



Agenda Item #: II A: Recommended Action Item

Date: December 9, 2021

To: Magnolia Educational & Research Foundation dba Magnolia Public Schools (“**MPS**”) Board of Directors (the “**Board**”) Audit/Facilities Committee (the “**Committee**”)

From: Alfredo Rubalcava, CEO & Superintendent

Staff Lead: Patrick Ontiveros, General Counsel & Director of Facilities

RE: Approval of Purchase and Sale Agreement for the Acquisition of the Property Located at 7111 Winnetka Ave, Winnetka, CA 91306

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## I. Proposed Recommendation(s)

Staff recommends and moves that the Committee recommend approval (1) the form of Purchase and Sale Agreement, attached as **Exhibit A** (the “**PSA**”), for the acquisition of the real property located at 7111 Winnetka Ave, Winnetka (the “**Property**”) approximately 2.5 miles away from the Magnolia Science Academy—1 campus in Reseda, (2) grant the MPS CEO and Superintendent the authority to negotiate and approve such changes to the PSA as he shall deem necessary and appropriate and in the best interest of MPS, and to sign and deliver the same in order to open escrow for the acquisition of the Property, and (3) grant the MPS CEO and Superintendent the authority to assign the PSA to a wholly owned subsidiary of Magnolia Properties Management, Inc. for the purposes of financing and closing the transaction or to a wholly owned subsidiary of Pacific Charter School Development, Inc., a California non-profit public benefit corporation focused on developing facilities charter schools (“**PCSD**”). Staff further recommends that the Committee recommend and move that the Board adopt the same.

## II. Background

For the 2021-22 school year, Magnolia Science Academy—5 (“**MSA—5**”) is co-located with Magnolia Science Academy—1 (“**MSA-1**”) at the property located at 18220 and 18238 Sherman Way in Reseda. MPS elected to co-locate MSA—5 with MSA—1 when the Los Angeles Unified School District (“**LAUSD**”) made MSA—5 an offer of space at Chatsworth High School in lieu of Reseda High School, where it has been located for several years. MSA—5 subleases space from MSA—1. MSA—1 leases such property from MPM Sherman Way LLC, a California limited liability company and wholly owned subsidiary of Magnolia Properties Management, Inc., a California non-profit public benefit corporation and 501(c)(3) tax exempt organization. MSA-1 operates a middle school and high school on the leased premises. The existing MSA-1 campus, Reseda High School (MSA—5’s prior location) and the Property are shown on **Exhibit B**. MPS desires to re-locate MSA—5 to its own private campus at the Property which is within close proximity to MSA—5’s original location at Reseda High School, which is 3.5 miles away from the Property.

The Property at 7111 Winnetka Ave is shown on **Exhibit C**. It consists of a 21,849 square foot building on land that is approximately 75,794 square feet. The Property is presently leased to multiple tenants and must be delivered free of all tenancies by the close of escrow.



MPS's real estate broker, InSite EFS, Inc., negotiated an offer for the purchase of the Property. The Owner has tentatively agreed to sell the Property to MPS or its assignee subject to the signing of a formal purchase and sale agreement, which is the subject of this report and the recommendation stated herein. The terms agreed upon by the parties include the following:

|                                |   |
|--------------------------------|---|
| Price                          | \$9,450,000,000   |
| Free Look/Due Diligence Period | 90 Days with option to extend for three 30 day periods for the following consideration:<br>First 30 day Extension = \$15,000<br>Second 30 day Extension = \$20,000<br>Third 30 day Extension = \$25,000 |
| Good Faith Deposit             | \$200,000, increased to \$350,000 after 90 days   |
| Closing Period                 | 30 days. Owner has the option to extend the closing for up to six (6) consecutive 30 day periods for the purpose of removing any tenants.   |

During the due diligence period, MPS or its assignee, will review the condition of the existing building and land to determine whether there are any hurdles to the development of the property for MSA-5's use and whether it is affordable. In addition, MPS will seek the approval of its authorizer, the Los Angeles County Office of Education, for the proposed transaction. Before the end of the due diligence period, MPS has the option to cancel the transaction and will receive a full refund of its good faith deposit.

MPS hopes to partner with PCSD on this transaction whereby PCSD would become the purchaser, would develop the Property for MPS and MSA-5 with the expectation that MPS or related party would purchase the fully developed campus from PCSD and repay PCSD any equity used to purchase and develop the Property. For example, if PCSD purchases and develops the Property for \$15M and MPS contributes \$1M of equity to the project and PCSD contributes \$3M, then eventually MPS would be obligated to purchase the developed Property in the future for \$14M (the total project costs less MPS's equity).

### III. Conclusion / Budget Impact

MPS would like to acquire or lease the Property for the benefit of MSA-5 to allow MSA-5 to relocate from the MSA-1 campus to its own private facility. MPS is currently working with its financial advisor, John Buck, and its existing bond holder, Hamlin Capital Management, to secure financing for the Project. MPS is also currently working with PCSD to see if they are willing and able to acquire, develop and lease the Property to MSA—5. The ultimate budget impact to MSA-5 is unknown and depends on a multitude of factors including how much equity (i.e., cash) MSA—5 can invest in the project, financing terms, and participation by PCSD. It is being examined by Staff. Staff will keep the Facilities Committee and the Board apprised of the status of the project, including when the PSA is signed by both parties, when escrow is opened, the status of financing and approval from LACOE. It will seek Committee and Board approval prior to the end of the due diligence period in order to move forward with the transaction and allow its good faith deposit to become non-refundable.



Since the good faith deposit is refundable, the \$200,000 deposit will be reported as a current asset under the balance sheet of the school. Therefore, there is no budget impact of this proposal as the refundable deposit cannot be expensed for the reason indicated above.

EXHIBITS

*EXHIBIT A Form of Purchase and Sale Agreement*

*EXHIBIT B Proximity Plan*

*EXHIBIT C Site Plan*



## EXHIBIT A

# PURCHASE AND SALE AGREEMENT



# STANDARD OFFER, AGREEMENT AND ESCROW INSTRUCTIONS FOR PURCHASE OF REAL ESTATE

(Non-Residential)

Dated: November 15, 2021

## 1. Buyer.

1.1 Magnolia Educational & Research Foundation, a California nonprofit public benefit corporation, ("Buyer") hereby offers to purchase the real property, hereinafter described, from the owner thereof ("Seller") (collectively, the "Parties" or individually, a "Party"), through an escrow ("Escrow") to close ~~30 or~~ 90 days after the waiver or expiration of the Buyer's Contingencies, ("Expected Closing Date") to be held by Fidelity National Title, National Commercial Services (Attn: Bobbie Purdy) ("Escrow Holder") whose address is 555 South Flower Street, Suite 4420, Los Angeles, CA 90071, Phone No. 213-452-7104, Facsimile No. 213-452-7148 upon the terms and conditions set forth in this agreement ("Agreement"). Buyer shall have the right to assign Buyer's rights hereunder, but any such assignment shall not relieve Buyer of Buyer's obligations herein unless Seller expressly releases Buyer.

1.2 The term "Date of Agreement" as used herein shall be the date when by execution and delivery (as defined in paragraph 20.2) of this document or a subsequent counteroffer thereto **to Escrow Holder, and acceptance of the Agreement by Escrow Holder as provided in Paragraph 4.1**, Buyer and Seller have reached agreement in writing whereby Seller agrees to sell, and Buyer agrees to purchase, the Property, **and Escrow has been opened** upon terms accepted by both Parties.

## 2. Property.

2.1 The real property ("Property") that is the subject of this offer consists of (insert a brief physical description) approximately ±1.74 acres of land with approximately ±21,849 square feet of improvements is located in the County of Los Angeles, is commonly known as (street address, city, state, zip) 7111 Winnetka Avenue, Winnetka, CA 91306 and is legally described as: to be provided by Fidelity National Title (APN: 2135-038-016).

2.2 If the legal description of the Property is not complete or is inaccurate, this Agreement shall not be invalid and the legal description shall be completed or corrected to meet the requirements of Fidelity National Title (Attn: Thomas Szopinsky) ("Title Company"), which shall issue the title policy hereinafter described.

2.3 The Property includes, at no additional cost to Buyer, the permanent improvements thereon, including those items which pursuant to applicable law are a part of the property, as well as the following items, if any, owned by Seller and at present located on the Property: electrical distribution systems (power panel, bus ducting, conduits, disconnects, lighting fixtures); telephone distribution systems (lines, jacks and connections only); space heaters; heating, ventilating, air conditioning equipment ("HVAC"); air lines; fire sprinkler systems; security and fire detection systems; carpets; window coverings; wall coverings; and all rights, title and interest of Seller in and to any and all water and mineral rights, development rights, and entitlements and any easements, contracts, plans, surveys, agreements and appurtenances pertaining to the Property. (collectively, the "Improvements").

2.4 The fire sprinkler monitor:  is owned by Seller and included in the Purchase Price,  is leased by Seller, and Buyer will need to negotiate a new lease with the fire monitoring company,  ownership will be determined during Escrow, or  there is no fire sprinkler monitor.

2.5 Except as provided in Paragraph 2.3, the Purchase Price does not include Seller's personal property, furniture and furnishings, and none all of which shall be removed by Seller prior to Closing.

## 3. Purchase Price.

3.1 The purchase price ("Purchase Price") to be paid by Buyer to Seller for the Property shall be \$9,450,000.00 cash, payable as follows:  
(Strike any not applicable)

~~(a) Cash down payment, including the Deposit as defined in paragraph 4.3 (or if an all cash transaction, the Purchase Price);~~

~~(b) Amount of "New Loan" as defined in paragraph 5.1, if any;~~

~~(c) Buyer shall take title to the Property subject to and/or assume the following existing deed of trust ("Existing Deed(s) of Trust") securing the existing promissory note(s) ("Existing Note(s)):~~

~~(i) An Existing Note ("First Note") with an unpaid principal balance as of the Closing of approximately:~~

~~Said First Note is payable at \_\_\_\_\_ per month, including interest at the rate of \_\_\_\_\_% per annum until paid (and/or the entire unpaid balance is due on \_\_\_\_\_.~~

~~(ii) An Existing Note ("Second Note") with an unpaid principal balance as of the Closing of approximately:~~

~~Said Second Note is payable at \_\_\_\_\_ per month, including interest at the rate of \_\_\_\_\_% per annum until paid (and/or the entire unpaid balance is due on \_\_\_\_\_.~~

~~(d) Buyer shall give Seller a deed of trust ("Purchase Money Deed of Trust") on the property, to secure the promissory note of Buyer to Seller described in paragraph 6 ("Purchase Money Note") in the amount of:~~

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Total Purchase Price:

\$9,450,000.00

~~3.2 If Buyer is taking title to the Property subject to, or assuming, an Existing Deed of Trust and such deed of trust permits the beneficiary to demand payment of fees including, but not limited to, points, processing fees, and appraisal fees as a condition to the transfer of the Property, Buyer agrees to pay such fees up to a maximum of 1.5% of the unpaid principal balance of the applicable Existing Note.~~

#### 4. Deposits.

4.1  Buyer has delivered to Broker a check in the sum of \_\_\_\_\_, payable to Escrow Holder, to be delivered by Broker to Escrow Holder within 2 or \_\_\_\_\_ business days after both Parties have executed this Agreement and the executed Agreement has been delivered to Escrow Holder,  Within 2 or 5 business days after both Parties have executed this Agreement and the executed Agreement has been delivered to **and accepted by** Escrow Holder **as determined by Escrow Holder's delivery of written notice to the Parties** Buyer shall deliver to Escrow Holder a check **or wire** in the sum of \$200,000.00. If said check **or wire-** is not received by Escrow Holder within said time period then Seller may elect to unilaterally terminate this transaction by giving written notice of such election to Escrow Holder whereupon neither Party shall have any further liability to the other under this Agreement. Should Buyer and Seller not enter into an agreement for purchase and sale, Buyer's check or funds shall, upon request by Buyer, be promptly returned to Buyer.

##### 4.2 Additional deposits:

~~(a) Within 5 business days after the Date of Agreement, Buyer shall deposit with Escrow Holder the additional sum of \_\_\_\_\_ to be applied to the Purchase Price at the Closing.~~

(b) Within 5 business days after the contingencies discussed in paragraph 9.1 (a) through (m) **and 30** are approved or waived, **and all Contingency Period extensions set forth in paragraph 30 are exercised and exhausted or, alternatively, waived** Buyer shall deposit with Escrow Holder the additional sum of \$150,000.00 to be applied to the Purchase Price at the Closing.

