



MEMO

Meeting Date: 9/19/24

From: Ingrid Padilla, City Clerk

Subject: Consider Adoption of Resolution Approving an Agreement for the Purchase and Sale of Vacant City Property in Crocker Park

The following old business item will be considered by council:

Adoption of Resolution Approving an Agreement for the Purchase and Sale of Vacant City Property in Crocker Park, located generally south of West Hill Road, west of South Hill Place and west of 151 South Hill Place (28,000 +/- square feet, no APN—see map attached to agenda report for location) and Authorizing the City Manager to Sign the Agreement and All Other Documents Necessary to Carry Out the Sale

(This action is not subject to further environmental review as it is not a project under the California Environmental Quality Act. CEQA Guidelines, Section 15378 (b) (4). This item was not discussed and was continued from the July 18, 2024 City Council Meeting.)

Attachments: 1. Staff Report from the City Council Meeting of July 18, 2024



CITY COUNCIL AGENDA REPORT

Meeting Date: July 18, 2024

From: Michael Roush, Legal Counsel & Jeremy Dennis, City Manager

Subject: Resolution Approving an Agreement for the Purchase and Sale of Vacant City Property in Crocker Park (28,000 square feet +/-) and Authorizing the City Manager to Sign the Agreement and All Other Documents Necessary to Carry Out the Sale

This action is not subject to further environmental review as it is not a project under the California Environmental Quality Act. CEQA Guidelines, Section 15378 (b) (4).

RECOMMENDATION:

Adopt a Resolution “Approving an Agreement for the Purchase and Sale of Vacant City Property in Crocker Park (28,000 square feet +/-) and Authorizing the City Manager to Sign the Agreement and All Other Documents Necessary to Carry Out the Sale” and provide any direction as to how the funds from this sale should be allocated.

BACKGROUND

The City of Brisbane owns a vacant, landlocked parcel located in Crocker Park. The parcel is approximately 28,000 square feet and adjoins property owned jointly by several entities (Central Los Angeles Transfer, a California Corporation, 501 Spectrum Circle, LLC, and S&S Chambers, LLC, [hereafter, collectively, “Buyers”]). That property, located at 151 West Hill Place is developed and is leased to Pepsi/Frito Lay for distribution vehicle storage. The vacant parcel is part of a former rail spur that the Southern Pacific Railroad sold to the McKesson Corporation. The City acquired the vacant parcel from the McKesson Corporation in 1995 as part of a series of real estate transactions between McKesson and the City that led to the development of Crocker Park.

On February 15, 2024, City Council received an agenda report concerning the potential sale of this parcel. That agenda report is attached. After discussion, Council adopted a resolution declaring the property as surplus land and directing staff to return the item to the Council when and if there is a potential purchaser of the property.

Staff sent the required notices under the Surplus Lands Act that the property was available to school districts, recreation districts, and affordable housing providers. The City received no interest from any of those districts or housing providers. Staff then contacted representatives of the Buyers to determine if the Buyers still had an interest in acquiring the property. The Buyers were still interested in acquiring the property for the price--\$718,250—that the Buyers had

discussed earlier with staff. To that end, the Buyers have signed the attached Agreement for the Purchase and Sale of Real Property (“PSA”).

On June 28, 2024, the Planning Commission made findings (resolution attached) that the sale of this property is in conformity with the policies of the General Plan.

Staff recommends City Council adopt the attached resolution approving the sale of the property to the Buyers and authorizing the City Manager to sign the PSA and all other documents necessary to carry out the sale.

DISCUSSION

The salient terms of the PSA are as follows:

The purchase price for the property is \$718,250, with \$50,000 as a deposit and the remainder paid at close of escrow. The property is sold “AS IS”.

Buyers will submit to the Community Development Department an application to improve the property with paving, fencing and lighting. The City’s approval of such improvements is a condition of Buyer’s purchase.

Other than the property being used as a hiking path and a drainage canal (discussed below), the Grant Deed will restrict the use of the property exclusively for the parking of motor vehicles for the employees at 151 West Hill Place, green space, and access to the building at 151 West Hill Place

Promptly after close of escrow, Buyers will construct on the property a 5-foot-wide hiking path and a 5-foot-wide hiking access path on the property at 151 West Hill Place. Buyers will grant the City easements for these purposes. The City must approve the details of the hiking paths. City will have the responsibility to maintain and repair the hiking paths.

A drainage canal currently exists on the property. Buyers shall grant the City an easement concerning the drainage canal but the Buyers shall be responsible for the regular cleaning, maintenance and repair of the drainage canal.

FISCAL IMPACT

The sale of this property will net the City about \$718,000. Council has the discretion to direct how those funds are to be allocated.

ENVIRONMENTAL REVIEW

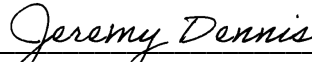
Adoption of this resolution and the sale of the property do not require further environmental review under the California Environmental Quality Act. The sale represents a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment and hence it is not a project. CEQA Guidelines, Section 15378 (b) (4).

Attachments:

1. February 15, 2024 Agenda Report
2. Agreement for Purchase and Sale of Real Property
3. Planning Commission Resolution
4. Resolution 2024-XX approving a PSA and authorizing the City Manager to sign the PSA



Michael Roush, Legal Counsel



Jeremy Dennis, City Manager



CITY COUNCIL AGENDA REPORT

Meeting Date: February 15, 2024

From: Director of Public Works/City Engineer

Subject: Potential Sale of City Parcel APN 005-300-999 (formerly, S.P.R.R. SBE 872-41-23R);
Resolution Declaring that City Parcel is Surplus Land

Community Goal/Result: Economic Development

Purpose

To determine whether there is City Council support to sell vacant and landlocked property in Crocker Park and, if so, to discuss the next steps Council must take concerning the sale of this property.

Recommendation

1. If Council elects to continue with the potential sale of APN 005-300-999;

Adopt Resolution No. 2024-XX declaring that the property owned by the City, a landlocked, vacant site of approximately 28,000 square feet located in Crocker Park, encumbered by a drainage canal, is surplus land, i.e., not necessary for the City's use, and if there is no interest in any school district, recreation agencies, or affordable housing developers to purchase the property, authorize the City Manager to (a) sell the property at fair market value, including the potential sale to the adjacent property owner, BLT Enterprises, and (b) sign a purchase and sale agreement, in a form as approved by the City Attorney, and authorize the City Clerk to record the necessary documents to effectuate the sale.

These actions are not subject to further environmental review as they involve general policy making activities of the City Council and hence they are not projects under the California Environmental Quality Act (CEQA). CEQA Guidelines, Section 15378 (b) (2).

