 8.3, the performance of which obligations shall be concurrent conditions.

8.2 Purchaser’s Obligations at Closing. At Closing, Purchaser shall deliver or cause to be delivered to Seller through the Escrow Holder in escrow the following:

(a) Closing Amount. The Closing Amount in Immediately Available Funds.

(b) Evidence of Authority. Such authorizing documents of Purchaser as shall be reasonably required by the Title Company or Seller to evidence Purchaser’s authority to execute this Agreement, any documents to be executed by Purchaser at the Closing, and to consummate the transactions contemplated by this Agreement.

(c) Assignment of Lease. One (1) original duly executed and acknowledged counterpart of the Assignment of Lease and Grant Deed of Improvements and Interests (Parcel 2 of Parcel Map No. 17454 of Business Park) in the form attached to this Agreement as **Exhibit B** (the “**Assignment of Lease**”).

(d) Promissory Note. One (1) duly executed Note in the form attached to this Agreement as **Exhibit D**.

(e) Deed of Trust. One (1) duly executed and acknowledged Deed of Trust in the form attached to this Agreement as **Exhibit E**.

(f) Assignment and Assumption of Listing Agreement. Provided Newmark of Southern California, Inc., which does business as Newmark Knight Frank (“**Broker**”) signs and delivers to Escrow the Consent of Broker and Release of Assignor attached to the Assignment and Assumption of California Exclusive Authorization of Sale or Lease and Consent and Release of Assignor in the form of **Exhibit H** hereto (the “**Assignment and Assumption of Listing Agreement**”), three (3) original, duly executed counterparts of the Assignment and Assumption Listing Agreement.

(g) Estimated Settlement Statement. Two (2) original, duly executed counterparts of an estimated settlement statement in form and content reasonably satisfactory to Purchaser and Seller.

(h) Other Documents. Such other additional documents, resolutions, consents and affidavits reasonably necessary or advisable to effect the valid consummation of the Closing of the transaction contemplated by this Agreement.

8.3 Seller's Obligations at Closing. At Closing, Seller shall deliver or cause to be delivered to Purchaser through the Escrow Holder in Escrow the following:

(a) Evidence of Authority. Such organizational and authorizing documents of Seller as shall be reasonably required by the Title Company or Purchaser to evidence Seller's authority to execute this Agreement, any documents to be executed by Seller at the Closing, and to consummate the transactions contemplated by this Agreement.

(b) Assignment of Lease. One (1) duly executed and acknowledged counterpart of the Assignment of Lease.

(c) Bill of Sale. Two (2) original duly executed counterparts of the Bill of Sale in the form attached to this Agreement as **Exhibit C** ("**Bill of Sale**"), conveying all of Seller's right, title and interest in and to the Personal Property.

(d) Form 593. If so required by applicable laws, a duly executed Real Estate Withholding Certificate ("**Form 593**") in the form attached to this Agreement as **Exhibit F**.

(e) Title Company Documents. Any and all affidavits, undertakings, certificates or other documents required to be delivered by Seller or, subject to the reasonable approval of Seller and its counsel, otherwise customarily required by the Title Company in order to cause it to issue the Purchaser's Title Policy and Lender's Title Policy, including, without limitation, any customarily or usually required "Owner's Affidavit," "Seller's Affidavit," "ALTA Statement" and/or "Gap Indemnity."

(f) Assignment and Assumption of Listing Agreement. Provided Broker signs and delivers to Escrow the Consent of Broker and Release of Assignor attached to the Assignment and Assumption of Listing Agreement, three (3) original, duly executed counterparts of the Assignment and Assumption Listing Agreement.

(g) Estimated Settlement Statement. Two (2) original, duly executed counterparts of an estimated settlement statement in form and content reasonably satisfactory to Purchaser and Seller.

(h) Other Documents. Such other additional documents, resolutions, consents and affidavits reasonably necessary or advisable to effect the valid consummation of the Closing of the transaction contemplated by this Agreement.

8.4 Obligations of the Escrow Holder. Escrow Holder shall be solely responsible for the timely filing of any reports required pursuant to the provisions of Section 6045(e) of the Internal Revenue Code of 1986 (and any similar reports or returns required under any state or local laws) in connection with the Closing. At Closing, Escrow Holder shall:

(a) Recordation. Record the Assignment of Lease and Deed of Trust in the Official Records of Los Angeles County.

(b) Deliver Funds. Deliver to Seller the Closing Amount in Immediately Available Funds to a bank account designated by Seller in writing to Escrow Holder prior to the Closing, and refund any excess funds deposited by Purchaser.

(c) Deliver Documents to Seller. Deliver to Seller the Note, and any other documents consistent with the escrow instructions delivered by Seller.

(d) Deliver Documents to Purchaser. Deliver to Purchaser the Bill of Sale, and any other documents consistent with the escrow instructions delivered by Purchaser.

(e) Settlement Statement. Deliver to Seller and Purchaser (i) an estimated settlement statement or statements prepared by Escrow Holder and approved by Seller and/or Purchaser, as appropriate, not less than two (2) business days prior to the Closing and (ii) a final settlement statement within one (1) business day after the Assignment of Lease and Deed of Trust are recorded.

8.5 Possession and Deliveries Outside of Escrow. Seller shall deliver exclusive possession of the Property to Purchaser at the Closing, subject only to the Permitted Exceptions together with all keys and passcards for the Property in the possession of the Seller. Seller further agrees to deliver the following items to Purchaser outside Escrow within three (3) business days after the Closing Date to the extent they were not delivered with the Inspection Documents: originals of any items which Seller was required to furnish Purchaser copies of or make available pursuant to this Agreement, together with all of the Intangible Property and the Books and Records in the possession or control of the Seller.

8.6 Prorations. All income accruing from the ownership of the Property and expenses incurred in the operation of the Property shall be pro-rated as of 12:01 a.m. on the Closing Date on the basis of a 30-day month and a 360-day year and the prorated amount attributable to the period following the Closing shall either be paid to Purchaser at the Closing or credited against the Purchase Price as set forth below.

(a) Ground Rent. Rent and other payables under the Lease shall be prorated as of the Closing Date on the basis of a thirty (30) day month and a three hundred sixty (360) day year.

(b) Capital Expenditures and Accounts Payable. Except as otherwise provided herein, all capital and other improvements (including labor and material) that are performed or contracted for, by or on behalf of Seller before the Closing Date, and all sums due for accounts payable that were owed or incurred before the Closing Date, shall be paid by Seller.

(c) Property Taxes. Purchaser is responsible for all general and special real property taxes and assessments levied against the Property for the period from and after the Closing. Seller is exempt from the payment of real property taxes and therefore is not responsible for any real estate taxes for the period prior to the Closing.

(d) Utility Charges. Charges for utilities, including water, sewer, electric, and gas (“**Utilities**”), shall be pro-rated as of the Closing Date based on the then most recent bills for such services. Seller shall pay for all utility services to the Property for all periods before the Closing and Purchaser shall pay for all utility services to the Property for the Closing Date and all periods thereafter. Purchaser shall be responsible for making its own arrangements with respect to future utility billings and deposits. If the Closing shall occur before the actual amount of utilities and all other operating expenses with respect to the Property for the month in which the Closing occurs are determined, the apportionment of such utilities and other operating expenses shall be upon the basis of a reasonable estimate by Seller of such utilities and other operating expenses for such month, and thereafter, shall be adjusted as provided herein. The parties shall reasonably cooperate with each other in order to obtain meter readings with respect to Utilities as of the Closing; and, to the extent they are successful, charges for Utilities shall not be pro-rated.

(e) Insurance. Seller’s existing liability and property insurance pertaining to the Property shall be canceled as of the Closing Date, and Seller shall receive any premium refund due thereon.

(f) Post-Closing Reconciliation. Notwithstanding the foregoing provisions, the pro-rated Utilities are subject to adjustment for six (6) months after the Closing Date if such items of expense were incorrectly applied to the pre-Closing or post-Closing periods. The party receiving evidence of such incorrect prorations must provide written notice to the other within forty-five (45) days after receipt of such information and the parties shall re-prorate such items of income or expense to adjust for any excess credit by immediate reimbursement for such excess credit. There shall be no right to adjust such items of income or expense after one hundred eighty (180) days following the Closing Date.

(g) Settlement Statement. Purchaser and Seller agree to use their good faith efforts to prepare and approve the estimated settlement statement consistent with this Section 8.6 no less than two (2) business days prior to the Closing.

8.7 Closing Costs. Closing costs shall be allocated as follows:

(a) Escrow Fees. All customary Escrow costs and fees shall be shared equally by Purchaser and Seller; however, Seller and Purchaser may each negotiate its own separate fees (and pay its own costs) for Escrow Holder's additional/non-customary services.

(b) Title Policies. The premium for the standard coverage portion of the Purchaser's Title Policy shall be paid by Seller, and Purchaser shall pay the additional premiums, if any, for the extended coverage portion of the Purchaser's Title Policy as well as the cost or premium for any survey or survey update. Purchaser shall pay the cost or premium for any endorsements it requires. Further, Purchaser shall pay for the Lender's Title Policy and the cost or premium for any endorsements Seller requires.

(c) Recording Costs. All costs of recording the Assignment of Lease and Deed of Trust, to the extent not exempt, shall be paid by Purchaser.

(d) Other Expenses. To the extent not exempt, all documentary transfer taxes, if any, shall be paid by Purchaser. Any Closing costs not specified herein shall be paid by Purchaser or Seller in accordance with the custom of Los Angeles County. Notwithstanding the foregoing, however, each party shall pay its own attorneys', consulting, accounting, surveying, engineering, appraisal and other professional fees incurred in connection with the transaction contemplated in this Agreement and all costs and expenses stated herein to be borne by a party. Purchaser's obligation contained in this subparagraph (d) to pay all documentary transfer taxes shall survive the Closing of this Agreement.

(e) Brokerage Commissions; Indemnity. Neither Seller nor Purchaser has authorized any broker or finder to act on Purchaser's or Seller's behalf in connection with the sale and purchase hereunder and neither Seller nor Purchaser has dealt with any broker or finder purporting to act on behalf of any other party. Purchaser agrees to indemnify, defend, protect and hold harmless Seller from and against any and all claims, losses, damages, liabilities, costs or expenses of any kind or character arising out of or resulting from any agreement, arrangement or understanding alleged to have been made by Purchaser or on Purchaser's behalf with any broker or finder in connection with this Agreement or the transaction contemplated hereby. Seller agrees to indemnify, defend, protect and hold harmless Purchaser from and against any and all claims, losses, damages, liabilities, costs or expenses of any kind or character arising out of or resulting from any agreement, arrangement or understanding alleged to have been made by Seller or on Seller's behalf with any broker or finder in connection with this Agreement or the

transaction contemplated hereby other than claims by Broker. Notwithstanding anything to the contrary contained herein, this Section 8.7(e) shall survive the Closing or any earlier termination of this Agreement.

8.8 Assignment of Listing Agreement. Provided Broker signs and delivers to Escrow the Consent of Broker and Release of Assignor attached to the Assignment and Assumption of Listing Agreement, Purchaser and Seller shall sign and deliver the Assignment and Assumption of Listing Agreement through Escrow at the Closing.

## **SECTION 9.**

### **RISK OF LOSS**

9.1 Condemnation. If, at any time prior to the Closing, an action is threatened in writing or otherwise initiated to take any of the Real Property by eminent domain proceedings or by deed in lieu thereof, Seller shall, promptly upon learning thereof, give Purchaser written notice of any such action together with all relevant information concerning such proceedings, and Purchaser may either at or prior to Closing, by delivering written notice to Seller and Escrow Holder within ten (10) business days after Purchaser has received written notice from Seller, (a) terminate this Agreement, in which case the provisions of Section 2.5 shall apply, or (b) consummate the Closing, in which latter event, all of Seller's assignable right, title and interest in and to the award of the condemning authority not to exceed the full amount of the Purchase Price shall be assigned to Purchaser at the Closing and there shall be no reduction in the Purchase Price. In the event that any notice is given by Seller hereunder and such notice is given less than ten (10) business days prior to the then scheduled Closing Date, then the Closing Date shall be extended such that Purchaser shall have the benefit of the full ten (10) business day period to consider how to respond to Seller's notice.

9.2 Casualty. Seller shall, promptly upon learning thereof, give Purchaser written notice of any fire or other casualty damage to the Property occurring prior to the Closing. Except as otherwise provided in this Agreement (including this Section 9.2), Seller assumes all risks and liability for damage to or injury occurring to the Property until the Closing has been consummated. If prior to Closing, as a result of fire or other casualty, the Property, or any part thereof, suffers any damage (i) that will cost in excess of One Million Dollars (\$1,000,000.00) to repair, as reasonably determined by Seller, (ii) that will take more than one hundred eighty (180) days from the date of occurrence to completely repair and restore, as reasonably determined by Seller, (iii) that cannot be completely repaired or restored for any reason (e.g., if the prior operation, use or improvement of the Property was a legal, but non-conforming, use which cannot be continued after or as a result of the damage), or (iv) which results or could result in the termination of the Lease, Purchaser may either at or prior to Closing, by delivering written notice to Seller and Escrow Holder within ten (10) business days after Purchaser has received written notice from Seller, (a) terminate this Agreement, in which case the provisions of Section 2.5 shall apply, or (b) consummate the Closing, in which latter event all of Seller's right, title and



interest in and to the proceeds of any insurance covering such damage (less an amount equal to any expenses and costs incurred by Seller to collect or adjust such insurance or to repair or restore the Property and any portion of such proceeds paid or to be paid on account of the loss of rents or other income from the Property for the period prior to and including the Closing Date, all of which shall be payable to Seller), to the extent the amount of such insurance does not exceed the Purchase Price, shall be assigned to Purchaser at the Closing and Purchaser shall receive a credit for the deductible or any uninsured or self-insured amount (provided, however, notwithstanding anything to the contrary contained herein, Seller shall have the right to terminate this Agreement in the event of damage resulting from an earthquake, act of terrorism or other event which would result in a credit to Purchaser in an amount exceeding One Million Dollars (\$1,000,000.00). If the Property, or any part thereof, suffers any damage equal to or less than One Million Dollars (\$1,000,000.00) prior to the Closing, such damage will take one hundred eighty (180) days or less from the date of the occurrence to completely repair and restore, such damage can be completely repaired and restored and such damage does not result in the termination of the Lease, Purchaser agrees that it will consummate the Closing and accept the assignment of the proceeds of any insurance covering such damage plus an amount equal to Seller's deductible or any uninsured or self-insured amount under its insurance policy and there shall be no reduction in the Purchase Price. In the event that any notice is given by Seller hereunder and such notice is given less than ten (10) business days prior to the then scheduled Closing Date, then the Closing Date shall be extended such that Purchaser shall have the benefit of the full ten (10) business day period to consider how to respond to Seller's notice.

## **SECTION 10.**

### **DEFAULT AND REMEDIES**

#### **10.1 Breach by Seller.**

(a) Pre-Closing. Seller shall be deemed to be in default under this Agreement (“**Seller's Pre-Closing Default**”) if Seller fails, for any reason other than a Purchaser's Default or the failure of a condition precedent to Seller's obligation to perform under this Agreement, to meet, comply with, or perform any covenant, agreement, or obligation required on its part within the time limits and in the manner required in this Agreement prior to Closing and/or fails to consummate the transaction contemplated by this Agreement, including, without limitation, in the event of a breach of any representation or warranty of Seller set forth in Section 4.2 above when such representation or warranty was made, which breach is discovered or otherwise learned of by Purchaser prior to the Closing (subject, however, to the terms and provisions of Section 4.3 above). In the event of Seller's Pre-Closing Default, Purchaser, as Purchaser's sole and exclusive remedy (except for the Surviving Obligations), may either: (i) terminate this Agreement, in which case the provisions of Section 2.5 shall apply; or (ii) proceed to Closing as otherwise set forth in the Agreement.