~~(c) If an Additional Deposit is not received by Escrow Holder within the time period provided then Seller may notify Buyer, Escrow Holder, and Brokers, in writing that, unless the Additional Deposit is received by Escrow Holder within 2 business days following said notice, the Escrow shall be deemed terminated without further notice or instructions.~~

4.3 Escrow Holder shall deposit the funds deposited with it by Buyer pursuant to paragraphs 4.1 and 4.2 (collectively the "Deposit"), in a State or Federally chartered bank in an interest bearing account whose term is appropriate and consistent with the timing requirements of this transaction. The interest therefrom shall accrue to the benefit of Buyer, who hereby acknowledges that there may be penalties or interest forfeitures if the applicable instrument is redeemed prior to its specified maturity. Buyer's Federal Tax Identification Number is \_\_\_\_\_. NOTE: Such interest bearing account cannot be opened until Buyer's Federal Tax Identification Number is provided.

4.4 Notwithstanding the foregoing, within 5 days after Escrow Holder receives the monies described in paragraph 4.1 above, Escrow Holder shall release \$100 of said monies to Seller as and for independent consideration for Seller's execution of this Agreement and the granting of the contingency period to Buyer as herein provided. Such independent consideration is non-refundable to Buyer but shall be credited to the Purchase Price in the event that the purchase of the Property is completed.

4.5 Upon waiver of all of Buyer's ~~Contingencies~~ **by Buyer, the total Deposit of \$350,000.00** shall become non-refundable but applicable to the Purchase Price except in the event of a Seller breach **of, or default under, this Agreement,** or in the event that the Escrow is terminated pursuant to the provisions of Paragraph 9.1(n) (Destruction, Damage or Loss), ~~or 9.1(o) (Material Change~~ **or other applicable terms of this Agreement), including, but not limited to Paragraph 34 of the Addendum.**

#### 5. Financing Contingency. *(Strike if not applicable)*

~~5.1 This offer is contingent upon Buyer obtaining from an insurance company, financial institution or other lender, a commitment to lend to Buyer a sum equal to at least \_\_\_\_\_% of the Purchase Price, on terms reasonably acceptable to Buyer. Such loan ("New Loan") shall be secured by a first deed of trust or mortgage on the Property. If this Agreement provides for Seller to carry back junior financing, then Seller shall have the right to approve the terms of the New Loan. Seller shall have 7 days from receipt of the commitment setting forth the proposed terms of the New Loan to approve or disapprove of such proposed terms. If Seller fails to notify Escrow Holder, in writing, of the disapproval within said 7 days it shall be conclusively presumed that Seller has approved the terms of the New Loan.~~

~~5.2 Buyer hereby agrees to diligently pursue obtaining the New Loan. If Buyer shall fail to notify its Broker, Escrow Holder and Seller, in writing within \_\_\_\_\_ days following the Date of Agreement, that the New Loan has not been obtained, it shall be conclusively presumed that Buyer has either obtained said New Loan or has waived this New Loan contingency.~~

~~5.3 If, after due diligence, Buyer shall notify its Broker, Escrow Holder and Seller, in writing, within the time specified in paragraph 5.2 hereof, that Buyer has not obtained said New Loan, this Agreement shall be terminated, and Buyer shall be entitled to the prompt return of the Deposit, plus any interest earned thereon, less only Escrow Holder and Title Company cancellation fees and costs, which Buyer shall pay.~~

#### 6. Seller Financing. (Purchase Money Note). *(Strike if not applicable)*

~~6.1 If Seller approves Buyer's financials (see paragraph 6.5) the Purchase Money Note shall provide for interest on unpaid principal at the rate of \_\_\_\_\_% per annum, with principal and interest paid as follows: \_\_\_\_\_. The Purchase Money Note and Purchase Money Deed of Trust shall be on the current forms commonly used by Escrow Holder, and be junior and subordinate only to the Existing Note(s) and/or the New Loan expressly called for by this Agreement.~~

~~6.2 The Purchase Money Note and/or the Purchase Money Deed of Trust shall contain provisions regarding the following (see also paragraph 10.3 (b)):~~

~~(a) Prepayment. Principal may be prepaid in whole or in part at any time without penalty, at the option of the Buyer.~~

~~(b) Late Charge. A late charge of 6% shall be payable with respect to any payment of principal, interest, or other charges, not made within 10 days after it is due.~~

~~(c) Due On Sale. In the event the Buyer sells or transfers title to the Property or any portion thereof, then the Seller may, at Seller's option, require the entire unpaid balance of said Note to be paid in full.~~

~~6.3 If the Purchase Money Deed of Trust is to be subordinate to other financing, Escrow Holder shall, at Buyer's expense prepare and record on Seller's behalf a request for notice of default and/or sale with regard to each mortgage or deed of trust to which it will be subordinate.~~

~~6.4 WARNING: CALIFORNIA LAW DOES NOT ALLOW DEFICIENCY JUDGEMENTS ON SELLER FINANCING. IF BUYER ULTIMATELY DEFAULTS ON THE LOAN, SELLER'S SOLE REMEDY IS TO FORECLOSE ON THE PROPERTY.~~

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~~6.5 Seller's obligation to provide financing is contingent upon Seller's reasonable approval of Buyer's financial condition. Buyer to provide a current financial statement and copies of its Federal tax returns for the last 3 years to Seller within 10 days following the Date of Agreement. Seller has 10 days following receipt of such documentation to satisfy itself with regard to Buyer's financial condition and to notify Escrow Holder as to whether or not Buyer's financial condition is acceptable. If Seller fails to notify Escrow Holder, in writing, of the disapproval of this contingency within said time period, it shall be conclusively presumed that Seller has approved Buyer's financial condition. If Seller is not satisfied with Buyer's financial condition or if Buyer fails to deliver the required documentation then Seller may notify Escrow Holder in writing that Seller Financing will not be available, and Buyer shall have the option, within 10 days of the receipt of such notice, to either terminate this transaction or to purchase the Property without Seller financing. If Buyer fails to notify Escrow Holder within said time period of its election to terminate this transaction then Buyer shall be conclusively presumed to have elected to purchase the Property without Seller financing. If Buyer elects to terminate, Buyer's Deposit shall be refunded less Title Company and Escrow Holder cancellation fees and costs, all of which shall be Buyer's obligation.~~

## 7. Real Estate Brokers.

7.1 The following real estate broker(s) ("**Brokers**") and brokerage relationships exist in this transaction and are consented to by the Parties (check the applicable boxes):

- CBRE (Adam Peterson) represents Seller exclusively ("**Seller's Broker**");
- InSite EFS, Inc. (Dan Morrar) represents Buyer exclusively ("**Buyer's Broker**"); or
- \_\_\_\_\_ represents both Seller and Buyer ("**Dual Agency**").

The Parties acknowledge that other than the Brokers listed above, there are no other brokers representing the Parties or due any fees and/or commissions under this Agreement. See paragraph 24 regarding the nature of a real estate agency relationship. ~~Buyer shall use the services of Buyer's Broker exclusively in connection with any and all negotiations and offers with respect to the Property for a period of 1 year from the date inserted for reference purposes at the top of page 1.~~

7.2 Buyer and Seller each represent and warrant to the other that he/she/it has had no dealings with any person, firm, broker or finder in connection with the negotiation of this Agreement and/or the consummation of the purchase and sale contemplated herein, other than the Brokers named in paragraph 7.1, and no broker or other person, firm or entity, other than said Brokers is/are entitled to any commission or finder's fee in connection with this transaction as the result of any dealings or acts of such Party. Buyer and Seller do each hereby agree to indemnify, defend, protect and hold the other harmless from and against any costs, expenses (including reasonable attorneys' fees) or liability for compensation, commission or charges which may be claimed by any broker, finder or other similar party, other than said named Brokers by reason of any dealings or act of the indemnifying Party. **The terms of this section shall survive the Closing (as hereinafter defined) or any termination of this Agreement.**

## 8. Escrow and Closing.

8.1 Upon acceptance hereof by Seller, this Agreement, including any counteroffers incorporated herein by the Parties, shall constitute not only the agreement of purchase and sale between Buyer and Seller, but also instructions to Escrow Holder for the consummation of the Agreement through the Escrow. Escrow Holder shall not prepare any further escrow instructions restating or amending the Agreement unless specifically so instructed by the Parties or a Broker herein. Subject to the reasonable approval of the Parties, Escrow Holder may, however, include its standard general escrow provisions. In the event that there is any conflict between the provisions of the Agreement and the provisions of any additional escrow instructions the provisions of the Agreement shall prevail as to the Parties and the Escrow Holder.

8.2 As soon as practical after the receipt of this Agreement and any relevant counteroffers, Escrow Holder shall ascertain the Date of Agreement as defined in paragraphs 1.2 and 20.2 and advise the Parties and Brokers, in writing, of the date ascertained.

8.3 Escrow Holder is hereby authorized and instructed to conduct the Escrow in accordance with this Agreement, applicable law and custom and practice of the community in which Escrow Holder is located, including any reporting requirements of the Internal Revenue Code. In the event of a conflict between the law of the state where the Property is located and the law of the state where the Escrow Holder is located, the law of the state where the Property is located shall prevail.

8.4 Subject to satisfaction of the contingencies herein described, Escrow Holder shall close this escrow (the "**Closing**") by recording a **general warranty deed (a grant deed in California)** and the other documents required to be recorded, and by disbursing the funds and documents in accordance with this Agreement.

8.5 Buyer and Seller shall each pay one-half of the Escrow Holder's charges and Seller shall pay the usual recording fees. ~~and any Seller shall pay all~~ required documentary transfer taxes. Seller shall pay the premium for a standard coverage owner's or joint protection policy of title insurance. (See also paragraph 11.)

8.6 Escrow Holder shall verify that all of Buyer's contingencies have been satisfied or waived **by Buyer** prior to Closing. The matters contained in paragraphs 9.1 subparagraphs (b), (c), (d), (e), (g), (i), (n), and (o), 9.4, 12, 13, 14, 16, 18, 20, 21, 22, ~~and 24, 29, 31-32 and 35-41~~ are, however, matters of agreement between the Parties only and are not instructions to Escrow Holder.

8.7 If this transaction is terminated for non-satisfaction and non-waiver of a Buyer's Contingency, as defined in paragraph 9.2, then neither of the Parties shall thereafter have any liability to the other under this Agreement, except to the extent of a breach of any affirmative covenant or warranty in this Agreement. In the event of such termination, Buyer shall, ~~subject to the provisions of paragraph 8.10,~~ be promptly refunded all funds deposited by Buyer with Escrow Holder, less only the \$100 provided for in paragraph 4.4 and the Title Company and Escrow Holder cancellation fees and costs **required to be paid by and to Escrow Holder shall be borne one-half (1/2) by Seller and one-half (1/2) by Buyer and all other charges shall be borne by the party incurring same., all of which shall be Buyer's obligation.** If this transaction is terminated as a result of **a party's Seller's** breach of this Agreement or due to a default on the part of a party, then **the breaching party Seller** shall pay the Title Company and Escrow Holder cancellation fees and costs, **all of which shall be the breaching party's obligation.**

8.8 The Closing shall occur on the Expected Closing Date, or as soon thereafter as the Escrow is in condition for Closing; provided, however, that if the Closing does not occur by the Expected Closing Date and said Date is not extended by mutual instructions of the Parties, a Party not then in default under this Agreement may notify the other Party, Escrow Holder, and Brokers, in writing that, unless the Closing occurs within 5 business days following said notice, the Escrow shall be deemed terminated without further notice or instructions.

8.9 Except as otherwise provided herein, the termination of Escrow shall not relieve or release either Party from any obligation to pay Escrow Holder's fees and costs or constitute a waiver, release or discharge of any breach or default that has occurred in the performance of the obligations, agreements, covenants or warranties contained therein.

