



TO: Mayor and Councilmembers

FROM: Michelle Greene, City Manager

CONTACT: Vyto Adomaitis, Neighborhood Services and Public Safety Director
Jaime A. Valdez, Senior Project Manager

SUBJECT: First Amendment to Purchase and Sale Agreement for 130 Cremona Drive

RECOMMENDATION:

Approve and authorize the City Manager to execute the First Amendment to the Purchase and Sale Agreement (Attachment 1) with University Business Center Associates and JCB Limited for the City to acquire property at 130 Cremona Drive.

BACKGROUND:

The City of Goleta does not own the building it operates as a City Hall. The City moved into its current City Hall location at 130 Cremona Drive in March of 2004 and has been leasing various portions of the building for just over 15 years. The 130 Cremona Drive building is the easternmost of the two buildings (120 and 130 Cremona) on an approximate 5.23-acre parcel (Assessor's Parcel Number (APN) 073-330-014, the "Parcel").

The opportunity to purchase the 130 Cremona building and a portion of APN 073-330-014 came about in late 2018/early 2019. Staff continued to work and negotiate with the sellers in early 2019 resulting in an agreeable price and terms.

On April 16, 2019, the City Council approved and authorized the City Manager to execute a Purchase and Sale Agreement ("PSA," Attachment 2) with University Business Center Associates and JCB Limited ("Sellers") for the City to acquire property at 130 Cremona Drive ("Property") in the amount of \$11,515,400 for the City's first permanent City Hall. The Due Diligence Investigation period provided in the PSA was intended to allow the City to vet the transaction via numerous inspections and assessments.

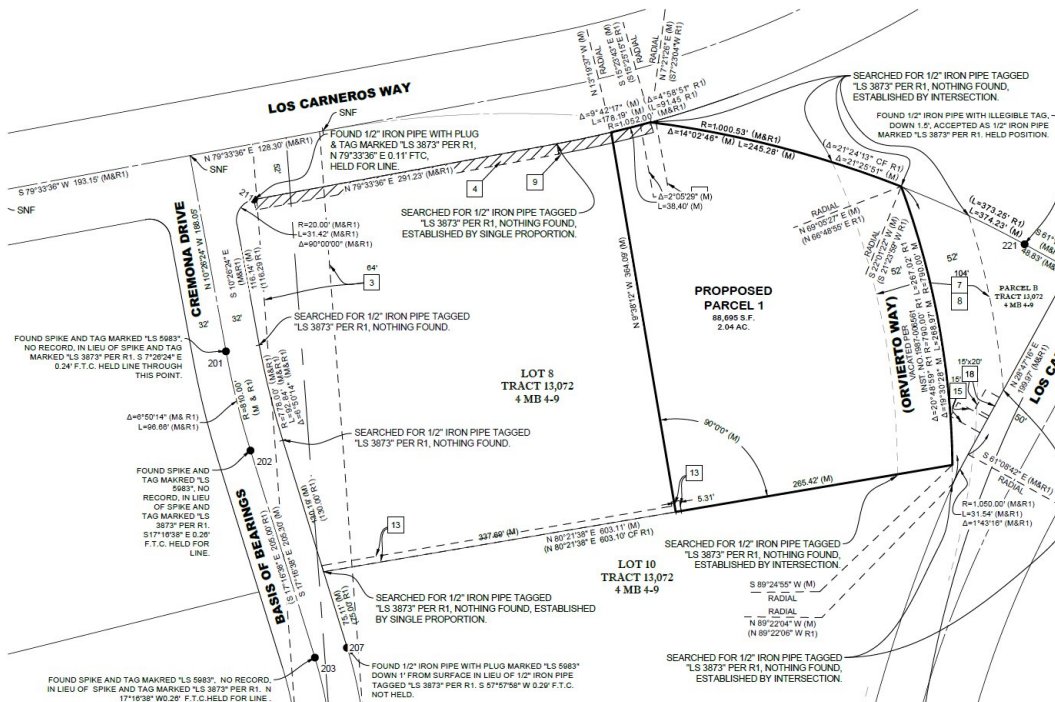
In April of 2019, the purported parcel information indicated the inclusion of all the land as depicted here:



DISCUSSION:

During the City's Due Diligence Investigation, it was discovered the legal description for the Property did not include approximately 0.27 acres comprising the easterly portion of an abandoned right of way known as Orvieto Way ("Orvieto East"). A portion of the parking area for the 130 Cremona building is located on Orvieto East. The Title Company has refused to insure title for Orvieto East as a part of the Property and has concluded that Orvieto East belongs to a neighboring parcel known as Parcel B (APN 073-330-012). Parcel B is a small vacant parcel transferred to the City by the County of Santa Barbara upon incorporation.

For orientation purposes, the 104-foot-wide abandoned Orvieto Way is shown below as the area between the dashed vertical lines straddling the eastern property line of "Proposed Parcel 1."



Staff has worked with consultants to value, investigate, and assess the condition of the Property. The use of the Property Condition Assessment Report (PCAR) commissioned by the City has resulted in a property condition credit in the amount of \$38,700. It is reflected in the First Amendment and will be a credit for the City against the purchase price at closing as reflected on the closing statement.

The First Amendment is dated June 28th for reference purposes to meet the timing outlined in the PSA for the Due Diligence Investigation. Furthermore, the First Amendment shall be reviewed, and is contingent upon approval by, the City Council for the City of Goleta in an open public meeting.

The City and Sellers have *largely* agreed to the approval of the City's Due Diligence Investigation, the resolution of the Orvieto East title matters and concessions related to the property condition on the terms and conditions set in the PSA and First Amendment:

- **Note:** *The First Amendment to the PSA included with this staff report (provide to the Sellers on July 9, 2019) is subject change. It was the most recent version available at the time of packet publication and has not been executed by the Sellers.*

The First Amendment to the PSA, if approved by City Council, includes, but is not limited to, the following summarized salient items:

- Upon the terms and conditions in the First Amendment to the PSA, the City would approve its Due Diligence Investigation;
- The purchase price for the property would be *reduced* from \$11,515,400 to \$11,476,700, reflecting the \$38,700 property condition credit;
- Resolution of the Orvieto East title matters;
 - Orvieto East Quitclaim. On or before closing, Sellers shall deposit into escrow a duly executed and acknowledged quitclaim deed, in the form reasonably acceptable to City, remising, releasing and forever quitclaiming to the City all right, title and interest in Orvieto East.
 - Title Policy. At closing, the title company shall issue to the City the title policy for the Property, with no new exceptions apart from those related to the survey completed for City on the Property. Sellers agree that they shall provide any and all additional documents that the Title Company may reasonably require to cause the Title Company to deliver the Title Policy to the City at closing.
 - Sellers' Release of Claims. Sellers release and discharge the City from any and all rights, claims, etc., against the City arising from, or in any manner related to Orvieto East and the improvements located thereon. Such release shall survive the recordation of the Grant Deed.

- Buyer's Release of Claims. City releases and discharges Sellers from any and all rights, claims, etc., arising from, or in any manner related to Sellers' use of Orvieto East and the improvements located thereon, prior to the Closing. Such release shall survive the recordation of the Grant Deed.
- Indemnification. Sellers shall indemnify and hold City harmless from and against any rights, claims, etc., arising from claims made by third parties alleging that such party possesses an interest, possessory, easement, fee or otherwise, in and to Orvieto East, provided that such third parties' claim to possession or ownership of Orvieto East is not by or through or under the City. The indemnity will survive the closing for a period of eighteen (18) months and is limited to \$250,000.
 - *The time limitation on the indemnity means it is a stop-gap measure and the City would need to work with the Title Company after closing, perhaps through a parcel merger, if the City wants to have a title policy that covers Orvieto East.*
- Subject to Approval. This First Amendment shall be reviewed, and is contingent upon approval by, the City Council for the City of Goleta in an open public meeting.

Pursuant to the PSA, and unchanged by the First Amendment, the approval of the Due Diligence Investigation would result in \$150,000 of the City's \$575,770 deposit no longer being refundable.

FISCAL IMPACTS:

The First Amendment to the PSA does not cause any additional financial impacts to the City beyond those envisioned in the PSA approved in April of 2019. Moreover, the property condition credit reduces the original purchase price by \$38,700.

ALTERNATIVES:

The City's approval of Due Diligence is subject to the additional conditions set forth in the First Amendment. Seller's counsel acknowledged that the First Amendment would be needed, and the language of that amendment would need to be approved by all parties. If the language of the First Amendment is not acceptable to the City and Sellers are unwilling to change it, the City could cancel the transaction and receive all of its deposit on the grounds that the City did not approve the Due Diligence Investigation because the conditions for approval were not satisfied.

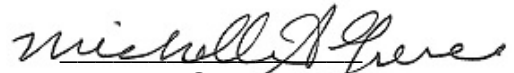
Reviewed By:

Legal Review By:

Approved By:


Kristine Schmidt
Deputy City Manager


Michael Jenkins
City Attorney


Michelle Greene
City Manager

ATTACHMENTS:

1. First Amendment to Purchase and Sale Agreement and Joint Escrow Instructions by and between University Business Center Associates and JCB Limited and the City of Goleta for a portion of Assessor's Parcel No. 073-330-014; Street Address of 130 Cremona Drive Goleta, California, 93117
2. Purchase and Sale Agreement and Joint Escrow Instructions by and between University Business Center Associates and JCB Limited and the City of Goleta for a portion of Assessor's Parcel No. 073-330-014; Street Address of 130 Cremona Drive Goleta, California, 93117 (available online only)

ATTACHMENT 1

First Amendment to Purchase and Sale Agreement and Joint Escrow Instructions by and between University Business Center Associates and JCB Limited and the City of Goleta for a portion of Assessor's Parcel No. 073-330-014; Street Address of 130 Cremona Drive Goleta, California, 93117

**FIRST AMENDMENT TO
PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (“**First Amendment**”), dated June 28, 2019 for reference purposes only, is made by and between UNIVERSITY BUSINESS CENTER ASSOCIATES, a California general partnership (“**UBCA**”) and JCB LIMITED, a California limited partnership (“**JCB**”; and together with UBCA, each a “**Seller**” and, collectively, the “**Sellers**”), and the CITY OF GOLETA, a municipal corporation (“**Buyer**”), who agree as follows.

1. Background. Sellers and Buyer entered into a Purchase and Sale Agreement and Joint Escrow Instructions dated April 18, 2018 (the “**Agreement**”). Capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement. During Buyer’s Due Diligence Investigation, it was discovered the legal description for the Property did not include approximately .27 acres comprising the easterly portion of an abandoned right of way known as Orvieto Way (“**Orvieto East**”). A portion of the parking area for the Building is located on Orvieto East. The Title Company has refused to insure title for Orvieto East as a part of the Land, and has concluded that Orvieto East belongs to a neighboring parcel known as Parcel B (“**Orvieto East Title Matter**”). Buyer and Sellers have agreed to the approval of Buyer’s Due Diligence Investigation, the resolution of the Orvieto East Title Matter and concessions related to the property condition on the terms and conditions set forth herein.