(b) Post-Closing. After the Closing, in the event of any breach (including the discovery of a breach) of Seller's covenants, representations or warranties hereunder or under any other agreement, document, certificate or instrument delivered by such Seller to Purchaser and which survive the Closing ("**Seller's Post-Closing Default**"), Purchaser shall have all rights and remedies as are provided by law or in equity, including, without limitation, the right to seek the recovery of losses and damages, including, without limitation, costs and expenses incurred by Purchaser as the result of such Seller's Post-Closing Default; provided, however, that, to the extent that a Seller's Post-Closing Default is curable, prior to Purchaser's exercise of any right or remedy as a result of such Seller's Post-Closing Default, Purchaser will first deliver written notice to Seller and give Seller ten (10) days thereafter in which to cure said Seller's Post-Closing Default if Seller so elects. Purchaser's right to exercise remedies under the terms of this Section 10 shall survive the Closing for a period of twelve (12) months. In the event Purchaser discovers any breach of Seller's covenants or an inaccuracy or breach of Seller's representations and warranties, Purchaser must notify Seller in writing of such inaccuracy or breach within said twelve (12) month period, and must file suit in regards of such inaccuracy or breach within fifteen (15) months after the Closing Date, or any such claim of inaccuracy or breach is barred.

#### 10.2 Breach by Purchaser.

(a) Purchaser's Default; Liquidated Damages. Purchaser shall be deemed to be in default under this Agreement ("**Purchaser's Default**") if Purchaser fails, for any reason other than Seller's default under this Agreement or the failure of a condition precedent to Purchaser's obligation to perform under this Agreement, to meet, comply with, or perform any covenant (including the covenant to close), agreement, or obligation required on its part within the time limits and in the manner required in this Agreement prior to Closing and/or fails to consummate the transaction contemplated by this Agreement, including, without limitation, in the event of a breach of any representation or warranty made by Purchaser. In the event of Purchaser's Default prior to Closing, then Seller may terminate this Agreement and thereupon Seller shall be entitled to receive and retain the Net Deposit as liquidated damages (and not as a penalty or forfeiture) and as Seller's sole remedy and relief hereunder for Purchaser's failure to close.

SELLER AND PURCHASER ACKNOWLEDGE THAT THE ACTUAL DAMAGES TO SELLER WHICH WOULD RESULT FROM SUCH FAILURE WOULD BE EXTREMELY DIFFICULT TO CALCULATE OR ESTABLISH ON THE DATE HEREOF. IN ADDITION, PURCHASER DESIRES TO HAVE A LIMITATION PUT UPON ITS POTENTIAL LIABILITY TO SELLER IN THE EVENT OF SUCH FAILURE BY PURCHASER. BY PLACING THEIR INITIALS IN SPACES HEREINAFTER PROVIDED, SELLER AND PURCHASER SPECIFICALLY ACKNOWLEDGE AND AGREE, AFTER NEGOTIATION BETWEEN SELLER AND PURCHASER, THAT THE AMOUNT OF THE NET

DEPOSIT CONSTITUTES REASONABLE COMPENSATION TO SELLER FOR SUCH FAILURE BY PURCHASER AND SHALL BE DISBURSED TO AND RETAINED BY SELLER AS LIQUIDATED DAMAGES IN THE EVENT OF SUCH FAILURE BY PURCHASER.

PURCHASER (\_\_\_\_) SELLER (\_\_\_\_)

(b) Remedies. The provisions of Section 10.2(a) shall not limit any rights or remedies of Seller with respect to the Surviving Obligations.

## SECTION 11. MISCELLANEOUS

11.1 Notices. All notices, demands and requests which may be given or which are required to be given by either party to the other, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be deemed effective either: (a) on the date personally delivered to the address below, as evidenced by written receipt therefor, or when sent by email transmission, as evidenced by email confirmation, whether or not actually received by the person to whom addressed provided it was sent in business hours, otherwise, the following business day; (b) on the third (3rd) business day after being sent, by certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at the address specified below; or (c) on the first (1st) business day after being deposited into the custody of a nationally recognized overnight delivery service such as Federal Express or United Parcel Service, addressed to such party at the address specified below. For purposes of this Section 11.1, the addresses of the parties for all notices are as follows (unless changed by similar notice in writing given by the particular person whose address is to be changed):

If to Purchaser:

Long Beach Public Transportation Company  
dba Long Beach Transit  
1963 E. Anaheim Street  
Long Beach, California 90813  
Attn: Kenneth A. McDonald, President and CEO  
Telephone: (562) 591-8753  
email: kmcdonald@lbtransit.com

with a copy to:

Long Beach Public Transportation Company  
dba Long Beach Transit  
1963 E. Anaheim Street  
Long Beach, California 90813  
Attn: Debra A. Johnson, Deputy CEO  
Telephone: (562) 591-8753  
email: djohnson@lbtransit.com

and to: Long Beach Public Transportation Company  
dba Long Beach Transit  
1963 E. Anaheim Street  
Long Beach, California 90813  
Attn: Vincent C. Ewing, General Counsel  
Telephone: (562) 591-8753  
email: vewing@lbtransit.com

If to Seller: The Port of Long Beach  
415 W. Ocean Blvd.  
Long Beach, California 90802  
Attention: Executive Director  
Telephone: (562) 283-7450  
email: eamonn.killeen@polb.com

with a copy to: Long Beach City Attorney  
411 W. Ocean Blvd., 9<sup>th</sup> Floor  
Long Beach, California 90802  
Attn: Charles Gale, Principal Deputy City Attorney  
Telephone: (562) 570-2251  
email: Charles.gale@longbeach.gov

and to: Nossaman LLP  
777 S. Figueroa Street, 34<sup>th</sup> Floor  
Los Angeles, California 90017  
Attn: Karla N. MacCary  
Telephone: (213) 612-7862  
email: kmaccary@nossaman.com

If to Escrow Holder: First American Title Insurance Company  
777 S. Figueroa Street, Suite 400  
Los Angeles, CA 90017  
Attn: Maria Martinez  
Escrow No. NCS-994573  
Telephone: (213) 271-1780  
E-Mail: mariamartinez@firstam.com

If to Title Company: First American Title Insurance Company  
777 S. Figueroa Street, Suite 400  
Los Angeles, CA 90017 Attn: Edward Luque  
Order No. NCS-994573-LA2  
Telephone: (213) 271-1730  
E-Mail: eluque@firstam.com

11.2 Amendment to this Agreement. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

11.3 Captions. Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provisions hereof.

11.4 Time of Essence. Time is of the essence of each and every term, condition, obligation and provisions hereof. All references herein to a particular time of day shall be deemed to refer to Pacific Standard Time. In the event any date described in this Agreement relative to the performance of actions hereunder by Purchaser, Seller and/or Escrow Holder falls on a Saturday, Sunday or legal holiday, such date shall be deemed postponed until the next business day thereafter.

11.5 Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California. Venue for any matter arising out of this Agreement shall be Los Angeles County, California.

11.6 Successors and Assigns; Assignment. Purchaser may not assign, transfer or convey its rights and/or obligations under this Agreement and/or with respect to the Property except with the prior written consent of Seller, which consent Seller may give or withhold in Seller's sole and absolute discretion. Any attempted assignment without the prior written consent of Seller shall be void and Purchaser shall be deemed in default hereunder. Any permitted assignments shall not relieve the assigning party from its liability under this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto. The execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties thereto, to any person or entity other than the parties hereto.

11.7 Partial Invalidity. If any portion of this Agreement as applied to either party or to any circumstances shall be adjudged by a court to be void or unenforceable, such portion shall be deemed severed from this Agreement and shall in no way effect the validity or enforceability of the remaining portions of this Agreement.

11.8 Enforcement. In the event a dispute arises concerning the performance, meaning or interpretation of any provision of this Agreement or any document executed in connection with this Agreement, the prevailing party in such dispute shall be awarded any and all costs and expenses incurred by such party in enforcing, defending or establishing its rights hereunder or thereunder, including, without limitation, court costs and reasonable attorneys' fees. In addition to the foregoing, the prevailing party shall also be entitled to recover its reasonable attorneys' fees incurred in any appeals or any post judgment proceedings to collect or enforce any such judgment.

11.9 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

11.10 Exhibits. The Exhibits and schedules attached hereto are hereby incorporated herein by this reference for all purposes.

11.11 Construction. Seller and Purchaser acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

11.12 Further Assurances. Purchaser and Seller hereby agree to perform, execute and deliver, or cause to be performed, executed and delivered any and all such further acts, instruments, documents and assurances and to diligently undertake such actions as may be required in order to consummate the transactions contemplated hereunder.

11.13 No Waiver. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

11.14 Entire Agreement. This Agreement and the Entry Agreement supersede any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between Purchaser and Seller as to the subject matter hereof. No subsequent agreement, representation, or promise made by either party hereto, or by or to an employee, officer, agent or representative of either party shall be of any effect unless it is in writing and executed by the party to be bound thereby. This Agreement and the Entry Agreement constitute the entire agreement of Purchaser and Seller.

11.15 Survival. All of the provisions of this Section 11 shall survive the Closing or any earlier termination of this Agreement.

*[signature page(s) follows]*

IN WITNESS WHEREOF, the parties have executed this Agreement the dates set forth below.

**SELLER:**

CITY OF LONG BEACH, a  
municipal corporation, acting by and through  
its Board of Harbor Commissioners

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

Approved as to form:

CHARLES PARKIN, City Attorney

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Name: Charles M. Gale  
Its: Principal Deputy City Attorney

*[signatures continue on next page]*

**PURCHASER:**

LONG BEACH PUBLIC TRANSPORTATION  
COMPANY, a California nonprofit corporation, which  
does business as “Long Beach Transit”

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: Kenneth A. McDonald

Title: President and CEO

Approved as to form:

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: Vincent C. Ewing

Title: General Counsel



**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.**

[illegible]

On \_\_\_\_\_ before me, \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_, 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.

(AFFIX NOTARIAL SEAL)

NOTARY PUBLIC

*[signatures continue on next page]*

The undersigned Escrow Holder hereby acknowledges receipt of the Deposit and a copy of this Agreement and that the Opening of Escrow is the date set forth below, and Escrow Holder agrees to act in accordance with, and to comply with, the provisions of this Agreement applicable to the Escrow Holder.

**ESCROW HOLDER:**

**FIRST AMERICAN TITLE INSURANCE  
COMPANY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

## **SCHEDULE 1**

### **RETAINED TANGIBLE PERSONAL PROPERTY LIST**

Number	Item	Serial Number	Location
1	Cisco 3750 Network Switch	FD01744R0G3	7th FL IDF
2	Cisco 3750 Network Switch	FD01743P26A	4th FL IDF
3	Cisco 3750 Network Switch	FD01745P1J6	1St FL SERVER RM
4	Cisco 3750 Network Switch	FD0174R0FQ	1St FL SERVER RM
5	Dell Poweredgde / Avigilon server	8044JL2	1St FL SERVER RM

**SCHEDULE 2**

**EXCEPTIONS TO REPRESENTATIONS AND WARRANTIES**

None

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF LAND**

REAL PROPERTY IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

#### **PARCEL A:**

PARCEL 2 OF PARCEL MAP 17454, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 191, PAGES 55 AND 56 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. AS AMENDED BY A CERTIFICATE OF CORRECTION RECORDED DECEMBER 18, 1987 AS INSTRUMENT NO. 87-2004117 OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL OIL GAS, AND OTHER HYDROCARBONS IN AND UNDER SAID LAND, BUT WITHOUT THE RIGHT TO USE THE SURFACE, OR SUBSURFACE OF SAID LAND ABOVE A DEPTH OF 100 FEET; AS RESERVED BY BIXBY LAND COMPANY, A CORPORATION, IN DEEDS RECORDED IN BOOK 18884, PAGE 347, BOOK 24554, PAGE 211, BOOK 28612, PAGE 328, BOOK 38790, PAGE 367, BOOK 46180, PAGE 51, BOOK 49399, PAGE 406, BOOK D-721, PAGE 154 AND BOOK 37202, PAGE 307, ALL OF OFFICIAL RECORDS OF SAID COUNTY; AND AS RESERVED BY WHEELER F. CHASE IN DEED RECORDED IN BOOK 41754, PAGE 423, OFFICIAL RECORDS OF SAID COUNTY.

#### **PARCEL B:**

AN EASEMENT TO PARK 716 AUTOMOBILES WHICH PARKING SHALL BE LOCATED ON PARCEL 3 OF PARCEL MAP 17454 AS SURFACE PARKING OR WITHIN THAT CERTAIN PARKING STRUCTURE SITUATED ON PARCEL 3 OF PARCEL MAP NO. 17454, AS PER MAP FILED IN BOOK 191, PAGES 55 AND 56 OF PARCEL MAPS, AND A PORTION OF PARCEL 6 OF PARCEL MAP 15307, AS PER MAP FILED IN BOOK 159, PAGES 50 THROUGH 53, OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH AN EASEMENT OF INGRESS AND EGRESS OVER SAID PARCEL 3 TO THE PARKING STRUCTURE, AS PROVIDED IN THE DOCUMENT ENTITLED "PARKING AGREEMENT" (BUILDING E), RECORDED AS INSTRUMENT NO. 90-965129 ON MAY 30, 1990, TOGETHER WITH THE PARKING RIGHTS ESTABLISHED AND MODIFIED THEREIN UNDER THE AMENDMENT TO GROUND LEASE AS EVIDENCED BY DOCUMENT ENTITLED "MEMORANDUM OF AN AMENDMENT OF GROUND LEASE" RECORDED JULY 26, 2004 AS INSTRUMENT NO. 04-1896819 BOTH OF OFFICIAL RECORDS OF LOS ANGELES COUNTY, CALIFORNIA.

PARCEL C:

NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS AND PARKING PURPOSED IN AND TO THE "COMMON AREA" AS DEFINED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LONG BEACH AIRPORT BUSINESS PARK RECORDED MARCH 9, 1983 AS INSTRUMENT NO. 83-262462 AND AS AMENDED BY DOCUMENTS RECORDED JUNE 26, 1984 AS INSTRUMENT NO. 84-759327, AND SEPTEMBER 3, 1985 AS INSTRUMENT NO. 85-1019578, AND SEPTEMBER 3, 1987 AS INSTRUMENT NO. 87-1426823, AND JUNE 14, 1988 AS INSTRUMENT NO. 88-937726, AND MAY 30, 1990 AS INSTRUMENT NO. 90-965276, AND JUNE 27, 1996 AS INSTRUMENT NO. 96-1024334 OF OFFICIAL RECORDS, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED THEREIN.