2. If Council elects not to proceed with selling the property, provide direction to staff deemed necessary and appropriate

Background

The property that is the subject of this agenda report is located in Crocker Park and is part of a former rail spur that was owned by the Southern Pacific Railroad. The Railroad sold the property to the McKesson Corporation and, in 1995, the McKesson Corporation transferred this property and numerous other properties in the area to the City. The particular parcel that is the subject of this agenda report is highlighted in blue on the included

screenshot from San Mateo County Property Information Portal (pg. 5 of this report).

The next screenshot (pg. 6 of 11) shows the portion of the property that was sold to South Hill Properties (Sheng Kee), as well as the discontinuity in the former rail spur immediately to the west of the land sold. The third screenshot (pg. 7 of 11) shows a wider view of the area in question, and also highlights the parcel that is now under discussion for potential sale.

Recently, BLT Enterprises, which owns property at 151 West Hill Place, which property is immediately adjacent to the parcel under discussion, made inquiry of City staff about its purchasing this parcel. Several issues dominated staff's review of this request and subsequent conversations with Council; first, was the examination of any future "best" uses for this parcel, e.g., use of the property for access to San Bruno Mountain; second, the presence of existing city storm drain facilities on the parcel; and third, what level of development would be permitted on the parcel were it sold.

Discussion

The question on future best uses for this parcel was focused primarily on its potential use for access to San Bruno Mountain. As seen in the attached "Vicinity 201 South Hill" photo (pg. 6 of 11), this parcel dead-ends at 201 South Hill, and currently does not provide any potential for future access to the Mountain. In its letter of intent to purchase this property, the adjacent property owner states that it will provide an easement on the property for the purpose of providing public access.

The second issue considered during review of this request was the City's storm drain facilities. This matter would be resolved by requiring any purchaser to grant the City an easement for its storm drain facilities on the property, and the owner's agreement to maintain the storm drain facilities, including providing permission for the city to inspect the owner's compliance with the agreed upon duty to maintain the vee ditch. Those commitments are also set forth in the letter of intent.

Third was the City Council's concern about future development of the property. The property owner's letter of intent states that a covenant would be recorded to restrict the use of the property (other than for the public trail and the storm drain facilities) to parking for and access to the building on the adjacent property (which now houses a Frito-Lay facility).

Given these commitments from BLT Enterprises—which commitments would be embodied in a written purchase agreement—if Council wishes to proceed with the potential sale of the property, set forth below are the next steps, with the understanding, explained below, that the Council's agreeing to proceed with the sale does not necessarily mean the property will be sold to BLT Enterprises.

Next Steps

Compliance with the Surplus Land Act.

The Surplus Land Act (Government Code, section 54220 and following) increases the availability of land held by public agencies for use in creating housing for low/moderate income families, for recreational or school district purposes, and for clustered housing/commercial development near transit stations. The parcel under discussion is not near a transit station, and its 44-foot width is encumbered by a 15' vee ditch easement that makes it likely unsuitable for any housing. Both its small size and its inaccessibility due to being surrounded on all four sides by lands of others also makes it likely unsuitable for recreation or school district purposes.

Notwithstanding its inapplicability to the intent of the Act, there is no express exemption that the Act does not apply and, therefore, prior to selling the land, the City is required to make a finding at a regular public meeting that the land is not necessary for the City's use, which the Act defines as "surplus land." Then the City must provide notice of the availability of the parcel to school districts, recreation agencies and affordable housing developers. (The State maintains a list of such developers.)

Approval of Resolution No. 2024-xx will satisfy the requirements of the Act

Final negotiations with a purchasing party

If there is no interest in any of the public agencies or affordable housing developers in purchasing the property at a price that the City Council deems fair, the City may then enter into negotiations to determine a mutually satisfactory sales price with a third party, such as BLT Enterprises. (BLT's letter of intent includes a purchase price of \$718,250.) Based on the unsuitability of the parcel for housing or school purposes, and with no existing/planned trail on the San Bruno Mountain State and County Park trail map within 1/4- 1/2 mile of the western terminus of the parcel, staff does not anticipate receiving offers from affordable housing developers, the County of San Mateo, or school districts. Assuming that is the case, Council action tonight includes authority for the City Manager to enter into a purchase agreement and any other documents necessary to carry out the sale. If a purchase agreement and related documents are entered into with BLT, such agreement must be consistent with BLT's letter of intent, and in a final form as approved by the City Attorney.

Conformity with the City's General Plan and Sale of the Property

If there is a purchase agreement, before the property may be sold, the Planning Commission must find that the sale is consistent with the City's General Plan. Any decision of the Planning Commission could be appealed to the City Council. Such an item would not be presented either to the Planning Commission or to the City Council (on appeal) until there is a signed purchase agreement and, of course, the sale would be contingent on the finding of the sale's conformity

with the General Plan.

Fiscal Impact

If the property is eventually sold as provided in the letter of intent, there would be one time revenue of approximately \$718,000. Council will have the discretion to direct this money's placement into whatever account or accounts it deems appropriate. If the City were to receive offers from a school district, recreation agency or an affordable housing developer, the item would be returned to Council for further consideration of such offer.

Environmental Review

These actions are not subject to further environmental review because the actions are general policy making activities and hence they are not projects under the California Environmental Quality Act (CEQA). CEQA Guidelines, section 15378 (b) (2).

Measure of Success

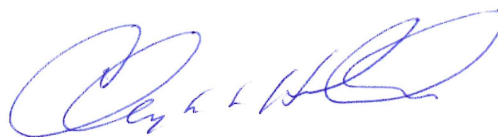
If Council directs staff to move forward with the sale, in the future, City Council has directed that proceeds will be used for open space acquisition and open space habitat management.