2. Approval of Property Condition. Buyer agrees to approve its Due Diligence Investigation relating to the condition of the property in exchange for a credit against the Purchase Price in the amount of Thirty-Eight Thousand Seven Hundred and 00/100 Dollars (\$38,700.00) (“**Property Condition Credit**”). The Property Condition Credit shall be a credit for Buyer against the Purchase Price at Closing as reflected on the closing statement.

3. Approval of Orvieto East Title Matter. In addition to the Property Condition Credit, as consideration for Buyer’s approval of its Due Diligence Investigation regarding the Property, including, without limitation the Orvieto East Title Matter, Sellers agree to the additional covenants set forth in this Section 3. Sellers acknowledge and agree that the following shall constitute conditions precedent pursuant to Section 4.1 of the Agreement.

A. Orvieto East Quitclaim. On or before Closing, Sellers shall deposit into escrow a duly executed and acknowledged quitclaim deed, in the form reasonably acceptable to Buyer, remising, releasing and forever quitclaiming to Buyer all of their right, title and interest in Orvieto East.

B. Title Policy. At Closing, the Title Company shall be irrevocably committed to issue to Buyer the Title Policy for the Property, subject only to the exceptions set forth in the Title Commitment attached hereto as **Exhibit A**, and any new exceptions related to the survey dated _____ completed for Buyer on the property by Stantec. Sellers agree that they shall provide any and all additional documents that the Title Company may reasonably require to cause the Title Company to deliver the Title Policy to Buyer at Closing pursuant to this Section 3.B and Section 4.1.4 of the Agreement.

4. Sellers' Release of Claims. Sellers, individually and on behalf of their members, directors, employees, agents, representatives, attorneys, predecessors, successors and assigns release and discharge Buyer and its officers, directors, employees, agents, representatives, attorneys, predecessors, successors and assigns, from any and all rights, claims, losses, debts, demands, obligations, liabilities, damages, compensation, attorneys' fees, costs, expenses, actions, and causes of action, in law or in equity, fixed or contingent, known or unknown, suspected or unsuspected, which they may have, claim to have, or may claim to have in the future, against Buyer arising from or in any manner related to Orvieto East and the improvements located thereon. Such release shall survive the recordation of the Grant Deed.

It is understood and agreed that this is a full and final release applying to all unknown and unanticipated claims arising out of or connected with, the matters described in this First Amendment, and as a further consideration and inducement for this First Amendment, Sellers expressly waive all rights or benefits which they may now have or may in the future have under the provisions of California Civil Code section 1542, which section 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.”

UBCA: _____

JCB: _____

5. Buyer's Release of Claims. To the extent allowed by law, and except as provided in Section 6, Buyer, individually and on behalf of its employees, agents, representatives, attorneys, predecessors, successors and assigns hereby releases and discharges Sellers and its officers, directors, employees, agents, representatives, attorneys, predecessors, successors and assigns from any and all rights, claims, losses, debts, demands, obligations, liabilities, damages, compensation, attorneys' fees, costs, expenses, actions and causes of action, in law or in equity, fixed or contingent, known or unknown, suspected or unsuspected arising from, or in any manner related to Sellers' use of Orvieto East and the improvements located thereon, prior to the Closing. Such release shall survive the recordation of the Grant Deed.

It is understood and agreed that this is a full and final release applying to all unknown and unanticipated claims arising out of or connected with, the matters described in this First Amendment, and as a further consideration and inducement for this First Amendment, Buyer expressly waives all rights or benefits which they may now have or may in the future have under the provisions of California Civil Code section 1542, which section 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.”

Buyer: _____

6. Indemnification. Sellers shall indemnify and hold Buyer harmless from and against any rights, claims, causes of action, demands, obligations liabilities, and costs, including, without limitation attorneys' fees, arising from claims made by third parties alleging that such party possesses an interest, possessory, easement, fee or otherwise, in and to Orvieto East, provided that such third parties' claim to possession or ownership of Orvieto East is not by or through or under Buyer (collectively, "**Covered Claims**"). The indemnity provided for herein shall survive the Closing for a period of eighteen (18) months and shall be limited to \$250,000. Buyer shall notify Sellers of any Covered Claim and Sellers shall have the right to participate in any quiet title action concerning said Covered Claim and, to the extent Sellers are a party to any such action, Sellers shall have the right to approve any settlement thereof.

7. Further Assurances. Each of the parties shall execute and deliver any and all additional papers, documents and other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent of the parties.

8. Agreement in Full Force. As amended by this First Amendment, the Agreement shall remain in full force and effect and is hereby ratified by Buyer and Sellers. The Agreement, as amended by this First Amendment, contains the entire agreement of the parties with respect to the parties' duties and obligations relating to the Property, and all preliminary negotiations with respect thereto are merged into and superseded by the Agreement, as amended by this First Amendment. Each party executing this First Amendment hereby acknowledges and reaffirms its intention to be bound by the terms and conditions of the Agreement, as amended hereby, and represents and warrants to the other that the individual signing this First Amendment on behalf of such party has the requisite authority to do so.

9. Counterparts. This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original (including copies sent to a party by electronic transmission as against the party signing such counterpart), but which together shall constitute one and the same instrument.

10. Subject to Approval. This First Amendment shall be reviewed, and is contingent upon approval by, the City Council for the City of Goleta in an open public meeting.

11. Effective Date. This First Amendment shall take effect upon full execution by both parties.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date last written below.

BUYER

CITY OF GOLETA, a California municipal corporation

By: _____

Name: _____

Its: _____

Dated: _____

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: _____

Michael Jenkins, City Attorney

SELLERS

UNIVERSITY BUSINESS CENTER ASSOCIATES, a California general partnership

By: EastGroup Properties, L.P., a Delaware limited partnership, Partner

By: EastGroup Properties General Partners, Inc., a Delaware corporation, its general partner

By: _____

Name: _____

Its: _____

Dated: _____

JCB LIMITED, a California limited partnership

By: _____

Jeffrey C. Bermant

Its General Partner

Dated: _____

ATTACHMENT 2

Purchase and Sale Agreement and Joint Escrow Instructions by and between University Business Center Associates and JCB Limited and the City of Goleta for a portion of Assessor's Parcel No. 073-330-014; Street Address of 130 Cremona Drive Goleta, California, 93117

PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (this “**Agreement**”) is made as of the Effective Date (as defined in Section 11.21) by and between **UNIVERSITY BUSINESS CENTER ASSOCIATES**, a California general partnership (“**UBCA**”) and **JCB LIMITED**, a California limited partnership (“**JCB**”; and together with UBCA, each a “**Seller**” and, collectively, the “**Sellers**”), and the **CITY OF GOLETA**, a municipal corporation (“**Buyer**”).

WHEREAS, Sellers are the owners of a certain parcel of land located at 120 and 130 Cremona Drive, Goleta, California, as more particularly described in Exhibit A, attached hereto (the “**Total Property**”); and

WHEREAS, following a lot split Buyer desires to purchase a portion of the Total Property consisting of approximately 93,175 square feet, which portion is improved with the building commonly known as 130 Cremona Drive, Goleta, California, which building is currently leased and occupied by Buyer (the “**Land**” as defined in Section 1.1.1 below) and Seller shall continue to own the balance of the Total Property (the “**Remaining Property**”).

NOW, THEREFORE, in consideration of the premises, and the mutual covenants, agreements, representation and warranties contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Buyer and Sellers agree as follows:

ARTICLE 1 AGREEMENT OF SALE

1.1 **Agreement of Purchase and Sale**. Subject to and on the terms and conditions of this Agreement, Sellers shall sell and Buyer shall purchase the “**Property**”, comprising Sellers’ right, title and interest in the Land, Improvements, Tangible Personal Property and the Intangible Personal Property, as such terms are defined below:

1.1.1 **Land**. A portion of the Total Property consisting of approximately 93,175 square feet as shown on the map attached hereto as Exhibit B, together with any and all rights, title and interest of Sellers, if any, in and to (a) privileges, rights, easements and appurtenances belonging to the real property, including without limitation, all minerals, oil, gas and other hydrocarbon substances on and under the real property, (b) all development rights, air rights, water, water rights and water stock relating to the real property, and (c) any streets, alleys, passages, other easements and other rights of way or appurtenances included in connection with such real property to the center line thereof to the extent included in the legal description of such real property (collectively, the “**Land**”).

1.1.2 **Improvements**. Any and all buildings, structures, fixtures, heating, ventilation and air conditioning systems, canopies, sidewalks, walkways, planters and landscape materials and all other real property improvements located in, on or under the Land (collectively, the “**Improvements**”);

1.1.3 **Tangible Personal Property.** All tangible personal property owned by Sellers located on or attached to the Land and exclusively used or available for use in the ownership, operation, management or maintenance of the Property (defined below), including, without limitation, all of Sellers' right, title and interest in all equipment, tools, machinery, furniture, furnishings, inventories, and other tangible personal property located on or attached to the Property (collectively, the "**Tangible Personal Property**"); and

1.1.4 **Intangible Personal Property.** All material intangible personal property owned by Sellers and exclusively used by Sellers in connection with the ownership, operation, management and maintenance of the Property and includes, without limitation, (i) all assignable guarantees and warranties (including those pertaining to construction of the Improvements, if any); (ii) all assignable licenses and other permits relating to the use and ownership of the Property or the operation thereof; and (iii) the Leases (as defined in Section 5.11) and security or damage deposits with respect to same (collectively, the "**Intangible Personal Property**").

1.2 **Property Defined.** The Land, Improvements, Tangible Personal Property and Intangible Personal Property are hereinafter collectively referred to as the "**Property**". Notwithstanding anything to the contrary set forth above or otherwise contained herein, the Property expressly excludes (i) all property owned by tenants or other users or occupants of the Property, and (ii) all computers, computer equipment and software in the management office of the Property.

ARTICLE 2

PURCHASE PRICE; DEPOSIT

2.1 **Purchase Price.** The purchase price (the "**Purchase Price**") for the Property shall be Eleven Million Five Hundred Fifteen Thousand Four Hundred and No/100 Dollars (\$11,515,400.00). The Purchase Price and such other funds as may be necessary to pay Buyer's expenses hereunder, subject to closing adjustments, shall be deposited with the Title Company by wire transfer on or before the Closing Date in accordance with this Agreement and paid to Sellers as provided herein.