APN: 7149-013-924, 7149-013-923 and 8940-415-005

**EXHIBIT B**

**ASSIGNMENT OF LEASE AND GRANT**  
**DEED OF IMPROVEMENTS AND INTERESTS**

Recording Requested By And  
When Recorded, Mail To:  
Nossaman LLP  
777 South Figueroa Street, 34<sup>th</sup> Floor  
Los Angeles, CA 90017  
Attn: Karla N. MacCary

---

Space Above This Line For Recorder's Use

A.P.N. 7149-013-924, 7149-013-923 and 8940-415-005

The undersigned Grantor declares:

This instrument is exempt from Filing Fees (Govt. Code § 6103), Recording Fees (Govt. Code § 27383) and from Documentary Transfer Tax (The grantors and the grantees in this conveyance are comprised of the same parties who continue to hold the same proportionate interest in the property. Rev. & Tax Code § 11925(d))

**ASSIGNMENT OF LEASE AND GRANT**  
**DEED OF IMPROVEMENTS AND INTERESTS**  
**(Parcel 2 of Parcel Map No. 17454 of Business Park)**

This Assignment of Lease and Grant Deed of Improvements and Interests (Parcel 2 of Parcel Map No. 17454 of Business Park) ("**Agreement**") is made in Los Angeles County, California on \_\_\_\_\_, 2020, between the City of Long Beach, a municipal corporation, acting by and through its Board of Harbor Commissioners ("**Grantor**"), and Long Beach Public Transportation Company, a California nonprofit corporation, which does business as "Long Beach Transit" ("Grantee") and is based on the following facts:

**RECITALS**

A. The land described on Exhibit A attached hereto and by this reference made a part hereof is identified as “Parcel 2”. Parcel 2 is covered and encumbered by a certain Lease Agreement (Parcel 2 of Parcel Map No. 17454 of Business Park) (Portion of Parcel 7 of Parcel Map 15307) made as of December 15, 1986 between the City of Long Beach, a municipal corporation, and Long Beach Airport Business Park, a California general partnership, the predecessor-in-interest to Grantor, as amended by that certain Amendment to Ground Lease (Parcel 2 of Parcel Map 17454) dated July 12, 2004, and as amended by that certain Second Amendment to Ground Lease (Parcel 2 of Parcel Map 17454) dated August 13, 2019 (as amended, the “**Lease**”). A short form of the Lease was recorded on December 16, 1986 as Instrument No. 86-1750032 in the Official Records of Los Angeles County, California (“**Official Records**”). A Memorandum of Ground Lease Amendment with respect to the Lease dated July 12, 2004 was recorded on July 26, 2004 as Instrument No. 04-1896819 in the Official Records, and a Memorandum of Ground Lease Amendment with respect to the Lease dated August 13, 2019 was recorded on February 11, 2020 as Instrument No. 20200167590 in the Official Records. Parcel 2 is hereinafter referred to as the “**Land**.” The Land as well as Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of Parcel Map No. 15307 are hereinafter collectively referred to as the “**Business Park**”.

B. The Land and the improvements thereon are subject to that certain Maintenance Declaration (Long Beach Airport Business Park) dated January 31, 1983 and recorded on March 8, 1983 as Instrument No. 83-256290 of the Official Records (collectively, “**Maintenance Declaration**”).

C. The Land and the improvements thereon are also subject to that certain Declaration of Covenants, Conditions, and Restrictions for Long Beach Airport Business Park dated January 31, 1983 and recorded on March 9, 1983 as Instrument No. 83-262462 of the Official Records, as amended by that certain First Amendment to Declaration of Covenants, Conditions, and Restrictions Long Beach Airport Business Park dated June 2, 1988 and recorded on June 14, 1988 as Instrument No. 88-937726 of the Official Records, as amended by that certain Second Amendment to Declaration of Covenants, Conditions, and Restrictions Long Beach Airport Business Park dated as of May 29, 1990 and recorded on May 30, 1990 as Instrument No. 90-965276 of the Official Records, and as amended by that certain Third Amendment to Declaration of Covenants, Conditions and Restrictions Long Beach Airport Business Park dated as of March 15, 1996 and recorded on June 27, 1996 as Instrument No. 96-1024334 of the Official Records (collectively, the “**Office Declarations**”).

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth below, Grantor and Grantee agree as follows:

1. Lease. Grantor hereby assigns all of its right, title and interest in and to the Lease to Grantee.



2. Conveyances of Property. Grantor hereby grants to Grantee the following:

Parcel A: A fee interest in and to all improvements located on the Land.

Parcel B: All of Grantor's right, title and interest in and to all rights, easements and licenses for (i) use of the common area of the Business Park as set forth in the Office Declaration, (ii) entry, utilities and maintenance as set forth in the Office Declaration, (iii) use of the Common Improvements (as such term is defined in the Maintenance Declaration) as set forth in the Maintenance Declaration, and (iv) any other rights, easements or licenses in favor of Grantee and referred to in the Office Declaration or in the Maintenance Declaration.

Parcel C: All of Grantor's right, title and interest in and to all easements and all rights of Grantor granted under that certain Parking Agreement (Building E) recorded on May 30, 1990 as Instrument No. 90-965129 in the Official Records.

EXCEPTING AND RESERVING UNTO GRANTOR, an easement for installation, operation, inspection, maintenance, repair and replacement of fiber lines, wires, cables, conduits and other equipment within and through the improvements on Parcel A described above in approximately their current locations, as well as an easement for ingress and egress over and across Parcel A in favor of the City of Long Beach, in order to access the fiber lines, wires, cable, conduits and other equipment, for so long as the City of Long Beach is occupying and/or subleasing that certain property legally described on Exhibit B hereto and located at 4811 Airport Plaza Drive, Long Beach, California 90815, identified as A.P.N. 7149-013-922, which is part of the Business Park (the "**4811 Airport Property**"), together with the right to delegate jurisdiction over said facilities to any City of Long Beach department.

3. Subject To. The Lease and the conveyances described in Paragraph 2 are subject to the following:

3.1 All unpaid non-delinquent bonds and/or assessments, and any supplemental assessments;

3.2 Those certain fiber lines, wires, cables, conduits and other equipment over, across and under the Land in approximately their current locations, so long as the City of Long Beach is occupying and/or subleasing the 4811 Airport Property, and access rights of the City of Long Beach to and from such lines, wires, cables, conduits and other equipment, and the right of the City of Long Beach to delegate jurisdiction over said facilities to any City of Long Beach department;

3.3 The reversionary interests of the landlord under the Lease; and

3.4 The Maintenance Declaration and the Office Declaration.

4. Estate Transferred Hereby; Subject To Parcel 2 Master Lease. The estate transferred by this conveyance is a leasehold interest in the Land and a conveyance of a fee interest in and to the improvements on the Land (together with all rights, easements and licenses referred to in Paragraph 2 above). Pursuant to Article 5 of the Lease, this Agreement is made expressly subject to the terms and conditions of the Lease. The Land and improvements thereon shall be used and developed exclusively in accordance with the Lease.

5. Assumption. Grantee hereby assumes the obligations of the lessee under the Lease.

6. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

(Signatures Follow)

**GRANTOR:**

CITY OF LONG BEACH, a municipal corporation,  
acting by and through its Board of Harbor Commissioners

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

CHARLES PARKIN, City Attorney

By: \_\_\_\_\_  
Charles M. Gale  
Principal Deputy City Attorney

**GRANTEE:**

LONG BEACH PUBLIC TRANSPORTATION COMPANY, a California nonprofit corporation,  
which does business as "Long Beach Transit"

By: \_\_\_\_\_  
Name: Kenneth A. McDonald  
Title: President and CEO

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Vincent C. Ewing  
General Counsel



**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 \_\_\_\_\_)  
\_\_\_\_\_) ss.  
COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_, 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.

(AFFIX NOTARIAL SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

EXHIBIT A TO AGREEMENT

REAL PROPERTY IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL A:

PARCEL 2 OF PARCEL MAP 17454, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 191, PAGES 55 AND 56 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. AS AMENDED BY A CERTIFICATE OF CORRECTION RECORDED DECEMBER 18, 1987 AS INSTRUMENT NO. 87-2004117 OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL OIL GAS, AND OTHER HYDROCARBONS IN AND UNDER SAID LAND, BUT WITHOUT THE RIGHT TO USE THE SURFACE, OR SUBSURFACE OF SAID LAND ABOVE A DEPTH OF 100 FEET; AS RESERVED BY BIXBY LAND COMPANY, A CORPORATION, IN DEEDS RECORDED IN BOOK 18884, PAGE 347, BOOK 24554, PAGE 211, BOOK 28612, PAGE 328, BOOK 38790, PAGE 367, BOOK 46180, PAGE 51, BOOK 49399, PAGE 406, BOOK D-721, PAGE 154 AND BOOK 37202, PAGE 307, ALL OF OFFICIAL RECORDS OF SAID COUNTY; AND AS RESERVED BY WHEELER F. CHASE IN DEED RECORDED IN BOOK 41754, PAGE 423, OFFICIAL RECORDS OF SAID COUNTY.

PARCEL B:

AN EASEMENT TO PARK 716 AUTOMOBILES WHICH PARKING SHALL BE LOCATED ON PARCEL 3 OF PARCEL MAP 17454 AS SURFACE PARKING OR WITHIN THAT CERTAIN PARKING STRUCTURE SITUATED ON PARCEL 3 OF PARCEL MAP NO. 17454, AS PER MAP FILED IN BOOK 191, PAGES 55 AND 56 OF PARCEL MAPS, AND A PORTION OF PARCEL 6 OF PARCEL MAP 15307, AS PER MAP FILED IN BOOK 159, PAGES 50 THROUGH 53, OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH AN EASEMENT OF INGRESS AND EGRESS OVER SAID PARCEL 3 TO THE PARKING STRUCTURE, AS PROVIDED IN THE DOCUMENT ENTITLED "PARKING AGREEMENT" (BUILDING E), RECORDED AS INSTRUMENT NO. 90-965129 ON MAY 30, 1990, TOGETHER WITH THE PARKING RIGHTS ESTABLISHED AND MODIFIED THEREIN UNDER THE AMENDMENT TO GROUND LEASE AS EVIDENCED BY DOCUMENT ENTITLED "MEMORANDUM OF AN AMENDMENT OF GROUND LEASE" RECORDED JULY 26, 2004 AS INSTRUMENT NO. 04-1896819 BOTH OF OFFICIAL RECORDS OF LOS ANGELES COUNTY, CALIFORNIA.

PARCEL C:

NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS AND PARKING PURPOSED IN AND TO THE "COMMON AREA" AS DEFINED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LONG BEACH AIRPORT BUSINESS PARK RECORDED MARCH 9, 1983 AS INSTRUMENT NO. 83-262462 AND AS AMENDED BY DOCUMENTS RECORDED JUNE 26, 1984 AS INSTRUMENT NO. 84-759327, AND SEPTEMBER 3, 1985 AS INSTRUMENT NO. 85-1019578, AND SEPTEMBER 3, 1987 AS INSTRUMENT NO. 87-1426823, AND JUNE 14, 1988 AS INSTRUMENT NO. 88-937726, AND MAY 30, 1990 AS INSTRUMENT NO. 90-965276, AND JUNE 27, 1996 AS INSTRUMENT NO. 96-1024334 OF OFFICIAL RECORDS, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED THEREIN.

APN: 7149-013-924, 7149-013-923 and 8940-415-005

## EXHIBIT B TO AGREEMENT

### PARCEL A:

PARCEL 1, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS SHOWN ON PARCEL MAP NO. 17454, AS PER MAP FILED IN BOOK 191 PAGES 55 AND 56 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AND AS AMENDED BY A CERTIFICATE OF CORRECTION, RECORDED DECEMBER 18, 1987 AS INSTRUMENT NO. 87-2004117.

EXCEPT THEREFROM ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER OR WHICH MAY BE PRODUCED OR SAVED FROM SAID LAND, WITHOUT RIGHT OF SURFACE ENTRY, AS TO LOT 9 OF TRACT NO. 10548.

ALSO EXCEPT THEREFROM ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER OR THAT MAY BE PRODUCED FROM A DEPTH OF 500 FEET BELOW THE SURFACE OF SAID LAND, WITHOUT RIGHT OF ENTRY UPON THE SURFACE OF SAID LAND, FOR THE PURPOSE OF MINING, DRILLING, EXPLORING OR EXTRACTING SUCH OIL, GAS AND OTHER HYDROCARBON SUBSTANCES OR OTHER USE OR RIGHTS IN OR TO ANY PORTION OF THE SURFACE OF SAID LAND TO A DEPTH OF 500 FEET BELOW THE SURFACE THEREOF, BUT WITH THE RIGHT TO DRILL INTO, LOCATE WELLS AND PRODUCE OIL, GAS AND OTHER HYDROCARBON SUBSTANCES FROM ANY PORTION OF SAID LAND WHICH LIES BELOW 500 FEET FROM THE SURFACE THEREOF, AS RESERVED IN THE DEED FROM MONTANA LAND COMPANY, RECORDED IN BOOK 32094 PAGE 10 OFFICIAL RECORDS AND AS PROVIDED IN DECREE RECORDED IN BOOK 43923 PAGE 236, OFFICIAL RECORDS, NEXT HEREIN REFERRED TO AS TO LOT 66 OF TRACT NO. 8084.

### PARCEL B:

EASEMENTS FOR INGRESS, EGRESS, PARKING OF 707 MOTOR VEHICLES, DRAINAGE, FENCES, WALLS, SURFACE IMPROVEMENTS, UTILITIES, LIGHTING, ACCESS GATES AND INCIDENTAL PURPOSES, AS PROVIDED IN THE DEED OF TRUST RECORDED DECEMBER 29, 1986 AS INSTRUMENT NO. 86-1818745.

END OF LEGAL DESCRIPTION



## EXHIBIT C

### BILL OF SALE

FOR VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, the City of Long Beach, a municipal corporation, acting by and through its Board of Harbor Commissioners (“Seller”) does hereby give, grant, bargain, sell, transfer and deliver unto Long Beach Public Transportation Company, a California nonprofit corporation, which does business as “Long Beach Transit” (“Purchaser”) the “Personal Property” and the “Intangible Property” (as such terms are defined in the Purchase Agreement as defined below). Except as otherwise set forth in the Purchase Agreement, the Personal Property and, the Intangible Property are hereby acquired by Purchaser “as-is” without any representation or warranty of any kind or nature of Seller, express, implied or statutory, as to the nature of or title to the Personal Property, the Intangible Property or fitness for Purchaser’s intended use of any of the same. As used herein, the “Purchase Agreement” means that certain agreement captioned “PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS”, dated as of \_\_\_\_\_, 2020, by and between Seller and Purchaser.

EXECUTED this \_\_\_\_ of \_\_\_\_\_, 2020.

“Seller”

CITY OF LONG BEACH, a municipal  
corporation, acting by and through its Board of  
Harbor Commissioners

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:

CHARLES PARKIN, City Attorney

By: \_\_\_\_\_  
Charles M. Gale  
Principal Deputy City Attorney

## EXHIBIT D

### PROMISSORY NOTE

Principal Amount:  
\$10,500,000.00

Long Beach, California  
\_\_\_\_\_, 2020

1. FOR VALUE RECEIVED, LONG BEACH PUBLIC TRANSPORTATION COMPANY, a California nonprofit corporation, which does business as “Long Beach Transit” (“Maker”), promises to pay to the order of the CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners, or any subsequent holder of this Note (“Holder”), at 415 W. Ocean Boulevard, Long Beach, CA 90802, or such other address as Holder may designate by written notice to Maker, in lawful money of the United States of America, the principal amount set forth above, or such portion thereof as may then be outstanding, together with all interest and other amounts as hereinafter described in this Note and all other “Loan Documents” described in the Deed of Trust (defined below).