~~8.10 If this sale of the Property is not consummated for any reason other than Seller's breach or default, then at Seller's request, and as a condition to any obligation to return Buyer's deposit (see paragraph 21), Buyer shall within 5 days after written request deliver to Seller, at no charge, copies of all surveys, engineering studies, soil reports, maps, master plans, feasibility studies and other similar items prepared by or for Buyer that pertain to the Property. Provided, however, that Buyer shall not be required to deliver any such report if the written contract which Buyer entered into with the consultant who prepared such report specifically~~

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~~forbids the dissemination of the report to others.~~

## 9. Contingencies to Closing.

9.1 The Closing of this transaction is contingent upon the satisfaction or waiver of the following contingencies. **IF BUYER FAILS TO NOTIFY ESCROW HOLDER, IN WRITING, OF THE DISAPPROVAL OF ANY OF SAID CONTINGENCIES WITHIN THE TIME SPECIFIED THEREIN, IT SHALL BE CONCLUSIVELY PRESUMED THAT BUYER HAS NOT APPROVED SUCH ITEM, MATTER OR DOCUMENT.** Buyer's conditional approval shall constitute disapproval, unless provision is made by the Seller within the time specified therefore by the Buyer in such conditional approval or by this Agreement, whichever is later, for the satisfaction of the condition imposed by the Buyer. Escrow Holder shall promptly provide all Parties with copies of any written disapproval or conditional approval which it receives. With regard to subparagraphs (a) through (m) the pre-printed time periods shall control unless a different number of days is inserted in the spaces provided.

(a) *Disclosure.* Seller shall make to Buyer, through Escrow, all of the applicable disclosures required by law (See AIR CRE ("AIR") standard form entitled "Seller's Mandatory Disclosure Statement") and provide Buyer with a completed Property Information Sheet ("Property Information Sheet") concerning the Property, duly executed by or on behalf of Seller in the current form or equivalent to that published by the AIR within ~~10 or~~ 5 days following the Date of Agreement. Buyer has ~~10 or~~ 90 days from the ~~receipt of said disclosures~~ **Date of Agreement** to approve or disapprove the matters disclosed.

(b) *Physical Inspection.* Buyer has ~~10 or~~ 90 days following the ~~receipt of the Property Information Sheet or the~~ Date of Agreement, ~~whichever is later,~~ to satisfy itself with regard to the physical aspects and size of the Property.

(c) *Hazardous Substance Conditions Report.* Buyer has ~~30 or~~ 90 days following the ~~receipt of the Property Information Sheet or the~~ Date of Agreement, ~~whichever is later,~~ to satisfy itself with regard to the environmental aspects of the Property. Seller recommends that Buyer obtain a Hazardous Substance Conditions Report concerning the Property and relevant adjoining properties. Any such report shall be paid for by Buyer. A "Hazardous Substance" for purposes of this Agreement is defined as any substance whose nature and/or quantity of existence, use, manufacture, disposal or effect, render it subject to Federal, state or local regulation, investigation, remediation or removal as potentially injurious to public health or welfare. A "Hazardous Substance Condition" for purposes of this Agreement is defined as the existence on, under or relevantly adjacent to the Property of a Hazardous Substance that would require remediation and/or removal under applicable Federal, state or local law.

(d) *Soil Inspection.* Buyer has ~~30 or~~ 90 days from the ~~receipt of the Property Information Sheet or the~~ Date of Agreement, ~~whichever is later,~~ to satisfy itself with regard to the condition of the soils on the Property. Seller recommends that Buyer obtain a soil test report. Any such report shall be paid for by Buyer. Seller shall provide Buyer copies of any soils report that Seller may have within ~~10 or~~ 5 days following the Date of Agreement.

(e) *Governmental Approvals.* Buyer has ~~30 or~~ 90 days following the Date of Agreement to satisfy itself with regard to approvals and permits from governmental agencies or departments which have or may have jurisdiction over the Property and which Buyer deems necessary or desirable in connection with its intended use of the Property, including, but not limited to, permits and approvals required with respect to zoning, planning, building and safety, fire, police, ~~handicapped persons with disabilities~~ and Americans with Disabilities Act requirements, transportation and environmental matters.

(f) *Conditions of Title.* Escrow Holder shall cause a current commitment for title insurance ("Title Commitment") concerning the Property issued by the Title Company, as well as legible copies of all documents referred to in the Title Commitment ("Underlying Documents"), and a scaled and dimensioned plot showing the location of any easements to be delivered to Buyer within ~~10 or~~ 5 days following the Date of Agreement. Buyer has ~~10 or~~ 90 days from the ~~receipt of the Title Commitment, the Underlying Documents and the plot plan~~ **Date of Agreement** to satisfy itself with regard to the condition of title. The disapproval by Buyer of any monetary encumbrance, which by the terms of this Agreement is not to remain against the Property after the Closing, shall not be considered a failure of this contingency, as Seller shall have the obligation, at Seller's expense, to satisfy and remove such disapproved monetary encumbrance at or before the Closing.

(g) *Survey.* Buyer has ~~30 or~~ 90 days following the ~~receipt of the Title Commitment and Underlying Documents~~ **Date of Agreement** to satisfy itself with regard to any ALTA title supplement based upon a survey prepared to American Land Title Association ("ALTA") standards for an owner's policy by a licensed surveyor, showing the legal description and boundary lines of the Property, any easements of record, and any improvements, poles, structures and things located within 10 feet of either side of the Property boundary lines. Any such survey shall be prepared at Buyer's direction and expense. If Buyer has obtained a survey and approved the ALTA title supplement, Buyer may elect within the period allowed for Buyer's approval of a survey to have an ALTA extended coverage owner's form of title policy, in which event Buyer shall pay any additional premium attributable thereto **provided, however that Buyer shall be solely responsible for the difference in costs and expenses between a standard coverage owner's form policy of title insurance and an ALTA extended coverage owner's form policy of title insurance.**

(h) *Existing Leases and Tenancy Statements.* Seller shall within ~~10 or~~ 5 days following the Date of Agreement provide both Buyer and Escrow Holder with legible copies of all leases, subleases or rental arrangements (collectively, "Existing Leases") affecting the Property, ~~and with a tenancy statement ("Estoppel Certificate") in the latest form or equivalent to that published by the AIR, executed by Seller and/or each tenant and subtenant of the Property. Seller shall use its best efforts to have each tenant complete and execute an Estoppel Certificate. If any tenant fails or refuses to provide an Estoppel Certificate then Seller shall complete and execute an Estoppel Certificate for that tenancy. Buyer has 10 days from the receipt of said Existing Leases and Estoppel Certificates to satisfy itself with regard to the Existing Leases and any other tenancy issues. It shall be a condition to Buyer's obligation to Close that Seller shall cause all Existing Leases to be terminated on or before the Closing Date. See Addendum Paragraph 34.~~

(i) *Owner's Association.* Seller shall within ~~10 or~~ 5 days following the Date of Agreement provide Buyer with a statement and transfer package from any owner's association servicing the Property. Such transfer package shall at a minimum include: copies of the association's bylaws, articles of incorporation, current budget and financial statement. Buyer has ~~10 or~~ 90 days from the ~~receipt of such documents~~ **Date of Agreement** to satisfy itself with regard to the association.

(j) *Other Agreements.* Seller shall within ~~10 or~~ 5 days following the Date of Agreement provide Buyer with legible copies of all other agreements ("Other Agreements") known to Seller that will affect the Property after Closing. Buyer has ~~10 or~~ 90 days from the ~~receipt of said Other Agreements~~ **Date of Agreement** to satisfy itself with regard to such Agreements. **Except if otherwise notified by Buyer, it shall be a condition to Buyer's obligation to Close that Seller shall cause all Other Agreements, including service contracts, equipment leases, management agreements, to be terminated on or before the Closing Date.**

(k) *Financing.* ~~If paragraph 5 hereof dealing with a financing contingency has not been stricken, the satisfaction or waiver of such New Loan contingency.~~

(l) *Existing Notes.* ~~If paragraph 3.1(c) has not been stricken, Seller shall within 10 or \_\_\_\_\_ days following the Date of Agreement provide Buyer with legible copies of the Existing Notes, Existing Deeds of Trust and related agreements (collectively, "Loan Documents") to which the Property will remain subject after the Closing. Escrow Holder shall promptly request from the holders of the Existing Notes a beneficiary statement ("Beneficiary Statement") confirming: (1) the amount of the unpaid principal balance, the current interest rate, and the date to which interest is paid, and (2) the nature and amount of any impounds held by the beneficiary in connection with such loan. Buyer has 10 or \_\_\_\_\_ days following the receipt of the Loan Documents and Beneficiary Statements to satisfy itself with~~



~~regard to such financing. Buyer's obligation to close is conditioned upon Buyer being able to purchase the Property without acceleration or change in the terms of any Existing Notes or charges to Buyer except as otherwise provided in this Agreement or approved by Buyer, provided, however, Buyer shall pay the transfer fee referred to in paragraph 3.2 hereof. Likewise if Seller is to carry back a Purchase Money Note then Seller shall within 10 or \_\_\_ days following the Date of Agreement provide Buyer with a copy of the proposed Purchase Money Note and Purchase Money Deed of Trust. Buyer has 10 or \_\_\_ days from the receipt of such documents to satisfy itself with regard to the form and content thereof.~~

~~(m) *Personal Property.* In the event that any personal property is included in the Purchase Price, Buyer has 10 or \_\_\_ days following the Date of Agreement to satisfy itself with regard to the title condition of such personal property. Seller recommends that Buyer obtain a UCC-1 report. Any such report shall be paid for by Buyer. Seller shall provide Buyer copies of any liens or encumbrances affecting such personal property that it is aware of within 10 or \_\_\_ days following the Date of Agreement.~~

(n) *Destruction, Damage or Loss.* Subsequent to the Date of Agreement and prior to Closing there shall not have occurred a destruction of, or damage or loss to, the Property or any portion thereof, from any cause whatsoever, which would cost more than \$10,000.00 to repair or cure. If the cost of repair or cure is \$10,000.00 or less, Seller shall repair or cure the loss prior to the Closing. Buyer shall have the option, within 10 days after receipt of written notice of a loss costing more than \$10,000.00 to repair or cure, to either terminate this Agreement or to purchase the Property notwithstanding such loss, but without deduction or offset against the Purchase Price. If the cost to repair or cure is more than \$10,000.00, and Buyer does not elect to terminate this Agreement, Buyer shall be entitled to any insurance proceeds applicable to such loss. Unless otherwise notified in writing, Escrow Holder shall assume no such destruction, damage or loss has occurred prior to Closing.

(o) *Material Change.* Buyer shall have 10 days following receipt of written notice of a Material Change within which to satisfy itself with regard to such change ~~and Buyer may terminate this Agreement in such time period and receive return of the Deposit, including any amounts theretofore paid to Seller, which return shall operate to terminate this Agreement and release both parties from any and all liability hereunder, except such obligations as expressly survive the termination.~~ "Material Change" shall mean a substantial adverse change in the use, occupancy, tenants ~~such that the Property is no longer vacant and free of tenants and occupants~~, title, or condition of the Property that occurs after the date of this offer and prior to the Closing. Unless otherwise notified in writing, Escrow Holder shall assume that no Material Change has occurred prior to the Closing.

(p) *Seller Performance.* The delivery of all documents and the due performance by Seller of each and every undertaking and agreement to be performed by Seller under this Agreement.

(q) *Brokerage Fee.* Payment at the Closing of such brokerage fee as is specified in this Agreement ~~or later written instructions to Escrow Holder executed by Seller and Brokers ("Brokerage Fee").~~ It is agreed by the Parties and Escrow Holder that Brokers are a third party beneficiary of this Agreement insofar as the Brokerage Fee is concerned, and that no change shall be made with respect to the payment of the Brokerage Fee specified in this Agreement, without the written consent of Brokers.

9.2 All of the contingencies specified in subparagraphs (a) through (m) of paragraph 9.1 are for the benefit of, and may be waived by, Buyer, and may be elsewhere herein referred to as "**Buyer's Contingencies.**"

9.3 If any of Buyer's Contingencies or any other matter subject to Buyer's approval is disapproved as provided for herein in a timely manner ("**Disapproved Item**"), Seller shall have the right within 10 days following the receipt of notice of Buyer's disapproval to elect to cure such Disapproved Item prior to the Expected Closing Date ("**Seller's Election**"). Seller's failure to give to Buyer within such period, written notice of Seller's commitment to cure such Disapproved Item on or before the Expected Closing Date shall be conclusively presumed to be Seller's Election not to cure such Disapproved Item. If Seller elects, either by written notice or failure to give written notice, not to cure a Disapproved Item, Buyer shall have the right, within 10 days after Seller's Election to either accept title to the Property subject to such Disapproved Item, or to terminate this Agreement. Buyer's failure to notify Seller in writing of Buyer's election to accept title to the Property subject to the Disapproved Item without deduction or offset shall constitute Buyer's election to terminate this Agreement. The above time periods only apply once for each Disapproved Item. Unless expressly provided otherwise herein, Seller's right to cure shall not apply to the remediation of Hazardous Substance Conditions ~~or to the Financing Contingency.~~ Unless the Parties mutually instruct otherwise, if the time periods for the satisfaction of contingencies or for Seller's and Buyer's elections would expire on a date after the Expected Closing Date, the Expected Closing Date shall be deemed extended for 3 business days following the expiration of: (a) the applicable contingency period(s), (b) the period within which the Seller may elect to cure the Disapproved Item, or (c) if Seller elects not to cure, the period within which Buyer may elect to proceed with this transaction, whichever is later.