2.2 **Deposit.** Within 10 business days after the Effective Date, Buyer shall deliver to Chicago Title Insurance Company, 1225-E Coast Village Rd Montecito, CA 93108, Attention: Trisha Kenney, Trisha.kenney@ctt.com (the "**Title Company**") the sum of Five Hundred Seventy-Five Thousand Seven Hundred Seventy and No/100 Dollars (\$575,770.00) (together with all interest earned thereon (the "**Deposit**"). Title Company is hereby instructed to invest the Deposit in an interest bearing account in the name of Buyer. Subject to Section 9.8 herein, One Hundred Fifty Thousand Dollars (\$150,000.00) of the Deposit (the "**Earnest Money**") shall be non-refundable to Buyer after expiration of the Due Diligence Period (defined in Section 3.1). Upon Closing, the Deposit (including the Earnest Money and Independent Consideration) shall be applied to the Purchase Price. The failure of Buyer to make the Deposit within the time frame specified in this Section shall be material breach of this Agreement and Sellers may terminate the Agreement. The Deposit shall be made by wire transfer of federal funds, cashier's check or in another immediately available form.

2.3 **Independent Consideration.** Notwithstanding anything herein to the contrary, One Hundred Dollars (\$100.00) of the Deposit (the “**Independent Consideration**”) shall not be refundable to Buyer, but shall represent consideration for this Agreement and shall be paid to Sellers within five (5) days of the Effective Date. The Independent Consideration shall serve as consideration for the granting of the time periods herein contained for Buyer to exercise Buyer’s right to satisfy and approve all of Buyer’s conditions herein contained. If the Deposit is refunded to Buyer for any reason pursuant to this Agreement, the Independent Consideration shall be subtracted from the Deposit pursuant to this Section.

ARTICLE 3 DUE DILIGENCE

3.1 **Due Diligence Period; Inspection and Access.**

3.1.1 **Due Diligence Period.** The “**Due Diligence Period**” means the period beginning on the Effective Date and ending at 5:00 p.m., according to the time zone in which the Property is located, on the sixtieth (60th) day after the Effective Date.

3.1.2 **Access to Information and the Property.** Buyer and/or its attorneys, consultants, employees and Lenders (“**Authorized Representatives**”) shall have the right to conduct an investigation of the Property during the Due Diligence Period at no cost to Sellers. This investigation (“**Due Diligence Investigation**”) may include, at Buyer’s option: a physical inspection of the Land and all Improvements thereon, including soil, geological and other tests, engineering evaluations of the mechanical, electrical, HVAC and other systems in the Improvements and review of the Plans (as defined below); review of all governmental matters affecting the Property, including zoning, environmental and building permit and occupancy matters; review and verification of all financial and other information previously provided by Sellers relating to the operation of the Property; review of the condition of title to the Property, including the building, structural system and roof inspection; and review of such other matters pertaining to an investment in the Property as Buyer deems advisable. Notwithstanding the foregoing, Buyer may not conduct any intrusive physical testing or Phase 2 environmental site assessment of the Property unless recommended by Buyer’s environmental consultant and subject to Sellers’ prior written approval of the scope and nature of any such testing or Phase 2 environmental site assessment, which may be withheld or conditioned in Sellers’ sole discretion. Copies of any third party reports that Buyer obtains regarding the Property, including, but not limited to, environmental site assessments or engineering or structural evaluations or reports, shall be delivered to Sellers at their request. Buyer and its Authorized Representatives shall have the right of access to the Property during reasonable business hours to conduct its investigation of the physical condition of the Property after notice to Sellers. Buyer shall at all times conduct such due diligence in compliance with applicable laws, and in a manner so as to not cause undue damage, loss, cost or expense to Sellers or the Improvements, and Buyer shall promptly restore the Improvements to their condition immediately preceding such inspections and examinations to the extent the same are damaged in the course of such due diligence and shall keep the Improvements free and clear of any mechanic’s liens or materialmen’s liens in connection with such inspections and investigations. Buyer shall maintain during all entries, with reputable companies rated no less than A-, Class VI by A. M. Best Company and licensed in the State in which the Property is located, a commercial general public liability insurance policy which

includes coverage for property damage, personal injury and owned, leased/hired, and non-owned vehicle liability, blanket contractual, and product/completed operations liability coverage covering any and all liability of Buyer and Sellers with respect to or arising out of any inspections or work to be performed by Buyer or its Authorized Representatives under this Agreement with limits of not less than One Million Dollars (\$1,000,000) each occurrence/Two Million Dollars (\$2,000,000) aggregate for bodily injury, personal injury and property damage liability. Buyer or Buyer's agents, contractors or subcontractors shall maintain workers' compensation insurance covering the activities of all of their employees on or about the Property. Buyer shall name, or cause to be named Sellers as an additional insured the liability insurance policy. Notwithstanding the foregoing sentence, any contractor who is gaining entry for the purpose of conducting any testing or Phase 1 or 2 report, shall be required to maintain insurance in an amount of no less than what Buyer is required to maintain pursuant to this Agreement. Prior to any entry, Buyer must provide Sellers with certificates, in form reasonably satisfactory to Sellers, evidencing such coverage. Sellers shall have the right, at its option, to cause a representative of Sellers to be present at all such inspections, reviews and examinations. Buyer shall indemnify, protect, defend and hold Sellers harmless from and against any obligation, liability, claim (including any claim for damage to property or injury to or death of any persons), lien or encumbrance, loss, damage, cost or expense, including reasonable attorney's fees, to the extent the same arise out of the inspections or examinations of the Property by Buyer or its Authorized Representatives; provided, however, Buyer shall have no liability resulting from the mere discovery of a preexisting condition affecting the Property and not caused by Buyer or its Authorized Representatives. The foregoing indemnification shall survive the Closing or the termination of this Agreement for any reason.

3.2 **Delivery of Due Diligence Documents.** Within 5 business days after the Effective Date, Sellers shall deliver to Buyer, at Sellers' expense, without representation or warranty of any type except as otherwise expressly provided in Article 5 hereof, copies of all documents described in the remaining subsections of this Section 3.2 (collectively, the "**Due Diligence Documents**"), to the extent in Sellers' possession or control.

3.2.1 **Title Commitment and Survey.** Within 15 days after the Effective Date, a title commitment for title insurance (the "**Title Commitment**"), dated no earlier than 10 days before the Effective Date, covering the Property and issued by the Title Company, together with a legible copy of each document, map and survey referred to in the Title Commitment. Buyer, at Buyer's sole cost, may obtain a survey of the Property (the "**Survey**") in a form acceptable to the Title Company for the purpose of obtaining an extended coverage policy.

3.2.2 **Plans.** Copies of all as built plans and specifications for the Improvements, including without limitation the plans and specifications for and a complete description of all existing renovations and improvements to the Property and all rentable space therein, and as built drawings for all underground utilities (collectively, the "**Plans**") shall be provided to Buyer for review and copying at a mutually agreeable time and place;

3.2.3 **Soils Report.** Any soils report on the Land prepared at Sellers' request, including a report on compliance with any soils work recommended to be done prior to construction of the Improvements;

3.2.4 **Agreements.** To the extent not otherwise provided pursuant to Section 3.2.1, copies of written, and written descriptions of oral, easements, covenants, restrictions, agreements, contracts and other documents, whether existing or proposed as of the Effective Date, which shall be binding on the Buyer or Property after Closing.

3.2.5 **Engineers' Reports/Survey.** Any structural, mechanical, environmental or geological reports or any past survey concerning the Property;

3.2.6 **Licenses, Etc.** Copies of any licenses, permits or certificates currently in effect which are required by governmental authorities in connection with the occupancy of the Improvements (collectively, the "Licenses");

3.2.7 **Leases.** Copies of the Leases (as defined in Section 5.11).

3.2.8 **Warranties/Roof Inspections/HVAC Inspections.** Copies of any and all guarantees or warranties and other rights given to Seller in connection with the construction, maintenance, repair or remodeling of the Improvements, periodic inspections, the purchase of any of the Tangible Personal Property, and any inspections of the roof or HVAC over the most recent five (5) years.

3.2.9 **Requested Information.** Such other documents and information concerning the Property as Buyer may reasonably request.

Notwithstanding the fact that Sellers are furnishing such documents and information, Sellers make no representation or warranty, express or implied, as to the accuracy or completeness of any of such documents, information, reports, plans or statements, except as otherwise expressly provided in Article 5, and are providing them to Buyer solely as an accommodation to Buyer.

3.3 **Approval/Disapproval of Due Diligence Investigations.** Buyer shall approve or disapprove the results of Buyer's Due Diligence Investigation, in the exercise of Buyer's sole discretion, by written notice delivered to Sellers no later than the expiration of the Due Diligence Period. If Buyer fails to deliver to Sellers notice of its approval or disapproval of the results of its Due Diligence Investigation prior to expiration of the Due Diligence Period, Buyer shall be deemed to have disapproved such results. If Buyer elects to terminate the Agreement, Buyer shall return to Sellers all of the Due Diligence Documents previously delivered by Sellers to Buyer within 5 business days of such termination.

3.4 **Title Matters.**

3.4.1 **Monetary Liens.** On or before the Closing Date, Sellers shall, at their expense, remove any liens for delinquent taxes, mortgages, deeds of trust, mechanic's liens or other liens caused by Sellers, including, without limitation: (i) all delinquent taxes, bonds and assessments and interest and penalties thereon (it being agreed that Seller shall not be required to remove any non-delinquent taxes and assessments imposed by any governmental agency that are paid with the property taxes for the Property); and (ii) all other monetary liens, including without limitation all those shown on the Preliminary Title Report (including judgment and mechanics' liens, whether or not liquidated, and mortgages and deeds of trust, with Seller being fully

responsible for any fees or penalties incurred in connection therewith) (collectively, “**Monetary Liens**”).

3.4.2 **Approval/Disapproval of Title Review**. No later than fifteen (15) days after the receipt of the Title Commitment, Buyer shall notify Sellers in writing (“**Buyer’s Notice**”) of any title matters to which Buyer objects (the “**Title Defects**”). Any matter disclosed in the Title Commitment and not objected to by Buyer or which is subsequently waived by Buyer shall be deemed a permitted exception (“**Permitted Exception**”). Sellers shall notify Buyer of Sellers’ decision not to cure any Title Defect within five (5) days after receipt of Buyer’s Notice (“**Sellers’ Notice**”); provided, however, Sellers shall remove all Monetary Liens, if any, on or before Closing. Sellers’ failure to respond shall be deemed a decision by Sellers not to cure any Title Defect. Within five (5) days of Sellers’ election not to cure a Title Defect, Buyer may (i) elect to waive such Title Defect in which case it shall be deemed a Permitted Exception or (ii) terminate this Agreement in which event the Deposit (less the Independent Consideration) will be returned to Buyer, and neither Sellers nor Buyer will have any further obligations under this Agreement except for those that expressly survive termination. If a Title Defect that Sellers elected to cure is not cured by Sellers or waived by Buyer on or before the Closing Date, then Buyer may (i) elect to waive the uncured Title Defect in which case it shall be deemed a Permitted Exception, or (ii) terminate this Agreement in which event the Deposit (less the Independent Consideration) will be returned to Buyer, and neither Sellers nor Buyer will have any further obligations under this Agreement except for those that expressly survive termination.

