

AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY AND JOINT ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (this "Agreement") is entered into as of the date of full execution of this Agreement by both parties hereto (the "Execution Date"), by and between the County of San Bernardino County Service Area 70, Zone J, organized and existing pursuant to the laws of the State of California, ("BUYER"), and the Hesperia Water District, a subsidiary district of the City of Hesperia, ("SELLER").

RECITALS

A. SELLER owns that certain real property consisting of approximately 1.04 acres of real property, improved with an approximately +/- 200,000 gallon water tank, booster building, related improvements and appurtenances, identified as Assessor Parcel Number 0405-383-17 and as more particularly described in Exhibit "A" (Legal Description) attached hereto and by this reference made a part hereof ("Property").

B. BUYER has agreed to pay, and SELLER has agreed to accept, a purchase price of Forty-Five Thousand Eight Hundred and 00/100 Dollars (\$45,800.00) for the Property.

Section 1.01. Sale of the Property and Conditions for Transfer of the Property.

(a) Subject to all of the terms, conditions and provisions of this Agreement, and for the consideration set forth below, SELLER hereby agrees to convey and transfer the Property to BUYER and BUYER hereby agrees to acquire the Property of SELLER.

The Property is being sold and conveyed to BUYER by SELLER's "as-is, as disclosed" "where-is", and SELLER makes no representations, guarantees, assurances, or warranties, express or implied of the condition of the Property, its improvements, or the suitability of the Property for the BUYER's intended use(s).

(b) The Property will be conveyed to BUYER when the purchase price is paid in full in accordance with this Agreement.

(c) The total monetary consideration to be paid by BUYER for the acquisition of the Property shall be Forty-Five Thousand Eight Hundred and 00/100 Dollars (\$45,800.00) ("Purchase Price"), said consideration to be paid as follows: BUYER shall deposit in escrow as detailed below in Section 1.02 Forty-Five Thousand Eight Hundred and 00/100 Dollars (\$45,800.00) at least three (3) days prior to the Close of Escrow (as defined in Section 1.03 below). Said sum shall be paid to SELLER at Close of Escrow.

(i) In the event BUYER fails to deposit the Purchase Price in Escrow in strict accordance with the foregoing, time being of the essence, this Agreement shall terminate and any and all funds deposited in Escrow by BUYER to complete BUYER's obligations under this Agreement shall be refunded to BUYER less any Escrow fees, and, except as otherwise provided in this Agreement to the contrary, the parties shall have no further obligation or liabilities to the other.

(ii) BUYER agrees upon transfer of title of the Property to initiate transfer of all utilities from the name of SELLER to the County of San Bernardino.

(d) As non-monetary compensation to SELLER, BUYER agrees to, and acknowledges the inclusion in the Grant Deed of the following:

(i) An irrevocable first right-of-refusal allowing the SELLER to repurchase the Property at its fair market value at the time of exercise of such right should the BUYER elect to dispose of the Property, regardless of the circumstances, provided, however, that a transfer of the Property from BUYER to any entity governed by the San Bernardino County Board of Supervisors shall not constitute a disposition of the Property for purposes of this Section 1.01(d)(i);

(ii) The SELLER's reservation of all water, water stock and rights, if any, within and underlying the Property;

Section 1.02. Escrow.

(a) The transfer and sale of the Property shall take place through an escrow ("Escrow") administered by Golden State Escrow located at 1421 E. Cooley Drive, Suite 1, Colton, CA 92324 ("Escrow Holder"). The Escrow Officer shall be Kellie Saxton who can be contacted at (909) 777-3500. Escrow shall commence upon the receipt by the Escrow Holder of a copy of this Agreement executed by both BUYER and SELLER.

(b) If this Agreement is terminated by BUYER or BUYER fails to consummate this transaction in accordance with this Agreement, BUYER shall be solely responsible to Escrow Holder for all customary and reasonable escrow charges payable to Escrow Holder without further or separate instruction to Escrow Holder and the parties shall each be relieved and discharged from all further responsibility or liability under this Agreement.