2. Interest will accrue on the outstanding balance of this Note from time to time until paid at a fixed rate of 5.0% per annum after the Disbursement Date (defined below) (the “Note Rate”), from the date upon which the loan evidenced by this Note (the “Loan”) is funded by Holder (the “Disbursement Date”), through and including the Maturity Date (defined below). Interest will be computed on the basis of a 360-day year with twelve 30-day months.

3. Maker will pay the principal and interest hereunder as follows:

(a) Monthly payments of principal and interest in the amount of \$111,368.79 are due and payable on the monthly anniversary of the Disbursement Date beginning on the first month after the Disbursement Date. Such amount is based on a 10-year amortization schedule and interest at the Note Rate. The monthly payment shall remain constant, subject to increase pursuant to Section 5 below, notwithstanding any prepayments.

(b) If not earlier due and payable, all unpaid principal, accrued but unpaid interest and all other amounts payable under the provisions of this Note or the Deed of Trust (defined below) will become due and payable in full 10 years after the Disbursement Date (the “Maturity Date”).

4. Maker may prepay all or part of this Note at any time without premium or penalty.

5. Unless otherwise specifically agreed or required by law, all payments made under this Note will be applied first to late charges, fees, costs and expenses payable by Maker, next to accrued and unpaid interest, and then to principal. For each payment described in this Note that is not paid within ten (10) days after its due date, Holder may charge, and Maker will pay upon demand, a late charge equal to \$100 to compensate Holder for administrative expenses and other costs of delinquent payments, and not as a penalty. In addition, Maker shall pay Holder a charge of \$25 if any check or preauthorized charge with which Maker makes a payment on this Note is dishonored or refused by Maker's payor institution, and Holder may, at its option, thereafter require any sums due under this Note to be paid by wire transfer of federal funds, cashier's check or certified funds. After maturity, including maturity upon acceleration as described in paragraph 6 below, or at any time that Maker is more than thirty (30) days delinquent in the payment of money as required by this Note (whether or not Holder has given any notice of default or any cure period has expired), then all amounts outstanding hereunder will thereafter bear interest at a default rate equal to five percent (5%) per annum in excess of the Note Rate until paid. Maker's payment of a late charge or default interest shall not excuse late payment or constitute a waiver of any rights of Holder.

6. Upon the occurrence of any Event of Default, then Holder may, at its option, exercise any one or more of the remedies described in the Loan Documents or otherwise available under applicable law, including declaring all unpaid indebtedness then evidenced by this Note to be immediately due and payable. Holder's failure to exercise the right to accelerate will not constitute a waiver of the right to accelerate for any subsequent or other Event of Default.

7. The Loan is secured by a first priority Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Financing Statement of even date herewith from Maker for the benefit of Holder (the "Deed of Trust"), on a leasehold interest in real property located in Los Angeles County, California, with a street address of 4801 Airport Plaza Drive, Long Beach, California (the "Property"). Upon the occurrence of any Event of Default, Holder may proceed against Maker, and any of the collateral for this Note, in such order and manner as Holder may determine in its sole discretion. The Loan is due and payable in full upon any sale, transfer, encumbrance, assignment, conveyance, lease or any other disposal of the Property, or any part thereof or interest therein, whether voluntarily, involuntarily or by operation of law on the terms set forth in the Deed of Trust.

8. If suit, arbitration or other legal proceeding or any nonjudicial foreclosure proceeding is instituted or any other action is taken by Holder to collect all or any part of the Loan or to proceed against any collateral for, the Loan, Maker promises to pay Holder's reasonable attorneys' fees and other costs incurred thereby. Such fees and costs shall be included in any judgment or arbitration award obtained by Holder, shall be secured by the Deed of Trust and any other document securing any portion of the Loan, shall bear interest at the default rate described in paragraph 5 above.

EXHIBIT D

9. Except as expressly provided in the Loan Documents to the contrary, Maker and all sureties, endorsers and guarantors of all or any portion of the Loan waive: (a) demand, notice, diligence, protest, presentment for payment, and notice of extension, dishonor, protest, demand and nonpayment of this Note; and (b) any release or discharge by reason of (i) any release or substitution of, or other change in any security given for the Loan, or the obligation of any other person or entity that is now or may become directly or indirectly liable for all or any portion of the Loan, or (ii) any extension or other modification of the time or terms of payment of all or any portion of the Loan.

10. This Note is executed, delivered in, relates to real property located in, and will be governed by and construed according to the laws and judicial decisions of, the State of California. Any action brought to enforce this Note may be commenced and maintained, at Holder's option, in any state or federal district court in Los Angeles County, California, or in any other court having personal jurisdiction over Maker. Maker irrevocably consents to jurisdiction and venue in such court for such purposes and agrees not to seek transfer or removal of any action commenced in accordance with the terms of this paragraph. Maker also waives the right to protest the domestication or collection of any judgment obtained against Maker with respect to this Note or the Loan in any jurisdiction where Maker may now or hereafter maintain assets.

11. Time is of the essence of this Note. Failure of Holder to exercise any option hereunder shall not constitute a waiver of the right to exercise the same in the event of any subsequent default or in the event of continuance of any existing default after demand for strict performance hereof. Without limitation of the foregoing sentence, no acceptance of a past due installment shall be construed to waive Holder's right to insist upon prompt payment thereafter or to impose late charges retroactively or prospectively. Holder may apply any payment of less than the total amount then due that it receives from Maker (regardless of whether Maker has marked such payment to indicate that its acceptance will constitute payment in full or an accord and satisfaction) on account to amounts then owing under this Note, but acceptance and application of such amount will not cure any existing default, constitute a waiver by Holder or an accord and satisfaction of any kind, or impair Holder's ability to exercise any or all of its remedies.

12. All interest and other charges, fees, reimbursable costs and other sums that Maker is or may become obligated to pay or reimburse in connection with the Loan, and which may be deemed to constitute "interest" within the meaning of California law, will be deemed to constitute items of interest in addition to the rate(s) of interest specified above, which Maker hereby contracts in writing to pay. If fulfillment of any provision of this Note or any other agreement between Maker and Holder would require Maker to pay amounts in excess of the maximum amounts, if any, lawfully collectible under applicable law, then the obligation of Maker to be fulfilled shall be automatically reduced to require the payment of only the maximum amounts lawfully collectible and any amounts paid by Maker in excess of the maximum lawfully collectible amount of interest will be applied to the principal of this Note as of the date of payment without prepayment charge or premium.

13. Any demand or notice will be in writing and will be deemed (a) given and received upon personal delivery to the party, (b) given upon deposit with a reputable national overnight commercial courier service, addressed to the party to be notified, and received on the first business day after such deposit, or (c) given upon deposit of such notice in the United States mail by first class mail, certified or registered, postage prepaid, addressed to the party, at the address designated below, and received on the second business day after such deposit or such earlier date as may be shown on the return receipt. Maker or Holder may change its address from time to time by giving ten days prior written notice to the other party as described in this paragraph.

*[Signature page follows]*

IN WITNESS WHEREOF, Maker has executed this Note as of the date first written above.

LONG BEACH PUBLIC  
TRANSPORTATION COMPANY, a  
California nonprofit corporation, which  
does business as "Long Beach Transit"

By: \_\_\_\_\_  
Name: Kenneth A. McDonald  
Title: President and CEO  
Address: 4801 Airport Plaza Drive  
Long Beach, California 90815

APPROVED AS TO FORM:

\_\_\_\_\_  
Vincent C. Ewing  
General Counsel

**EXHIBIT E**  
**DEED OF TRUST**

When recorded, return to:

Nossaman LLP  
777 South Figueroa Street, 34<sup>th</sup> Floor  
Los Angeles, CA 90017  
Attn: Karla N. MacCary

**LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY  
AGREEMENT AND FINANCING STATEMENT**

DATE	_____, 2020
TRUSTOR and Mailing Address	LONG BEACH PUBLIC TRANSPORTATION COMPANY, a California nonprofit corporation, which does business as “Long Beach Transit” 4801 Airport Plaza Drive Long Beach, California 90815
BENEFICIARY and Mailing Address	The City of Long Beach, a municipal corporation, acting by and through its Board of Harbor Commissioners 415 W. Ocean Blvd. Long Beach, California 90802
TRUSTEE and Mailing Address	First American Title Insurance Company 18500 Von Karman, Suite 600 Irvine, CA 92612

**RECITALS**

A. The land described on Exhibit A attached hereto and by this reference made a part hereof is identified as “Parcel 2”. Parcel 2 is covered and encumbered by a certain Lease Agreement (Parcel 2 of Parcel Map No. 17454 of Business Park) (Portion of Parcel 7 of Parcel Map No. 15307) made as of December 15, 1986 between the City of Long Beach, a municipal corporation, and Long Beach Airport Business Park, a California general partnership, the predecessor-in-interest to Trustor, as amended by that certain Amendment to Ground Lease (Parcel 2 of Parcel Map 17454) dated July 12, 2004, and as amended by that certain Second Amendment to Ground Lease (Parcel 2 of Parcel Map 17454) dated August 13, 2019 (as amended, the “Ground Lease”). A short form of the Ground Lease was recorded on December 16, 1986 as Instrument No. 86-1750032 in the Official Records of Los Angeles County, California (“Official Records”). A

Memorandum of Ground Lease Amendment with respect to the Ground Lease dated July 12, 2004 was recorded on July 26, 2004 as Instrument No. 04-1896819 in the Official Records, and a further Amendment of Ground Lease Amendment dated August 13, 2019 was recorded on February 11, 2020 as Instrument No. 20200167590 in the Official Records. Trustor is the owner of the leasehold interest under the Ground Lease. Parcel 2 is hereinafter referred to as the "Land." The Land as well as Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of Parcel Map No. 15307 are hereinafter collectively referred to as the "Business Park".

B. The Land and the improvements thereon are subject to that certain Maintenance Declaration (Long Beach Airport Business Park) dated January 31, 1983 and recorded on March 8, 1983 as Instrument No. 83-256290 in the Official Records ("Maintenance Declaration").

C. The Land and the improvements thereon are also subject to that certain Declaration of Covenants, Conditions, and Restrictions Long Beach Airport Business Park A Planned Building Development Los Angeles County, California dated January 31, 1983 and recorded on March 9, 1983 as Instrument No. 83-262462 of the Official Records of Los Angeles County, California, as amended by that certain First Amendment to Declaration of Covenants, Conditions, and Restrictions Long Beach Airport Business Park dated June 2, 1988 and recorded on June 14, 1988 as Instrument No. 88-937726 in the Official Records, as amended by that certain Second Amendment to Declaration of Covenants, Conditions, and Restrictions Long Beach Airport Business Park dated as of May 29, 1990 and recorded on May 30, 1990 as Instrument No. 90-965276 in the Official Records, and as amended by that certain Third Amendment to Declaration of Covenants, Conditions and Restrictions Long Beach Airport Business Park dated as of March 15, 1996 and recorded on June 27, 1996 as Instrument No. 96-1024334 in the Official Records (as amended, the "Office Declaration").

FOR VALUE RECEIVED, Trustor hereby irrevocably grants, transfers, and assigns to Trustee IN TRUST WITH POWER OF SALE, for the benefit of Beneficiary, and grants to Beneficiary a security interest in, all present and future right, title and interest of Trustor in and to: (a) the leasehold interest under the Ground Lease (the "Real Property") as well as any rights of first refusal under the Ground Lease and all appurtenances in respect of or otherwise relating to the Ground Lease; (b) all of Trustor's right, title and interest in and to all rights, easements and licenses for (i) use of the common area of the Business Park as set forth in the Office Declaration, (ii) entry, utilities and maintenance as set forth in the Office Declaration, (iii) use of the Common Improvements (as such term is defined in the Maintenance Declaration) as set forth in the Maintenance Declaration, and (iv) any other rights, easements or licenses in favor of Trustor and referred to in the Office Declaration or in the Maintenance Declaration; (c) all of Trustor's right, title and interest in and to all easements and all rights of Trustor granted under that certain Parking Agreement (Building E) recorded on May 30, 1990 as Instrument No. 90-965129 in the Official Records of the Los Angeles County, California; (d) all of Trustor's right,



title and interest in and to all improvements and structures now or hereafter located upon the Land; (e) all fixtures, systems, built-in appliances, ceiling fans, water heaters, window coverings, attached floor coverings, heating and cooling equipment, light fixtures, window and door screens, sun screens, curtain and drapery rods, signs and attached antennas and equipment now or hereafter annexed to or used in connection with the Real Property; (f) all rents, revenues, receipts, issues and profits (collectively, "Rents") of the Project (defined below) now or hereafter due and payable under any present and future rental agreements, leases, subleases, licenses and other agreements for the use and occupancy of all or any portion of the Real Property, together with all extensions, renewals and modifications thereof (the "Leases"), together with the entire right, title and interest of the lessor under the Leases; (g) all goods, materials, supplies, inventory, general intangibles, accounts, chattel paper, instruments, promissory notes, drafts, investment property, commercial tort claims, letters of credit, letter-of-credit rights, documents and other personal property (to the extent the same constitute personal property under applicable law) relating to, or used or intended for use in connection with, the Project; and (h) all (i) replacements and substitutions for, (ii) additions to, (iii) proceeds and products of (including all insurance proceeds and condemnation awards (or proceeds of any purchase in lieu thereof) which are or may become payable with respect thereto), and (iv) contracts, agreements, books, records and files, and keys, openers and controls relating to, all or any portion of the items described in the foregoing clauses (a) through (h) (all of the foregoing property is collectively called the "Property"). The items described in the foregoing clauses (g) and (h) shall have the meanings provided for those terms in the California Commercial Code in effect on the date of this Deed of Trust. The Real Property, all improvements or fixtures now or hereafter located thereon, and any tangible personal property included in the description of the Property are collectively called the "Project".

This Deed of Trust secures: (1) all indebtedness (the "Loan") now or hereafter evidenced by that *Promissory Note* of even date herewith in the principal amount of **\$10,500,000.00**, executed by Trustor and payable to the order of Beneficiary (the "Note"), together with all interest and charges thereon, and any and all advances now or hereafter made by Beneficiary under the terms and conditions of the Note or this Deed of Trust, and any and all renewals, replacements, extensions, amendments or modifications thereof; (2) all of the terms and provisions of this Deed of Trust and any other writing (including the Loan Documents (hereinafter defined) and all renewals, replacements, extensions, amendments or modifications thereof) given by Trustor to Beneficiary to evidence or secure the indebtedness secured hereby; (3) all costs of collecting the indebtedness secured hereby; and (4) all other loans and advances by Beneficiary to Trustor when evidenced by a promissory note or notes or other writings reciting that they are secured by this Deed of Trust. As used herein, "Loan Documents" means the Note and this Deed of Trust. All obligations secured by this Deed of Trust are collectively called the "Obligation".

## **TRUSTOR HEREBY WARRANTS AND AGREES AS FOLLOWS:**

1. Trustor represents and warrants that it is the sole owner of good and marketable unencumbered title to the Real Property, and that it is the owner of the other existing Property, and Trustor will forever defend the same against all claims and persons whomsoever, unto Beneficiary, its successors and assigns. All of Trustor's present and future right, title and interest in the Property shall be subject to the lien and other terms and provisions of this Deed of Trust, regardless of the time that any such right, title and interest is created or acquired by Trustor.