3.4.3 **Title Policy**. At Closing, the Title Company shall issue to Buyer a CLTA Owner's policy of title insurance, provided that Buyer may require an ALTA Owner's Policy if Buyer pays the incremental premium for ALTA coverage (“**Title Policy**”) for the Property, with liability equal to the Purchase Price showing fee title to the Property vested in Buyer and subject only to: (i) the Permitted Exceptions and (ii) the standard printed exceptions in the form of title policy called for.

3.5 **Lot Split**. Promptly following the Effective Date, Buyer shall file such applications and take such actions as may be necessary or appropriate to cause the Total Property to be split so as to establish the Land as a separate legal parcel on terms and conditions acceptable to Sellers in their sole discretion (the “**Lot Split**”). The Lot Split shall provide for an allocation of parking between the Land and the Remaining Property, pro rata on the basis of the useable square footage of the existing buildings on 120 and 130 Cremona Drive. Buyer shall provide Sellers with copies of all applications, filings, maps, and other instruments and documents completed by Buyer and filed with applicable governmental authorities in connection with the Lot Split, and shall apprise Sellers of the date and time of any planned meetings with governmental officials, including any hearings, and Sellers shall have an opportunity to be present and participate in such meetings and/or hearings. As the Lot Split is pursued, Buyer and Sellers shall work in good faith to address issues concerning ingress and egress, fire department access, parking requirements, required easements for utilities and other matters and shall enter into such reciprocal easement agreements as may be necessary or appropriate, all on terms and conditions satisfactory to the parties. Buyer shall pay all costs and expenses incurred in connection with the Lot Split. The Lot Split shall be subject to the approval of the City of Goleta in a duly called and noticed public meeting.

3.6 **Natural Hazards and Energy Use Disclosure Required Compliance.** Buyer and Sellers acknowledge that Sellers or Broker is required to disclose if the Property lies within the following natural hazard areas or zones: (1) a special flood hazard area (any type Zone "A" or "V") designated by the Federal Emergency Management Agency (Cal. Gov. Code § 8589.3); (2) an area of potential flooding shown on a dam failure inundation map designated pursuant to Cal. Gov. Code § 8589.5 (Cal. Gov. Code § 8589.4); (3) a very high fire hazard severity zone designated pursuant to Cal. Gov. Code § 51178 or 51179 (in which event the owner maintenance obligations of Cal. Gov. Code § 51182 would apply) (Cal. Gov. Code § 51183.5); (4) a wildland area that may contain substantial forest fire risks and hazards designated pursuant to Cal. Pub. Resources Code § 4125 (in which event [i] the property owner would be subject to the maintenance requirements of Cal. Pub. Resources Code § 4291 and [ii] it would not be the state's responsibility to provide fire protection services to any building or structure located within the wildland area except, if applicable, pursuant to Cal. Pub. Resources Code § 4129 or pursuant to a cooperative agreement with a local agency for those purposes pursuant to Cal. Pub. Resources Code § 4142) (Pub. Resources Code § 4136); (5) an earthquake fault zone (Pub. Resources Code § 2621.9); or (6) a seismic hazard zone (and, if applicable, whether a landslide zone or liquefaction zone) (Pub. Resources Code § 2694). Buyer and Sellers acknowledge that they have employed the services of Title Company or its affiliate (which, in such capacity is herein called "**Natural Hazard Expert**") to examine the maps and other information specifically made available to the public by government agencies for the purpose of enabling each of Sellers and Broker to fulfill its disclosure obligations with respect to the natural hazards referred to in California Civil Code Section 1103(c) and to report the result of its examination to Buyer and Sellers in writing. As contemplated in California Civil Code Section 1103.2(b), if an earthquake fault zone, seismic hazard zone, very high fire hazard severity zone or wildland fire area map or accompanying information is not of sufficient accuracy or scale for the Natural Hazard Expert to determine if the Property is within the respective natural hazard zone, then for purposes of the disclosure the Property shall be considered to lie within such natural hazard zone. The written report prepared by the Natural Hazard Expert regarding the results of its examination fully and completely discharges Sellers and Broker from their disclosure obligations referred to herein, and, for the purpose of this Agreement, the provisions of Civil Code Section 1102.4 regarding the non-liability of each of Sellers and Broker for errors or omissions not within its personal knowledge shall be deemed to apply and the Natural Hazard Expert shall be deemed to be an expert, dealing with matters within the scope of its expertise with respect to the examination and written report regarding the natural hazards referred to above. The obligations of Sellers and Broker are several (and not joint and not joint and several) and, without limitation, in no event shall Sellers have any responsibility for matters not actually known to Sellers. THESE HAZARDS MAY LIMIT BUYER'S ABILITY TO DEVELOP THE PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER. THE MAPS ON WHICH THESE DISCLOSURES ARE MADE ARE BASED ON ESTIMATES OF WHERE NATURAL HAZARDS EXIST. THEY ARE NOT DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED BY A NATURAL DISASTER. BUYER MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE PROPERTY.

By execution of this Agreement, Buyer acknowledges its receipt of the Disclosure Summary Sheet, Statement of Energy Performance, Data Checklist and Facility Summary

relating to energy usage at the property as required under Section 25402.10 of the California Public Resources Code and the regulations promulgated pursuant thereto.

ARTICLE 4 CONDITIONS PRECEDENT

4.1 **Buyer's Conditions.** Buyer's obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 4.1 on or before the Outside Closing Date, or such earlier date as is set forth below.

4.1.1 **Performance of Covenants.** Sellers performing and complying in all material respects with all of the terms of this Agreement to be performed and complied with by Sellers prior to or at the Closing.

4.1.2 **Representations and Warranties.** The representations and warranties of Sellers set forth in Article 5 being true and accurate on the Closing Date, as if made on such date.

4.1.3 **Closing Deliveries.** Sellers shall have completed all the deliveries required to be made by Sellers under Section 9.3 of this Agreement.

4.1.4 **Title Policy.** The Title Company shall be irrevocably committed to issue the Title Policy upon Closing in accordance with Subsection 3.4.3.

4.1.5 **Reciprocal Easement and Access Agreement.** Sellers and Buyer shall have entered into a Reciprocal Easement and Access Agreement on the terms and conditions listed on Exhibit H attached hereto.

4.2 **Sellers' Conditions.** Sellers' obligations under this Agreement are expressly subject to the timely fulfillment of the conditions set forth in this Section 4.2 on or before the Closing Date, or such earlier date as is set forth below. Each condition may be waived in whole or part by Sellers by written notice to Buyer.

4.2.1 **Performance of Covenants.** Buyer performing and complying in all material respects with all of the terms of this Agreement to be performed and complied with by Buyer prior to or at the Closing.

4.2.2 **Closing Deliveries.** Buyer shall have completed all the deliveries required to be made by Buyer under Section 9.7 of this Agreement.

4.2.3 **Representations and Warranties.** The representations of Buyer set forth in Article 6 being true and accurate on the Closing Date, as if made on such date.

4.3 **Lot Split Condition.** On or before the Outside Closing Date, the Lot Split shall have been completed as set forth in Section 3.5 above and a parcel map reflecting the Lot Split shall have been recorded (the "**Parcel Map**"). In the event that the Lot Split condition set forth in this Section 4.3 is not satisfied on or before the Outside Closing Date, this Agreement shall automatically terminate and Sellers shall be entitled to retain the Earnest Money (plus the Independent Consideration) and the remainder of the Deposit shall be returned to Buyer.

ARTICLE 5
SELLERS' REPRESENTATIONS AND WARRANTIES

Sellers hereby make the following representations and warranties to Buyer as of the Effective Date and as of Closing with the understanding that each such representation and warranty is material and is being relied upon by Buyer:

5.1 **Authority of UBCA.** UBCA is a corporation duly formed, organized, existing and in good standing under the laws of the State of California. UBCA has full legal right, power and authority to execute and fully perform its obligations under this Agreement, without the need for any further action under its governing instruments. The person executing this Agreement on behalf of UBCA and the other documents required hereunder are the duly designated representatives of UBCA and are authorized to do so.

5.2 **Authority of JCB.** JCB is a limited partnership, duly formed, organized, existing and in good standing under the laws of the State of California. JCB has full legal right, power and authority to execute and fully perform its obligations under this Agreement, without the need for any further action under its governing instruments. The person executing this Agreement on behalf of JCB and the other documents required hereunder are the duly designated representatives of JCB and are authorized to do so.

5.3 **Litigation.** Except as set forth on Exhibit C, there are no actions, suits or proceedings pending or, to Sellers' actual knowledge, threatened against Sellers which affect title to the Property or pertain to the ownership, use or operation of the Property.

5.4 **Environmental Violations.** Sellers have not received written notice from any governmental agency of any violation of environmental laws related to the Property.

5.5 **Compliance with Laws.** Sellers have received no notice of any violation or lack of compliance with any applicable codes, laws, statutes, ordinances, regulations, or rules of any governmental or quasi-governmental entity affecting the Property.

5.6 **Condition of the Property.** Sellers have received no written notices from any insurance carrier of the Property regarding dangerous, illegal or other conditions on the Property requiring corrective action.

5.7 **Rights to Purchase.** No third party has any purchase or repurchase option, right of first refusal to purchase, right of first offer to purchase or similar right to purchase in connection with all or any portion of the Property.

5.8 **FIRPTA.** Sellers are not a "foreign person" (as defined in the Internal Revenue Code and Income Tax Regulations).

5.9 **Condemnation.** Sellers have received no written notice of any pending or threatened condemnation or eminent domain proceedings relating to the Property.

5.10 **No Leases.** There are no leases, rental agreements or other claims to possession affecting possession or occupancy of the Property, other than the lease agreement with Buyer (the “Lease”).

5.11 **Contracts.** There are no contracts entered into by Sellers or their property manager or leasing agent relating to the management, maintenance, leasing or operation of the Property (“Service Contracts”) to be assumed by Buyer at Closing. Other than as set forth in the Title Commitment, there are no agreements or other obligations to which Sellers are a party or by which they or the Property are bound which may bind the Buyer. To Sellers’ knowledge, no default currently exists under any of the Service Contracts that would have a material adverse effect on the Property.

5.12 **Sellers’ Knowledge.** As used in this Agreement, the phrases “to Sellers’ actual knowledge” or “to Sellers’ knowledge” shall mean and refer only to the current, actual knowledge of UBCA’s Vice President, John Travis, or Jeffrey C Bermant, the general partner of JCB, with the express limitation and qualification that such individuals have not made any special investigation or inquiry, and such individuals have no duty or obligation of reasonably diligent investigation or inquiry, or any other duty or obligation, to acquire or attempt to acquire information beyond or in addition to their current actual knowledge.

5.13 **Change of Conditions.** If any of Sellers’ representations or warranties shall be untrue and incorrect in a material respect at Closing because a change in facts or circumstances subsequent to the Effective Date has made the applicable representation or warranty no longer true and correct, then Buyer may, by written notice to Sellers and as Buyer’s sole and exclusive remedy, either (i) proceed with Closing, accepting the applicable representation or warranty as being modified by the change in facts or circumstances, or (ii) terminate this Agreement and declare this Agreement of no further force and effect, in which event the Deposit, less the Independent Consideration, shall be returned to Buyer and the parties shall have no further obligation hereunder except those that expressly survive Closing.

