

**REINSTATEMENT AND SECOND AMENDMENT TO
PURCHASE AND SALE AGREEMENT**

29562

THIS REINSTATEMENT AND SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT ("Reinstatement and Second Amendment") is made and entered into as of the 21st day of June, 2006, by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("Seller"), and CITY OF LONG BEACH, a municipal corporation of the State of California ("Buyer"), and amends that certain Purchase and Sale Agreement and Escrow Instructions dated August 18, 2005, as amended by Reinstatement and Amendment dated November 28, 2005 (collectively, the "Agreement"), for the sale and purchase of certain real property located in Long Beach, Los Angeles County, California, more particularly described therein (the "Property").

* * * * *

IT IS MUTUALLY AGREED by and between Seller and Buyer as follows:

Section 1. Agreement. The Agreement, which terminated on January 9, 2006 pursuant to its own terms, is hereby reinstated and, except as amended herein, all of the terms and conditions of the Agreement are reinstated and shall have the same force and effect and be as binding upon the parties hereto as if the same were repeated herein.

Section 2. Purchase Price; Additional Consideration.

(a) The results of Buyer's Phase II environmental testing on the Property indicate that some of the soil on the Property contains arsenic and other hydrocarbon contaminants. In consideration for Buyer's agreement that Buyer, at its sole cost and expense, shall be responsible for any and all remediation of the Property as set forth in Section 3.1.6 below, the Purchase Price, as defined in Section 2.1 of the Agreement, is reduced to One Million Six Hundred Ninety Thousand Eight Hundred Sixty and 50/100 Dollars (\$1,690,860.50), and that except for Buyer's agreement to perform such remediation on the Property at Buyer's sole cost and expense, Seller would not have agreed to the reduction in the Purchase Price.

(b) As further consideration for Buyer entering into this Reinstatement and Second Amendment, Seller agrees to quitclaim to Buyer all of Seller's right, title and interest in and to that certain triangular parcel of land as described in **Exhibit A-1** attached hereto and hereby made a part hereof by Quitclaim Deed in the form attached hereto as **Exhibit B-1**.

Section 3. "As Is" Sale; Release and Indemnity; Buyer's Environmental Obligations. Section 3.1 of the Agreement is hereby restated and amended as follows:

3.1 **As Is Sale; Release and Indemnity.**

3.1.1 **"As Is" Sale.** Buyer and its representatives, prior to the Closing Date, will have been afforded the opportunity to make such inspections of the Property and matters related thereto as

Buyer and its representatives desire, including, without limitation, governmental laws and regulations to which the Property is subject, and Buyer shall accept or not accept the Property upon the basis of its review and determination of the applicability and effect of such laws and regulations.

Seller shall deliver to Buyer copies of any maps or any other non-privileged documents pertaining to the Property which are contained in Seller's current Real Estate files located in Omaha, Nebraska. Buyer acknowledges and agrees that the Property is to be sold and conveyed to and accepted by Buyer in an "as is" condition with all faults, that the Property has been used as railroad right of way, and that Buyer's Phase II environmental assessment performed on the Property has revealed that the soils on the Property are contaminated with arsenic and other hydrocarbons. Seller does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Property or any of such related matters; in particular, but without limitation, Seller makes no representations or warranties with respect to the use, condition, title, occupation or management of the Property, compliance with applicable statutes, laws, codes, ordinances, regulations or requirements relating to leasing, zoning, subdivision, planning, building, fire, safety, health or environmental matters, compliance with covenants, conditions and restrictions (whether or not of record), other local, municipal, regional, state or federal requirements, or other statutes, laws, codes, ordinances, regulations or requirements (collectively, "Condition of the Property"). Buyer acknowledges that it is entering into this Agreement on the basis of Buyer's own investigation of the physical and environmental conditions of the Property, including the subsurface conditions and Buyer assumes the risk that adverse physical and environmental conditions may not have been revealed by its investigation.