2. Trustor will, subject to the terms of the Ground Lease, the Maintenance Declaration and the Office Declaration: (a) keep the Project and its appurtenances in good condition and repair; (b) keep the Project free from weeds, trash and debris; (c) repair, restore, and reconstruct any portion of the Project that becomes damaged; (d) not remove or demolish any improvements on the Real Property; (e) not permit or commit any waste to the Project; (f) pay when due all claims for materials and labor; (g) pay when due all bills for utilities and services to the Project; (h) not permit the Project or any portion thereof to be used, occupied or leased as a dwelling or residence at any time prior to the payment and performance of the Obligation in full; and (i) comply, and require all tenants of the Project to comply, with (A) all applicable laws, ordinances, orders, decrees, rules, regulations or requirements of any governmental authority, including applicable subdivision laws, regulations and ordinances, and any requirements, terms or conditions contained in any restrictions, restrictive covenants, easements, licenses or leases, building codes, fire safety and air quality codes, flood protection laws and ordinances, laws or regulations concerning accessibility (including the Americans With Disabilities Act), zoning ordinances or stipulations, subdivision plats, master plans, development plans, or other instruments or documents now or in the future affecting any portion of the Real Property or any improvements thereon (collectively, "Legal Requirements"), and (B) the requirements of any insurance underwriters which are applicable to the Project. Beneficiary or its agents may, at reasonable times and upon reasonable prior notice, enter upon and inspect the Project.

3. (a) Trustor agrees to keep the Project insured with an all-risk property insurance policy and a commercial general liability policy acceptable to Beneficiary, and each policy shall contain the terms and conditions described herein. Excess or umbrella policies may be utilized if they are in a form approved by the Beneficiary. All policies of insurance shall be provided by insurers having a current A.M. Best rating of A- or better. The property insurance policy shall be written for the full replacement value of the Project, and shall be issued with a 100% coinsurance requirement. Property coverage shall include business interruption or rental loss insurance in an amount equal to or greater than \$111,369 per month for a twelve month period, or for such longer period of time as would be required to rebuild and restore the Project in the event of a total loss. Trustor shall pay all premiums when due. The deductible with respect to such insurance shall not exceed \$50,000 per occurrence. All property policies must include a lender's loss payable endorsement in

favor of Beneficiary and be delivered to Beneficiary to hold. All property policies shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of the policy notwithstanding any act or negligence by Trustor which might otherwise result in forfeiture or cancellation of the policy. Trustor hereby assigns to Beneficiary all policies of hazard insurance on the Project and the proceeds thereof, and all proceeds or awards of any eminent domain or condemnation proceeding (or conveyance in lieu thereof) affecting the Project. The commercial general liability coverage maintained by Trustor shall provide commercial general liability coverage in an amount of not less than \$2,000,000 per occurrence and \$4,000,000 annual aggregate, shall provide coverage for any work done by or on behalf of Trustor, and be primary over any other valid or collectible insurance including any deductible or self-insurance available to Beneficiary. The deductible with respect to such insurance shall not exceed \$50,000 per occurrence. Defense costs shall be in excess of limits. Each policy must provide that it may not be canceled or materially amended (including any reduction in the scope or limits of coverage) without at least thirty days' prior direct written notice to Beneficiary from the insurance company.

(b) In the event of a casualty loss, condemnation or other taking or threatened taking of the Project or any portion thereof, all proceeds, awards or damages will be payable jointly to Trustor and Beneficiary and will be applied, at Beneficiary's sole option, either to pay down the Loan or to the restoration, repair and reconstruction of the improvements (if and to the extent that they will be restored or repaired). If Beneficiary allows, or is required to allow, property insurance proceeds or condemnation awards or damages to be used for the restoration, repair and reconstruction of the improvements, the insurance or condemnation proceeds will be held by Beneficiary and disbursed through such procedures and with such safeguards as Beneficiary may require. The Project as rebuilt or restored shall be of at least equal value and substantially identical character as prior to the damage or destruction. Beneficiary shall be entitled to join and participate in any eminent domain or condemnation proceedings, including the negotiation and adjudication of any damages, award or settlement, and no stipulation or agreement shall be entered into by Trustor without the prior consent and approval of Beneficiary. Trustor shall pay or reimburse to Beneficiary the legal expenses, appraisal and expert witness fees incurred by Beneficiary and any other out-of-pocket costs incurred by Beneficiary because of such eminent domain and condemnation proceedings. Any insurance or condemnation proceeds not used for repair or restoration of the Project shall be applied to the principal of the Note in the inverse order of maturity. In the event of a casualty loss, Trustor shall promptly repair and restore and/or reconstruct the Project whether or not Beneficiary allows the insurance proceeds to be used for the repair, restoration and/or reconstruction.

4. Trustor will pay all *ad valorem* taxes and assessments, possessory interest tax or other charges levied and assessed against the Property at least five days prior to delinquency, and to provide Beneficiary with evidence of timely payment. If Trustor properly processes any necessary applications or notifications of exemptions from taxes,

Trustor will not be required to pay such taxes. In such event, Trustor shall cause any tenants or occupants to pay any possessory interest tax owing with respect to the Property.

5. Trustor will pay, prior to delinquency, any and all amounts due on any permitted prior lien or encumbrance and will not permit any breach or default to exist or occur thereunder. Trustor will not consent to, or vote in favor of, including any portion of the Real Property in a special improvement, assessment, community facilities or similar district without Beneficiary's prior written consent, and Trustor will provide Beneficiary with prompt notice of any notification that Trustor may receive of any intent or proposal to form such a district that may include any portion of the Real Property.

6. Trustor will defend, at its expense, any action or proceeding purporting to affect Trustor's interest or the security, rights or powers of Beneficiary or Trustee hereunder, or seeking to impose any liability on Beneficiary or Trustee because of any act or omission of Trustor.

7. All Rents are hereby absolutely assigned to Beneficiary, and Beneficiary is authorized to collect the same in any lawful manner, including giving notice to each payor to pay such amounts to Beneficiary. However, so long as no uncured Event of Default exists, Trustor will have a license to collect Rents as the same fall due; upon the occurrence of an Event of Default, all right of Trustor to collect or receive such Rents (including past due Rents) will terminate, whereupon Beneficiary will be entitled to demand and receive the payment of such Rents, and to proceed against any tenant, lessee or lease guarantor for the payment of such Rents or to otherwise enforce Trustor's rights under the Leases. In such event, Trustor directs and authorizes such lessees, tenants and lease guarantors to make to Beneficiary all payments and render all performances required under the Leases, and hereby relieves any and all lessees, tenants and lease guarantors from any liability that Trustor might otherwise assert by reason of the lessee/tenant's making such payment or rendering such performance to Beneficiary. Beneficiary's receipt and application of Rents shall not constitute a waiver of any other right of Beneficiary, operate to cure any Event of Default or affect any then pending or contemplated judicial or nonjudicial foreclosure proceeding.

8. (a) Except with the prior written consent of Beneficiary, Trustor shall not sell, transfer, encumber, assign, convey, lease or otherwise dispose of the Property or any part thereof or interest therein (any of these, a Transfer). Upon any Transfer, whether voluntarily, involuntarily or by operation of law, the Loan is due and payable in full. Notwithstanding the foregoing, the previous sentence is not applicable to the lease of a portion of the Property, entered into with Beneficiary's prior written consent. Any Transfer is subject to the terms of the Ground Lease. (i) The death of any Trustor that is a natural person or, with respect to any Trustor that is not a natural person, (ii) the dissolution of Trustor, (iii) a Transfer or pledge of any ownership or beneficial interest in Trustor, (iv) the change of Trustor's type of organization, jurisdiction of organization or other legal structure, or (v) unless Beneficiary is provided at least 30 days prior written notice, any

change of Trustor's name or any change in Trustor's organizational identification number, will be deemed a Transfer within the meaning of the foregoing sentence. Beneficiary may condition its consent to a given transaction upon, among other things, a change in the terms and conditions of the Loan (including an increase in the interest rate), payment of a transfer fee and reimbursement of Beneficiary's reasonable expenses in connection therewith and/or the assumption of the Loan by any person succeeding to an ownership interest in the Property or any portion thereof. Trustor will provide Beneficiary with thirty (30) days' prior written notice of any proposed transaction which requires Beneficiary's consent under this paragraph, and will furnish Beneficiary with such information and documentation as Beneficiary may reasonably require. Trustor will immediately notify Beneficiary upon acquiring knowledge of any sale, escrow for sale, contract for sale, conveyance, assignment or Transfer of all or any portion of the Property.

(b) If the ownership of the Project or any portion thereof becomes vested in any person other than Trustor, or if Trustor further encumbers the Property, Beneficiary may deal with such successor(s) in interest with reference to the Loan and this Deed of Trust in the same manner as with Trustor, without in any way vitiating or discharging Trustor's liability hereunder or for payment of the Loan. However, the foregoing sentence shall in no way constitute or imply Beneficiary's consent to any Transfer of the ownership of the Project or any portion thereof, and Trustor's violation of the provisions of this paragraph 8 shall entitle Beneficiary to accelerate the Loan.

(c) There is and will be no facility in or on any of the Project which is used for the treatment, storage or disposal of any toxic or hazardous material, substance, waste, pollutant or contaminant (as those terms are defined or described in federal, state or local laws, regulations or requirements). The Project and the business conducted thereon are and will continue to be in full compliance with, and do not require remediation, corrective action or other clean-up under, applicable environmental laws and regulations, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Resource Conservation and Recovery Act of 1976, as amended, and the California Environmental Quality Act. No underground storage tank may be installed on or under the Real Property without Beneficiary's prior written consent.

(d) Trustor will defend, indemnify and save and hold harmless Beneficiary and its successors and assigns for, from and against all claims, liabilities, proceedings, suits, losses, damages (including punitive damages), judgments and environmental response and clean-up costs, fines, penalties and expenses (including reasonable counsel fees, costs and expenses incurred in investigating and defending against the assertion of any such liabilities, regardless of their merit) which may be asserted against, sustained, suffered or incurred by Beneficiary or its successors and assigns because of the presence, use, disposal, storage or release of any toxic or hazardous material (including, without limitation, gasoline, kerosene, other flammable or toxic petroleum substances, toxic pesticides and herbicides, volatile solvents, asbestos or formaldehyde-

containing materials, and radioactive materials), substance, waste, pollutant or contaminant or arising from any other violation of any governmental law, regulation or requirement now or hereafter in effect relating to human health or the safety or protection of the environment. The foregoing indemnity includes claims asserted by any federal, state or local governmental agency or any private party and will continue in effect following any release of this Deed of Trust, any judicial or nonjudicial foreclosure or other realization upon the security, or any conveyance in lieu thereof. The foregoing indemnity shall not apply to hazardous materials brought onto the Property by Beneficiary prior to the date hereof.

9. (a) Trustor shall (i) pay all rents, additional rents and other sums required to be paid by Trustor, as tenant under and pursuant to the provisions of the Ground Lease, and (ii) diligently perform and observe all of the terms, covenants and conditions of the Ground Lease on the part of Trustor, as tenant thereunder. Trustor shall not, without the prior consent of Beneficiary, surrender the leasehold estate created by the Ground Lease or terminate or cancel the Ground Lease or modify, change, supplement, alter or amend the Ground Lease, in any material respect, either orally or in writing, and if Trustor shall default in the performance or observance of any term, covenant or condition of the Ground Lease on the part of Trustor, as tenant thereunder, Beneficiary shall have the right, but shall be under no obligation, to pay any sums and to perform any act or take any action as may be appropriate to cause all of the terms, covenants and conditions of the Ground Lease on the part of Trustor to be performed or observed on behalf of Trustor, to the end that the rights of Trustor in, to and under the Ground Lease shall be kept unimpaired and free from default. However, such remedy by the Beneficiary shall not remove the default as between the Beneficiary and Trustor. Trustor shall, on demand, reimburse Beneficiary for all advances made and expenses incurred by Beneficiary in curing any such default (including, without limitation, attorneys' fees and costs).

(b) Notwithstanding anything contained herein to the contrary, and in addition to any rights, privileges and remedies granted to Beneficiary elsewhere in this Deed of Trust, Beneficiary shall have, and Trustor hereby grants to Beneficiary, any and all rights, privileges and remedies of leasehold lenders provided for in the Ground Lease (including without limitation, any renewal rights and options to purchase contained in the Ground Lease) without the necessity of particularly specifying any or all of such rights, privileges and remedies that are or could be granted to leasehold lenders pursuant to the Ground Lease.

10. (a) This Deed of Trust constitutes a security agreement and a financing statement (fixture filing). This Deed of Trust is to be filed in the office where a mortgage on the Real Property would be recorded, which is the office of the Recorder of Los Angeles County, California. Trustor is the record owner of the Real Property.

(b) Trustor hereby certifies, with the understanding that Beneficiary will rely upon such certifications in making the Loan and determining the proper locations in

which to make filings to perfect its security interest in the Property and conduct searches for the liens of potential competing creditors, and in including in Beneficiary's filings the identifying information required by law: (i) Trustor's exact legal name and mailing address are as set forth on the first page of this Deed of Trust; (ii) Trustor uses no other names (including trade names) other than its name set forth in the first paragraph of this Deed of Trust and "Long Beach Transit," and is not the successor by merger, consolidation, acquisition, change in form, nature or jurisdiction of organization to any other entity; and (iii) no effective financing statements are on file in the office of any Secretary of State, County Recorder or other public office naming Trustor as debtor and describing any of the Property as collateral.

11. If Trustor fails to timely pay or perform any portion of the Obligation (including taxes, assessments and insurance premiums), or if a legal proceeding is commenced that may significantly affect Beneficiary's rights in the Property, then Beneficiary may (but is not obligated to), at Trustor's expense, take such action as it considers to be necessary to protect the value of the Property and Beneficiary's rights in the Property, including the retaining of counsel and/or the procuring of so-called "forced placed" insurance coverage protecting only the interest of Beneficiary in the Property, and any amount so expended by Beneficiary will be added to the Obligation and will be payable by Trustor to Beneficiary on demand, together with interest thereon from the date of advance until paid at the default rate provided in the Note (the "Default Rate"). If Beneficiary pays any prior encumbrance, Beneficiary will become subrogated to the lien thereof, notwithstanding any release of record.