5.14 **Survival of Representations and Warranties.** All representations and warranties of Buyer and Sellers made in this Agreement shall be deemed to have been made as of the Effective Date and again as of the Closing Date and shall survive the Closing for a period of one (1) year.

ARTICLE 6

BUYER’S REPRESENTATIONS AND WARRANTIES.

Buyer makes the following representation and warranties to Sellers, as of the Effective Date and as of Closing, with the understanding that each such representation and warranty is material and is being relied upon by Sellers:

6.1 **Buyer’s Authority.** The execution, delivery and performance of this Agreement by Buyer have been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of Buyer in order to consummate the transactions contemplated herein.

6.2 **No Conflict.** Neither the execution nor delivery of this Agreement by Buyer, nor performance of any of its obligations hereunder, nor consummation of the transactions contemplated hereby, shall conflict with, result in a breach of, or constitute a default under, the terms and conditions of the organizational documents pursuant to which Buyer was organized, or any agreement to which Buyer is a party or is bound, or any order or regulation of any court, regulatory body, administrative agency or governmental body having jurisdiction over Buyer.

6.3 **Inspection.** Buyer has made, or will make prior to expiration of the Due Diligence, an independent investigation, to the extent Buyer deems necessary or appropriate, concerning the physical condition, value, development, use, marketability, feasibility and suitability of the Property, including, without limitation, land use, zoning and other governmental restrictions.

6.4 **Litigation.** There are no actions, suits or proceedings pending or, to Buyer's actual knowledge, threatened against Buyer which question the validity or enforceability of this Agreement or of any action taken by Buyer under this Agreement.

6.5 **No Other Seller Representations.** Except as expressly set forth in this Agreement, Buyer acknowledges that no representations or warranties, express or implied, have been made by Sellers or Sellers' representatives.

6.6 **"AS-IS, WHERE IS".** EXCEPT AS EXPRESSLY PROVIDED IN ARTICLE 5 OF THIS AGREEMENT, THE GRANT DEED, BILL OF SALE AND THE GENERAL ASSIGNMENT DELIVERED BY SELLERS AS PART OF THE CLOSING, SELLERS ARE NOT MAKING, AND HAVE NOT AT ANY TIME MADE, ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PHYSICAL CONDITION, ENVIRONMENTAL CONDITION, TITLE, ZONING, TAX CONSEQUENCES, UTILITIES OR UTILITY CAPACITY, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, COMPLIANCE WITH GOVERNMENTAL LAWS, OR THE TRUTH, ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO BUYER OR ANY OTHER PERSON, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. BUYER ACKNOWLEDGES AND AGREES THAT UPON CLOSING, SELLERS SHALL SELL AND CONVEY TO BUYER AND BUYER SHALL ACCEPT THE PROPERTY AS IS, WHERE IS, WITH ALL FAULTS. BUYER HAS NOT RELIED AND WILL NOT RELY ON, AND SELLERS ARE NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR RELATING THERETO MADE OR FURNISHED BY SELLERS OR ANY AGENT REPRESENTING OR PURPORTING TO REPRESENT SELLERS, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING, UNLESS EXPRESSLY SET FORTH IN THIS AGREEMENT. BUYER HEREBY EXPRESSLY ACKNOWLEDGES THAT IT HAS INSPECTED AND EXAMINED OR WILL INSPECT AND EXAMINE THE PROPERTY TO THE EXTENT DEEMED NECESSARY BY BUYER IN ORDER TO ENABLE BUYER TO EVALUATE THE PURCHASE OF THE PROPERTY.

BUYER ACKNOWLEDGES THAT IT IS A MUNICIPALITY, WITH EMPLOYEES AND STAFF EXPERIENCED IN ALL ASPECTS OF REAL ESTATE, THAT IT CURRENTLY LEASES AND OCCUPIES THE BUILDING AT 130 CREMONA DRIVE AND IS FAMILIAR WITH ITS CONDITION.

THE PROVISIONS OF THIS SECTION 6.6 SHALL SURVIVE THE CLOSING.

BY THE INITIALS OF ITS REPRESENTATIVE BELOW, BUYER HEREBY ACKNOWLEDGES THAT: (i) THE FOREGOING WAIVERS AND DISCLAIMERS HAVE BEEN BROUGHT TO THE ATTENTION OF BUYER, (ii) THE FOREGOING WAIVERS AND DISCLAIMERS HAVE BEEN READ AND ARE UNDERSTOOD BY BUYER, (iii) THE AGREEMENT OF BUYER WITH AND TO ALL OF THE TERMS AND CONDITIONS OF THESE WAIVERS AND DISCLAIMERS IS AN INTEGRAL PART OF THE BARGAIN BETWEEN SELLERS AND BUYER, WITHOUT WHICH THIS AGREEMENT WOULD NOT HAVE BEEN ENTERED INTO BY SELLERS, AND (iv) THE PURCHASE PRICE REFLECTS, AND TAKES INTO CONSIDERATION, THE FOREGOING WAIVERS AND DISCLAIMERS.

Initialed by:

Buyer



ARTICLE 7 SURVIVAL OF TERMS

7.1 Except as expressly provided herein, all of the terms and provisions of this Agreement shall terminate at the Closing Date and be merged into the Grant Deed.

ARTICLE 8 COVENANTS

8.1 **Covenants of Sellers.** Sellers shall comply with the covenants contained in this Article 8 from the Effective Date through the Closing Date unless Buyer consents otherwise in writing. Buyer may grant or withhold any such consent requested by Sellers in Buyer's sole discretion.

8.1.1 **Contracts and Documents.** Sellers shall not, without Buyer's approval, not to be unreasonably withheld or delayed, (a) amend or waive any material right under any Due Diligence Document, or (b) enter into any material agreement of any type affecting the Property that would survive the Closing Date.

8.1.2 **Insurance.** Sellers shall maintain or cause to be maintained in full force and effect its present insurance policies for the Property.

8.1.3 **Compliance with Obligations.** Sellers shall fully and timely comply with all obligations to be performed by it under all permits, licenses, approvals and laws, regulations and orders applicable to the Property.

8.1.4 **No Transfers.** Sellers shall not sell, encumber or otherwise transfer any interest in all or any portion of the Property, or agree to do so.

8.1.5 **Termination of Service Contracts.** Sellers at their sole cost and expense shall terminate all of the Service Contracts described in Section 5.12 at or before the Closing Date.

8.1.6 **Maintenance.** Subject to Article 10, at their sole cost and expense, Sellers shall operate and maintain the Property such that on the Closing Date the Property shall be in at least as good a condition and repair as on the Effective Date, reasonable wear and tear excepted. Without limiting the generality of the foregoing, Sellers shall, at a minimum, spend such amounts for repair and maintenance as are consistent with its prior practice (but not including any capital or extraordinary expenditures). Sellers shall not make any material alterations to the Property, or remove any of the Personal Property therefrom, without Buyer's prior consent, unless such Personal Property so removed is simultaneously replaced with new Personal Property of similar quality and utility.

8.2 **Environmental Release.** From and after Closing, Buyer agrees for itself and for its heirs, successors and assigns, to waive all of its rights under this Agreement, if any, and any Environmental Laws to file a claim against Sellers to require Sellers to remediate or "clean up" the Property. "Environmental Laws" shall mean any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any hazardous materials, petroleum products, drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, waste emissions or wells. Without limiting the generality of the foregoing, the term shall encompass each of the following statutes, and regulations, order, decrees, permits, licenses and deed restrictions now or hereafter promulgated thereunder, and amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time: (i) the Comprehensive Environmental Response, Compensation and Liability Act (codified in scattered sections of 26 U.S.C., 33 U.S.C., 42 U.S.C. and 42 U.S.C. Section 9601 et seq.) ("CERCLA"); (ii) the Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.) ("RCRA"); (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.); (iv) the Toxic Substances Control Act (15 U.S.C. Section 2061 et seq.); (v) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vi) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vii) the Safe Drinking Water Act (21 U.S.C. Section 349, 42 U.S.C. Section 201 and Section 300f et seq.); (viii) the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.); (ix) the Superfund Amendments and Reauthorization Act of 1986 (codified in scattered sections of 10 U.S.C., 29 U.S.C., 33 U.S.C. and 42 U.S.C.); (x) Title III of the Superfund Amendment and Reauthorization Act (40 U.S.C. Section 1101 et seq.); (xi) the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); (xii) the Occupational Safety & Health Act (29 U.S.C. Section 655 et seq.); (xiii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (xiv) the Noise Control Act (42 U.S.C. Section 4901 et seq.); and (xv) the Emergency Planning and Community Right to Know Act (42 U.S.C. Section 1100 et seq.) and (xvi) the Radon and Indoor Air Quality Research Act (45 U.S.C. Section 7401, et seq.). For the purpose of this Agreement, the term "Hazardous Materials" shall mean any and all pollutants, contaminants, toxic or hazardous wastes or any other substances that might pose a hazard to

health or safety, the removal of which may be required or the generation, manufacture, refining, production, processing, treatment, storage, handling, transportation, transfer, use, disposal, release, discharge, spillage, seepage or filtration of which is or shall be restricted, prohibited or penalized under any Environmental Laws (including, without limitation, lead paint, mold, asbestos, urea formaldehyde foam insulation, petroleum and polychlorinated biphenyls). The provisions of this Section shall survive Closing for the applicable statute of limitations period.

ARTICLE 9 CLOSING

9.1 **Time.** The parties shall close this transaction (the “**Closing**”) within 10 days following the date when all conditions set forth in Article 4 have been either satisfied or waived (the “**Closing Date**”), provided, however, the Closing shall occur no later than 150 days after the Effective Date, unless such date is extended by the provisions of this Article 9 or otherwise agreed by the parties in writing (the “**Outside Closing Date**”). The Closing shall be at such time and place as the parties may mutually agree. In the event that Closing does not take place on or before the Outside Closing Date, this Agreement shall automatically terminate. Upon such termination, Sellers shall have the right to exercise the remedies set forth in 9.8.1 unless the failure to timely consummate the Closing is due to Sellers’ default hereunder. In the event this Agreement is terminated, Buyer shall return to Sellers all of the Due Diligence Documents previously delivered by Sellers and all Lot Split documentation in Buyer’s possession or control.

9.1.1 Notwithstanding anything to the contrary herein, Buyer shall have the right to extend the Outside Closing Date by 60 days, if, in its sole discretion, it determines additional time will be needed to satisfy the Lot Split condition set forth in Section 4.3, above.