9.4 The Parties acknowledge that extensive local, state and Federal legislation establish broad liability upon owners and/or users of real property for the investigation and remediation of Hazardous Substances. The determination of the existence of a Hazardous Substance Condition and the evaluation of the impact of such a condition are highly technical and beyond the expertise of Brokers. The Parties acknowledge that they have been advised by Brokers to consult their own technical and legal experts with respect to the possible presence of Hazardous Substances on the Property or adjoining properties, and Buyer and Seller are not relying upon any investigation by or statement of Brokers with respect thereto. The Parties hereby assume all responsibility for the impact of such Hazardous Substances upon their respective interests herein.

## 10. Documents and Other Items Required at or Before Closing.

10.1 Five days prior to the Closing date Escrow Holder shall obtain an updated Title Commitment concerning the Property from the Title Company and provide copies thereof to each of the Parties.

10.2 Seller shall deliver to Escrow Holder ~~no less than two (2) business day prior to the Closing, in time for delivery to Buyer at the Closing:~~

(a) Grant ~~or general warranty~~ deed, ~~in a form acceptable to Buyer~~ duly executed and in recordable form, conveying fee title to the Property to Buyer.

~~(b) If applicable, the Beneficiary Statements concerning Existing Note(s).~~

~~(c) If applicable, the Existing Leases and Other Agreements together with duly executed assignments thereof by Seller and Buyer. The assignment of Existing Leases shall be on the most recent Assignment and Assumption of Lessor's Interest in Lease form published by the AIR or its equivalent.~~

~~(d) If applicable, Estoppel Certificates executed by Seller and/or the tenant(s) of the Property.~~

(e) An affidavit executed by Seller to the effect that Seller is not a "foreign person" within the meaning of Internal Revenue Code Section 1445 or successor statutes. If Seller does not provide such affidavit in form reasonably satisfactory to Buyer at least 3 business days prior to the Closing, Escrow Holder shall at the Closing deduct from Seller's proceeds and remit to the Internal Revenue Service such sum as is required by applicable Federal law with respect to purchases from foreign sellers.

(f) If the Property is located in California, an affidavit executed by Seller to the effect that Seller is not a "nonresident" within the meaning of California Revenue and Tax Code Section 18662 or successor statutes. If Seller does not provide such affidavit in form reasonably satisfactory to Buyer at least 3 business days prior to the Closing, Escrow Holder shall at the Closing deduct from Seller's proceeds and remit to the Franchise Tax Board such sum as is required by such statute.

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~~(g) If applicable, a bill of sale, duly executed, conveying title to any included personal property to Buyer.~~

(h) If the Seller is a corporation **or limited liability company**, a duly executed corporate **or limited liability company** resolution authorizing the execution of this Agreement and the sale of the Property.

**(i) Affidavits as may reasonably be requested by the Title Company to comply with Paragraph 10.4.**

10.3 Buyer shall deliver to Seller through Escrow:

(a) The cash portion of the Purchase Price and such additional sums as are required of Buyer under this Agreement shall be deposited by Buyer with Escrow Holder, by federal funds wire transfer, or any other method acceptable to Escrow Holder in immediately collectable funds, no later than 2:00 P.M. on the business day prior to the Expected Closing Date provided, however, that Buyer shall not be required to deposit such monies into Escrow if at the time set for the deposit of such monies Seller is in default or has indicated that it will not perform any of its obligations hereunder. Instead, in such circumstances in order to reserve its rights to proceed Buyer need only provide Escrow with evidence establishing that the required monies were available.

~~(b) If a Purchase Money Note and Purchase Money Deed of Trust are called for by this Agreement, the duly executed originals of those documents, the Purchase Money Deed of Trust being in recordable form, together with evidence of fire insurance on the improvements in the amount of the full replacement cost naming Seller as a mortgage loss payee, and a real estate tax service contract (at Buyer's expense), assuring Seller of notice of the status of payment of real property taxes during the life of the Purchase Money Note.~~

~~(c) The Assignment and Assumption of Lessor's Interest in Lease form specified in paragraph 10.2(c) above, duly executed by Buyer.~~

~~(d) Assumptions duly executed by Buyer of the obligations of Seller that accrue after Closing under any Other Agreements.~~

~~(e) If applicable, a written assumption duly executed by Buyer of the loan documents with respect to Existing Notes.~~

~~(bf) If the Buyer is a corporation, a duly executed corporate resolution authorizing the execution of this Agreement and the purchase of the Property.~~

10.4 At Closing, Escrow Holder shall cause to be issued to Buyer a standard coverage (or ALTA extended, if elected pursuant to 9.1(g)) owner's form policy of title insurance effective as of the Closing, issued by the Title Company in the full amount of the Purchase Price, insuring title to the Property vested in Buyer, subject only to the exceptions approved by Buyer. In the event there is a Purchase Money Deed of Trust in this transaction, the policy of title insurance shall be a joint protection policy insuring both Buyer and Seller.

**IMPORTANT: IN A PURCHASE OR EXCHANGE OF REAL PROPERTY, IT MAY BE ADVISABLE TO OBTAIN TITLE INSURANCE IN CONNECTION WITH THE CLOSE OF ESCROW SINCE THERE MAY BE PRIOR RECORDED LIENS AND ENCUMBRANCES WHICH AFFECT YOUR INTEREST IN THE PROPERTY BEING ACQUIRED. A NEW POLICY OF TITLE INSURANCE SHOULD BE OBTAINED IN ORDER TO ENSURE YOUR INTEREST IN THE PROPERTY THAT YOU ARE ACQUIRING.**

## 11. Prorations and Adjustments.

11.1 *Taxes.* Applicable real property taxes and special assessment bonds shall be prorated through Escrow as of the date of the Closing, based upon the latest tax bill available. The Parties agree to prorate as of the Closing any taxes assessed against the Property by supplemental bill levied by reason of events occurring prior to the Closing. Payment of the prorated amount shall be made promptly in cash upon receipt of a copy of any supplemental bill.

11.2 *Insurance.* **WARNING:** Any insurance which Seller may have maintained will terminate on the Closing. Buyer is advised to obtain appropriate insurance to cover the Property.

11.3 *Rentals, Interest and Expenses.* ~~Scheduled rentals, interest on Existing Notes, utilities, and operating expenses shall be prorated as of the date of Closing. The Parties agree to promptly adjust between themselves outside of Escrow any rents received after the Closing. There shall be no proration of Rentals - Property is to be delivered free of tenants.~~

11.4 *Security Deposit.* ~~Security Deposits held by Seller shall be given to Buyer as a credit to the cash required of Buyer at the Closing. There shall be no credit of Security Deposit -- Property is to be delivered free of tenants.~~

11.5 *Post Closing Matters.* Any item to be prorated that is not determined or determinable at the Closing shall be promptly adjusted by the Parties by appropriate cash payment outside of the Escrow when the amount due is determined.

~~11.6 *Variations in Existing Note Balances.* In the event that Buyer is purchasing the Property subject to an Existing Deed of Trust(s), and in the event that a Beneficiary Statement as to the applicable Existing Note(s) discloses that the unpaid principal balance of such Existing Note(s) at the closing will be more or less than the amount set forth in paragraph 3.1(c) hereof ("Existing Note Variation"), then the Purchase Money Note(s) shall be reduced or increased by an amount equal to such Existing Note Variation. If there is to be no Purchase Money Note, the cash required at the Closing per paragraph 3.1(a) shall be reduced or increased by the amount of such Existing Note Variation.~~

~~11.7 *Variations in New Loan Balance.* In the event Buyer is obtaining a New Loan and the amount ultimately obtained exceeds the amount set forth in paragraph 5.1, then the amount of the Purchase Money Note, if any, shall be reduced by the amount of such excess.~~

11.8 *Owner's Association Fees.* Escrow Holder shall: (i) bring Seller's account with the association current and pay any delinquencies or transfer fees from Seller's proceeds, and (ii) pay any up front fees required by the association from Buyer's funds.

## 12. Representations and Warranties of Seller and Disclaimers.

12.1 Seller's warranties and representations shall survive the Closing and delivery of the deed for a period of 3 years, and any lawsuit or action based upon them must be commenced within such time period. Seller's warranties and representations are true, material and relied upon by Buyer and Brokers in all respects. Seller hereby makes the following warranties and representations to Buyer and Brokers:

(a) *Authority of Seller.* Seller is the owner of the Property, **duly organized and in good standing under the laws of California with and/or has** the full right, power and authority to **enter into this Agreement and to** sell, convey and transfer the Property to Buyer as provided herein, and to perform Seller's obligations hereunder. **Each person signing this Agreement on behalf of Seller is authorized to do so.**

(b) *Maintenance During Escrow and Equipment Condition At Closing.* Except as otherwise provided in paragraph 9.1(n) hereof, Seller shall maintain the Property until the Closing in its present condition, ordinary wear and tear excepted.

(c) *Hazardous Substances/Storage Tanks.* Seller has no knowledge, except as otherwise disclosed to Buyer in writing, of the existence or prior existence on the Property of any Hazardous Substance, nor of the existence or prior existence of any above or below ground storage tank.

(d) *Compliance.* Seller has no knowledge of any aspect or condition of the Property which violates applicable laws, rules, regulations, codes or covenants, conditions or restrictions, or of improvements or alterations made to the Property without a permit where one was required, or of any unfulfilled order or directive of any applicable governmental agency or casualty insurance company requiring any investigation, remediation, repair, maintenance or improvement be performed on the Property.

(e) *Changes in Agreements.* Prior to the Closing, Seller will not violate or modify any Existing Lease or Other Agreement, or create any new leases or other agreements affecting the Property, without Buyer's written approval, ~~which approval will not be unreasonably withheld.~~ **Seller has the right to enter into agreements terminating any and all tenancies and Property-related contracts.**

(f) *Possessory Rights.* ~~Seller has no knowledge that anyone.~~ **No one other than Seller** will, at the Closing, have any right to possession of the

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Property, ~~except as disclosed by this Agreement or otherwise in writing to Buyer.~~

(g) *Mechanics' Liens.* There are no unsatisfied mechanics' or materialmen's lien rights concerning the Property.

(h) *Actions, Suits or Proceedings.* Seller has no knowledge of any actions, suits or proceedings pending or threatened before any commission, board, bureau, agency, arbitrator, court or tribunal that would affect the Property or the right to occupy or utilize same.

(i) *Notice of Changes.* Seller will **immediately promptly** notify Buyer and Brokers in writing of any Material Change (see paragraph 9.1(o)) affecting the Property that becomes known to Seller prior to the Closing.

(j) *No Tenant Bankruptcy Proceedings.* Seller has no notice or knowledge that any tenant of the Property is the subject of a bankruptcy or insolvency proceeding.

(k) *No Seller Bankruptcy Proceedings.* Seller is not the subject of a bankruptcy, insolvency or probate proceeding, **and no attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings are pending or threatened against Seller.**

~~(l) *Personal Property.* Seller has no knowledge that anyone will, at the Closing, have any right to possession of any personal property included in the Purchase Price nor knowledge of any liens or encumbrances affecting such personal property, except as disclosed by this Agreement or otherwise in writing to Buyer.~~

(m) *Condemnation; Special Assessments.* Seller has no knowledge of any pending or contemplated condemnation, eminent domain or similar proceeding or special assessment which would affect the Property or any part thereof in anyway whatsoever.