12. The occurrence of any one or more of the following events will constitute an event of default ("Event of Default") under this Deed of Trust: (a) any failure to pay to Beneficiary, as and when due and payable, any and all amounts payable under the provisions of any one or more of the Loan Documents; (b) any failure to perform, observe or comply with any of the provisions of the Loan Documents not otherwise described in this paragraph 12; (c) any information contained in any document given by Trustor or by any principal or affiliate thereof in connection with the Loan is not in all material respects true and accurate, or Trustor or such principal or affiliate omitted to state any material fact or any fact necessary to make such information not misleading; (d) Trustor is generally unable to pay its debts as they mature; (e) the filing of any petition for relief under the Bankruptcy Code (or any similar debtor relief laws to which the parties may be subject) by or against Trustor, or the then owner of the Property, and, if an involuntary petition, such petition is not dismissed within sixty (60) days after the date on which such party is served with such a petition; (f) the appointment of a receiver or custodian for, the making of a general assignment for the benefit of creditors by, or the insolvency of Trustor, or the then owner of the Property; (g) Trustor or the then owner of the Property ceases to exist; (h) any statutory or judicial lien is filed, levied or claimed against the Property and is not discharged, satisfied or bonded over to Beneficiary's satisfaction; (i) any legal action or proceedings are instituted to enforce a mortgage, deed of trust or other lien on the Property or any part thereof; (j) the Project or any material portion thereof is damaged or destroyed

by any casualty not fully covered by appropriate insurance; (k) the occurrence of any default under any writing given by Trustor, by any entity owned by Trustor, by the persons who own Trustor, or by any entity owned by the same persons or entities that own Trustor, in connection with any other indebtedness of Trustor or such entity or persons to Beneficiary; (l) any writing executed or delivered by Trustor in connection with the Loan, at any time, and for any reason (except as may be approved by Beneficiary) ceases to be in full force and effect or is declared null and void, or the validity or enforceability thereof is contested by Trustor or any such party denies that it has any further liability or obligation thereunder; or (m) the occurrence of any default under any Loan Document or any other writing executed or delivered in connection with the Loan, whether or not such default is expressly defined therein as an "event of default". Upon the occurrence of an Event of Default, then, at the option of Beneficiary, Beneficiary may declare the entire Obligation to be immediately due and payable without further notice. If, in Beneficiary's good-faith judgment, the delay resulting from the granting of any cure period to Trustor would result in the imposition of any lien, claim or encumbrance on the Property that would have priority over the lien of any security document in favor of Beneficiary, or would otherwise substantially diminish the value or cause the loss or impairment of any of Beneficiary's security, then Beneficiary may immediately make protective advances and enforce any or all of the remedies described in the Loan Documents with or without notice, and with or without awaiting the termination of any cure period.

13. After the occurrence of any Event of Default, a receiver may be appointed upon the application of Beneficiary, without regard for the adequacy of any security for the Obligation, to take charge of the Project and to do such things as may be authorized by the court, and that any and all sums spent by such receiver, less any Rents collected by the receiver, together with the receiver's compensation, will be secured by this Deed of Trust. Trustor hereby waives any right it may have under applicable law to require Beneficiary to make any showing or meet any obligation as a condition to the appointment of a receiver.

After the occurrence of any Event of Default, upon the giving of notice of the time and place of sale in the manner provided by law, the Property may be sold by Trustee in the manner provided by law under the power of sale conferred hereby. In lieu of sale pursuant to the power of sale conferred hereby, this Deed of Trust may, at Beneficiary's election, be judicially foreclosed in the same manner provided by law for the foreclosure of mortgages on real property. Each and every provision of California law relating to deeds of trust is and will remain applicable to the respective rights and obligations of Trustor, Beneficiary and Trustee, and is hereby incorporated by reference herein. Following a trustee's sale: (a) the purchaser at such sale shall be entitled to immediate possession of the Property and Trustor shall surrender possession; (b) title to all insurance policies and proceeds thereof will vest in and become the property of the purchaser at such sale, unless Beneficiary otherwise directs; and (c) subject to any subordination, non-disturbance, and attornment agreement entered into among Beneficiary, Trustor and a lessee of the Project or any portion thereof, any such lease of the Project or any portion thereof will remain in effect and the purchaser will succeed to



the lessor's interest therein, unless such purchaser elects to treat the lease as terminated by the sale under the prior lien of this Deed of Trust. The power of sale contained herein will not be exhausted by any one or more sales or attempted sales as to all or any portion of the Property remaining unsold, but will continue in full force and effect until all of the Property has been sold by exercise of the power of sale in this Deed of Trust and the Obligation has been fully paid and performed.

14. If any sale proceeding, lawsuit or arbitration is commenced, or any attorney is retained to collect any amount secured hereby or to enforce any rights granted Beneficiary under the Loan Documents (regardless of whether an action is actually commenced), Trustor will pay Beneficiary's and Trustee's reasonable attorneys' fees and costs, Trustee's fees and its costs and expenses in connection with enforcing its rights and all costs and expenses in connection with any sale proceeding, lawsuit or arbitration. In addition, Trustor will pay a reasonable fee for title searches, sale guarantees, publication costs, appraisal reports or environmental assessments made in preparation for and in the conduct of any such proceedings or suit. All of the foregoing fees and expenses will be payable on demand, added to the Obligation and secured by this Deed of Trust, included in any judgment or arbitration award obtained by Beneficiary and paid to Beneficiary as part of any reinstatement tendered hereunder. The foregoing provisions will also apply to costs and expenses incurred by Beneficiary in any proceeding under the federal Bankruptcy Code, and the rights described in this paragraph will be in addition to any rights that Beneficiary may have to collect attorneys' fees under applicable law.

15. Trustor hereby makes the following general representations and warranties to Beneficiary:

(a) Trustor is a nonprofit corporation validly existing and in good standing under the laws of the State of California and qualified to do business in the State of California.

(b) Trustor and the parties acting herein on its behalf are authorized and permitted to enter into the Loan Documents, to execute any and all documentation required therein, to borrow the amounts contemplated in the Loan Documents upon the terms set forth therein and to perform the terms of the Loan Documents, none of which require the consent or approval of any third person or are or will conflict with or violate any Legal Requirement applicable to Trustor or with the governing organizational documents of Trustor (or any manager or member thereof). The Loan Documents constitute valid and binding legal obligations of Trustor, enforceable in accordance with their terms, free from any set-off, claim or defense of any nature.

(c) The execution, delivery and performance of the Loan Documents and all other documents relating to the Loan will not result in any breach of, or constitute a default under, any agreement to which Trustor is a party or under which it is obligated. No

such party is in default in the performance or observance of any obligations, covenants or conditions of any such agreement.

(d) No actions, suits or legal or administrative proceedings (including any condemnation or eminent domain proceedings) are pending before any court, arbitrator or governmental or quasi-governmental body, or, to the best knowledge of Trustor, are threatened, against Trustor or affecting such party's property or assets that might materially and adversely affect the repayment of the Loan, such party's performance under the Loan Documents, such party's financial condition, business or operations or the value of Beneficiary's security. Trustor is not in default under, or in violation of, any order, writ, injunction, decree, judgment, award, determination, direction or demand of any court, arbitrator or governmental or quasi-governmental body, nor is there any outstanding judgment or arbitration award against any such party.

(e) Trustor has obtained and has maintained in full force and effect all licenses, permits, consents, approvals and authorizations necessary or appropriate for the operation and contemplated use of the improvements located on the Real Property.

(f) The Real Property and the improvements thereon, including any modifications or additions to the existing improvements, will in the future remain in compliance with all applicable Legal Requirements.

16. Trustor hereby covenants that, until the Obligation has been paid in full:

(a) Trustor will keep and maintain, in a safe place, full and accurate accounts and records of its management of the Property, and will permit Beneficiary by its duly authorized agents to audit, inspect and copy such accounts and records at any reasonable time and upon reasonable notice at Trustor's principal place of business.

(b) Trustor will indemnify and hold Beneficiary and Beneficiary's past, current and future officers, commissioners, employees and agents, and their respective successors and assigns (collectively, "Indemnitees"), harmless for, from and against any and all claims asserted against any Indemnatee by any person arising out of or in connection with the development, marketing, sale, ownership, management, rental, financing or use of any portion of the Property, including claims asserted by reason of or in connection with any violation or alleged violation of federal, state or local environmental or accessibility laws or regulations, including the ADA; provided, however that, the foregoing indemnity shall not apply to claims arising from any acts or omissions of Beneficiary prior to the date hereof. If, in the reasonable judgment of Beneficiary, Trustor is incapable of defending, or unwilling to defend, the relevant Indemnatee(s) against such claims or fails to defend the relevant Indemnatee(s) against such claims in a manner Beneficiary reasonably deems appropriate, Beneficiary may appear in any action or proceeding to defend the relevant Indemnatee(s) against such claims with counsel of its own choice, and Trustor will reimburse Beneficiary for all costs incurred by Beneficiary in connection therewith, including reasonable attorneys' fees, within ten (10) days after demand therefor. Any

failure to so reimburse Beneficiary within the specified time period will constitute an Event of Default, and the unreimbursed amount will be added to the outstanding balance of the Obligation, bear interest at the Default Rate until paid, and be secured by this Deed of Trust. The indemnity obligations contained in this subparagraph (b) will survive repayment of the Obligation or foreclosure against the Property.

(c) Trustor will pay all out of-pocket-expenses paid by Beneficiary and the reasonable fees and expenses of Beneficiary's legal counsel incurred in enforcing any right or remedy of Beneficiary under the Loan Documents.

(d) Upon the occurrence of an Event of Default hereunder, then, at Beneficiary's sole option exercised by written notice to Trustor and the property manager, if any: (i) Beneficiary may direct that all rents, issues, profits and proceeds of the Property theretofore and thereafter collected by the property manager be paid to or at the direction of Beneficiary; and (ii) Beneficiary may, at its sole option, either request the manager to perform for Beneficiary under the terms of the management agreement and then approved amendments, or terminate the management agreement and require the property manager to transfer its responsibility for the management of the Real Property to a property manager selected by Beneficiary.

17. The following general and miscellaneous provisions will apply to this Deed of Trust:

(a) All remedies of Beneficiary may be exercised in any order concurrently or consecutively or in proceedings whether legal or equitable, and no failure of Beneficiary to exercise any rights hereunder and no delay by Beneficiary in the exercise of such rights will constitute a waiver thereof. No remedies are exclusive and all are cumulative.

(b) Upon payment of all sums secured by this Deed of Trust, Beneficiary will reconvey the Property without warranty. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto." Trustor will pay the cost of recording such reconveyance.

(c) At any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary, without affecting the personal liability of any person for payment of the Obligation, Trustee may reconvey any part of the Property, consent to the making of any map or plat thereof, join in granting any easement or dedication thereon or in creating any covenants, conditions or restrictions affecting the use or occupancy of the Property, or join in any extension agreement or agreement subordinating the lien or charge hereof.

(d) Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is recorded as provided by law. Trustee may resign at any time in the manner provided by law.

(e) Time is of the essence hereof. Acceptance of any payment after its due date will not waive the time of the essence provisions of this Deed of Trust or the Note, or Beneficiary's right to require prompt payment of all other sums when due. No extension of time for payment or renewal of any portion of the Obligation, nor the release from any personal liability of any person directly or contingently liable for any portion of the Obligation, will affect the lien or priority of this Deed of Trust.

(f) The taking by Beneficiary of any other collateral for any portion of the Obligation will in no way affect or impair the lien or priority of this Deed of Trust, and Beneficiary may resort for the payment of the Obligation to its several securities in such order and manner as Beneficiary may deem appropriate.

(g) This Deed of Trust will apply to the parties hereto according to the context hereof, without regard to the number or gender of words or expressions used herein. The headings or captions of paragraphs in this Deed of Trust are for convenience and reference only, and in no way define or limit the scope or intent of this Deed of Trust or the provisions of such paragraphs. **This Deed of Trust will be construed as a whole, in accordance with the fair meaning of its language, and, as each party has been represented by legal counsel of its choice in the negotiation of this Deed of Trust or deliberately chosen not to be so represented, neither this Deed of Trust nor any provision thereof will be construed for or against either party by reason of the identity of the party drafting this Deed of Trust.** As used herein, the term(s): (i) "include" or "including" means without limitation by reason of enumeration; (ii) "herein," "hereunder," "hereof," "hereinafter" or similar terms refer to this Deed of Trust as a whole, rather than to any particular paragraph; (iii) "Beneficiary" means the holder at any time of the Note or other writings secured hereby; and (iv) "Trustor" includes all persons named as Trustor herein, severally and collectively, and any subsequent owners of all or any portion of the Property, and the obligations of such persons will be joint and several. All references in this Deed of Trust to "legal fees", "attorneys' fees" or terms of similar import shall, unless prohibited by applicable law, include allocated costs of in-house counsel. Any exhibit attached hereto is hereby incorporated herein and made a part hereof for all purposes, and references in this Deed of Trust to such exhibits shall be deemed to include this reference and incorporation.

(h) Upon the request of Beneficiary, Trustor will, and will cause all persons with which it is affiliated to, execute and deliver or authorize, as appropriate, such further documents, including financing statements, and take such further actions as may be reasonably necessary to correct clerical errors or omissions in any Loan closing documentation, or to replace any lost or destroyed Loan closing documentation, if considered necessary or desirable by Beneficiary, to carry out the intent of the Loan Documents and to perfect and preserve the rights, interests and priority of Beneficiary hereunder.

(i) Trustor expressly authorizes the recording of this Deed of Trust and any UCC-1 financing statement naming Trustor as debtor and Beneficiary as secured party upon the delivery of the same to Beneficiary and any County Recorder or other applicable filing office is authorized to record the same. Without limitation of the restrictions on transfer described in paragraph 8 above, this Deed of Trust applies to, inures to the benefit of and binds all parties hereto and their heirs, personal representatives, successors and assigns.

(j) Beneficiary may assign, negotiate, participate, pledge or otherwise hypothecate all or any portion of its rights under any of the Loan Documents or any of its security, and may assign and delegate any or all of its primary supervisory functions. In case of such assignment, Trustor will accord full recognition thereto and hereby agrees that all rights and remedies of Beneficiary in connection with the interest so assigned will be enforceable against Trustor by Beneficiary's assignee. Beneficiary may furnish to any prospective buyer, assignee or participant of the Loan, or to any governmental or regulatory authority, any information or documentation that Beneficiary may have regarding the Loan or Trustor.

(k) The Loan Documents constitute a complete integration of the agreement of Beneficiary and Trustor respecting the Loan, and may be amended or modified in the future only by written amendment signed by Beneficiary and Trustor. Any and all prior oral and/or written commitments from Beneficiary to Trustor, any affiliate or any predecessor in interest of Trustor, any affiliate or any principals or agents thereof with respect to all or any portion of the Loan, except to the extent that the provisions thereof are incorporated by reference in provisions of the Loan Documents that are expressly stated to survive the closing of the Loan) have been merged in the Loan Documents and the other documentation executed and delivered concurrently herewith, and will, except as expressly provided in the Loan Documents, be of no further force or effect following recordation of this Deed of Trust. No representations, promises, warranties, understandings or agreements, express or implied, verbal or written, exist with respect to the Loan except those expressly set forth in the Loan Documents and the other documentation executed and delivered concurrently herewith.

(l) This Deed of Trust cannot be amended or changed except by a written agreement signed by Trustor and Beneficiary.

(m) This Deed of Trust relates to real property located in, and will be governed by and construed according to, the substantive laws and judicial decisions of, the State of California and applicable federal laws, rules and regulations, as more particularly described in paragraph 10 of the Note.

(n) If the interests of Beneficiary and Trustor under this Deed of Trust at any time become vested in Beneficiary, by reason of foreclosure or otherwise, the lien of

this Deed of Trust will not be destroyed or terminated by application of the doctrine of merger, unless otherwise consented to in writing by Beneficiary.