Attachments

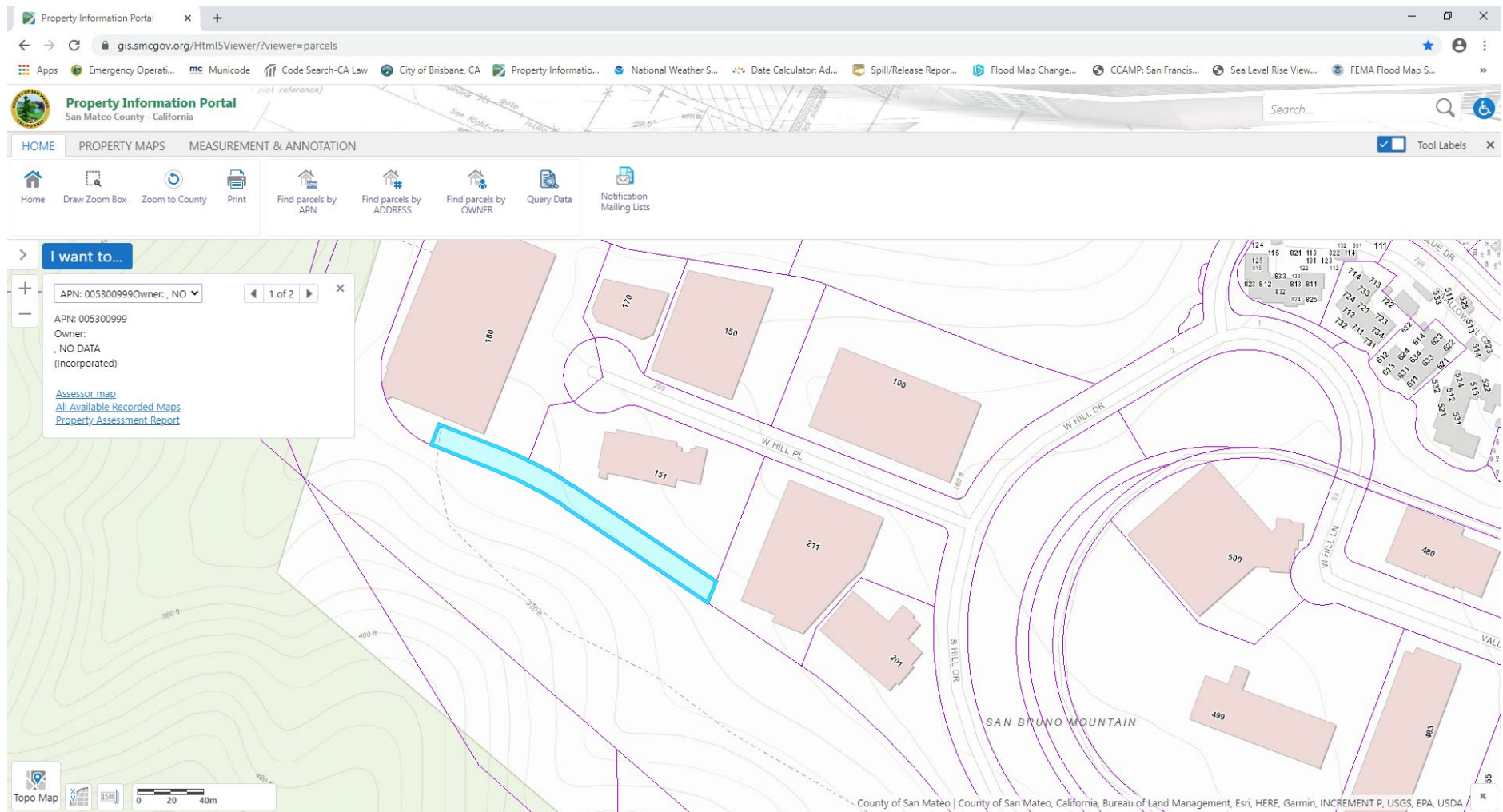
1. Screenshot from San Mateo County Property Information Portal [pg. 5 of 11]
2. Orthodigital view from 201 South Hill sale [pg. 6 of 11]
3. Orthodigital view highlighting requested sale to 151 West Hill Place [pg. 7 of 11]
4. Resolution declaring property surplus land and providing authority to the City Manager to carry out the sale