(n) *No Conflicts.* The execution and delivery of this Agreement by Seller, the consummation of the transactions herein contemplated to be performed by Seller, and compliance with the terms of this Agreement by Seller will not conflict with, or, with or without notice or the passage of time or both, result in a breach of any of the terms or provisions of, or constitute a default under, any document, instrument or agreement, oral or written, to which Seller is a party or by which Seller or its assets are bound, or any applicable regulation of any governmental agency, or any judgment, order or decree of any court having jurisdiction over Seller or all or any portion of the Property.

12.2 Buyer hereby acknowledges that, except as otherwise stated in this Agreement, Buyer is purchasing the Property in its existing condition ~~and will, by the time called for herein, make or have waived all inspections of the Property Buyer believes are necessary to protect its own interest in, and its contemplated use of, the Property.~~ The Parties acknowledge that, except as otherwise stated in this Agreement, no representations, inducements, promises, agreements, assurances, oral or written, concerning the Property, or any aspect of the occupational safety and health laws, Hazardous Substance laws, or any other act, ordinance or law, have been made by either Party or Brokers, or relied upon by either Party hereto.

12.3 In the event that Buyer learns that a Seller representation or warranty ~~might be~~ **is** untrue prior to the Closing, and Buyer elects to purchase the Property anyway then, and in that event, Buyer waives any right that it may have to bring an action or proceeding against Seller or Brokers regarding said representation or warranty.

12.4 Any environmental reports, soils reports, surveys, and other similar documents which were prepared by third party consultants and provided to Buyer by Seller or Seller's representatives, have been delivered ~~as an accommodation to Buyer and~~ without any representation or warranty as to the sufficiency, accuracy, completeness, and/or validity of said documents, all of which Buyer relies on at its own risk, ~~provided that -except as disclosed by -Seller in writing to Buyer, Seller has no knowledge that any of such reports are inaccurate or incomplete. believes said documents to be accurate, but~~ Buyer is advised to retain appropriate consultants to review said documents and investigate the Property.

### 13. Possession.

~~Possession of the Property shall be given to Buyer at the Closing subject to the rights of tenants under Existing Leases. See Paragraphs 29 & 34 of the Addendum attached hereto and made a part of.~~

### 14. Buyer's Entry.

At any time during the Escrow period, Buyer, and its agents, **consultants, advisors and employees** and representatives, shall have the right at reasonable times ~~and subject to rights of tenants,~~ to enter upon the Property for the purpose of making inspections and tests specified in this Agreement. ~~No destructive testing shall be conducted, however, without Seller's prior approval which shall not be unreasonably withheld.~~ Following any such entry or work, unless otherwise directed in writing by Seller, Buyer shall return the Property to the condition it was in prior to such entry or work, including the re-compaction or removal of any disrupted soil or material as Seller may reasonably direct. All such inspections and tests and any other work conducted or materials furnished with respect to the Property by or for Buyer shall be paid for by Buyer as and when due and Buyer shall indemnify, defend, protect and hold harmless Seller and the Property of and from any and all claims, liabilities, losses, expenses (including reasonable attorneys' fees), damages, including those for injury to person or property, arising out of or relating to any such work or materials or the acts or omissions of Buyer, its agents or employees in connection therewith **except to the extent such damage or injury is caused by Seller or Seller's agents, employees, consultants, advisors or representatives gross negligence or willful misconduct.**

### 15. Further Documents and Assurances.

The Parties shall each, diligently and in good faith, undertake all actions and procedures reasonably required to place the Escrow in condition for Closing as and when required by this Agreement. The Parties agree to provide all further information, and to execute and deliver all further documents, reasonably required by Escrow Holder or the Title Company.

### 16. Attorneys' Fees.

If any Party or Broker brings an action or proceeding (including arbitration) involving the Property whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees and costs. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred.

### 17. Prior Agreements/Amendments.

17.1 This Agreement supersedes any and all prior agreements between Seller and Buyer regarding the Property.

17.2 Amendments to this Agreement are effective only if made in writing and executed by Buyer and Seller.

### 18. Broker's Rights.

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~~18.1 If this sale is not consummated due to the default of either the Buyer or Seller, the defaulting Party shall be liable to and shall pay to Brokers the Brokerage Fee that Brokers would have received had the sale been consummated. If Buyer is the defaulting party, payment of said Brokerage Fee is in addition to any obligation with respect to liquidated or other damages.~~

18.2 Upon the Closing, Brokers are authorized to publicize the facts of this transaction.

**19. Notices.**

19.1 Whenever any Party, Escrow Holder or Brokers herein shall desire to give or serve any notice, demand, request, approval, disapproval or other communication, each such communication shall be in writing and shall be delivered personally, by messenger, or by mail, postage prepaid, to the address set forth in this agreement or by facsimile transmission, electronic signature, digital signature, or email.

19.2 Service of any such communication shall be deemed made on the date of actual receipt if personally delivered, or transmitted by facsimile transmission, electronic signature, digital signature, or email. Any such communication sent by regular mail shall be deemed given 48 hours after the same is mailed. Communications sent by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed delivered 24 hours after delivery of the same to the Postal Service or courier. If such communication is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

19.3 Any Party or Broker hereto may from time to time, by notice in writing, designate a different address to which, or a different person or additional persons to whom, all communications are thereafter to be made.

**20. Duration of Offer.**

20.1 If this offer is not accepted by Seller on or before 5:00 P.M. according to the time standard applicable to the city of Winnetka, CA on the date of December 10, 2021, it shall be deemed automatically revoked.

20.2 The acceptance of this offer, or of any subsequent counteroffer hereto, that creates an agreement between the Parties as described in paragraph 1.2, shall be deemed made upon delivery to the other Party or either Broker herein of a duly executed writing unconditionally accepting the last outstanding offer or counteroffer.

**21. LIQUIDATED DAMAGES. (This Liquidated Damages paragraph is applicable only if initialed by both Parties).**

THE PARTIES AGREE THAT IT WOULD BE IMPRACTICABLE OR EXTREMELY DIFFICULT TO FIX, PRIOR TO SIGNING THIS AGREEMENT, THE ACTUAL DAMAGES WHICH WOULD BE SUFFERED BY SELLER IF BUYER FAILS TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT. THEREFORE, IF, AFTER THE SATISFACTION OR WAIVER OF ALL CONTINGENCIES PROVIDED FOR THE BUYER'S BENEFIT, BUYER BREACHES THIS AGREEMENT, SELLER SHALL BE ENTITLED TO LIQUIDATED DAMAGES IN THE AMOUNT OF \$200,000.00 as Seller's sole and exclusive remedy. UPON PAYMENT OF SAID SUM TO SELLER, BUYER SHALL BE RELEASED FROM ANY FURTHER LIABILITY TO SELLER, AND ANY ESCROW CANCELLATION FEES AND TITLE COMPANY CHARGES SHALL BE PAID BY SELLER.

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Buyer's Initials

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Seller's Initials

~~22. ARBITRATION OF DISPUTES. (This Arbitration of Disputes paragraph is applicable only if initialed by both Parties.)~~

~~22.1 ANY CONTROVERSY AS TO WHETHER SELLER IS ENTITLED TO THE LIQUIDATED DAMAGES AND/OR BUYER IS ENTITLED TO THE RETURN OF DEPOSIT MONEY, SHALL BE DETERMINED BY BINDING ARBITRATION BY, AND UNDER THE COMMERCIAL RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("COMMERCIAL RULES"). ARBITRATION HEARINGS SHALL BE HELD IN THE COUNTY WHERE THE PROPERTY IS LOCATED. THE NUMBER OF ARBITRATORS SHALL BE AS PROVIDED IN THE COMMERCIAL RULES AND EACH SUCH ARBITRATOR SHALL BE AN IMPARTIAL REAL ESTATE BROKER WITH AT LEAST 5 YEARS OF FULL TIME EXPERIENCE IN BOTH THE AREA WHERE THE PROPERTY IS LOCATED AND THE TYPE OF REAL ESTATE THAT IS THE SUBJECT OF THIS AGREEMENT. THE ARBITRATOR OR ARBITRATORS SHALL BE APPOINTED UNDER THE COMMERCIAL RULES, AND SHALL HEAR AND DETERMINE SAID CONTROVERSY IN ACCORDANCE WITH APPLICABLE LAW, THE INTENTION OF THE PARTIES AS EXPRESSED IN THIS AGREEMENT AND ANY AMENDMENTS THERETO, AND UPON THE EVIDENCE PRODUCED AT AN ARBITRATION HEARING. PRE-ARBITRATION DISCOVERY SHALL BE PERMITTED IN ACCORDANCE WITH THE COMMERCIAL RULES OR STATE LAW APPLICABLE TO ARBITRATION PROCEEDINGS. THE AWARD SHALL BE EXECUTED BY AT LEAST 2 OF THE 3 ARBITRATORS, BE RENDERED WITHIN 30 DAYS AFTER THE CONCLUSION OF THE HEARING, AND MAY INCLUDE ATTORNEYS' FEES AND COSTS TO THE PREVAILING PARTY PER PARAGRAPH 16 HEREOF. JUDGMENT MAY BE ENTERED ON THE AWARD IN ANY COURT OF COMPETENT JURISDICTION NOTWITHSTANDING THE FAILURE OF A PARTY DULY NOTIFIED OF THE ARBITRATION HEARING TO APPEAR THEREAT.~~

~~22.2 BUYER'S RESORT TO OR PARTICIPATION IN SUCH ARBITRATION PROCEEDINGS SHALL NOT BAR SUIT IN A COURT OF COMPETENT JURISDICTION BY THE BUYER FOR DAMAGES AND/OR SPECIFIC PERFORMANCE UNLESS AND UNTIL THE ARBITRATION RESULTS IN AN AWARD TO THE SELLER OF LIQUIDATED DAMAGES, IN WHICH EVENT SUCH AWARD SHALL ACT AS A BAR AGAINST ANY ACTION BY BUYER FOR DAMAGES AND/OR SPECIFIC PERFORMANCE.~~

~~22.3 NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.~~

~~WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.~~

\_\_\_\_\_  
Buyer's Initials

\_\_\_\_\_  
Seller's Initials

**23. Miscellaneous.**

23.1 **Binding Effect.** This Agreement shall be binding on the Parties without regard to whether or not paragraphs 21 and 22 are initialed by both of the Parties. Paragraphs 21 and 22 are each incorporated into this Agreement only if initialed by both Parties at the time that the Agreement is executed.

23.2 **Applicable Law.** This Agreement shall be governed by, and paragraph 22.3 is amended to refer to, the laws of the state in which the Property is located. Any litigation or arbitration between the Parties hereto concerning this Agreement shall be initiated in the county in which the Property is located.

23.3 **Time of Essence.** Time is of the essence of this Agreement.

23.4 **Counterparts.** This Agreement may be executed by Buyer and Seller **by the exchange of facsimile or electronic signatures and** in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Escrow Holder, after verifying that the

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counterparts are identical except for the signatures, is authorized and instructed to combine the signed signature pages on one of the counterparts, which shall then constitute the Agreement.

~~23.5 Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.~~

23.6 **Conflict.** Any conflict between the printed provisions of this Agreement and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions. **Seller and Buyer must initial any and all handwritten provisions.**

23.7 **1031 Exchange.** Both Seller and Buyer agree to cooperate with each other in the event that either or both wish to participate in a 1031 exchange. Any party initiating an exchange shall bear all costs of such exchange. The cooperating Party shall not have any liability (special or otherwise) for damages to the exchanging Party in the event that the sale is delayed and/or that the sale otherwise fails to qualify as a 1031 exchange.

23.8 **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Agreement shall mean and refer to calendar days.

**24. Disclosures Regarding The Nature of a Real Estate Agency Relationship.**

24.1 The Parties and Brokers agree that their relationship(s) shall be governed by the principles set forth in the applicable sections of the California Civil Code, as summarized in paragraph 24.2.