Section 1.03. Close of Escrow. As used herein, "Close of Escrow" means and refers to the date on which the conditions set forth in this Agreement for the transfer of the Property have been satisfied, and the Deed is recorded by Escrow Holder. The Property shall be transferred to BUYER at the Close of Escrow, provided that within the periods of time set forth in this Agreement: (i) BUYER has not terminated this Agreement, (ii) BUYER has accepted the Deed, (iii) all other conditions set forth in this Agreement have been met and (iv) BUYER has paid, or caused to be paid, to the Escrow Holder all applicable costs that are the responsibility of the BUYER. The Close of Escrow shall occur on a date designated by BUYER no later than 90 days from the opening of Escrow, unless either party has terminated this contract in writing prior to the expiration of said 90 days.

Section 1.04. Escrow Instructions.

(a) BUYER and SELLER each agree to execute and deliver to Escrow Holder customary supplemental written escrow instructions (consistent with the terms of this Agreement) of Escrow Holder. In the event of a conflict between the additional terms of such customary supplemental escrow instructions of Escrow Holder and the provisions of this Agreement, this

Agreement shall supersede and be controlling. Upon any termination of this Agreement or cancellation of the Escrow, unless such termination shall occur as the result of a breach of this Agreement by SELLER, BUYER shall be solely responsible for the payment of the escrow cancellation costs of Escrow Holder.

(b) All non-delinquent general and special real property taxes and assessments shall be pro-rated to the close of escrow on the basis of a thirty (30) day month and a three hundred sixty (360) day year.

Section 1.05. Conveyance of Title. On or before the earlier of (a) the day designated by BUYER as the date for the Close of Escrow or (b) the 30th day after expiration of the Due Diligence Period described in Section 1.06(a) below ("Closing Date"), SELLER shall deliver to Escrow Holder the grant deed in the form attached hereto as Exhibit "B" ("Deed") duly executed and acknowledged by SELLER, which Deed shall relinquish all right, title and interest of SELLER in the Property to BUYER. Escrow Holder shall be instructed to record the Deed in the Official Records of San Bernardino County, California, if and when the Escrow Holder holds the funds for the SELLER as set forth herein and can obtain for BUYER, an ALTA owner's extended coverage policy of title insurance ("Title Policy") issued by a title company of BUYER's choosing with liability in an amount equal to the Purchase Price together with such endorsements as may be reasonably requested by BUYER, insuring that fee title to the Property is vested in BUYER, free and clear of options, rights of first refusal or other purchase rights, leases or other possessory interests, lis pendens and monetary liens and/or encumbrances and subject only to:

- (1) non-delinquent real property taxes, including taxes and assessments for the year of closing and subsequent years;
- (2) dedication of all streets abutting the Property;
- (3) such other title exceptions, if any, resulting from documents being recorded;
- (4) zoning ordinances;
- (5) utility easements common to any subdivision of which the Property is a part; and
- (6) conditions set forth in the Grant Deed

Buyer shall pay the standard cost of the ALTA Title Policy and any ALTA survey required by the title company issuing the Title Policy as a condition to the issuance thereof.

Section 1.06. Inspections and Review and Due Diligence

(a.) Due Diligence Period. SELLER shall provide to BUYER due diligence materials contained in SELLER's files in its immediate possession, including, but not limited to, environmental reports, "Phase 1" reports, "Phase 2" reports, building plans, geologic studies, soils tests, engineering reports, inspection results, complaints, licenses, and permits pertaining to the property and related improvements upon the opening of Escrow. BUYER shall have the

opportunity to investigate the condition of the Property and existing improvements, including, but not limited to the water tank, booster building, and condition of title, and determine if any conditions exist that would preclude BUYER from using the Property for BUYER's intended use or cause BUYER to incur expenses that render BUYER's intended use of the Property financially infeasible, such use and financial infeasibility to be determined in BUYER's sole discretion ("Due Diligence Period"). Said Due Diligence Period shall commence upon the opening of escrow and shall end on the sixtieth (60th) day after the opening of escrow. BUYER shall have the right to terminate this Agreement by providing written notice to SELLER on or before the expiration of the Due Diligence Period if the BUYER finds the property unsatisfactory for any reason. BUYER's failure to give written notice of termination to SELLER on or before the expiration of the Due Diligence Period shall constitute an election by BUYER to waive such termination right and to proceed with this Agreement.