3.1.2 Release. BUYER, FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, HEREBY WAIVES, RELEASES, REMISES, ACQUITS AND FOREVER DISCHARGES SELLER, SELLER'S EMPLOYEES, AGENTS, OR ANY OTHER PERSON ACTING ON BEHALF OF SELLER, OF AND FROM ANY CLAIMS, ACTIONS, CAUSES OF ACTION, DEMANDS, RIGHTS, DAMAGES, COSTS, EXPENSES, PENALTIES, FINES OR COMPENSATION WHATSOEVER, DIRECT OR INDIRECT, WHICH BUYER NOW HAS OR WHICH BUYER MAY HAVE IN THE FUTURE ON ACCOUNT OF OR IN ANY WAY ARISING OUT OF OR IN CONNECTION WITH THE CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE KNOWN OR UNKNOWN PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY CONTAMINATION IN, ON, UNDER OR ADJACENT TO THE PROPERTY BY ANY HAZARDOUS OR TOXIC SUBSTANCE OR MATERIAL), OR ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION APPLICABLE THERETO, INCLUDING, WITHOUT LIMITATION, THE TOXIC SUBSTANCES CONTROL ACT, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, AND THE RESOURCE CONSERVATION AND RECOVERY ACT. THE FOREGOING SHALL APPLY REGARDLESS OF ANY NEGLIGENCE OR STRICT LIABILITY OF SELLER, ITS AFFILIATES, THEIR EMPLOYEES, AGENTS, OFFICERS, SUCCESSORS OR ASSIGNS. WITH RESPECT TO THE FOREGOING RELEASE, BUYER EXPRESSLY WAIVES THE BENEFITS AND PROTECTIONS OF SECTION 1542 OF THE CIVIL CODE OF THE STATE OF CALIFORNIA, WHICH READS AS FOLLOWS:

1542. Certain Claims Not Affected by General Release. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

BUYER HEREBY EVIDENCES ITS SPECIFIC AGREEMENT TO THE TERMS OF THIS RELEASE BY PLACING ITS SIGNATURE OR INITIALS IN THE PLACE PROVIDED HEREINAFTER.



Buyer's Initials

3.1.3 Indemnity. FROM AND AFTER CLOSING, BUYER SHALL, TO THE MAXIMUM EXTENT PERMITTED BY LAW, INDEMNIFY, DEFEND AND SAVE HARMLESS SELLER, ITS AFFILIATES, THEIR EMPLOYEES, AGENTS, OFFICERS, SUCCESSORS AND ASSIGNS, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CAUSES OF ACTION, LEGAL OR ADMINISTRATIVE PROCEEDINGS, CLAIMS, DEMANDS, FINES, PUNITIVE DAMAGES, LOSSES, COSTS, LIABILITIES AND EXPENSES, INCLUDING ATTORNEY'S FEES, IN ANY WAY ARISING OUT OF OR CONNECTED WITH THE CONDITION OF THE PROPERTY ARISING AFTER CLOSING, INCLUDING, WITHOUT LIMITATION, THE KNOWN OR UNKNOWN PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY CONTAMINATION IN, ON, UNDER OR ADJACENT TO THE PROPERTY BY ANY HAZARDOUS OR TOXIC SUBSTANCE OR MATERIAL), OR ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION APPLICABLE THERETO, INCLUDING, WITHOUT LIMITATION, THE TOXIC SUBSTANCES CONTROL ACT, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, AND THE RESOURCE CONSERVATION AND RECOVERY ACT. THE FOREGOING SHALL APPLY REGARDLESS OF ANY NEGLIGENCE OR STRICT LIABILITY OF SELLER, ITS AFFILIATES, THEIR EMPLOYEES, AGENTS, OFFICERS, SUCCESSORS OR ASSIGNS.

3.1.4 Survival. The provisions of this Section 3.1 shall survive the Closing and the delivery of the Deed.

3.1.5 Additional and Independent Consideration. The release and indemnity by Buyer are additional and independent consideration to Seller for the sale and purchase of the Property, without which Seller would not sell the Property for the Purchase Price.