9.2 **Escrow.** This Article 9, together with such additional instructions as the Title Company shall reasonably request and the parties shall agree to, shall constitute the escrow instructions. If there is any inconsistency between this Agreement and the Title Company’s additional escrow instructions, this Agreement shall control unless the intent to amend this Agreement is clearly stated in said additional instructions. Buyer and Sellers shall cause Title Company to execute and deliver a counterpart of this Agreement to each of them.

9.3 **Sellers’ Deposit of Documents Into Escrow.** Sellers shall deposit into escrow on or before Closing the following documents:

9.3.1 A duly executed and acknowledged grant deed, in the form acceptable to Buyer, conveying the Property to Buyer (“**Grant Deed**”) in the form attached as Exhibit D;

9.3.2 A duly executed bill of sale, without warranty, in the form of Exhibit E, conveying the Tangible Personal Property to Buyer free and clear of liens, encumbrances and restrictions (“**Bill of Sale**”);

9.3.3 A duly executed assignment, in the form of Exhibit F, assigning to Buyer all of Sellers’s interest in the Intangible Personal Property (the “**General Assignment**”);

9.3.4 Sellers having executed and delivered to Buyer on or prior to the Closing Date a certification (the “**Non-Foreign Certification**”), substantially in the form of Exhibit G.

9.3.5 Such evidence or documents as may reasonably be required by the Title Company evidencing the authority of any person or persons who are executing any of the documents required hereunder in connection with the Closing.

9.3.6 Such additional documents, including written escrow instructions consistent with this Agreement, as may be necessary or desirable for conveyance of the Property in accordance with this Agreement.

9.4 **Buyer's Deposit of Documents and Funds.** Buyer shall deposit into escrow:

9.4.1 The balance of the Purchase Price plus Buyer's share of closing costs and prorations, by electronic transfer of federal funds to Title Company, on or before the Closing Date;

9.4.2 Such evidence or documents as may reasonably be required by the Title Company evidencing the authority of any person or persons who are executing any of the documents required hereunder in connection with the Closing.

9.4.3 Such additional documents, including written escrow instructions consistent with this Agreement, as may be necessary or desirable for conveyance of the Property in accordance with this Agreement.

9.4.4 A Preliminary Change in Ownership Statement and Transfer Tax Affidavit.

9.5 **Closing.** When Title Company has received all documents and funds identified in Sections 9.3 and 9.7, has received notification from Buyer and Sellers that all conditions to Closing to be satisfied outside of escrow have been satisfied or waived and Title Company is irrevocably committed to issue the Title Policy, then, and only then, Title Company shall:

9.5.1 Record the Parcel Map;

9.5.2 Record the Grant Deed;

9.5.3 Issue the Title Policy to Buyer;

9.5.4 To the extent not otherwise delivered to Buyer outside of escrow, deliver to Buyer: (a) a conformed copy (showing all recording information thereon) of the Grant Deed; (b) fully executed original counterparts of the Bill of Sale and the General Assignment; and (c) the Sellers's Certificate and the Non-Foreign Certification;

9.5.5 Deliver the Purchase Price (as adjusted pursuant to Section 9.8) to Sellers.

Title Company shall prepare and sign closing statements showing all receipts and disbursements and deliver copies to Buyer and Sellers and, if applicable, shall file with the Internal Revenue Service (with copies to Buyer and Sellers) the reporting statement required under Section 6045(e) of the Internal Revenue Code.

9.6 **Prorations.** Subject to the other provisions of this Section 9.6, all receipts and disbursements of the Property will be prorated as of 11:59 p.m. on the day immediately preceding the Closing Date, according to the time zone in which the Property is located, as if Buyer were vested with title to the Property during the entire Closing Date, so that all items of income and operating expenses for the Closing Date shall be allocated to the Buyer. Not less than three business days prior to the Closing, Sellers shall submit to Buyer for its approval a tentative prorations schedule showing the categories and amounts of all prorations proposed. The parties shall agree on a final prorations schedule prior to the Closing and shall deliver the same to Title Company. If following the Closing either party discovers an error in the prorations statement, it shall notify the other party and the parties shall promptly make any adjustment required.

9.6.1 **Property Taxes.** All real and personal property ad valorem taxes and special assessments, if any, whether payable in installments or not, including without limitation, all supplemental taxes attributable to the period prior to the Closing Date for the calendar year in which the Closing occurs, shall be prorated to the Closing Date, based on the latest available tax rate and assessed valuation. If the amount of any installment of real property taxes is not known as of the Closing Date, then a proration shall be made by the parties based on a reasonable estimate of the real property taxes applicable to the Property and the parties shall adjust the proration when the actual amount becomes known upon the written request of either party made to the other. To the extent that taxes include special assessments or installments of special assessments that are payable over time, Sellers' prorated portion of such assessments shall be determined assuming payment of the assessment over the longest period of time permitted by the applicable taxing authorities.

9.6.2 **Utility Charges.** Final readings and final billings for utilities will be made, if possible, as of the day preceding Closing, in which event no proration will be made at Closing with respect to utility bills. If final readings and final billings for utilities are not available as of the day prior to Closing, the parties shall prorate the utility bills based on the most recent utility bills, and upon receipt of the actual utility bills which include the Closing Date and to the extent that the amounts apportioned at Closing differ, Sellers and Buyer shall make all necessary adjustments by appropriate payments between themselves following Closing. Buyer shall be responsible for all the necessary actions needed to arrange for utilities to be transferred to the name of Buyer on the Closing, including the posting of any required deposits and Sellers shall be entitled to recover and retain from the providers of such utilities any refunds or overpayments to the extent applicable to the period prior to the Closing, and any utility deposits which it or its predecessors may have posted.

9.6.3 **Security Deposits.** All security deposits shall be credited to Buyer at Closing.

The agreements in this Section 9.6 shall survive Closing. Final settlement of all prorated items shall occur on or before sixty (60) days after the Closing Date, or on the next business day if the sixtieth (60th) day is not a business day, except for property taxes, if final determination thereof is not possible within said 60 day period, in which case taxes shall be determined upon the date upon which such amounts shall become ascertainable.

9.7 **Knowledge as a Defense.** Sellers shall have no liability with respect to any breach of the covenants, representations and warranties of Sellers set forth in this Agreement or any documents delivered pursuant hereto to the extent that Buyer proceeds with Closing with actual knowledge of such breach.

9.8 **Default, Termination and Remedies.**

9.8.1 **Buyer's Termination.** This Agreement shall automatically terminate without further notice or action by Buyer upon the occurrence of any of the following events, provided that Buyer is not then in material breach of this Agreement: (a) any condition to Closing contained in Section 4.1 has not been satisfied or waived by Buyer by the Outside Closing Date, as such date may be extended; or (b) Buyer having timely exercised its right to terminate this Agreement pursuant to Section 3.1 (disapproval of Due Diligence Investigation), Section 3.4 (disapproval of title) or Article 10 (damage or condemnation); or (c) the Lot Split condition set forth in Section 4.3 is not satisfied by the Outside Closing Date, as such date may be extended. If this Agreement is terminated pursuant to subsections (a) and (b) herein, Buyer's Deposit shall be returned to Buyer without deduction and this Agreement shall terminate and the parties shall have no further obligation to each other except for those obligations that specifically survive the termination of this Agreement. If this Agreement is terminated pursuant to subsection (c) herein, Sellers shall retain the Earnest Money as liquidated damages and the remainder of the Deposit, less the Independent Consideration, shall be returned to Buyer.

9.8.2 **Seller's Termination.** Provided that Sellers are not then in material breach of this Agreement, this Agreement shall automatically terminate without further notice or action by Sellers if any condition to Closing contained in Section 4.2 has not been satisfied or waived by Sellers by the Outside Closing Date.

9.8.3 **Buyer's Remedies.** In the event that Sellers fail to perform any of Sellers's obligations under this Agreement and Buyer tenders performance, including the obligation to consummate Closing, then Buyer may give written notice to Sellers demanding performance. If Sellers fail to comply with Buyer's written demand within two (2) business days after receipt of such written notice, Buyer's sole remedy shall be to: (i) waive such default and proceed to Closing without adjustment to the Purchase Price or other terms herein; (ii) seek specific performance of Sellers' obligation to close under this Agreement; or (iii) terminate this Agreement and promptly receive a full refund of the Deposit, but without further liability on Sellers' part. Except as expressly provided to the contrary in this Subsection 9.8.2, Buyer expressly waives its rights to seek damages in the event of the default of Sellers hereunder.

9.8.4 **Sellers' Remedies; Liquidated Damages.** If the sale is not consummated due to any default by Buyer hereunder, then Sellers' sole remedy shall be to retain the Independent Consideration and the Deposit as liquidated damages, which retention shall operate to terminate this Agreement and release Buyer from any and all liability hereunder. It is expressly understood and agreed by Buyer and Sellers: that Sellers will incur substantial damages as a result of any failure by Buyer to comply with or perform Buyer's obligations under this agreement in the form of, among other things, additional interest costs, marketing costs, opportunity costs and other related expenditures; that it is extremely difficult and impractical to calculate and ascertain as of the Effective Date of this Agreement the actual damages which

would be suffered in such event by Sellers; and that the Deposit is a reasonable estimate of the extent to which Sellers may be damaged by Buyer's default in light of the difficulty the parties would have in determining Sellers' actual damages as a result of such default by Buyer. The foregoing is not intended to limit Buyer's indemnity obligations set forth in Section 3.2.1. Sellers hereby waive the right to maintain an action for specific performance of Buyer's obligation to purchase the Property and Sellers agree they can be adequately compensated by retention of the Deposit.

Initials: Sellers: KEZ RC Buyer: mg
GLB

ARTICLE 10 DAMAGE, DESTRUCTION AND CONDEMNATION

10.1 Risk of Loss/Condemnation and Insurance Proceeds/Condemnation Awards.

10.1.1 Minor Loss/Condemnation. Buyer shall be bound to purchase the Property for the full Purchase Price as required by the terms hereof, without regard to the occurrence or effect of any damage to the Property or destruction of any improvements thereon or condemnation of any portion of the Property, provided that: (a) the cost to repair any such damage or destruction, or the diminution in the value of the remaining Property as a result of a partial condemnation, equals Seven Hundred Fifty Thousand Dollars (\$750,000.00) or less, and (b) upon the Closing, there shall be a credit against the Purchase Price due hereunder equal to the amount of any insurance proceeds or condemnation awards collected by Sellers as a result of any such damage or destruction or condemnation, plus the amount of any insurance deductible, less any sums expended by Sellers toward the restoration or repair of the Property, including barricades and other temporary repairs required for safety purposes, or in collecting such insurance proceeds or condemnation awards. If the proceeds or awards have not been collected as of the Closing, then such proceeds or awards shall be assigned to Buyer, except to the extent needed to reimburse Sellers for sums expended to the Closing to repair or restore the Property or to collect any such proceeds or awards.