BUYER hereby agrees to indemnify SELLER and hold SELLER harmless from and against any and all liability arising out of physical damage to persons or property arising out of the exercise of BUYER's rights under this Section, which obligation shall survive the termination of this Agreement and the Close of Escrow. BUYER agrees that it will not materially interfere with the ongoing operation of the Property when making the investigation of the Property contemplated by this Section. BUYER acknowledges that SELLER has requested BUYER inspect fully the Property and investigate all matters relevant thereto and engage such engineering consultants, construction consultants, attorneys, environmental specialists and such persons as are necessary to fully inform BUYER as to all aspects of the Property. BUYER shall solely rely upon the results of BUYER's own inspection or other information obtained or otherwise available to BUYER, rather than any information that may have been provided by SELLER or SELLER's agents or representatives, other than as expressly provided in this Agreement.

(b.) SELLER shall assist and cooperate with BUYER in endeavoring to remove title exceptions unacceptable to BUYER, but SELLER shall have no obligation to cause such objections to be removed or to expend any sums in such endeavor, except that SELLER shall remove all monetary liens and encumbrances created by or as a result of SELLER's activities.

(c.) SELLER covenants, prior to the Closing, not to further encumber and not to place any further liens or encumbrances on the Property, including, but not limited to, covenants, conditions, restrictions, easements, liens, options to purchase, rights of first refusal, options to lease, leases, tenancies, or other possessory interest. SELLER also covenants not to authorize others to take any action that adversely affects the physical condition of the Property or its soils.

Section 1.07. Closing Costs. Possession.

(a) BUYER shall pay one hundred percent (100%) of the cost of the ALTA Title Policy.

(b) BUYER and SELLER shall each pay fifty percent (50%) of Escrow Holder's charges and fees which may be charged by Escrow Holder in connection with the Close of Escrow. SELLER shall be responsible for all documentary transfer taxes payable in connection with the transaction contemplated hereby.

(c) BUYER shall be entitled to exclusive possession of the Property immediately upon Close of Escrow and compliance with Sections 1.03 and 1.05.

Section 1.08. Representations and Warranties.

(a) SELLER hereby makes the following representations, covenants and warranties, and acknowledges that the execution of this agreement by BUYER has been made in material reliance by BUYER on such covenants representations and warranties.

(1) Power and Authority. SELLER has the legal power, right and authority to enter into this Agreement and to execute the instruments and documents referenced herein, and to consummate the transaction contemplated hereby.

(2) Requisite Action. SELLER has taken all requisite action and obtained all requisite consents in connection with entering into this Agreement and the instruments and documents referenced herein and the consummation of the transactions contemplated hereby and no consent of any other party is required.

(3) Enforceability of Agreement. The persons executing this Agreement and any instrument or document referenced herein for or on behalf of SELLER have been duly authorized to so act on behalf of SELLER and this Agreement and any such instrument or document is valid and legally binding on SELLER and enforceable in accordance with their respective terms.

(4) No Litigation. To the best knowledge of SELLER, there are no pending and served or, threatened claims, actions, allegations or lawsuit of any kind, whether for personal injury, property damage, property taxes, or otherwise, that could affect the Property.