R.L. Breault

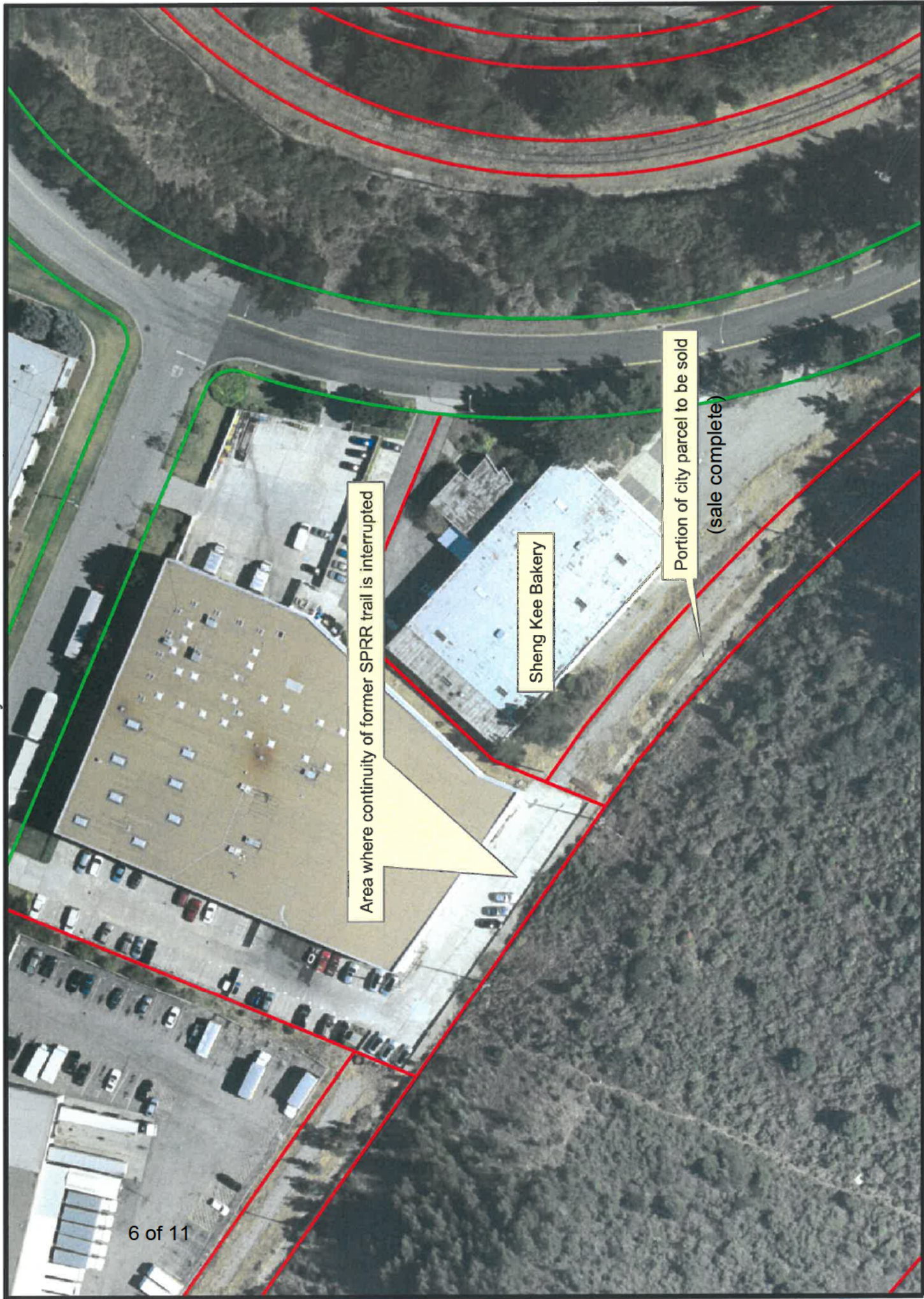
Randy Breault, Public Works Director



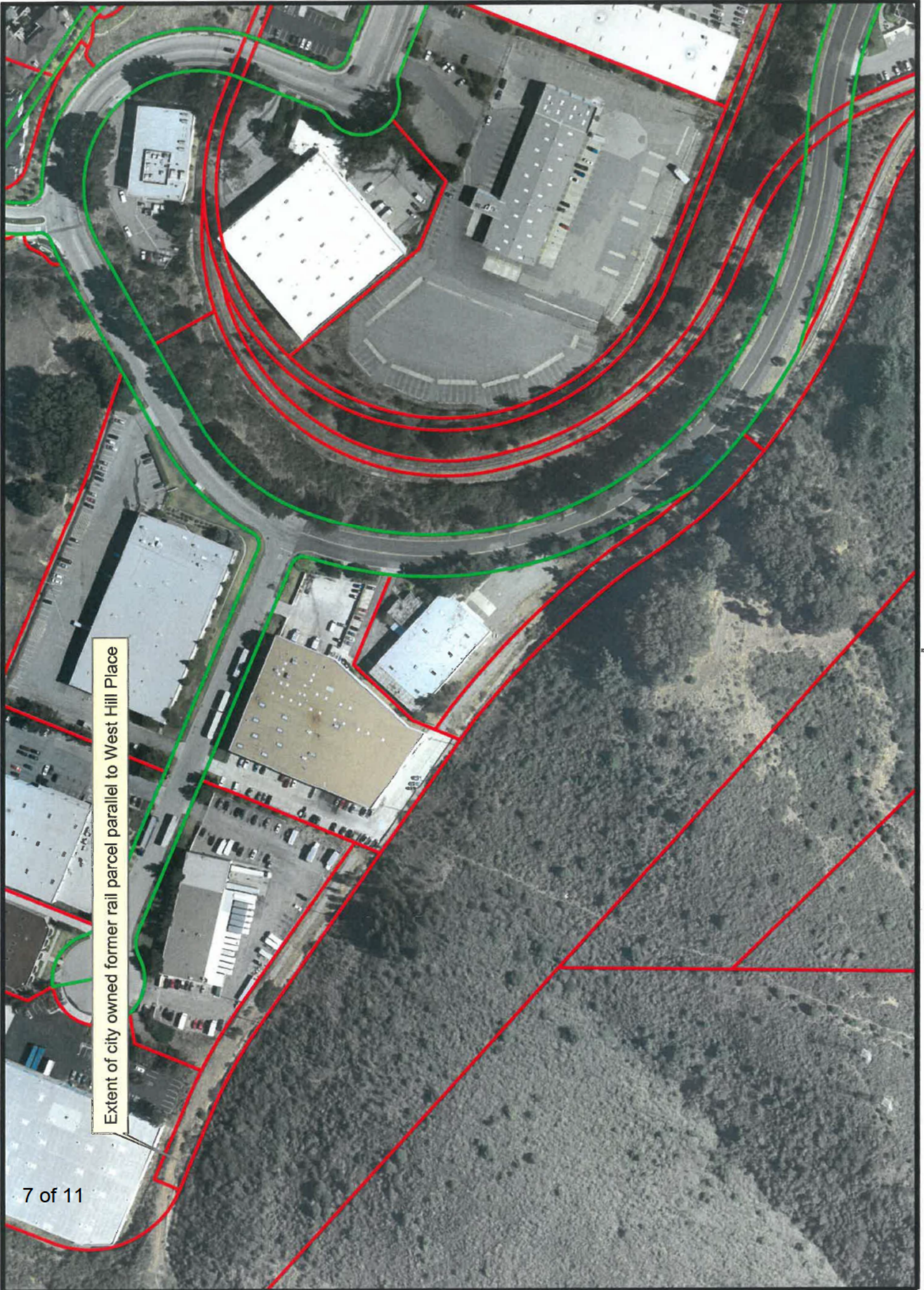
Clay Holstine, City Manager



- City owned parcel shown in blue
- BLT parcel at 151 West Hill Place
- Discontinuity in trail spur shown at 211 South Hill Drive
- Sheng Kee (now owning former city railroad spur) at 201 South Hill



Extent of city owned former rail parcel parallel to West Hill Place



BRISBANE CITY COUNCIL RESOLUTION NO. 2024-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE
DECLARING CERTAIN PROPERTY IT OWNS AS SURPLUS LAND AND
AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY STEPS TO
DISPOSE OF THE PROPERTY CONSISTENT WITH THIS RESOLUTION**

Whereas, State law, the Surplus Lands Act (“SLA”) requires that before a local agency, including a City, takes any action to sell or lease its property, it must declare the property to be either “surplus land” or “exempt surplus land”; and

Whereas, “surplus land” means land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular meeting declaring that such land is surplus and is not necessary for the agency’s use; and

Whereas, unless the surplus land is exempt, the agency must give written notice of its availability to any local public entity, including schools and park districts, within whose jurisdiction the property is located, as well as to housing sponsors that have notified the State Department of Housing and Community Development (HCD) of their interest in surplus property; and

Whereas, the City of Brisbane owns vacant, landlocked, property in Crocker Park, and Whereas, BLT Enterprises also owns property within Crocker Park and approximately 28,000 square feet of City owned property lies immediately adjacent to the BLT Enterprises property; and

Whereas, BLT Enterprises has asked the City whether it would sell to it the approximate 28,000 square feet of City property, as depicted on the attached Exhibit 1, to be used by BLT Enterprises solely for the parking of vehicles for, and access to the building for, employees of the business located on the BLT Enterprises property; and

Whereas, there is a drainage canal on the property and BLT Enterprises has indicated that if the City sells the property to it, it would grant the City an easement for such canal, and maintain the drainage canal in perpetuity; and

Whereas, BLT Enterprises has also indicated that it will grant the City an easement on the property to be sold for the purpose of providing a public access that would connect to the eastern boundary of San Bruno Mountain State and County Park; and

Whereas, BLT Enterprises has also indicated that by written and recorded instrument it would restrict the use of the property sold to it for parking for, and access to, the building on the property that BLT owns; and

Whereas, the City Council finds and determines that the City has no need of this property for public purposes because of its odd shape and location and that BLT Enterprises, should the property be sold to it, would grant the City an easement for the drainage canal on the property, maintain the drainage canal on the property in perpetuity, grant the City an easement for the purpose of providing a public hiking trail that would connect to the eastern boundary of San Bruno Mountain State and County Park, and would restrict the use of the property sold to it for the parking of vehicles by persons using the

building on adjacent property owned by BLT Enterprises; and

Whereas, the City Council further finds, based upon the foregoing recitals, that the approximate 28,000 square feet of City owned property is surplus land.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE
RESOLVES AS FOLLOWS:**

Section 1. The vacant, approximately 28,000 square foot site in Crocker Park, as depicted on the attached Exhibit 1, is declared surplus land and the City Manager shall, on behalf of the City, (a) send the appropriate notices under Government Code, section 54222, (b) negotiate in good faith for the disposition of the property should there be any interest in the property by those districts, recreation agencies and affordable housing developers who receive such notice, and (c) participate in negotiations to dispose of the property should there be no interest by those school districts, recreation agencies or affordable housing developers or, if there is such interest, no agreement as to the property's disposition is reached.