24.2 When entering into a discussion with a real estate agent regarding a real estate transaction, a Buyer or Seller should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Buyer and Seller acknowledge being advised by the Brokers in this transaction, as follows:

(a) *Seller's Agent.* A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or subagent has the following affirmative obligations: (1) *To the Seller:* A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller. (2) *To the Buyer and the Seller:* a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(b) *Buyer's Agent.* A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations. (1) *To the Buyer:* A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer. (2) *To the Buyer and the Seller:* a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(c) *Agent Representing Both Seller and Buyer.* A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer. (1) In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Seller or the Buyer. b. Other duties to the Seller and the Buyer as stated above in their respective sections (a) or (b) of this paragraph 24.2. (2) In representing both Seller and Buyer, the agent may not without the express permission of the respective Party, disclose to the other Party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered. (3) The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect their own interests. Buyer and Seller should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(d) *Further Disclosures.* Throughout this transaction Buyer and Seller may receive more than one disclosure, depending upon the number of agents assisting in the transaction. Buyer and Seller should each read its contents each time it is presented, considering the relationship between them and the real estate agent in this transaction and that disclosure. Buyer and Seller each acknowledge receipt of a disclosure of the possibility of multiple representation by the Broker representing that principal. This disclosure may be part of a listing agreement, buyer representation agreement or separate document. Buyer understands that Broker representing Buyer may also represent other potential buyers, who may consider, make offers on or ultimately acquire the Property. Seller understands that Broker representing Seller may also represent other sellers with competing properties that may be of interest to this Buyer. Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this transaction may be brought against Broker more than one year after the Date of Agreement and that the liability (including court costs and attorneys' fees), of any Broker with respect to any breach of duty, error or omission relating to this Agreement shall not exceed the fee received by such Broker pursuant to this Agreement; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

24.3 *Confidential Information.* Buyer and Seller agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

**25. Construction of Agreement.** In construing this Agreement, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Agreement. Whenever required by the context, the singular shall include the plural and vice versa. This Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

**26. Additional Provisions.**

Additional provisions of this offer, if any, are as follows or are attached hereto by an addendum or addenda consisting of paragraphs 28 through 41. (If there are no additional provisions write "NONE".)

**ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS AGREEMENT OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:**

- 1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS AGREEMENT.**
- 2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PROPERTY. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PROPERTY, THE INTEGRITY AND CONDITION OF ANY STRUCTURES AND OPERATING SYSTEMS, AND THE SUITABILITY OF THE PROPERTY FOR BUYER'S INTENDED USE.**

**WARNING: IF THE PROPERTY IS LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THIS AGREEMENT MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED.**

**NOTE:**

- 1. THIS FORM IS NOT FOR USE IN CONNECTION WITH THE SALE OF RESIDENTIAL PROPERTY.
- 2. IF EITHER PARTY IS A CORPORATION, IT IS RECOMMENDED THAT THIS AGREEMENT BE SIGNED BY TWO CORPORATE OFFICERS.

The undersigned Buyer offers and agrees to buy the Property on the terms and conditions stated and acknowledges receipt of a copy hereof.

**BROKER**

InSite EFS, Inc.

Attn: Dan Morrar

Title: Broker of Record

Address: \_\_\_\_\_

Phone: 323-686-6539

Fax: \_\_\_\_\_

Email: dmorrrar@insiteefs.com

Federal ID No.: \_\_\_\_\_

Broker/Agent BRE License #: 01957797/01719132

Date: \_\_\_\_\_

**BUYER**

Magnolia Educational & Research Foundation, a California nonprofit public benefit corporation

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

Name Printed: Alfredo Rubalcava

Title: CEO and Superintendent

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: arubalcava@magnoliapublicschools.org

Address: 250 E 1st Street, Suite 1500, Los Angeles, CA 90012

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

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

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

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Federal ID No.: \_\_\_\_\_

**27. Acceptance.**

27.1 Seller accepts the foregoing offer to purchase the Property and hereby agrees to sell the Property to Buyer on the terms and conditions therein specified.

27.2 In consideration of real estate brokerage service rendered by Brokers, Seller agrees to pay **Buyer's** Brokers a real estate Brokerage Fee in a sum equal to 1.50 % of the Purchase Price ~~to be divided between the Brokers as follows: Seller's Broker- \_\_\_\_\_ % and Buyer's Broker- \_\_\_\_\_ %~~. This Agreement shall serve as an irrevocable instruction to Escrow Holder to pay such Brokerage Fee to **Buyer's** Brokers out of the proceeds accruing to the account of Seller at the Closing.

27.3 Seller acknowledges receipt of a copy hereof and authorizes Brokers to deliver a signed copy to Buyer.

**NOTE: A PROPERTY INFORMATION SHEET IS REQUIRED TO BE DELIVERED TO BUYER BY SELLER UNDER THIS AGREEMENT.**

**BROKER**

CBRE

Attn: Adam Peterson

Title: First Vice President

Address: 1840 Century Park East, 9th Floor, Los Angeles, CA 90067

Phone: 310-550-2592

Fax: \_\_\_\_\_

Email: adam.peterson@cbre.com

Federal ID No.: \_\_\_\_\_

Broker/Agent BRE License #: 01815802

Date: \_\_\_\_\_

**SELLER**

Rainbow Investments, LLC, a California limited liability company, as to an undivided 50% interest

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

Name Printed: George Shakiban

Title: Manager

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

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Winnetka Life Partners, LLC, as to an undivided 50% interest

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

Name Printed: Babak Younessi

Title: Manager

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Federal ID No.: \_\_\_\_\_

AIR CRE. 500 North Brand Blvd, Suite 900, Glendale, CA 91203, Tel 213-687-8777, Email [contracts@aircre.com](mailto:contracts@aircre.com)

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**ADDENDUM TO STANDARD OFFER, AGREEMENT AND  
ESCROW INSTRUCTIONS FOR PURCHASE OF REAL ESTATE**

[7111 Winnetka Avenue, Winnetka, CA]

The STANDARD OFFER, AGREEMENT AND ESCROW INSTRUCTIONS FOR PURCHASE OF REAL ESTATE dated for reference purposes only as of November 15, 2021 (the “**Agreement**”), by and between Rainbow Investments, LLC, a California limited liability company, as to an undivided 50% interest and Winnetka Life Partners, LLC as to an undivided 50% interest as tenants in common, collectively as “Seller”, and Magnolia Educational & Research Foundation, a California nonprofit public benefit corporation as “Buyer”, to which this Addendum (this “**Addendum**”) is attached, is modified, amended and supplemented as follows:

28. **BUYER'S RIGHT TO TERMINATE.** Notwithstanding any other provision in Paragraph 9 or elsewhere in the Agreement, Buyer shall have the period of time as outlined in each of Subparagraph 9.1(a) through (j) (the “**Contingency Period**”) as such period may have been extended by any Contingency Extension Period (as defined in Paragraph 30 hereof), to investigate, review and approve or disapprove any or all Buyer’s Contingencies prior to the Closing set forth in the Agreement in Buyer’s sole and absolute discretion. Notwithstanding any terms in the Agreement to the contrary, Buyer, its representatives and consultants shall be allowed reasonable access to the Property and appropriate records for the purpose of making all inspections (including but not limited to surveys, physical inspections, ESA Phase I and II, zoning, and soils studies) it deems necessary during the Contingency Period or any Contingency Extension Period and prior to Closing. Prior to any entry on the Property for the purpose of performing any inspection or any test, Buyer and its applicable consultants performing such inspection or test shall provide proof of liability insurance, showing Seller as additional insured. Buyer will repair any damage to the Property caused by its inspection. During the Contingency Period or any Contingency Extension Period, Buyer may, in its sole and absolute discretion, for any reason, or no reason at all, terminate the Agreement, and following such a termination the Escrow Holder shall promptly return to Buyer the remaining Deposit within two (2) days after written notice from Buyer of such termination. After such termination Buyer and Seller shall have no further rights or obligations under the Agreement, except for items that expressly survive the termination thereof. Further, unless Buyer provides Seller with written notice that Buyer elects to waive all contingencies on or before the expiration of the Contingency Period or any Contingency Extension Period, as applicable, it shall be deemed that Buyer has elected to terminate the Agreement, and the Deposit, less any amount previously deemed non-refundable pursuant to Paragraph 30, shall be promptly returned to Buyer by the Escrow Holder without any additional authorizations or approvals of any kind required.

29. **CONDITION OF THE PROPERTY.** Seller shall, at no expense to Buyer, cause the Property to be delivered to Buyer free and clear of all personal property and all debris and junk of any kind, and in the same general condition as of the date of this Agreement, at the Close of Escrow.

30. **BUYER’S OPTION TO EXTEND THE CONTINGENCY PERIOD.** Buyer shall have three 30-day options to extend the Contingency Period contained in Paragraph 9(a-m), (each a “**Contingency Extension Period**”). Each Contingency Extension Period must be exercised by Buyer no later than three (3) days prior to the expiration of the then applicable Contingency Period. Upon Buyer’s notice to Escrow Holder and Seller of its exercise of each Contingency Extension Period, if applicable, a portion the Deposit, as outlined below, shall be non-refundable (each such



portion of the Deposit is a “**Contingency Extension Payment**”), except as otherwise provided for herein. Each Contingency Extension Payment shall be non-refundable to Buyer, except in the event of Seller’s breach of, or default under, the Agreement, or in the event that Escrow is terminated pursuant to the provisions of Paragraph 9.1(n) (Destruction, Damage or Loss), 9.1(o) (Material Change), or other applicable terms of the Agreement. Notwithstanding the foregoing, each Contingency Extension Payment shall be credited toward the Purchase Price at Closing:

|                       |          |
|-----------------------|----------|
| First 30-Day Period:  | \$15,000 |
| Second 30-Day Period: | \$20,000 |
| Third 30-Day Period:  | \$25,000 |

31. **SELLER’S DOCUMENTS.** In addition to delivering the Seller’s Mandatory Disclosure Statement, which shall include a Natural Hazard Disclosure Report, and Property Information Sheet as required by Paragraph 9.1(a), Seller agrees to deliver to, or make available to Buyer on or before five (5) days following the Date of Agreement, all documents and records (or copies thereof) relating to the Property in possession of or available to Seller (the “**Documentation**”), including, but not limited to the following:

- A. Copies of third party reports with respect to the Property including without limitation, Environmental Impact Report (EIR), ESA Phase I or Phase II, geotechnical report, physical inspection report, and toxic or zoning studies of any type if available.
- B. Any ALTA survey showing the location of all improvements and any easements.
- C. Any letters or notices from, agreements with, or approvals or rejections by municipal agencies, including City, County, and State, including all entitlements related to the Property.
- D. Any current or past lawsuits or disputes or actions related to the Property, which have occurred or been initiated over the past five (5) years.
- E. Statement of current property taxes and assessed value, as well as tax bills for the last three (3) years.
- F. Copies of any and all service and maintenance contracts, employment agreements, equipment leases, utility agreements, management agreements (including any correspondence relating to any deficiencies Seller has identified at the Property), parking agreements, operating agreements, ground leases and other agreements of any kind or nature relating to, or affecting any portion of, the Property.
- G. The Title Policy insuring Seller’s ownership, and if available a current and complete title report, including full legible copies of all exceptions and underlying documents.
- H. Copies of any and all leases, subleases and other occupancy agreements, currently in effect with respect to the Property.
- I. Architectural and engineering plans, including any “as-built” drawings, floor plans, mechanical, electrical and plumbing, and an As-Is site plan.

32. **GOVERNMENT APPROVALS.** Supplementing Section 9.1(e), following the date hereof, Buyer may pursue, at its sole cost and expense, the entitlements or other approvals it wishes to be approved (the “**Entitlements**”) by the governmental authorities having jurisdiction over the Property (the “**Authorities**”) regarding the construction and maintenance of a charter school on the Property (the “**Project**”). Seller agrees to cooperate with Buyer, at no cost to Seller, in Buyer’s efforts to obtain the Entitlements including signing any applications and other

documents needed for the Project, including without limitation, the execution of such applications or documentation as required to process such Entitlements. Seller agrees that it will not take any action, direct or indirect, which is adverse to, or in opposition of, the proposed Project and/or Buyer's efforts to obtain the Entitlements.

33. **SELLER'S RIGHT TO EXTEND THE CLOSING.** Seller shall have the right to extend the Closing six (6) times, each time for a period of thirty (30) days ("Seller's Closing Extensions"). Each of the Seller's Closing Extensions must be exercised upon no less than 10-days' prior written notice before the scheduled Closing. Seller's Closing Extensions shall be without cost or expense to the Seller, but may only be exercised for the sole purpose of delivering the Property to Buyer in the condition required by Paragraph 34.

If Seller exercises a Seller's Closing Extension, Seller may thereafter accelerate the Closing to a date prior to the then Scheduled Closing Date, but in no event earlier than fourteen (14) days after service of a written notice to Buyer and Escrow Holder of such accelerated Closing date.