(o) Notice to Parties. All notices and demands or other communications hereunder shall be in writing, and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by generally recognized overnight delivery service, with postage prepaid, addressed to Trustor or Beneficiary, as applicable, at the addresses stated below, or at such other address of which either Trustor or Beneficiary may hereafter notify the other in writing:

Trustor:

Long Beach Public Transportation Company  
dba Long Beach Transit  
4801 Airport Plaza Drive  
Long Beach, CA 90815  
Attn: Kenneth A. McDonald, President and CEO  
Telephone: (562) 591-8753  
Email: kmcdonald@lbtransit.com

with a copy to:

Long Beach Public Transportation Company  
dba Long Beach Transit  
1963 E. Anaheim Street  
Long Beach, California 90813  
Attn: Debra A. Johnson, Deputy CEO  
Telephone: 562-591-8753  
Email: djohnson@lbtransit.com

and to:

Long Beach Public Transportation Company  
dba Long Beach Transit  
1963 E. Anaheim Street  
Long Beach, California 90813  
Attn: Vincent C. Ewing, General Counsel  
Telephone: 562-591-8753  
Email: vewing@lbtransit.com

Beneficiary:

The Port of Long Beach  
415 W. Ocean Blvd.  
Long Beach, CA 90802  
Attn: Executive Director

with a copy to:

Long Beach City Attorney  
411 W. Ocean Blvd.  
Long Beach, CA 90802  
Attn: Charles Gale, Principal Deputy City Attorney

Each notice or demand so given or served shall be deemed given and effective, (A) if personally delivered, on the day of actual delivery or refusal and (B) if sent by generally recognized overnight delivery service, on the next business day. Notwithstanding the foregoing, service of any notice of default or notice of sale provided or required by law shall, if mailed as required by law, be deemed given and effective on the date of mailing.

[Signature page follows]



IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the date above set forth.

LONG BEACH PUBLIC  
TRANSPORTATION COMPANY, a  
California nonprofit corporation, which  
does business as “Long Beach Transit”

By: \_\_\_\_\_  
Name: Kenneth A. McDonald  
Title: President and CEO

APPROVED AS TO FORM:

\_\_\_\_\_  
Vincent C. Ewing  
General Counsel

**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.**

[illegible]

On \_\_\_\_\_ before me, \_\_\_\_\_,  
Notary Public, personally appeared \_\_\_\_\_,  
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.

(AFFIX NOTARIAL SEAL)

NOTARY PUBLIC

## **EXHIBIT A**

### **LEGAL DESCRIPTION**

REAL PROPERTY IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

#### **PARCEL A:**

PARCEL 2 OF PARCEL MAP 17454, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 191, PAGES 55 AND 56 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. AS AMENDED BY A CERTIFICATE OF CORRECTION RECORDED DECEMBER 18, 1987 AS INSTRUMENT NO. 87-2004117 OFFICIAL RECORDS.

EXCEPTING THEREFROM ALL OIL GAS, AND OTHER HYDROCARBONS IN AND UNDER SAID LAND, BUT WITHOUT THE RIGHT TO USE THE SURFACE, OR SUBSURFACE OF SAID LAND ABOVE A DEPTH OF 100 FEET; AS RESERVED BY BIXBY LAND COMPANY, A CORPORATION, IN DEEDS RECORDED IN BOOK 18884, PAGE 347, BOOK 24554, PAGE 211, BOOK 28612, PAGE 328, BOOK 38790, PAGE 367, BOOK 46180, PAGE 51, BOOK 49399, PAGE 406, BOOK D-721, PAGE 154 AND BOOK 37202, PAGE 307, ALL OF OFFICIAL RECORDS OF SAID COUNTY; AND AS RESERVED BY WHEELER F. CHASE IN DEED RECORDED IN BOOK 41754, PAGE 423, OFFICIAL RECORDS OF SAID COUNTY.

#### **PARCEL B:**

AN EASEMENT TO PARK 716 AUTOMOBILES WHICH PARKING SHALL BE LOCATED ON PARCEL 3 OF PARCEL MAP 17454 AS SURFACE PARKING OR WITHIN THAT CERTAIN PARKING STRUCTURE SITUATED ON PARCEL 3 OF PARCEL MAP NO. 17454, AS PER MAP FILED IN BOOK 191, PAGES 55 AND 56 OF PARCEL MAPS, AND A PORTION OF PARCEL 6 OF PARCEL MAP 15307, AS PER MAP FILED IN BOOK 159, PAGES 50 THROUGH 53, OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH AN EASEMENT OF INGRESS AND EGRESS OVER SAID PARCEL 3 TO THE PARKING STRUCTURE, AS PROVIDED IN THE DOCUMENT ENTITLED "PARKING AGREEMENT" (BUILDING E), RECORDED AS INSTRUMENT NO. 90-965129 ON MAY 30, 1990, TOGETHER WITH THE PARKING RIGHTS ESTABLISHED AND MODIFIED THEREIN UNDER THE AMENDMENT TO GROUND LEASE AS EVIDENCED BY DOCUMENT ENTITLED "MEMORANDUM OF AN AMENDMENT OF GROUND LEASE" RECORDED JULY 26, 2004 AS INSTRUMENT NO. 04-1896819 BOTH OF OFFICIAL RECORDS OF LOS ANGELES COUNTY, CALIFORNIA.

PARCEL C:

NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS AND PARKING PURPOSED IN AND TO THE "COMMON AREA" AS DEFINED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR LONG BEACH AIRPORT BUSINESS PARK RECORDED MARCH 9, 1983 AS INSTRUMENT NO. 83-262462 AND AS AMENDED BY DOCUMENTS RECORDED JUNE 26, 1984 AS INSTRUMENT NO. 84-759327, AND SEPTEMBER 3, 1985 AS INSTRUMENT NO. 85-1019578, AND SEPTEMBER 3, 1987 AS INSTRUMENT NO. 87-1426823, AND JUNE 14, 1988 AS INSTRUMENT NO. 88-937726, AND MAY 30, 1990 AS INSTRUMENT NO. 90-965276, AND JUNE 27, 1996 AS INSTRUMENT NO. 96-1024334 OF OFFICIAL RECORDS, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED THEREIN.

APN: 7149-013-924, 7149-013-923 and 8940-415-005

**EXHIBIT F**

**FORM 593**

(See attached)

**2020 Real Estate Withholding Statement****593**AMENDED: ☐**Part I Remitter Information** ☒ REEP ☐ Qualified Intermediary ☐ Buyer/Transferee ☐ Other

Business name			<input type="checkbox"/> FEIN <input type="checkbox"/> CA Corp no. <input type="checkbox"/> CA SOS file no.		
First name	Initial	Last name	SSN or ITIN		
Address (apt./ste., room, PO box, or PMB no.)					
City (If you have a foreign address, see instructions.)			State	ZIP code	Telephone number

**Part II Seller/Transferor Information** If a grantor or nongrantor trust, check the box that applies. ☒ Grantor ☐ Nongrantor Trust

First name (Grantor)	Initial	Last name (Grantor)	SSN or ITIN
Spouse's/RDP's first name (if jointly owned)	Initial	Last name	Spouse's/RDP's SSN or ITIN (if jointly owned)
Business/Nongrantor Trust name (if applicable)			<input type="checkbox"/> FEIN <input type="checkbox"/> CA Corp no. <input type="checkbox"/> CA SOS file no.
Address (apt./ste., room, PO box, or PMB no.)			
City (If you have a foreign address, see instructions.)			State ZIP code Telephone number
Property address (provide street address, parcel number, and county)			Ownership percentage . %

**Part III Certifications which fully exempt the sale from withholding** (See instructions)**Determine whether you qualify for a full withholding exemption. Check all boxes that apply to the property being sold or transferred.**

1. ☒ ☐ The property qualifies as the seller's principal residence under Internal Revenue Code (IRC) Section 121.
2. ☐ The seller last used the property as the seller's principal residence under IRC 121 without regard to the two-year time period.
3. ☐ The seller has a loss or zero gain for California (CA) income tax purposes on this sale. Complete Part VI, Computation.
4. ☒ ☐ The property is compulsorily or involuntarily converted, and the seller intends to acquire property that will qualify for nonrecognition of gain under IRC Section 1033.
5. ☐ The transfer qualifies for nonrecognition treatment under IRC Section 351 or IRC Section 721.
6. ☐ The seller is a corporation (or a limited liability company (LLC) classified as a corporation), qualified through the CA Secretary of State or has a permanent place of business in CA.
7. ☐ The seller is a CA partnership or a partnership qualified to do business in CA (or an LLC classified as a partnership for income tax purposes that is not a single member LLC disregarded for income tax purposes).
8. ☐ The seller is a tax-exempt entity under California or federal law.
9. ☐ The seller is an insurance company, individual retirement account, qualified pension/profit sharing plan, or charitable remainder trust.

**Part IV Certifications that may partially or fully exempt the sale from withholding or if no exemptions apply** (See instructions)**Determine whether you qualify for a full, partial, or no withholding exemption. Check all boxes that apply to the property being sold or transferred.**

10. ☒ ☐ The transfer qualifies as either a simultaneous or deferred like-kind exchange under IRC Section 1031.
11. ☒ ☐ The transfer of this property is an installment sale where the buyer must withhold on the principal portion of each installment payment. Copy of the promissory note is attached. Complete Part V Buyer/Transferee Information on Side 2.
12. ☒ ☐ **No exemptions apply.** Go to Part VII, Line 31.

If you checked one or more boxes in 1-9, go to Side 3, complete the perjury statement and sign. Provide Sides 1-3 to the remitter before the close of escrow or exchange transaction to submit to the Franchise Tax Board. STOP here. Withholding is not required.

If you checked box 10, go to specific line instructions on Page 4, Part IV.

If you checked box 11, go to Part V on Side 2. Withholding may be required.

If you checked box 12, go to Part VII on Side 3 for amounts to withhold. Withholding is required.

Remitter Name	SSN, ITIN, FEIN, CA corp no., or CA SOS file no.
---------------	--

### Part V Buyer/Transferee Information

Complete if you checked box 11 in Part IV for an installment agreement.

First name (Grantor)	Initial	Last name (Grantor)	SSN or ITIN
Spouse's/RDP's first name (if jointly purchased)	Initial	Last name	Spouse's/RDP's SSN or ITIN
Business/Nongrantor Trust name (if applicable)			<input type="checkbox"/> FEIN <input type="checkbox"/> CA Corp no. <input type="checkbox"/> CA SOS file no.
Address (apt./ste., room, PO box, or PMB no.)			
City (If you have a foreign address, see instructions.)		State	ZIP code    Telephone number
Principal Amount of Promissory Note	Installment Amount	Interest Rate	Repayment Period
		%	Number of months

### Buyer's/Transferee's Acknowledgment to Withhold

Read the "Buyer/Transferee" Information below. Go to Side 3, complete the perjury statement and sign.

I acknowledge that I am required to withhold on the principal portion of each installment payment to the seller/transferor for the above shown California real property either at the rate of 3 1/3% (.0333) of the total sales price or the Alternative Withholding Calculation, as specified by the seller/transferor on Form 593, Real Estate Withholding Statement, of the principal portion of each installment payment. I will complete Form 593 for the principal portion of each installment payment and send one copy of each to the Franchise Tax Board along with Form 593-V, Payment Voucher for Real Estate Withholding, the withholding payment, and give one copy of Form 593 to the seller/transferor. I will send each withholding payment to the Franchise Tax Board by the 20th day of the month following the month of the installment payment. If the terms of the installment sale, promissory note, or payment schedule change, I will promptly inform the Franchise Tax Board. I understand that the Franchise Tax Board may review relevant escrow documents to ensure withholding compliance. I also understand that I am subject to withholding penalties if I do not withhold on the principal portion of each installment payment and do not send the withholding along with Form 593 to the Franchise Tax Board by the due date, or if I do not send one copy of Form 593 to the seller/transferor by the due date.

### Part VI Computation

Complete this part if you checked and certified box 3 in Part III, or to calculate an alternative withholding calculation amount.

13. Selling price	13
14. Selling expenses	14
15. Amount realized. Subtract line 14 from line 13	15
16. Enter the price you paid to purchase the property (see instructions, How to Figure Your Basis.)	16
17. Seller/Transferor-paid points	17
18. Depreciation	18
19. Other decreases to basis	19
20. Total decreases to basis. Add line 17 through line 19	20
21. Subtract line 20 from line 16	21
22. Cost of additions and improvements	22
23. Other increases to basis	23
24. Total increases to basis. Add line 22 and line 23	24
25. Adjusted basis. Add line 21 and line 24	25
26. Enter any suspended passive activity losses from this property	26
27. Add line 25 and line 26	27
28. Estimated gain or loss on sale. Subtract line 27 from line 15 and enter the amount here. If you have a loss or zero gain, certify on Side 3. No withholding is required. If you have a gain, go to line 29 and 30 to calculate your withholding.	28

Remitter Name	SSN, ITIN, FEIN, CA corp no., or CA SOS file no.
---------------	--

**29. Alternative withholding calculation amount.** Check the applicable box for the filing type.

- ☐ Individual 12.3%      ☐ Corporation 8.84%      ☐ Bank and Financial Corporation 10.84%      ☐ Trust 12.3%  
☐ Non-California Partnership 12.3%      ☐ S Corporation 13.8%      ☐ Financial S Corporation 15.8%

Multiply the amount on line 28 by the tax rate for the filing type selected above and enter the amount here. This is the alternative withholding calculation amount. If you elect the alternative withholding calculation amount, then check the appropriate box on line 35, Boxes B-H, and enter the amount on line 36 . . . . . **29** \_\_\_\_\_

**30. Total sales price withholding amount.** Multiply the selling price on line 13 by 3 1/8% (.0333).

This is the total sales price withholding amount. If you select the **total sales price withholding amount**, check box A on line 35 below and enter the amount on line 36 . . . . . **30** \_\_\_\_\_

**Part VII Escrow or Exchange Information**

**31.** Escrow or Exchange Number . . . . . **31** \_\_\_\_\_

**32.** Date of Transfer, Exchange Completion, Failed Exchange, or Installment Payment . . . . . (mm/dd/yyyy) **32** \_\_\_\_\_

**33.** Total Sales Price, Failed Exchange, or Boot Amount \$ \_\_\_\_\_ x Ownership Percentage \_\_\_\_\_ % **33** \_\_\_\_\_

**34. Type of Transaction (Check One Only):** ●

- A** ☐ Conventional Sale/Transfer      **C** ☐ Boot  
**B** ☐ Installment Sale Payment      **D** ☐ Failed Exchange

**35. Withholding Calculation (Check One Only):** ●

**Total Sales Price Method**

**A** ☐ 3 1/8% (.0333) x Total Sales Price, Boot, or Installment Sale Payment

**Alternative Withholding Calculation Election**

- B** ☐ Individual 12.3% x Gain on Sale      **F** ☐ S Corporation 13.8% x Gain on Sale  
**C** ☐ Non-California Partnership 12.3% x Gain on Sale      **G** ☐ Financial S Corporation 15.8% x Gain on Sale  
**D** ☐ Corporation 8.84% x Gain on Sale      **H** ☐ Trust 12.3% x Gain on Sale  
**E** ☐ Bank and Financial Corp. 10.84% x Gain on Sale

**36.** Amount Withheld from this Seller/Transferor . . . . . **36** \_\_\_\_\_

**Title and escrow persons, and exchange accommodators are not authorized to provide legal or accounting advice for purposes of determining withholding amounts. Transferors are strongly encouraged to consult with a competent tax professional for this purpose.**

To learn about your privacy rights, how we may use your information, and the consequences for not providing the requested information, go to [ftb.ca.gov/forms](http://ftb.ca.gov/forms) and search for **1131**. To request this notice by mail, call 800.852.5711.

Under penalties of perjury, I hereby certify that the information provided above is, to the best of my knowledge, true and correct. I further certify that:

Check the applicable box(es):

- ☐ The sale is fully exempt from withholding as indicated by a check mark(s) in Part III.  
☐ The sale is fully or partially exempt from withholding as indicated by a check mark(s) in Part IV.  
☐ The seller has elected the Alternative Withholding Calculation as indicated by a check mark in Part VII, line 35 (B-H).  
☐ The Buyer/Transferee understands and accepts the withholding requirements as stated on the Buyer's/Transferee's Acknowledgment to Withhold in Part V. This box should only be checked by those who are involved in an installment sale.