Section 2. If the surplus land is not sold to a school district, a recreation agency or an affordable housing developer, the City Manager is authorized to take all necessary steps and to sign all necessary documents to sell the property at fair market value, including entering into a purchase agreement to dispose of the surplus land consistent with the terms and conditions of the letter of intent dated January 23, 2024 submitted by BLT Enterprises, when the purchase agreement and any documents required by the purchase agreement are approved in final form by the City Attorney.

Section 3. Should a purchase agreement be executed, once all its conditions have been satisfied, the City Clerk is authorized to record all documents to carry out the purpose of the purchase agreement.

Section 4. This Resolution shall become effective immediately upon its adoption.

Terry O'Connell, Mayor

* * * *

I hereby certify that the foregoing Resolution No. 2024-XX was duly and regularly adopted at a regular meeting of the Brisbane City Council on February 15, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

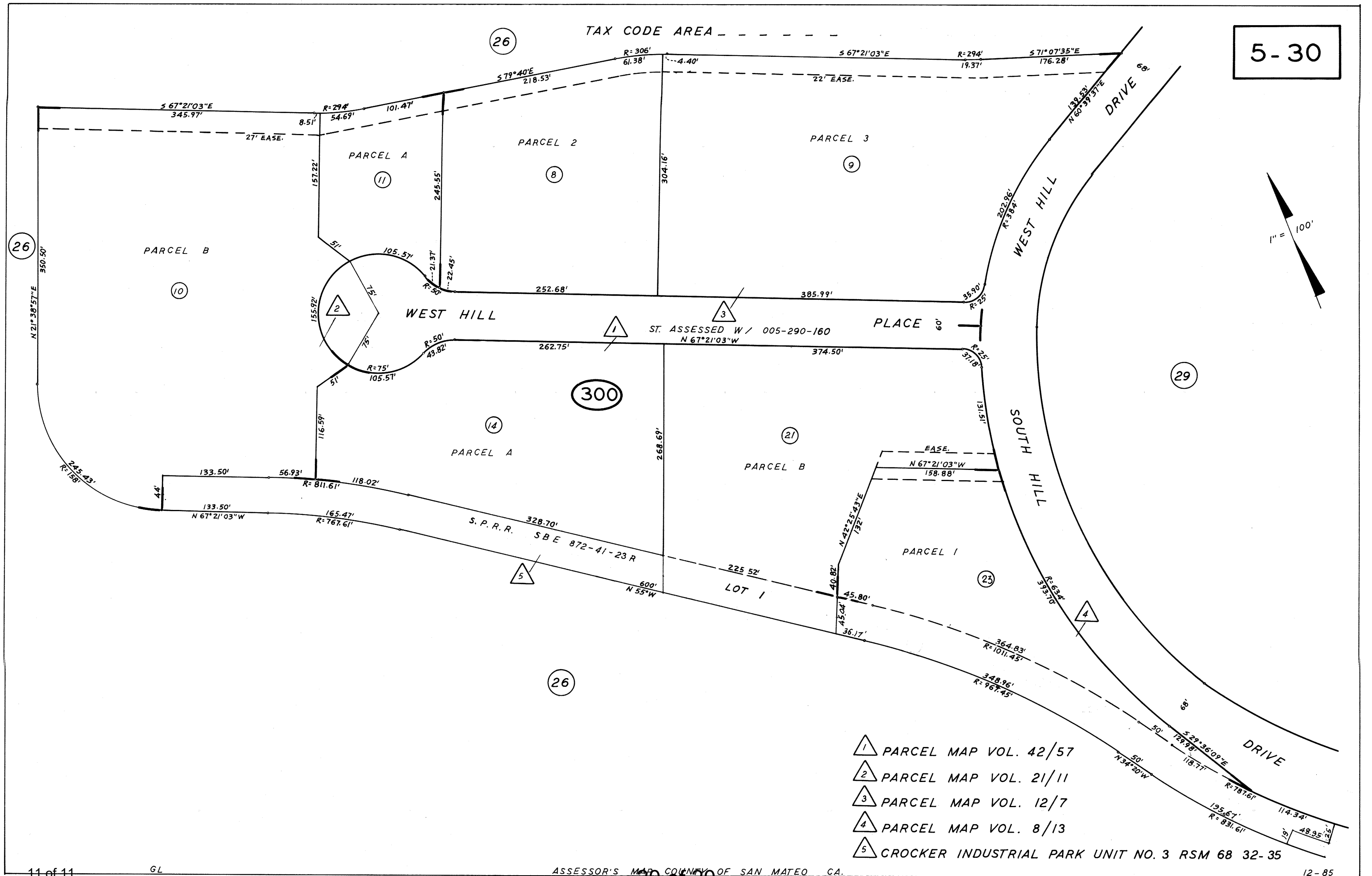
Ingrid Padilla, City Clerk

Approved as to form:

Thomas R. McMorrow, City Attorney

EXHIBIT 1

5-30



**AGREEMENT FOR PURCHASE AND SALE
OF REAL PROPERTY**

AND

ESCROW INSTRUCTIONS

FOR OFFICE USE ONLY:	
TO: Escrow Holder: _____	
RE: Escrow No. _____	
Date of Opening of Escrow: _____	Closing Date By: _____

This Agreement for Purchase and Sale of Real Property and Escrow Instructions (the "**Agreement**"), dated as of the latest date of execution shown on the signature page hereto (the "**Effective Date**"), by and between **CITY OF BRISBANE**, a municipal corporation ("**SELLER**"), and **CENTRAL LOS ANGELES TRANSFER**, a California corporation ("**CLAT BUYER**"), as to an undivided 62.40% interest, **501 SPECTRUM CIRCLE, LLC**, a California limited liability company ("**501 SPECTRUM BUYER**"), as to an undivided 32.02% interest, and **S&S CHAMBERS LLC**, a California limited liability company ("**S&S CHAMBERS BUYER**," and collectively with CLAT BUYER and 501 SPECTRUM BUYER, "**BUYER**"), as to an undivided 5.58% interest, as tenants in common, with reference to the following:

RECITALS:

SELLER is the owner of a fee estate in approximately 28,019.22 square feet of land located in the City of Brisbane, County of San Mateo, State of California, the legal description of which is described in **Exhibit A** attached hereto and by this reference incorporated herein, together with all rights and easements appurtenant thereto, all improvements located thereon (the "**Improvements**"), all equipment, machinery, furniture, furnishings, trade fixtures, supplies and other tangible personal property owned by SELLER, now or hereafter located in and used exclusively in connection with the operation, ownership, maintenance or management of the real property (the "**Tangible Personal Property**"), (a) those contracts, agreements, plans and specifications, warranties, guaranties, licenses, permits, entitlements, governmental approvals and certificates of occupancy that specifically relate to the real property (collectively, the "**Intangible Personal Property**"), (each individually, and collectively, the "**Property**"); and

SELLER desires to sell the Property to BUYER and BUYER desires to purchase the Property from SELLER, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, with reference to the foregoing Recitals which are incorporated herein by this reference, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

I. PURCHASE AND SALE OF PROPERTY; PURCHASE PRICE

Subject to the terms and conditions of this Agreement, SELLER agrees to sell to BUYER, and BUYER agrees to purchase from SELLER, the Property for a purchase price (the "**Purchase Price**") of Seven Hundred Eighteen Thousand Two Hundred Fifty Dollars (\$718, 250), payable in cash upon the Closing (as defined below). BUYER acknowledges that prior to the expiration of the Inspection Period (as defined below), BUYER shall have inspected and examined all factors concerning the Property and hereby affirms that the Purchase Price paid at Closing shall reflect an "AS IS" condition of the Property. Upon the close of Escrow (defined in Section 2.1 below), BUYER shall conclusively be deemed to have released SELLER from all responsibility relating to the Property, and to have accepted the Property in its condition, "AS IS," without warranty express or implied, except as provided in Article IX and any warranty contained in the deed to be provided by SELLER at Closing.

II. OPENING OF ESCROW; DEPOSIT

2.1 Opening of Escrow

Within five (5) business days after the execution of this Agreement by BUYER and SELLER, an executed original of this Agreement shall be deposited with Chicago Title Insurance Company, Attn: Mike Slinger ("**Escrow Holder**") in order to open an escrow (the "**Escrow**") to complete the purchase and sale herein contemplated. By such deposit, Escrow Holder is hereby authorized and instructed to act in accordance with the provisions of this Agreement which shall constitute Escrow Holder's Escrow Instructions.

Escrow shall be deemed to have been opened on the date that a fully-executed original of this Agreement is received by Escrow Holder (the "**Opening of Escrow**") and, upon receipt thereof, Escrow Holder shall advise BUYER and SELLER of said date. In addition, BUYER and SELLER agree to execute, deliver and be bound by any reasonable or customary supplemental escrow instructions of Escrow Holder or other instruments as may be reasonably required by Escrow Holder in order to consummate the transaction contemplated herein.

2.2 Deposit by BUYER

Concurrently with Opening of Escrow, BUYER shall deposit with Escrow Holder an earnest money deposit by wire transfer in the amount of Fifty Thousand Dollars (\$50,000) (the "**Escrow Deposit**"), which Escrow Deposit shall be applicable to the Purchase Price upon the Closing (as defined below).

2.3 Independent Contract Consideration

In addition to the Escrow Deposit, BUYER shall, concurrent with its delivery of the Escrow Deposit, deliver to Escrow Holder, by check or wire transfer, the amount of ONE HUNDRED AND NO/100 DOLLARS (\$100.00) (the "**Independent Contract Consideration**"), which amount SELLER and BUYER agree has been bargained for as consideration for SELLER's execution and delivery of this Agreement and BUYER's right to inspect the Property, pursuant to Section 4.2 hereof. Additionally, to the extent that this Agreement is construed as an option agreement, such option granted BUYER is, as a result of BUYER's payment of the Independent Contract Consideration, irrevocable, and SELLER shall not terminate said option without the prior written consent of BUYER. The Independent Contract Consideration is in addition to, and independent of, any other consideration or payment provided for in this Agreement and is non-refundable in all events. Escrow Holder shall forward the Independent Contract Consideration to SELLER upon the earlier to occur of (i) the Closing, (ii) termination of this Agreement by either party hereto, or (iii) request by SELLER. Notwithstanding anything contained in this Agreement to the contrary, at the

Closing, BUYER shall receive a credit against the Purchase Price for the Independent Contract Consideration.

III. TERMINATION OF AGREEMENT; CANCELLATION OF ESCROW

3.1 Termination and Cancellation

If BUYER disapproves any condition referred to in this Agreement within the applicable time period and in the manner set forth in this Agreement, all obligations of the parties under this Agreement shall terminate and neither party shall have any further obligation to the other under this Agreement (except that BUYER's indemnity of SELLER, as set forth in Section 4.2 below, shall continue in full force and effect). In such event, Escrow Holder shall return all funds (after deducting its charges, if its charges are to be borne by the party depositing such funds) and documents then in Escrow to the party depositing same, and each party shall promptly return all documents in the possession of such party to the other party. If Escrow fails to close due to a breach of this Agreement by SELLER, SELLER agrees to promptly direct Escrow Holder to return the Escrow Deposit to BUYER.

3.2 Liquidated Damages

BUYER AND SELLER AGREE THAT IF BUYER FAILS TO PERFORM THE OBLIGATIONS AND RESPONSIBILITIES AS AND WHEN REQUIRED BY THIS AGREEMENT, SUCH FAILURE SHALL CONSTITUTE A MATERIAL DEFAULT BY BUYER AND SHALL VEST IN SELLER THE RIGHT TO TERMINATE THIS AGREEMENT AND THE ESCROW BY GIVING WRITTEN NOTICE OF TERMINATION TO BUYER AND ESCROW HOLDER. IN THE EVENT OF SUCH TERMINATION, BUYER AND SELLER AGREE THAT THE ACTUAL DAMAGES WHICH SELLER WOULD SUFFER AS A RESULT OF BUYER'S DEFAULT ARE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN INASMUCH AS IT IS DIFFICULT TO EVALUATE THE DAMAGES TO SELLER TO BE INCURRED BY TAKING THE PROPERTY OFF THE MARKET PURSUANT TO THIS AGREEMENT. THEREFORE, BUYER AND SELLER AGREE THAT BUYER'S ESCROW DEPOSIT REPRESENTS A REASONABLE ESTIMATE AS TO THE AMOUNT OF SUCH DAMAGES AND SELLER SHALL BE ENTITLED TO RECEIVE AND RETAIN THE ESCROW DEPOSIT AS LIQUIDATED DAMAGES WHICH SHALL BE IN LIEU OF ALL OTHER DAMAGES OR REMEDIES THAT OTHERWISE WOULD BE AVAILABLE TO SELLER, IF BUYER FAILS TO CLOSE THE ESCROW ON ACCOUNT OF BUYER'S BREACH OF THIS AGREEMENT. IF SELLER DEFAULTS UNDER THIS AGREEMENT, BUYER'S SOLE REMEDY SHALL BE THE CHOICE OF EITHER: (A) TO TERMINATE THIS AGREEMENT, IN WHICH EVENT, BUYER SHALL BE ENTITLED TO THE RETURN OF THE ESCROW DEPOSIT AND SELLER SHALL REIMBURSE TO BUYER ITS ACTUAL, DOCUMENTED OUT OF POCKET COSTS AND EXPENSES INCURRED IN CONNECTION WITH THIS TRANSACTION, INCLUDING SPECIFICALLY WITHOUT LIMITATIONS ALL COSTS AND EXPENSES INCURRED BY BUYER IN PERFORMING THE PROPERTY ACTIVITIES DEFINED IN THAT CERTAIN SITE ACCESS AND INDEMNIFICATION AGREEMENT BETWEEN THE PARTIES DATED APRIL 14, 2020; OR (B) THE RIGHT OF SPECIFIC PERFORMANCE. BUYER SHALL HAVE NO RIGHT TO SEEK ANY TYPE OF DAMAGES. BUYER AND SELLER, BY THEIR INITIALS BELOW, HEREBY SPECIFICALLY APPROVE AND AGREE TO THIS SECTION.