34. **DELIVERY OF THE PROPERTY.** The parties acknowledge and agree that as a condition to the Close of Escrow, Seller shall be required to deliver the Property free and clear of all tenants, subtenants or other occupants (collectively referred to as "Tenants"), with all leases or any other occupancy agreements terminated to Buyer's reasonable satisfaction prior to the Close of Escrow (the "**Seller's Delivery Contingency**"). Upon Buyer's waiver of all contingencies, Seller shall immediately take all measures necessary to deliver the Property as outlined in this Paragraph.

If, as of the fifth (5th) day prior to the Closing Date (as it may be extended as provided for in Paragraph 33 hereof), the Seller's Delivery Contingency has not been satisfied, Buyer shall have the right to terminate this Agreement upon delivery of written notice to Seller no later than two (2) days prior to the Closing Date, in which event Seller or the Escrow Holder, as applicable, shall return to Buyer any and all Deposits, and Seller shall reimburse Buyer any Contingency Extension Payment, if applicable, within five (5) days after written notice from Buyer of such termination, and after such termination, Buyer and Seller shall have no further rights or obligations under the Agreement, except for items that expressly survive the termination thereof.

35. **OFAC REPRESENTATION.** Supplementing Paragraph 12 of the Agreement, Seller hereby warrants and represents that Seller and each member of Seller is not, and will not become, a person or entity with whom United States persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons list), or under any statute, executive order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit or Support Terrorism) or other governmental action, and is not and will not engage in any dealing or transaction or be otherwise associated with such persons or entities.

36. **LIMITATION ON LIABILITY.** Seller agrees that neither the holders of beneficial interests nor the trustees, officers, members, employees or agents of the Buyer (or any assignee of Buyer) shall be personally liable under the Agreement and all parties hereto shall look solely to the assets of the entity, for the payment of any claim or for the performance of any obligation of Buyer under the Agreement.

37. **HAZARDOUS SUBSTANCES.** Seller represents and warrants to Buyer that except as disclosed pursuant to Paragraph 12.1(c) to this Agreement: (a) Seller has not caused

any Release of Hazardous Substances at, on, under, to, or from the Property; and (b) Seller has not received any written notice from any applicable governmental authority that the Property is in violation of an Environmental Law that has not been cured. For purposes of this Agreement, "Release" means any release, spill, emission, leaking, pumping, pouring, dumping, emptying, discharge, disposing, arranging for disposal, abandoning, deposit, injection, escaping, leaching, or migration into or through the environment; and "Hazardous Substance" means any substance that is listed, classified or regulated as hazardous or toxic, or as a pollutant or contaminant, pursuant to any Environmental Law, including any petroleum product or by-product, asbestos-containing material, lead-containing paint or plumbing, toxic mold, polychlorinated biphenyls or radioactive material.

38. INDEMNIFICATION. As an obligation which shall survive the Closing, and notwithstanding any terms in the Agreement to the contrary, whether attributable to events or circumstances which have theretofore or may hereafter occur and whether known or unknown to Buyer as of the Closing, Seller shall indemnify and hold Buyer, its employees, officers, directors, representatives, agents, affiliates, parents, subsidiaries, successors and assigns, and all persons, firms, corporations and organizations in its behalf and their respective members, managers, affiliates, successors and assigns harmless from (a) any losses arising out of any Release of Hazardous Substances on, at, under, or migrating to or from the Property that occurred prior to the Closing, including any remedial action required at any time with respect to such Release of Hazardous Substances, and (b) any responsibility under, non-compliance with, or violation of Environmental Law that first occurred prior to the Closing. For purposes of this Agreement, "Environmental Law" means any law or legal requirement relating to pollution, investigation or remediation of the same, the protection of human health or safety, the environment, or natural resources, or the manufacture, processing, distribution, use, treatment, storage, Release, threatened Release, transport, management, or other handling of Hazardous Substances.

39. SELLER DEFAULT; BUYER REMEDIES. If the Seller defaults under the Agreement, Buyer may pursue any and all available remedies at law or in equity including but not limited to: (i) receive a return of the Deposit, including any portion theretofore deemed non-refundable or released to Seller, and any interest earned thereon, and Seller shall reimburse Buyer for Buyer's reasonable project expenses and due diligence costs not to exceed one hundred fifty thousand dollars (\$150,000.00), which Buyer shall provide reasonable documentation necessary to substantiate such project expenses and due diligence costs or (ii) pursue an action for the specific performance of this Agreement. Buyer's right to indemnity and/or attorney's fees pursuant to the terms of the Agreement shall not be limited or eliminated by the terms of this Section.

40. BUSINESS DAYS. Business days shall mean and refer to any calendar day, excepting Saturday, Sunday, any Holiday and any Optional Bank Holiday (as defined in the California Civil Code). If the last day for performance of any act herein does not fall on a business day, such performance shall be extended to the next business day with the same force and effect as if it had been performed on the day appointed.

41. MISCELLANEOUS. Except as set forth herein, the Agreement shall remain unmodified. The Agreement, as modified by this Addendum, shall remain in full force and effect. In the event of any conflict between any provisions of this Addendum and any other provisions of the Agreement, the provisions of this Addendum shall control. This Addendum may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed one and the same instrument. The parties may rely upon PDF or facsimile copies of signatures as if they were originals. The execution of this Addendum by the Sellers

below shall be deemed to include and constitute the execution of the Agreement, as modified by this Addendum.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date referenced above.

BUYER:

**Magnolia Educational & Research Foundation, a California nonprofit public benefit corporation**

By: \_\_\_\_\_  
Alfredo Rubalcava, CEO and Superintendent

SELLER:

**Rainbow Investments, LLC, a California limited liability company, as to an undivided 50% interest**

By: \_\_\_\_\_  
George Shakiban, Manager

**Winnetka Life Partners, LLC, as to an undivided 50% interest**

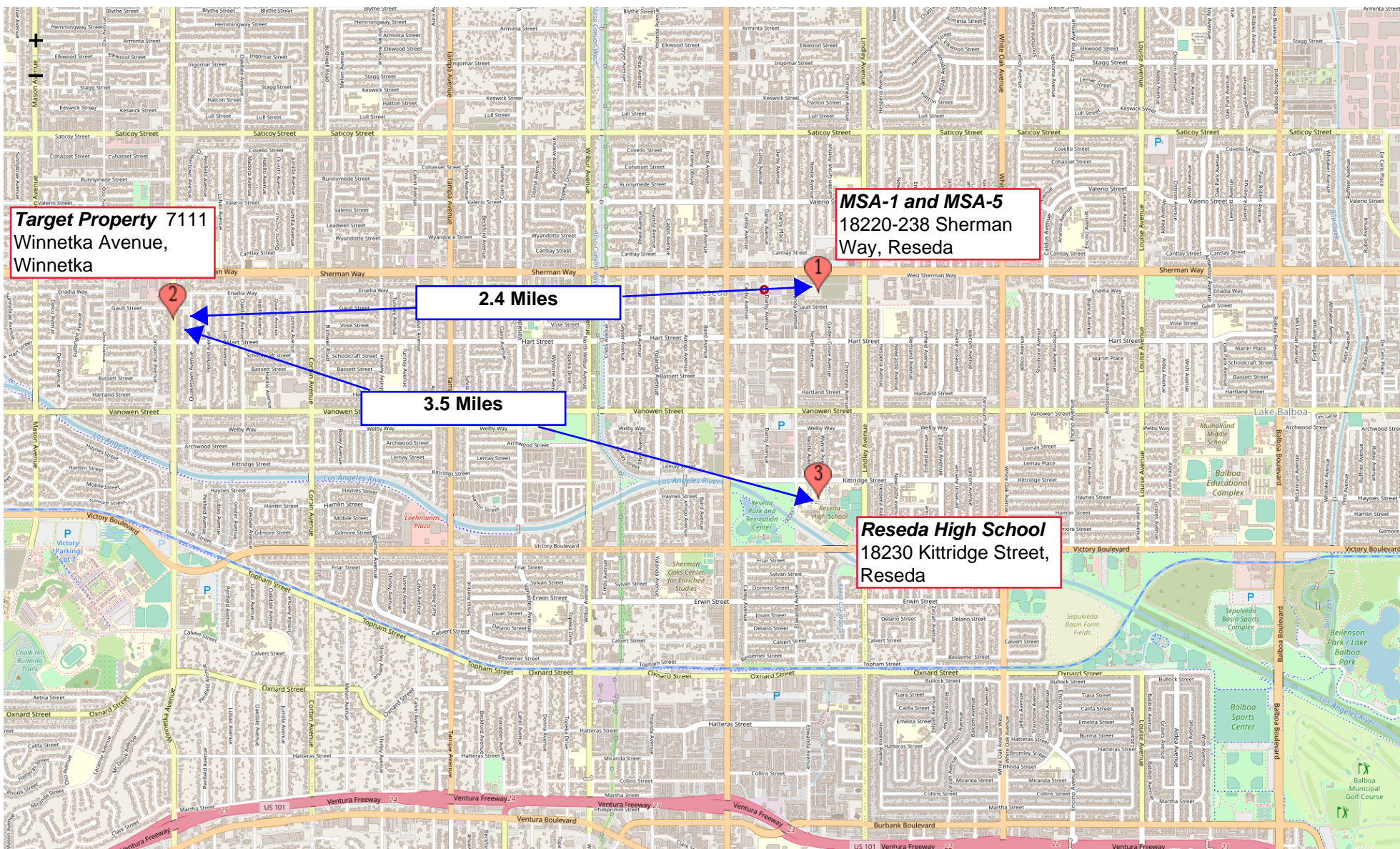
By: \_\_\_\_\_  
Babak Younessi, Manager



## EXHIBIT B

## PROXIMITY PLAN

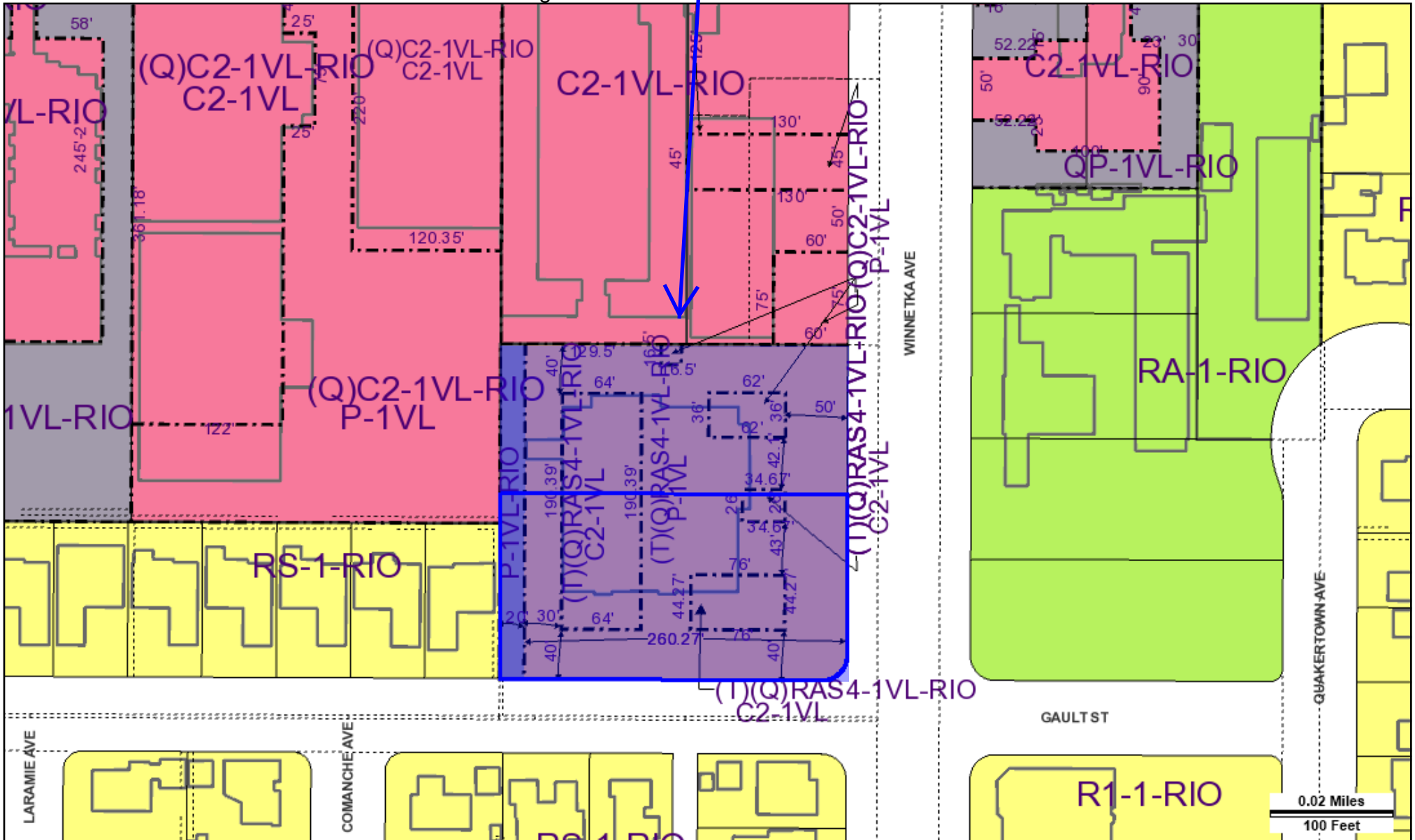
# Map of MSA-1, MSA-5, Reseda High School and Target Property at 7111 Winnetka Ave