(5) No Violation. Neither the execution of this Agreement or other instruments and documents referenced herein nor the performance by SELLER of its obligations hereunder and thereunder shall result in a breach or constitute a default under any agreement, document, instrument or other obligation to which SELLER is a party or by which SELLER may be bound or under law, statute, ordinance, rule, governmental regulation, state constitution, or any writ, injunction, order or decree of any court or governmental body applicable to SELLER.

To the best of the SELLER'S knowledge, all representations and warranties contained in this Section 1.08(a) are true and correct on the date hereof and, as a condition of Closing for BUYER's benefit, shall be true and correct on the Closing Date and shall survive the Closing.

(b) Warranties and Representations by BUYER. BUYER hereby makes the following representations, covenants and warranties and acknowledges that the execution of this Agreement by SELLER has been made in material reliance by SELLER on such covenants, representations and warranties:

(1) BUYER has the legal right, power and authority to enter into this Agreement and the instruments and documents referenced herein and to consummate the

transactions contemplated hereby. The persons executing this Agreement and such other instruments as may be referenced herein on behalf of BUYER hereby represent and warrant that such persons have the power, right and authority to bind BUYER.

(2) BUYER has taken all requisite action and obtained all requisite consents in connection with entering into this Agreement and the instruments and documents referenced herein and the consummation of the transactions contemplated hereby and no consent of any other party is required.

(3) This Agreement is, and all instruments and documents to be executed by BUYER pursuant to this Agreement shall be duly executed and are or shall be valid and legally binding upon BUYER and enforceable in accordance with their respective terms.

(4) There is no pending or, to the best of BUYER's knowledge, threatened claims, action, allegations or lawsuit of any kind, whether for personal injury, property damage, breach of contract or otherwise, that could affect the Property or BUYER's ability to consummate the transaction contemplated hereby.

All representations and warranties contained in this Section 1.08(b) are true and correct on the date hereof and on the Closing Date and shall survive the Close of Escrow.

Section 1.09. Termination: If this Agreement is terminated by BUYER prior to the expiration of the Due Diligence Period in accordance with the provisions of Section 1.06(a) above, then any and all funds deposited in Escrow by BUYER to complete BUYER's obligations under this Agreement shall be refunded to BUYER less any Escrow fees, and, except as otherwise provided in this Agreement to the contrary, the parties shall have no further obligation or liabilities to the other.

Section 1.10. Default:

(a) **SELLER Default.** Seller shall be deemed to be in Default under this Agreement if Seller fails, for any reason other than Buyer's Default under this Agreement or the failure of a condition precedent to Seller's obligation to perform under this Agreement, to meet, comply with, or perform any covenant, agreement, or obligation required on its part within the time limits and in the manner required in this Agreement, or a material breach shall have occurred of any representation or warranty (made by Seller) because of Seller's actual fraud or intentional misrepresentation; provided, however, that no such Default shall be deemed to have occurred unless and until Buyer has given Seller written notice of the Default, describing its nature, and Seller has failed to cure such Default within five (5) days after receipt of such notice (but in any event before the Closing Date, unless such Default occurs after Closing).

(b) **BUYER Default.** Buyer shall be deemed to be in Default under this Agreement if Buyer fails, for any reason other than Seller's default under this Agreement or the failure of a condition precedent to Buyer's obligation to perform under this Agreement, to meet, comply with, or perform any covenant, agreement, or obligation required on its part within the time limits and in the manner required in this Agreement, or a material breach shall have

occurred of any representation or warranty (made by Buyer) by reason of Buyer's actual fraud or intentional misrepresentation; provided, however, that no such Default shall be deemed to have occurred unless and until Seller has given Buyer written notice of this Agreement, describing the nature of the Default, and Buyer has failed to cure such Default within five (5) days after the receipt of such notice (but in any event before the Closing Date, unless such Default occurs after Closing).

Section 1.11. Conflict of Interest. No member, official or employee of either party having any conflict of interest, direct or indirect, related to this Agreement and the use and development of the Property shall participate in any decision relating to the Agreement. The parties represent and warrant that they do not have knowledge of any such conflict of interest.