LH

BUYER's Initials

SELLER's Initials

IV. CONDITIONS PRECEDENT TO BUYER'S PERFORMANCE

BUYER's obligation to purchase the Property is subject to the satisfaction of all the conditions set forth below within the time periods specified. If any of these conditions are not satisfied within the stated applicable time period, BUYER may terminate this Agreement and cancel the Escrow under Section 3.1 above and the Escrow Deposit shall be immediately returned to BUYER. BUYER may waive, in writing, any or all of the conditions, in whole or in part, without prior notice to SELLER.

4.1 Approval of Title and Survey. SELLER shall: cause Escrow Holder to furnish BUYER a title commitment for the Property (the "**Commitment**"), accompanied by copies of all documents of record referred to in such commitment. BUYER shall arrange for a survey of the Property (the "**Survey**") at BUYER's cost. The Commitment, documents of record and Survey BUYER are collectively referred to herein as the "**Title Due Diligence Items.**" BUYER shall order the Title Commitment from Escrow Holder within five (5) business days after execution of this Agreement."

4.1.1. BUYER shall have until 11:59 p.m. on the day that is five (5) business days prior to the expiration of the Inspection Period (as defined in Section 4.2, below) (the "**Title/Survey Review Date**") to examine the Title Due Diligence Items. In the event BUYER is not satisfied with any survey or title matters, BUYER shall, on or prior to the Title/Survey Review Date, notify SELLER in writing (the "**Objection Notice**") specifying any objections to matters disclosed by the Title Due Diligence Items (collectively, the "**Objections**"). If BUYER fails to deliver the Objection Notice on or before the Title/Survey Review Date, BUYER shall be deemed to have waived any objection to those matters disclosed by the Title Due Diligence Items and all such matters shall thereupon be deemed to be Permitted Exceptions (as defined below). SELLER shall have until 5:00 p.m. on the date of the third (3rd) business day following the Objection Notice to give BUYER written notice ("**SELLER's Title Response**") as to whether SELLER elects to use commercially reasonable efforts to cure the Objections. If SELLER fails to timely give SELLER's Title Response, SELLER shall be deemed to have elected not to attempt to cure the Objections. If SELLER elects or is deemed to have elected not to attempt to cure any one or more of the Objections (the "**Non-Cure Objections**"), then, with respect thereto, BUYER shall deliver written notice to SELLER and Escrow Holder (the "**Title Notice**") on or before the end of the Inspection Period (as defined below) electing to either: (i) proceed to Closing and accept the title to the Property "as-is" subject to such Non-Cure Objections (which shall thereupon be deemed to be Permitted Exceptions), without adjustment to the Purchase Price; or (ii) terminate this Agreement prior to the expiration of the Inspection Period in accordance with Section 4.2, below, whereupon the Escrow Deposit shall be returned promptly to the BUYER and the parties hereto shall have no further liability hereunder except for any obligations that expressly survive the termination of this Agreement in accordance with the terms hereof. Notwithstanding the foregoing, SELLER shall remove on or before Closing (but may use proceeds from Closing do to so) any and all mortgages on the Property, any notice of lis pendens and any and all mechanic lien claims on the Property.

4.1.2 The Property shall be conveyed subject to the following matters, which are hereinafter referred to as the "**Permitted Exceptions**": (a) those matters that either are not objected to in writing within the time periods provided in Sections 4.1.1 or if objected to in writing by BUYER, are those which SELLER has elected not to remove or cure, or has been unable to remove or cure, and subject to which BUYER has elected or is deemed to have elected to accept the conveyance of the Property; (b) the lien of all ad valorem real estate taxes and assessments not yet due and payable as of the date of Closing (as defined in Section 8.1), subject to adjustment as herein provided; and (c) local, state and federal laws, ordinances or governmental regulations, including but not limited to, building and zoning laws, ordinances and regulations, now or hereafter in effect relating to the Property. For the avoidance of doubt, "Permitted Exceptions" will be deemed to exclude all mortgages, notices of lis pendens and mechanics' liens.

4.2 Inspection Period

For a period of **Forty-Five (45) days** from the date of this Agreement, SELLER grants to BUYER, its employees and agents a limited license to enter on the Property, so long as the activities do not damage the Property or materially interfere with the operations of the Property, to conduct reasonable inspections and tests, as may be necessary or desirable in BUYER's sole judgment and discretion, to inspect all aspects of the physical condition of the Property, including, but not limited to: roof, structural, engineering, sprinkler and fire control, condition of the soil, electrical, heating and air conditioning, presence of hazardous materials, water, sewer and plumbing (the "**Inspection Period**").

BUYER agrees that the Property shall be kept free and clear of all mechanics' and materialmen's liens arising out of any activities by BUYER. BUYER agrees to repair any damage to the Property caused by its inspection thereof, and BUYER shall indemnify, defend and hold SELLER harmless against all claims, losses, liabilities, damages or expenses (including, without limitation, attorneys' fees) which may arise from or be related to BUYER's inspection of the Property; provided, that the foregoing indemnity expressly excludes (i) the mere discovery of any condition of the Property existing as of the Effective Date except to the extent BUYER exacerbates any such condition, and (ii) Claims arising as a result of SELLER's negligence.

If for any reason whatsoever in BUYER's sole and absolute judgment BUYER determines that the Property or any aspect thereof is unsuitable for BUYER's acquisition, BUYER shall have the right to terminate this Agreement. **If BUYER fails, for any or no reason, to give SELLER written notice waiving such termination right (the "Waiver Notice") prior to 5:00 p.m. on the last day of the Inspection Period, then this Contract shall be deemed automatically terminated.** If BUYER fails to deliver a Waiver Notice, the parties hereto shall thereupon be relieved of all liabilities and obligations hereunder and the Escrow Deposit and all interest accrued thereon must be refunded fully and promptly to BUYER.