3.1.6 Buyer's Environmental Obligations. After Closing, Buyer agrees to be solely responsible for and to perform, at Buyer's sole cost and expense, any and all environmental remediation necessary to make the Property suitable for Buyer's use of the Property, including, without limitation, Buyer's proposed uses for park and bike path purposes. This covenant (a) is in addition to, and not in limitation of the release and indemnity in Sections 3.1.2 and 3.1.3 above, and (b) shall survive the Closing and the recordation of the Deed as a covenant running with the land.


Section 4. Closing Date. The Closing Date, as defined in Section 7.2.1 of the Agreement, is hereby extended to on or before the date which is thirty (30) days after the execution date of this Reinstatement and Second Amendment.

Section 5. Amendment Supplemental. This Reinstatement and Second Amendment is supplemental to the Agreement, and nothing in this Reinstatement and Second Amendment may be construed as amending or modifying the Agreement, except as specifically provided in this Reinstatement and Second Amendment. In the event of any conflict between the terms of this Reinstatement and Second Amendment and the terms of the Agreement, the terms of this Reinstatement and Second Amendment will prevail. Except as expressly provided in this Reinstatement and Second Amendment, all of the terms, covenants and conditions in the Agreement will remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Reinstatement and Second Amendment as of the date first above written.

SELLER:

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

By: 
Name: TONY K. LOVE
Title: Assistant Vice President - Real Estate

BUYER:

**CITY OF LONG BEACH
a municipal corporation**

By: 
Name: GERALD R. MILLER
Title: CITY MANAGER

APPROVED AS TO FORM

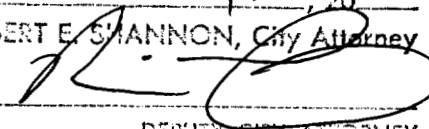
6/7, 2006
ROBERT E. SHANNON, City Attorney
By 
DEPUTY CITY ATTORNEY

EXHIBIT A-1

UNION PACIFIC RAILROAD COMPANY
Long Beach, Los Angeles County, California

ALL RIGHT, TITLE OR INTEREST, IF ANY IN AND TO A PARCEL OF LAND IN THE CITY OF LONG BEACH, LOS ANGELES COUNTY, CALIFORNIA MORE PARTICULARLY DESCRIBED AS:

THAT PORTION OF LOT 120 OF THE AMERICAN COLONY TRACT GENERALLY BOUNDED BY WALNUT AVENUE, 60 FEET WIDE, TO THE WEST, ALAMITOS AVENUE, 60 FEET WIDE TO THE SOUTHEAST, AND 20TH STREET, 30 FEET WIDE TO THE NORTHEAST, AND ANY RIGHTS TO THE UNDERLYING FEE OF WALNUT AVENUE, ALAMITOS AVENUE, AND 20TH STREET.

OFFICE OF REAL ESTATE
OMAHA, NEBRASKA
WRITTEN BY: JCO
May 11, 2006
183060a.leg

EXHIBIT B-1

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Attn: _____

MAIL TAX STATEMENTS TO:

Attn: _____

(Space above for Recorder's use only)

Folder _____

QUITCLAIM DEED

UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, Grantor, in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration to it duly paid, the receipt whereof is hereby acknowledged, does hereby REMISE, RELEASE and forever QUITCLAIM unto CITY OF LONG BEACH, a municipal corporation of the State of California, Grantee, whose address is shown above, and unto its successors and assigns forever, all of Grantor's right, title, interest, estate, claim and demand, both at law and in equity, of, in, and to the real estate (the "Property") in the City of Long Beach, Los Angeles County, California, as more particularly described in **Exhibit A** attached hereto and hereby made a part hereof.

IN WITNESS WHEREOF, Grantor has caused this deed to be duly executed as of the _____ day of _____, 2006.

Attest:

**UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation**

Assistant Secretary

By: _____
Title: _____

(Seal)

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On _____, 2006, before me, a Notary Public in and for said County and State, personally appeared _____ and _____, _____ and Assistant Secretary, respectively, of UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

(SEAL)

EXHIBIT A TO EXHIBIT B-1

**LEGAL DESCRIPTION OF TRIANGULAR PARCEL
TO BE ATTACHED**