Section 1.12. Attorneys' Fees. If any legal action is instituted to enforce or declare any party's rights hereunder, each party, including the prevailing party, must bear its own costs and attorneys' fees.

Section 1.13. Notices. Any notice, demand, request, consent, approval or communication that any party desires or is required to give the other parties or any other person shall be in writing and either served personally or sent by prepaid, first-class mail. Any notice, demand, request, consent, approval or communication that any party desires or is required to give to the other parties shall be addressed to the other parties at the addresses set forth below. Any party may change its address by notifying the other parties of the change of address. Notice shall be deemed communicated two (2) COUNTY working days from the time of mailing if mailed as provided in this paragraph.

SELLER's address:	Hesperia Water District 9700 Seventh Avenue Hesperia, CA 92345 Attn: General Manager & Economic Development Director Fax: (760) 947-1917
With a copy to:	City Attorney ALESHIRE & WYNDER, LLP 3880 Lemon Street, Suite 520 Riverside, California 92501 Fax: (951) 300-0985 Attn: Eric Dunn
BUYER's address:	County of San Bernardino Real Estate Services Department 385 North Arrowhead Avenue, Third Floor San Bernardino, CA 92415-0180 Fax: (909) 387-5353 Attn: Jennifer Goodell

Section 1.14. Miscellaneous

(a) All periods of time referred to in this Agreement shall include all Saturdays, Sundays and state or national holidays, provided that if the date or last date to perform any act or give any notice with respect to this Agreement shall fall on a Saturday, Sunday or state or national holiday, such act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

(b) The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

(c) SELLER agrees to provide or has already provided information on former COUNTY administrative officials (as defined below) who are employed by or represent SELLER. The information provided includes a list of former COUNTY administrative officials who terminated COUNTY employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of your business. For purposes of this provision, "COUNTY administrative official" is defined as a member of the Board of Supervisors or such officer's staff, COUNTY Administrative Officer or member of such officer's staff, COUNTY department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit. (See Exhibit "C", List of Former County Officials.)

(d) BUYER and SELLER each represent and warrant to the other than no third party is entitled to a broker's commission and/or finder's fee with respect to the transaction contemplated by this Agreement. BUYER and SELLER each agree to indemnify and hold the other party harmless from and against all liabilities, costs, damages and expenses, including, without limitation, attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay a broker's commission and/or finder's fee other than the commission referred to in the prior sentence.

(e) BUYER covenants and agrees that: (i) all information provided to it by SELLER in connection with the Property or resulting from BUYER's inspections of the Property and review of relevant materials, will be held in strict confidence by it and its agents, employees, prospective lender and mortgage broker, (ii) BUYER will immediately return all such information to SELLER in the event the transaction contemplated by this Agreement is not consummated for any reason, and (iii) BUYER will not rely thereon, but will instead conduct BUYER's own due diligence inquiry with respect to the Property.

Section 1.15. Entire Agreement; Construction.

(a) This Agreement and the exhibits attached hereto constitute the entire understanding and Agreement of the parties.

(b) This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto with respect to the Property.

(c) As this Agreement was jointly prepared by both parties, the language in all parts of this agreement shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to conflicts of law principles. The parties agree that any action brought by any party to this agreement will be in the Superior Court of California, County of San Bernardino. If any action is brought by a third party, the parties agree to use their best efforts to have such action heard in the Superior Court of California, County of San Bernardino.

(e) The headings to the paragraphs of this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not in any way affect its interpretation.

Section 1.16 Legislative Body Approval.