10.1.2 Major Loss/Condemnation. If the amount of the damage or destruction or condemnation as specified above exceeds Seven Hundred Fifty Thousand Dollars (\$750,000.00), then Buyer may at its option, to be exercised by written notice to Sellers within ten (10) business days of Sellers' notice of the occurrence of the damage or destruction or the commencement of condemnation proceedings, terminate this Agreement. Buyer's failure to elect to terminate this Agreement within said ten (10) business day period shall be deemed an election by Buyer to consummate this purchase and sale transaction. If Buyer elects to terminate this Agreement within such ten (10) business day period, the Deposit shall be returned to Buyer and neither party shall have any further rights or obligations hereunder except as expressly provided hereunder. If Buyer elects or is deemed to have elected to proceed with the purchase, then upon the Closing, there shall be a credit against the Purchase Price due hereunder equal to the amount of any insurance proceeds or condemnation awards collected by Sellers as a result of any such damage or destruction or condemnation, plus the amount of any insurance deductible, less any sums expended by Sellers toward the restoration or repair of the Property, including

barricades and other temporary repairs required for safety purposes, or in collecting such insurance proceeds or condemnation awards. If the proceeds or awards have not been collected as of the Closing, then such proceeds or awards shall be assigned to Buyer, except to the extent needed to reimburse Sellers for sums expended to the Closing to repair or restore the Property, including barricades and other temporary repairs required for safety purposes, or to collect any such proceeds or awards.

ARTICLE 11 GENERAL

11.1 **Notices.** All notices, demands, approvals, and other communications provided for in this Agreement shall be in writing and shall be effective (a) when personally delivered to the recipient at the recipient's address set forth below; (b) upon the earlier to occur of the date of delivery or 3 business days after deposit in a sealed envelope in the United States mail, postage prepaid, by registered or certified mail, return receipt requested, addressed to the recipient as set forth below; or (c) one business day after deposit with a recognized overnight courier or delivery service, addressed to the recipient as set forth below, whichever is earlier. If the date on which any notice to be given hereunder falls on a Saturday, Sunday or legal holiday, then such date shall automatically be extended to the next business day immediately following such Saturday, Sunday or legal holiday.

SELLERS:

University Business Center Associates
Attn: John Travis
2200 E. Camelback Road, Suite 210
Phoenix, AZ 85016
Phone: 602-840-8600
Email: john.travis@eastgroup.net

With a copy to:

Robert C. Hutchison
Butler Snow LLP
1020 Highland Colony Parkway, Suite 1400
Ridgeland, MS 39157
Phone: 601-985-4476
Email: Robert.hutchison@butlersnow.com

JCB Limited
Attn: Jeffrey C. Bermant
5383 Hollister Avenue, Suite 160
Santa Barbara, CA 93111
Phone: (805) 964-7200
Email: jeff@vworldc.com

With a copy to: Barton E. Clemens, Jr.
Seed Mackall LLP
1332 Anacapa Street, Suite 200
Santa Barbara, CA 93181
Phone: 805-963-0669, ext. 104
Email: bclemens@seedmackall.com

BUYER: City of Goleta
Attn: City Manager
130 Cremona Drive, Suite B
Goleta, CA 93117
Phone: 805-961-7500
Email: mgreene@cityofgoleta.org

With a copy to: Best Best & Krieger.
Attn: Michael Jenkins
1230 Rosecrans Avenue, Suite 110
Manhattan Beach, CA 90266
Phone: 310-220-2174
Email: michael.jenkins@bbklaw.com

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

11.2 **Entire Agreement.** This Agreement and the Exhibits hereto contain the entire agreement and understanding between Buyer and Sellers concerning the subject matter of this Agreement and supersede all prior agreements, including any previous letter of intent or terms, understandings, conditions, representations and warranties, whether written or oral, made by Buyer or Sellers concerning the Property or the other matters which are the subject of this Agreement.

11.3 **Amendments and Waivers.** No addition to or modification of this Agreement shall be effective unless set forth in writing and signed by the party against whom the addition or modification is sought to be enforced. The party benefited by any condition or obligation may waive the same, but such waiver shall not be enforceable by another party unless made in writing and signed by the waiving party.

11.4 **Invalidity of Provision.** If any provision of this Agreement as applied to either party or to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Agreement, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of this Agreement as a whole.

11.5 **References.** Unless otherwise indicated, (a) all Article, Section and Exhibit references are to the articles, sections, subsections and exhibits of this Agreement, and (b) all

references to days are to calendar days. All the exhibits attached hereto are incorporated herein by this reference. Whenever under the terms of this Agreement the time for performance of a covenant or condition falls upon a Saturday, Sunday or California state holiday, such time for performance shall be extended to the next business day. The headings used in this Agreement are provided for convenience only and this Agreement shall be interpreted without reference to any headings. The masculine, feminine or neuter gender and the singular or plural number shall be deemed to include the others whenever the context so indicates or requires.

11.6 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and to be performed in California.

11.7 **Confidentiality and Publicity.** Buyer is a public entity and is subject to the Public Records Act. All information provided to Buyer may be subject to request for review by members of the public. This Agreement shall be reviewed for approval by the City Council in an open public meeting.

11.8 **Time.** Time is of the essence in the performance of the parties' respective obligations under this Agreement.

11.9 **No Other Inducement.** The making, execution and delivery of this Agreement and the performance hereof by the parties has not been induced by any representations, statements, warranties or agreements other than those expressly set forth herein.

11.10 **Attorneys' Fees.** In the event of any legal or equitable proceeding to enforce any of the terms or conditions of this Agreement, or any alleged disputes, breaches, defaults or misrepresentations in connection with any provision of this Agreement, the prevailing party in such proceeding shall be entitled to recover its reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and costs of defense paid or incurred in good faith, and shall include the cost of any appeal thereto.

11.11 **Successors.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

11.12 **Assignment.** Except as contemplated by Section 11.14, Sellers and Buyer shall not assign their respective rights, obligations or interest under this Agreement without the prior written consent of the other.

11.13 **Further Assurances.** Sellers, at any time before or after Closing, shall, at its own expense, execute, acknowledge and deliver any further deeds, assignments, conveyances and other assurances, documents and instruments of transfer reasonably requested by Buyer and shall take any other action consistent with the terms of this Agreement that may reasonably be requested by Buyer for the purpose of transferring and confirming to Buyer, or reducing to Buyer's possession, any or all of the Property or otherwise carrying out the terms of this Agreement.

11.14 **Cooperation With Exchange.** Each party agrees to cooperate with the other if such party intends to accomplish a tax-deferred exchange pursuant to Section 1031 of the

Internal Revenue Code of 1986. Buyer and/or Sellers may assign this Agreement to an exchange intermediary for the purpose of facilitating such an exchange by the assigning party. Buyer's duty to cooperate shall be limited to the transfer of money to Sellers or Sellers's designee in exchange for the Property, and in no event shall Buyer act as purchaser or acquirer of any exchange property. Sellers's duty to cooperate shall be limited to the transfer of the Property to Buyer or Buyer's designee and in no event will Sellers exchange the Purchase Property for any exchange property designated by Buyer. The requesting party shall indemnify and defend and hold the other party harmless from any claims, loss, damages or liability arising out of participation in an exchange.

11.15 **No Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties to it and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any third person to any party hereto or give any third person any right of subrogation or action over against any party to this Agreement.

11.16 **Remedies Cumulative.** The remedies set forth in this Agreement are cumulative and not exclusive to any other legal or equitable remedy available to a party.

11.17 **Commissions, Indemnity, Disclosure.** Sellers shall pay a brokerage commission to Hayes Commercial at Closing pursuant to the terms of a separate agreement. Except as set forth in the preceding sentence, each party represents to the other party that there is no broker representing such party in the current transaction, and that the representing party has incurred no liability for any brokerage commission or finder's fee arising from or relating to the transactions contemplated by this Agreement. Each party hereby indemnifies and agrees to protect, defend and hold harmless the other party from and against all liability, cost, damage or expense (including without limitation attorneys' fees and costs incurred in connection therewith) on account of any brokerage commission or finder's fee which the indemnifying party has agreed to pay or which is claimed to be due as a result of the actions of the indemnifying party. This Section 11.17 is intended to be solely for the benefit of the parties hereto and is not intended to benefit, nor may it be relied upon by, any person or entity not a party to this Agreement. The foregoing indemnifications shall survive any termination of this Agreement or the Closing.

11.18 **Counterparts/Facsimile/.PDF Signatures.** This Agreement may be executed in counterparts and when so executed by the parties, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument that shall be binding upon the parties, notwithstanding that the parties may not be signatories to the same counterpart or counterparts. The parties may integrate their respective counterparts by attaching the signature pages of each separate counterpart to a single counterpart. In order to expedite the transaction contemplated herein, facsimile or .pdf signatures may be used in place of original signatures on this Agreement. Sellers and Buyer intend to be bound by the signatures on the facsimile or .pdf document, are aware that the other party will rely on the facsimile or .pdf signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

11.19 **Patriot Act.** Each party hereby represents, warrants and certifies that: (i) neither it nor its officers, directors, or controlling owners is acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order, the United States Department of Justice, or the United States Treasury Department as a terrorist, “Specifically Designated National or Blocked Person,” or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control (“SDN”). (ii) neither it nor its officers, directors or controlling owners is engaged in this Agreement, directly or indirectly on behalf of, or instigating or facilitating this Agreement, directly or indirectly on behalf of, any such person, group, entity, or nation; and (iii) neither it nor its officers, directors or controlling owners is in violation of Presidential Executive Order 13224, the USA PATRIOT Act, (Public Law 107-56), the Bank Secrecy Act, the Money Laundering Control Act or any regulations promulgated pursuant thereto. Each party hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including reasonable attorneys' fees and costs) arising from or related to any breach of the foregoing representations, warranties and certifications by the indemnifying party. The provisions of this Section shall survive the termination of this Agreement or Closing and shall not merge into any deed delivered and accepted upon Closing.

11.20 **Waiver of Jury Trial.** Sellers and Buyer each hereby knowingly and unconditionally, with advice of counsel, waive any and all right to demand a jury trial in any action for the interpretation or enforcement of this Agreement.

11.21 **Effective Date.** The date of delivery to Title Company of a fully executed counterpart of this Agreement, as evidenced by Title Company’s notation in the space set forth below, shall be deemed the effective date of this Agreement (the “**Effective Date**”).

[Remainder of Page Intentionally Left Blank]

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

BUYER:

CITY OF GOLETA, a California municipal
corporation

By: Will Agnew
Its: City Manager

ATTEST:

By: Seborah Lopez
City Clerk

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: [Signature]
City Attorney

SELLERS:

**UNIVERSITY BUSINESS CENTER
ASSOCIATES, a California general partnership**

By: EastGroup Properties, L.P., a Delaware
limited partnership, Partner

By: EastGroup Properties General Partners,
Inc., a Delaware corporation, its
general partner

By: [Signature]
Its: VICE PRESIDENT

By: [Signature]
Its: Senior Vice President

By: EastGroup Properties, Inc., a Maryland
corporation, Partner

By: [Signature]
Its: VICE PRESIDENT

By: [Signature]
Its: Senior Vice President

JCB LIMITED, a California limited partnership

By: [Signature]
Jeffrey C. Bermant
Its General Partner

65266.00312\31602473.8

SELLERS' SIGNATURE PAGE
Purchase and Sale Agreement
130 Cremona Drive

Acceptance by Title Company

Title Company acknowledges receipt of the foregoing Agreement and accepts the instructions contained therein.