## EXHIBIT C

## SITE PLAN



Address: 7111 N WINNETKA AVE

APN: 2135038016

PIN #: 183B113 159

Tract: TR 24753

Block: None

Lot: FR 1

Arb: None

Zoning: (T)(Q)RAS4-1VL-RIO, P-1VL-RIO

General Plan: Community Commercial











0.02 Miles  
100 Feet



# LEGEND

## GENERALIZED ZONING

-  OS, GW
-  A, RA
-  RE, RS, R1, RU, RZ, RW1
-  R2, RD, RMP, RW2, R3, RAS, R4, R5, PVSP
-  CR, C1, C1.5, C2, C4, C5, CW, WC, ADP, LASED, CEC, USC, PPSP, MU, NMU
-  CM, MR, CCS, UV, UI, UC, M1, M2, LAX, M3, SL, HJ, HR, NI
-  P, PB
-  PF

## GENERAL PLAN LAND USE

### LAND USE

#### RESIDENTIAL





-  Minimum Residential
-  Very Low / Very Low I Residential
-  Very Low II Residential
-  Low / Low I Residential
-  Low II Residential
-  Low Medium / Low Medium I Residential
-  Low Medium II Residential
-  Medium Residential
-  High Medium Residential
-  High Density Residential
-  Very High Medium Residential

#### COMMERCIAL






-  Limited Commercial
-  Limited Commercial - Mixed Medium Residential
-  Highway Oriented Commercial
-  Highway Oriented and Limited Commercial
-  Highway Oriented Commercial - Mixed Medium Residential
-  Neighborhood Office Commercial
-  Community Commercial
-  Community Commercial - Mixed High Residential
-  Regional Center Commercial

### FRAMEWORK

#### COMMERCIAL

-  Neighborhood Commercial
-  General Commercial
-  Community Commercial
-  Regional Mixed Commercial






#### INDUSTRIAL

-  Commercial Manufacturing
-  Limited Manufacturing
-  Light Manufacturing
-  Heavy Manufacturing
-  Hybrid Industrial




#### PARKING

-  Parking Buffer

#### PORT OF LOS ANGELES

-  General / Bulk Cargo - Non Hazardous (Industrial / Commercial)
-  General / Bulk Cargo - Hazard
-  Commercial Fishing
-  Recreation and Commercial
-  Intermodal Container Transfer Facility Site



#### LOS ANGELES INTERNATIONAL AIRPORT

-  Airport Landside / Airport Landside Support
-  Airport Airside
-  LAX Airport Northside

#### OPEN SPACE / PUBLIC FACILITIES
















-  Open Space
-  Public / Open Space
-  Public / Quasi-Public Open Space
-  Other Public Open Space
-  Public Facilities

















#### INDUSTRIAL

-  Limited Industrial
-  Light Industrial






# CIRCULATION

## STREET




































-  Arterial Mountain Road
-  Collector Scenic Street
-  Collector Street
-  Collector Street (Hillside)
-  Collector Street (Modified)
-  Collector Street (Proposed)
-  Country Road
-  Divided Major Highway II
-  Divided Secondary Scenic Highway
-  Local Scenic Road
-  Local Street
-  Major Highway (Modified)
-  Major Highway I
-  Major Highway II
-  Major Highway II (Modified)

-  Major Scenic Highway
-  Major Scenic Highway (Modified)
-  Major Scenic Highway II
-  Mountain Collector Street
-  Park Road
-  Parkway
-  Principal Major Highway
-  Private Street
-  Scenic Divided Major Highway II
-  Scenic Park
-  Scenic Parkway
-  Secondary Highway
-  Secondary Highway (Modified)
-  Secondary Scenic Highway
-  Special Collector Street
-  Super Major Highway

## FREEWAYS

-  Freeway
-  Interchange
-  On-Ramp / Off- Ramp
-  Railroad
-  Scenic Freeway Highway


























## MISC. LINES

-  Airport Boundary
-  Bus Line
-  Coastal Zone Boundary
-  Coastline Boundary
-  Collector Scenic Street (Proposed)
-  Commercial Areas
-  Commercial Center
-  Community Redevelopment Project Area
-  Country Road
-  DWP Power Lines
-  Desirable Open Space
-  Detached Single Family House
-  Endangered Ridgeline
-  Equestrian and/or Hiking Trail
-  Hiking Trail
-  Historical Preservation
-  Horsekeeping Area
-  Local Street
-  MSA Desirable Open Space
-  Major Scenic Controls
-  Multi-Purpose Trail
-  Natural Resource Reserve
-  Park Road
-  Park Road (Proposed)
-  Quasi-Public
-  Rapid Transit Line
-  Residential Planned Development
-  Scenic Highway (Obsolete)
-  Secondary Scenic Controls
-  Secondary Scenic Highway (Proposed)
-  Site Boundary
-  Southern California Edison Power
-  Special Study Area
-  Specific Plan Area
-  Stagecoach Line
-  Wildlife Corridor





## POINTS OF INTEREST

|  |  |  |
|--|--|--|
|  Alternative Youth Hostel (Proposed)    |  Horticultural Center                     |  Public Elementary School                 |
|  Animal Shelter                         |  Hospital                                 |  Public Elementary School (Proposed)      |
|  Area Library                           |  Hospital (Proposed)                      |  Public Golf Course                       |
|  Area Library (Proposed)                | <b>HW</b> House of Worship   |  Public Golf Course (Proposed)            |
|  Bridge                                 | <b>e</b> Important Ecological Area   |  Public Housing                           |
|  Campground                             |  Important Ecological Area (Proposed)     |  Public Housing (Proposed Expansion)      |
|  Campground (Proposed)                  |  Interpretive Center (Proposed)           |  Public Junior High School                |
|  Cemetery                               |  Junior College                           |  Public Junior High School (Proposed)     |
| <b>HW</b> Church   |  MTA / Metrolink Station                  |  Public Middle School                     |
|  City Hall                              |  MTA Station                              |  Public Senior High School                |
|  Community Center                       |  MTA Stop                                 |  Public Senior High School (Proposed)     |
|  Community Library                      | <b>MWD</b> MWD Headquarters  |  Pumping Station                          |
|  Community Library (Proposed Expansion) |  Maintenance Yard                         |  Pumping Station (Proposed)               |
|  Community Library (Proposed)           |  Municipal Office Building                |  Refuse Collection Center                 |
|  Community Park                         | <b>P</b> Municipal Parking lot   |  Regional Library                         |
|  Community Park (Proposed Expansion)    |  Neighborhood Park                        |  Regional Library (Proposed Expansion)    |
|  Community Park (Proposed)              |  Neighborhood Park (Proposed Expansion)   |  Regional Library (Proposed)              |
|  Community Transit Center               |  Neighborhood Park (Proposed)             |  Regional Park                            |
|  Convalescent Hospital                 |  Oil Collection Center                   |  Regional Park (Proposed)                |
|  Correctional Facility                |  Parking Enforcement                    | <b>RPD</b> Residential Plan Development  |
|  Cultural / Historic Site (Proposed)  |  Police Headquarters                    |  Scenic View Site                       |
|  Cultural / Historical Site           |  Police Station                         |  Scenic View Site (Proposed)            |
|  Cultural Arts Center                 |  Police Station (Proposed Expansion)    |  School District Headquarters           |
| <b>DMV</b> DMV Office  |  Police Station (Proposed)              |  School Unspecified Loc/Type (Proposed) |
| <b>DWP</b> DWP   |  Police Training site                   |  Skill Center                           |
|  DWP Pumping Station                  | <b>PO</b> Post Office  |  Social Services                        |
|  Equestrian Center                    |  Power Distribution Station             |  Special Feature                        |
|  Fire Department Headquarters         |  Power Distribution Station (Proposed)  |  Special Recreation (a)                 |
|  Fire Station                         |  Power Receiving Station                |  Special School Facility                |
|  Fire Station (Proposed Expansion)    |  Power Receiving Station (Proposed)     |  Special School Facility (Proposed)     |
|  Fire Station (Proposed)              | <b>C</b> Private College   |  Steam Plant                            |
|  Fire Supply & Maintenance            | <b>E</b> Private Elementary School   |  Surface Mining                         |
|  Fire Training Site                   |  Private Golf Course                    |  Trail & Assembly Area                  |
|  Fireboat Station                     |  Private Golf Course (Proposed)         |  Trail & Assembly Area (Proposed)       |
|  Health Center / Medical Facility     | <b>JH</b> Private Junior High School   | <b>UTL</b> Utility Yard  |
|  Helistop                             | <b>PS</b> Private Pre-School   |  Water Tank Reservoir                   |
|  Historic Monument                    |  Private Recreation & Cultural Facility |  Wildlife Migration Corridor            |
|  Historical / Cultural Monument       | <b>SH</b> Private Senior High School   |  Wildlife Preserve Gate                 |
|  Horsekeeping Area                    | <b>SF</b> Private Special School   |  |
|  Horsekeeping Area (Proposed)         |  Public Elementary (Proposed Expansion) |  |

## SCHOOLS/PARKS WITH 500 FT. BUFFER

|  |  |  |
|--|--|--|
|  Existing School/Park Site |  Planned School/Park Site         |  Inside 500 Ft. Buffer    |
|  Aquatic Facilities        |  Other Facilities                 |  Opportunity School       |
|  Beaches                   |  Park / Recreation Centers        |  Charter School           |
|  Child Care Centers        |  Parks                            |  Elementary School        |
|  Dog Parks                 |  Performing / Visual Arts Centers |  Span School              |
|  Golf Course               |  Recreation Centers               |  Special Education School |
|  Historic Sites            |  Senior Citizen Centers           |  High School              |
|  Horticulture/Gardens      |  |  Middle School            |
|  Skate Parks               |  |  Early Education Center   |

## COASTAL ZONE



|  |
|--|
|  Coastal Commission Permit Area  |
|  Dual Permit Jurisdiction Area   |
|  Single Permit Jurisdiction Area |
|  Not in Coastal Zone           |

## TRANSIT ORIENTED COMMUNITIES (TOC)





























|  |  |
|--|--|
|  Tier 1 |  Tier 3 |
|  Tier 2 |  Tier 4 |

**Note:** TOC Tier designation and map layers are for reference purposes only. Eligible projects shall demonstrate compliance with Tier eligibility standards prior to the issuance of any permits or approvals. As transit service changes, eligible TOC Incentive Areas will be updated.

## WAIVER OF DEDICATION OR IMPROVEMENT

|  |
|--|
|  Public Work Approval (PWA)                |
|  Waiver of Dedication or Improvement (WDI) |

## OTHER SYMBOLS

|   |   |  |
|---|---|--|
|  Lot Line               |  Airport Hazard Zone   |  Flood Zone                          |
|  Tract Line             |  Census Tract          |  Hazardous Waste                     |
|  Lot Cut                |  Coastal Zone          |  High Wind Zone                      |
|  Easement               |  Council District      |  Hillside Grading                    |
|  Zone Boundary          |  LADBS District Office |  Historic Preservation Overlay Zone  |
|  Building Line          |  Downtown Parking      |  Specific Plan Area                  |
|  Lot Split              |  Fault Zone            |  Very High Fire Hazard Severity Zone |
|  Community Driveway     |  Fire District No. 1   |  Wells                              |
|  Building Outlines 2014 |  Tract Map             |  |
|  Building Outlines 2008 |  Parcel Map            |  |