<b>Sign Here</b> It is unlawful to forge a spouse's/RDP's signature.	Seller's/Transferor's signature <b>X</b>	Date
	Seller's/Transferor's spouse's /RDP's signature <b>X</b>	Date
	Buyer's/Transferee's signature <b>X</b>	Date
	Buyer's/Transferee's spouse's/RDP's signature <b>X</b>	Date
	Preparer's name and Title/Escrow business name <b>X</b>	Telephone Number

8603203

Form 593 2019 Side 3



**EXHIBIT G**

**NOTIFICATIONS OF INTENT TO SELL SURPLUS PROPERTY**

(See attached)



Port of  
**LONG BEACH**

*The Green Port*

April 29, 2019

Khoi Pham  
Bella Communities  
5482 Wilshire Boulevard, Suite 1612  
Los Angeles, California 90036

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

Pursuant to California Government Code Section 54222, this letter notifies you that the City of Long Beach ("City") intends to sell the real property consisting of an 8- story office building containing 177,363.62 gross square feet located at 4801 Airport Plaza Drive in the City of Long Beach (the "Property") for fair market value. A legal description and map are attached.

If your agency or organization desires to purchase the Property for fair market value, please notify the City in writing prior to 5:00 p.m. on June 28, 2019. The notification should be addressed to:

Eamonn Killeen  
Port of Long Beach  
Real Estate Division  
4801 Airport Plaza Drive  
Long Beach, CA 90815

If you have any questions or would like additional information, please call me at (562) 283-7450.

Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*



Port of  
**LONG BEACH**

*The Green Port*

April 29, 2019

Kristin Martin, Executive Director  
Home Ownership for Personal Empowerment  
21231 Hawthorne Boulevard  
Torrance, California 90503

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

Pursuant to California Government Code Section 54222, this letter notifies you that the City of Long Beach ("City") intends to sell the real property consisting of an 8- story office building containing 177,363.62 gross square feet located at 4801 Airport Plaza Drive in the City of Long Beach (the "Property") for fair market value. A legal description and map are attached.

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Real Estate Division  
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Long Beach, CA 90815

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Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*



Port of  
**LONG BEACH**

*The Green Port*

April 29, 2019

Kristin Martin, Executive Director  
Home Ownership for Personal Empowerment  
4555 Bellflower Boulevard  
Long Beach, California 90808

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

Pursuant to California Government Code Section 54222, this letter notifies you that the City of Long Beach ("City") intends to sell the real property consisting of an 8- story office building containing 177,363.62 gross square feet located at 4801 Airport Plaza Drive in the City of Long Beach (the "Property") for fair market value. A legal description and map are attached.

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Real Estate Division  
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Long Beach, CA 90815

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Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*



Port of  
**LONG BEACH**

*The Green Port*

April 29, 2019

Roger Kinoshita, Director, Business Development  
Jamboree Housing  
17701 Cowan Avenue, Suite 200  
Irvine, California 92614

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

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Real Estate Division  
4801 Airport Plaza Drive  
Long Beach, CA 90815

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Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*



Port of  
**LONG BEACH**

*The Green Port*

April 29, 2019

Jonathan Newsom, Executive Director  
Long Beach Affordable Housing Coalition  
4201 Long Beach Boulevard, Suite 422  
Long Beach, California 90807

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

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Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*



Port of  
**LONG BEACH**

*The Green Port*

April 29, 2019

Michael de la Torre, Director of Acquisitions  
LINC Housing Corporation  
555 East Ocean Boulevard, Suite 900  
Long Beach, California 90802

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

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Real Estate Division  
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Long Beach, CA 90815

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Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*





Port of  
**LONG BEACH**

*The Green Port*

April 29, 2019

Casey Harris  
Thomas Safran & Associates  
11812 San Vicente Boulevard, Suite 600  
Los Angeles, California 90049

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

Pursuant to California Government Code Section 54222, this letter notifies you that the City of Long Beach ("City") intends to sell the real property consisting of an 8- story office building containing 177,363.62 gross square feet located at 4801 Airport Plaza Drive in the City of Long Beach (the "Property") for fair market value. A legal description and map are attached.

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Port of Long Beach  
Real Estate Division  
4801 Airport Plaza Drive  
Long Beach, CA 90815

If you have any questions or would like additional information, please call me at (562) 283-7450.

Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*





Port of  
**LONG BEACH**

The Green Port

April 29, 2019

Sidney Stone  
Chelsea Investment Company  
6339 Paseo Del Lago  
Carlsbad, CA 92011

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

Pursuant to California Government Code Section 54222, this letter notifies you that the City of Long Beach ("City") intends to sell the real property consisting of an 8- story office building containing 177,363.62 gross square feet located at 4801 Airport Plaza Drive in the City of Long Beach (the "Property") for fair market value. A legal description and map are attached.

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Port of Long Beach  
Real Estate Division  
4801 Airport Plaza Drive  
Long Beach, CA 90815

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Sincerely,

Eamonn Killeen  
Director of Real Estate

City of Long Beach Harbor Department



Port of  
**LONG BEACH**

*The Green Port*

April 29, 2019

Southern California Association of Non Profit Housing  
501 Shatto Place, Suite 403  
Los Angeles, CA 90020

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

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Port of Long Beach  
Real Estate Division  
4801 Airport Plaza Drive  
Long Beach, CA 90815

If you have any questions or would like additional information, please call me at (562) 283-7450.

Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*



Port of  
**LONG BEACH**

*The Green Port*

May 1, 2019

Sent via Certified Mail

California Natural Resources Agency  
1416 Ninth Street, Ste. 1311  
Sacramento, California 95814

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

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Port of Long Beach  
Real Estate Division  
4801 Airport Plaza Drive  
Long Beach, CA 90815

If you have any questions or would like additional information, please call me at (562) 283-7450.

Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*



Port of  
**LONG BEACH**

The Green Port

May 1, 2019

Sent via Certified Mail

The City of Long Beach as Successor Agency to the Long Beach Redevelopment Agency  
333 West Ocean Blvd., 3<sup>rd</sup> Floor  
Long Beach, California 90808

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

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Port of Long Beach  
Real Estate Division  
4801 Airport Plaza Drive  
Long Beach, CA 90815

If you have any questions or would like additional information, please call me at (562) 283-7450.

Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*



Port of  
**LONG BEACH**

The Green Port

May 1, 2019

Sent via Certified Mail

County of Los Angeles Department of Parks and Recreation  
510 South Vermont Avenue  
Los Angeles, California 90020

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

Pursuant to California Government Code Section 54222, this letter notifies you that the City of Long Beach ("City") intends to sell the real property consisting of an 8- story office building containing 177,363.62 gross square feet located at 4801 Airport Plaza Drive in the City of Long Beach (the "Property") for fair market value. A legal description and map are attached.

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Eamonn Killeen  
Port of Long Beach  
Real Estate Division  
4801 Airport Plaza Drive  
Long Beach, CA 90815

If you have any questions or would like additional information, please call me at (562) 283-7450.

Sincerely,

Eamonn Killeen  
Director of Real Estate

City of Long Beach Harbor Department



Port of  
**LONG BEACH**

*The Green Port*

May 1, 2019

Sent via Certified Mail

The Los Angeles County Regional Park & Open Space District  
510 South Vermont Avenue  
Los Angeles, California 90020

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

Pursuant to California Government Code Section 54222, this letter notifies you that the City of Long Beach ("City") intends to sell the real property consisting of an 8- story office building containing 177,363.62 gross square feet located at 4801 Airport Plaza Drive in the City of Long Beach (the "Property") for fair market value. A legal description and map are attached.

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Eamonn Killeen  
Port of Long Beach  
Real Estate Division  
4801 Airport Plaza Drive  
Long Beach, CA 90815

If you have any questions or would like additional information, please call me at (562) 283-7450.

Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*





Port of  
**LONG BEACH**

*The Green Port*

May 1, 2019

Sent via Certified Mail

Long Beach Department of Parks, Recreation and Marine  
2760 Studebaker Road  
Long Beach, California 90815

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

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Long Beach, CA 90815

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Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*



Port of  
**LONG BEACH**

*The Green Port*

May 1, 2019

Sent via Certified Mail

The Housing Authority of the City of Long Beach  
521 East Fourth Street  
Long Beach, California 90802

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

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Real Estate Division  
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Long Beach, CA 90815

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Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*





Port of  
**LONG BEACH**

*The Green Port*

May 1, 2019

Sent via Certified Mail

The Long Beach Community Investment Company  
333 West Ocean Blvd.  
Long Beach, California 90802

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
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Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*



Port of  
**LONG BEACH**

*The Green Port*

May 1, 2019

Sent via Certified Mail

Long Beach Unified School District  
515 Hughes Way  
Long Beach, CA 90810

Subject: Notification of Intent to Sell Surplus Property Pursuant to Government Code  
Section 54222

To Whom It May Concern:

Pursuant to California Government Code Section 54222, this letter notifies you that the City of Long Beach ("City") intends to sell the real property consisting of an 8- story office building containing 177,363.62 gross square feet located at 4801 Airport Plaza Drive in the City of Long Beach (the "Property") for fair market value. A legal description and map are attached.

If your agency or organization desires to purchase the Property for fair market value, please notify the City in writing prior to 5:00 p.m. on June 30, 2019. The notification should be addressed to:

Eamonn Killeen  
Port of Long Beach  
Real Estate Division  
4801 Airport Plaza Drive  
Long Beach, CA 90815

If you have any questions or would like additional information, please call me at (562) 283-7450.

Sincerely,

Eamonn Killeen  
Director of Real Estate

*City of Long Beach Harbor Department*

## **EXHIBIT H**

### **ASSIGNMENT AND ASSUMPTION OF CALIFORNIA EXCLUSIVE AUTHORIZATION OF SALE OR LEASE AND CONSENT AND RELEASE OF ASSIGNOR**

THIS ASSIGNMENT AND ASSUMPTION OF CALIFORNIA EXCLUSIVE AUTHORIZATION OF SALE OR LEASE AND CONSENT AND RELEASE OF ASSIGNOR (this “**Assignment**”) is entered into as of \_\_\_\_\_, 2020 by and between the City of Long Beach, a municipal corporation, acting by and through its Board of Harbor Commissioners (“**Assignor**”), and Long Beach Public Transportation Company, a California nonprofit corporation which does business as “Long Beach Transit” (“**Assignee**”), with reference to the following:

### **RECITALS**

A. Assignor is the “Client” under that certain California Exclusive Authorization of Sale or Lease dated July 18, 2019 (the “**Listing Agreement**”) between Newmark of Southern California, Inc., a California corporation doing business as Newmark Knight Frank (“**Broker**”), and Assignor.

B. The Listing Agreement relates to the sale and lease of a ground leasehold interest in the real property in the City of Long Beach located at 4801 Airport Boulevard (the “**Property**”) on which a commercial office building (the “**Building**”) is located.

C. Assignor is in escrow to sell the Property to Assignee. Such sale was excluded from the obligation to pay a commission under the Listing Agreement.

D. Assignee intends to use a portion of the Building for its own use and desires to lease to third parties some or all of the balance of the space in the Building.

E. Assignee desires to assume the Listing Agreement in order to continue the engagement of Broker pursuant to the Listing Agreement for the leasing of the portions of the Building that Assignee will not be using.

F. Assignor is willing to assign the Listing Agreement to Assignee upon the sale of the Property to Assignee on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assignment. Assignor hereby assigns, conveys, transfers and sets over unto Assignee all right, title and interest of Assignor in and to the Listing Agreement effective on the sale of the Property to Assignee (the “**Closing Date**”).

2. Assumption. Assignee hereby accepts the foregoing assignment effective on the Closing Date, and assumes, and agrees to perform, all obligations of Assignor under the Listing Agreement.

3. Term. Assignor and Assignee acknowledge and agree that the term of the Listing Agreement commenced on July 18, 2019 and will terminate March 18, 2020 unless Assignee and Broker agree in writing to extend the term.

4. Address for Notices. Assignor and Assignee inform Broker of the change of address for notices for the “Client” under the Listing Agreement effective upon the assignment and assumption of the Listing Agreement by including the new address in the Consent of Broker and Release of Assignor attached hereto.

5. Counterparts. This Assignment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

[Signatures on following page]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first set forth above.

ASSIGNOR:

CITY OF LONG BEACH, a municipal corporation,  
acting by and through its Board of Harbor  
Commissioners

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Approved as to form:

CHARLES PARKIN, City Attorney

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Charles M. Gale

Principal Deputy City Attorney

ASSIGNEE:

LONG BEACH PUBLIC TRANSPORTATION  
COMPANY, a California corporation, which does  
business as "Long Beach Transit"

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Kenneth A. McDonald

President and CEO

Approved as to form:

Dated: \_\_\_\_\_

\_\_\_\_\_

Vincent C. Ewing, General Counsel

## CONSENT OF BROKER AND RELEASE OF ASSIGNOR

The undersigned ("Broker") hereby consents to the assignment by the City of Long Beach, a municipal corporation, acting by and through its Board of Harbor Commissioners ("Assignor"), to Long Beach Public Transportation Company, a California nonprofit corporation which does business as "Long Beach Transit" ("Assignee"), of the California Exclusive Authorization of Sale or Lease dated July 18, 2019 between Assignor and Broker (the "Listing Agreement"), effective upon the closing of the sale to Assignee of 4801 Airport Boulevard, Long Beach, California. Upon the closing of such sale, Broker hereby releases Assignor from all of its obligations under the Listing Agreement. Broker acknowledges the term of the Listing Agreement expires March 18, 2020 unless Assignee and Broker agree in writing to extend the term.

It is the intention of Broker hereto that the foregoing release of Assignor shall be effective so as to bar all claims, demands, controversies, actions, causes of action, obligations, liabilities, costs, expenses, attorneys' fees and damages of whatsoever character, nature or kind, known or unknown, suspected or unsuspected, against Assignor which arise from or are related to the Listing Agreement, and Broker hereby expressly acknowledges and waives any and all rights and benefits conferred upon it by the provisions of Section 1542 of the California Code of Civil Procedure, which provides:

"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."

Broker's Initials: \_\_\_\_\_

Broker acknowledges and agrees that from and after the effective date of the assignment of the Listing Agreement to Assignee, the address for notices for the "Client" under Paragraph 27 of the Listing Agreement is:

Long Beach Public Transportation Company  
dba Long Beach Transit  
1963 E. Anaheim Street  
Long Beach, California 90813  
Attn: Kenneth A. McDonald, President and CEO  
e-mail: [kmcdonald@lbtransit.com](mailto:kmcdonald@lbtransit.com)

And to:

Long Beach Public Transportation Company  
dba Long Beach Transit  
1963 E. Anaheim Street  
Long Beach, California 90813  
Attn: Debra A. Johnson, Deputy CEO  
e-mail: [djohnson@lbtransit.com](mailto:djohnson@lbtransit.com)

And to:

Long Beach Public Transportation Company  
dba Long Beach Transit  
1963 E. Anaheim Street  
Long Beach, California 90813  
Attn: Vincent C. Ewing, General Counsel  
e-mail: [vewing@lbtransit.com](mailto:vewing@lbtransit.com)

NEWMARK OF SOUTHERN CALIFORNIA,  
INC., a California corporation doing business as  
Newmark Knight Frank

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_