This agreement is subject to, and will have no force or effect until and unless first approved by the Board of Supervisors of the County of San Bernardino.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS THEREOF, the parties hereto have duly executed this Agreement as of the dates set forth below

BUYER

COUNTY OF SAN BERNARDINO
SPECIAL DISTRICTS DEPARTMENT
COUNTY SERVICE AREA 70, ZONE J

SELLER

HESPERIA WATER DISTRICT

By: _____

By: _____

Nils Bentsen, General Manager,
Hesperia Water District

Date: _____

Date: _____

SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED TO
THE CHAIRMAN OF THE BOARD
LAURA H. WELCH, Clerk of the Board of Supervisors

By: _____
Deputy

Date: _____

APPROVED AS TO LEGAL FORM:
JEAN-RENE BASLE, County Counsel
San Bernardino County, California

By: _____
Robert F. Messinger, Deputy County Counsel

Date: _____

EXHIBIT A

Legal Description of Property

The land referred to herein is situated in the State of California, County of San Bernardino and described as follows:

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That portion of the Southeast one-quarter of Section 36, Township 4 north, Range 5 west, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Plat thereof, described as follows:

Beginning at a point on the south line of said Section 36, said point being south $89^{\circ}34'52''$ west, 408.18 feet measured along said south line from the Southeast corner of said section; Thence north $15^{\circ}59'51''$ west, 274.71 feet; Thence South $89^{\circ}34'52''$ west, 164.62 feet, parallel with said south line; Thence South $15^{\circ}59'51''$ east, 274.71 feet to said south line of Section 36; Thence north $89^{\circ}34'52''$ east, 164.62 feet along said south line of Section 36 to the Point of Beginning;

Except that portion conveyed to the County of San Bernardino by Quitclaim Deed recorded February 7, 1985 as Instrument No. 29942 of Official Records.

APN: 0405-383-17

EXHIBIT B
GRANT DEED

RECORDING REQUESTED BY:

County of San Bernardino
Real Estate Services Department
385 N. Arrowhead Ave, 3rd Floor
San Bernardino, CA 92415-0180

WHEN RECORDED MAIL TO:

Same as above

RECORDED:

Record without fee subject to Govt. Code 6103
Recordation required to complete chain of title

HESPERIA WATER DISTRICT A.P.N: 0405-383-17	GRANT DEED	DOCUMENTARY TRANSFER TAX: 0.00
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HESPERIA WATER DISTRICT, a subsidiary district of the City of Hesperia ("Grantor"), for a valuable consideration, receipt of which is hereby acknowledged,

does hereby GRANT to the COUNTY OF SAN BERNARDINO SERVICE AREA 70, ZONE J, a county service area, organized and existing pursuant to the laws of the State of California ("Grantee"),

its rights, title, and interest in the Real Property in the City of Hesperia, County of San Bernardino, State of California, described as follows:

That portion of the Southeast one-quarter of Section 36, Township 4 north, Range 5 west, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Plat thereof, described as follows:

Beginning at a point on the south line of said Section 36, said point being south 89°34'52" west, 408.18 feet measured along said south line from the Southeast corner of said section; Thence north 15°59'51" west, 274.71 feet; Thence South 89°34'52" west, 164.62 feet, parallel with said south line; Thence South 15°59'51" east, 274.71 feet to said south line of Section 36; Thence north 89°34'52" east, 164.62 feet along said south line of Section 36 to the Point of Beginning;

Except that portion conveyed to the County of San Bernardino by Quitclaim Deed recorded February 7, 1985 as Instrument No. 29942 of Official Records.

Reserving and excepting therefrom for the benefit of the Grantor all water rights, if any, within and underlying the Real Property.

HESPERIA WATER DISTRICT

By:

Date: _____

Nils Bentsen, General Manager

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE
NOT APPLICABLE

Name

Street Address

City & State

EXHIBIT C

LIST OF FORMER COUNTY OFFICIALS

INSTRUCTIONS: List the full name of the former COUNTY Administrative Official, the title/description of the Official's last position with the COUNTY, the date the Official terminated COUNTY employment, the Official's current employment and/or representative capacity with the COUNTY, the date the Official entered COUNTY's employment and/or representation.

OFFICIAL'S NAME: REQUIRED INFORMATION

NONE