Dated: _____, 2019

CHICAGO TITLE INSURANCE COMPANY

By: _____

Name: _____

Title: _____

EXHIBIT A

Legal Description of Total Property

Real property in the City of Goleta, County of Santa Barbara, State of California, described as follows:

PARCEL A:

LOT 8 OF TRACT NO. 13,072, IN THE CITY OF GOLETA, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS PER MAP RECORDED IN [BOOK 124, PAGES 4 THROUGH 9](#), INCLUSIVE, OF MAPS, AMENDED PURSUANT TO CERTIFICATE OF CORRECTION RECORDED OCTOBER 31, 1984 AS INSTRUMENT NO. [84-59247](#) OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

TOGETHER WITH THAT PORTION OF THE WESTERLY HALF OF ORVIETO WAY, ADJOINING SAID LAND ON THE EAST, AS VACATED AND ABANDONED BY RESOLUTION NO. 87-25 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA RECORDED JANUARY 27, 1987 AS INSTRUMENT NO. [1987-006561](#) OF OFFICIAL RECORDS.

EXCEPTING THEREFROM AN UNDIVIDED ONE-HALF INTEREST IN OIL, GAS AND OTHER HYDROCARBON SUBSTANCES AND OTHER MINERALS AND MINERAL RIGHTS IN AND BENEATH SAID REAL PROPERTY, AS GRANTED TO ANNA H. BISHOP, ET AL., BY DEED RECORDED MARCH 14, 1957 AS INSTRUMENT NO. [5115](#) IN BOOK 1435, PAGE 85 OF OFFICIAL RECORDS.

THE FULL AND SOLE RIGHT, POWER AND OPTION TO EXPLORE FOR, DEVELOP, LEASE, DISPOSE OF OR OTHERWISE EXPLOIT OR NOT TO DO SO, ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES AND OTHER MINERALS IN AND BENEATH OF SAID LAND WAS CONVEYED TO THE OWNER OF THE SURFACE OF SAID LAND BY DEED RECORDED MARCH 9, 1959 AS INSTRUMENT NO. [7469](#) IN BOOK 1604, PAGE 95 OF OFFICIAL RECORDS.

PARCEL B:

A NON-EXCLUSIVE EASEMENT OVER, UPON AND THROUGH A STRIP OF LAND 32.00 FEET WIDE, LYING PARALLEL AND CONCENTRIC WITH, ADJACENT TO AND NORTHERLY OF THE SEVENTH THROUGH ELEVENTH COURSES OF THAT CERTAIN TRACT OF LAND DESCRIBED AS PARCEL ONE IN THE DEED FROM SANTA BARBARA RESEARCH PARK, INC., A DELAWARE CORP., TO BURROUGHS CORPORATION, RECORDED APRIL 23, 1969 AS INSTRUMENT NO. [11078](#), IN BOOK 2269, PAGE 61 OF OFFICIAL RECORDS OF SAID COUNTY, FOR ROAD AND PUBLIC UTILITY PURPOSES TOGETHER WITH THE RIGHT TO DEDICATE SAID STRIP OF LAND AS A PUBLIC STREET; AS SAID EASEMENT WAS RESERVED BY SANTA BARBARA RESEARCH PARK, INC., A DELAWARE CORPORATION IN DEED ABOVE MENTIONED.

PARCEL C:

NON EXCLUSIVE, MUTUALLY RECIPROCAL SURFACE EASEMENTS FOR ACCESS, INGRESS, EGRESS AND USE AND ENJOYMENT OF, TO, AND OVER THE COMMON FACILITIES FOR PASSAGE AND PARKING OF VEHICLES, PASSAGE OF PEDESTRIAN TRAFFIC AND NON-EXCLUSIVE SUBTERRANEAN EASEMENTS FOR UTILITY FACILITIES, AS CONTAINED IN DECLARATION OF RECIPROCAL COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR PARCEL 6 RECORDED DECEMBER 28, 1989 AS INSTRUMENT NO. [89-086505](#) OF OFFICIAL RECORDS OF SANTA BARBARA COUNTY.

APN: 073-330-014

EXHIBIT C

Litigation

EXHIBIT D

GRANT DEED

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

City of Goleta

Goleta, CA _____
ATTN: City Clerk

**EXEMPT FROM RECORDING FEES PURSUANT
TO GOVERNMENT CODE SECTION 27383**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: _____

Grant Deed

The undersigned Grantor(s) declare(s): City of Goleta is exempt from property taxes
Documentary transfer tax is \$0.

- ☐ Computed on full value of property conveyed, or
☐ Computed on full value less value of liens and encumbrances remaining at time of sale.
☐ Unincorporated area ☒ City of Goleta and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

hereby GRANT(S) to
CITY OF GOLETA

the following described real property in the City of Goleta
County of _____
State of California:

SEE ATTACHED EXHIBIT A

Dated: _____, 20__

By: _____
Its: _____

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 20__ 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.

Signature: _____ (seal)

CERTIFICATE OF ACCEPTANCE

Pursuant to Section 27281 of the
California Government Code

This is to certify that the interest in real property conveyed by the Grant Deed dated _____, 20 __, from _____, to the **City of Goleta**, a municipal corporation, is hereby accepted by the undersigned officer on behalf of the City of Goleta, pursuant to the authority conferred by Resolution No. _____, adopted by the City Council of the City of Goleta on _____, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____, 2019

CITY OF GOLETA

By: _____

Its: _____

EXHIBIT E

BILL OF SALE

This Bill of Sale (the "Bill of Sale") is made as of _____, 20____, by
_____, a _____ ("Transferor").

FOR VALUABLE CONSIDERATION, as set forth in that certain Purchase and Sale Agreement dated _____, 20____ (the "Agreement"), Transferor hereby sells, transfers, assigns and delivers to the CITY OF GOLETA, a California municipal corporation ("Transferee"), any and all personal property (the "Personal Property") located within or used in connection with that certain improved real property commonly known as City Hall, located at 130 Cremona Drive, Goleta, CA (the "Property").

**UNIVERSITY BUSINESS CENTER
ASSOCIATES**, a California general partnership

By: EastGroup Properties, L.P., a Delaware
limited partnership, Partner

By: EastGroup Properties General
Partners, Inc., a Delaware
corporation, its general partner

By: _____
Its: _____

By: _____
Its: _____

By: EastGroup Properties, Inc., a Maryland
corporation, Partner

By: _____
Its: _____

By: _____
Its: _____

JCB LIMITED, a California limited partnership

By: _____
Jeffrey C. Bermant
Its General Partner

EXHIBIT F

GENERAL ASSIGNMENT

This Assignment (the "Assignment") is made as of _____, by _____, a California corporation ("Assignor").

FOR VALUABLE CONSIDERATION, as set forth in that certain Agreement of Purchase and Sale and Joint Escrow Instructions dated _____ 20__ (the "Agreement"), Assignor hereby assigns and transfers to the CITY OF GOLETA, a California municipal corporation ("Assignee"), with respect to the real property described in Exhibit A attached hereto (the "Property"), the following:

A. All equipment leases, service and/or maintenance agreements and contracts relating to the Property (collectively, the "Contracts"), as more particularly described in Schedule 2 attached hereto;

B. All permits, licenses, consents, registrations and other similar approvals applicable to the Property (collectively, the "Approvals"), which Approvals are more particularly described in Schedule 3 attached hereto;

C. All plans and specifications for: (1) the Property; (2) any and all improvements used in connection with the operation or occupancy of the Property or located upon the Property (the "Improvements"); and (3) any and all personal property owned by Assignor located within or used in connection with the operation of the Property and Improvements (the "Personal Property") (collectively, the "Plans"); and

D. All warranties of which Assignor is the beneficiary (the "Warranties") with respect to the Improvements or Personal Property.

This Assignment shall not supersede the Agreement and, in the event of conflict between this Assignment and the Agreement, the Agreement shall control.

This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, Assignor has executed this Assignment as of the date first above written.

ASSIGNOR:

_____, a California corporation

By _____

Its _____

EXHIBIT G

TRANSFEROR'S CERTIFICATION OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code"), provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the CITY OF GOLETA, a California municipal corporation (the "Transferee"), that withholding of tax under Section 1445 of the Code will not be required upon the transfer of a U.S. real property interest to the Transferee by _____ (the "Transferor"), the undersigned hereby certifies the following on behalf of the Transferor:

1. The Transferor is not a foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);
2. The Transferor's U.S. employer identification number is _____; and
3. The Transferor's office address is _____.

The Transferor understands that this Certificate may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury I declare that I have examined this Certification and, to the best of my knowledge and belief, it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Transferor.

DATED: _____, 2019.

By: _____

Name: _____

Title: _____

EXHIBIT H
TERMS OF RECIPROCAL EASEMENT AND ACCESS AGREEMENT

1. **Reciprocal Access and Use.** The parties will grant to each other the non-exclusive right to for pedestrian and vehicular access, ingress and egress, and parking by either such parties, and their tenants, subtenants, licensees, employees, agents, contractors, customers, invitees and guests.
2. **Parking Allocation.** Parking will be allocated between the parties pro rata based on the relative square footages of the respective buildings.
3. **No Obstruction.** The parties will not place any walls, fences, or barriers within the access areas to the properties in any way that would impair free movement of pedestrian and vehicular traffic.
4. **Maintenance and Repair.** The parties will maintain the cleanliness and appearance of their respective property and the parties will cooperate with one another to: 1) maintain paved surfaces in a level, smooth and evenly covered condition; 2) remove debris, filth and refuse and sweep the easement area; 3) maintaining and repairing directional signs, markers and lines; 4) operating and keeping in repair artificial lighting for the parking areas; and 5) maintaining all landscaped areas in a properly irrigated and trimmed condition.

The parties agree that the costs of the above maintenance and repair obligations will be allocated between them on a pro rata basis, based on the relative square footages of the respective buildings.

The intent of this provision is to fairly allocate maintenance costs between the parties so as not to unfairly burden either of the properties.

5. **Management.** Sellers will be responsible for managing the easement property. Sellers shall have the right to hire a third party property manager to manage the easement property as well.
6. **Voting.** All decisions affecting the easement property shall be decided equally between the City and the Sellers.
7. **Covenants Running With Land.** The above terms, and such other terms that will be negotiated during the Due Diligence Period, will constitute covenants that will run with each of the respective parcels.
8. **Additional Terms to be Added.** The parties agree that the terms set forth above are not an exhaustive list of terms and acknowledge that additional terms shall be added to the final Reciprocal Easement and Access Agreement.