4.3 Delivery of Documents

SELLER shall have executed, acknowledged (if required) and delivered all documents and instruments required of SELLER to Escrow Holder, as provided in this Agreement.

4.5 Approval of BUYER's Proposed Improvements

BUYER has or will submit to the appropriate departments within SELLER (i.e., Planning Department and Building and Safety) an application to improve some or all of the Property with paving, fencing and lighting (the "**Proposed Improvements**"). All costs and expenses with respect to the application for the Proposed Improvements shall be at BUYER's sole cost and expense, without reimbursement from SELLER for any reason. If SELLER is not ready to issue permits for the Proposed Improvements within five (5) days of the scheduled Closing, BUYER shall have the option to extend the Closing by an additional one hundred twenty (120) days (the "**Extension Period**") upon written notice to SELLER at least three (3) days prior to the Closing. In the event SELLER is not ready to issue permits for the Proposed Improvements by the end of the Extension Period, BUYER shall have the option to terminate this Agreement in accordance with the provisions of Section 3.1 above.

4.6 Service Contracts

SELLER shall, at SELLER's sole cost and expense, terminate all other Service Contracts (including any property management agreement affecting the Property) effective as of the Closing Date.

V. CONDITION OF "AS IS" PROPERTY

To the maximum extent permitted by applicable law and except for SELLER's representations and warranties in Article IX hereof and any warranty contained in the deed to be provided by SELLER at Closing, BUYER acknowledges that BUYER is purchasing the Property on an "AS IS" basis, with all faults and problems of any kind and nature, known or unknown, patent or latent, of a physical or legal concern, or otherwise; that the Purchase Price reflects the existing condition of the Property and that any damage or detriment BUYER may suffer by reason thereof is fully compensated for by the Purchase Price. BUYER acknowledges that SELLER's duty to maintain the Property to the Closing (as defined below) shall be to the extent and in the manner consistent with SELLER's current practices.

VI. SUBDIVISION

If subdivision and platting of the Property will be necessary to properly convey the Property or establish a separate tax parcel, SELLER shall promptly initiate subdivision and platting proceedings with respect to the Property and proceed diligently to cause such proceedings to be completed prior to the Closing, at SELLER's sole cost and expense.

VII. CONDITIONS PRECEDENT TO SELLER'S PERFORMANCE

SELLER's obligation to sell the Property is subject to the satisfaction of all the conditions set forth below, within the time periods specified. SELLER may waive, in writing, any or all of the conditions, in whole or in part, without prior notice to BUYER.

7.1 Delivery of Documents

BUYER shall have executed, acknowledged (if required) and delivered all monies, documents and instruments to Escrow Holder, as provided in this Agreement, including (but not limited to) counterparts, if any, of all documents identified in Section 8.6, below.

7.2 Approvals by BUYER

BUYER shall have timely approved or waived the conditions to BUYER's performance, as described in Article IV above.

VIII. CLOSING OF ESCROW

8.1 Closing Date

As a material part of the consideration for BUYER's execution of this Agreement, SELLER hereby agrees that Escrow shall close on or before the date that is fifteen (15) days after the expiration of the Inspection Period or such other date as may be agreed between BUYER and SELLER (the "**Closing**"). The Closing Date may be extended in accordance with the terms of Section 4.5 above.

8.2 Demands

Escrow Holder is hereby authorized and instructed to (a) obtain demands for payment of any recorded liens against the Property and (b) to pay such demands and secure the release of such liens at the Closing out of the funds deposited into Escrow by SELLER or BUYER.

8.3 Allocation of Costs and Expenses

The expenses of Escrow Holder and costs and expenses of consummating the transaction contemplated in this Agreement shall be paid in the following manner:

8.3.1 By BUYER

BUYER shall pay (a) the costs of the Owner's Policy of Title Insurance, including all of the costs associated with endorsements to, and deletions from the Owner's Policy of Title Insurance referred to in Section 8.7 below; (b) the cost of recording SELLER's deed of conveyance to BUYER; (c) the cost of recording any instrument related to BUYER's financing, if any; (d) real property taxes, assessments and personal property taxes as prorated based upon the most recent tax information; (e) the Escrow Holder's fee; and (f) the costs incurred by BUYER to update and modify the Survey.

8.3.2 By SELLER

SELLER shall pay (a) any stamp, conveyance, deed transfer or similar tax calculated based the amount of the Purchase Price; and (b) any other expense associated with the Property to the date of Closing.

8.3.3 Any other costs or expenses shall be allocated between and charged to BUYER and SELLER in accordance with local custom.

8.3.4 If any errors or omissions are made regarding adjustments and prorations as aforesaid, the parties shall make the appropriate corrections promptly upon the discovery thereof. If any estimations are made at the Closing regarding adjustments or prorations, the parties shall make the appropriate correction promptly when accurate information becomes available. Any corrected adjustment or proration shall be paid in cash to the party entitled thereto.

8.4 Allocation of Costs If Escrow Fails To Close

In the event Escrow fails to close because of the failure of BUYER to comply with its obligations hereunder, the cost of the Commitment and any Escrow cancellation charges shall be paid by BUYER. In the event Escrow fails to close because of the failure of SELLER to comply with its obligations hereunder, such costs shall be paid by SELLER. In the event Escrow shall fail to close for any other reason, such costs shall be divided equally between the parties.

8.5 Deposits by BUYER Into Escrow

At least one (1) business day prior to the Closing, BUYER shall deposit with Escrow Holder the balance of the Purchase Price in funds acceptable to Escrow Holder for immediate credit towards payment of the Purchase Price, and any additional funds or documents as may be necessary to comply with this Agreement. BUYER shall also deposit with Escrow Holder at least one (1) business day prior to the Closing (a) the Easement Agreement in the form of attached **Exhibit F** and (b) a separate Easement Agreement granting SELLER access to the Drainage Canal in the form of attached **Exhibit G**.

8.6 Deposits by SELLER Into Escrow

At least three (3) business days prior to the Closing, SELLER shall deposit with Escrow Holder the following items:

8.6.1 The grant deed sufficient to convey the Property to BUYER, duly executed, acknowledged in substantively the form attached hereto as **Exhibit C** ("Deed"), revised as necessary to be in recordable form;

8.6.2 A duly executed certificate of SELLER (the "**SELLER's Closing Certificate**") updating the representations and warranties contained in Article IX hereof in the form attached hereto as **Exhibit D**;

8.6.3 An affidavit which satisfies the requirements of Section 1445 of the Internal Revenue Code, as amended (the "**FIRPTA Affidavit**") for the Property in the form attached hereto as **Exhibit E**;

8.6.4 The Easement Agreements in the form of attached **Exhibit F and Exhibit G**;

8.6.5 A title affidavit of SELLER regarding liens, judgments, parties in possession and mechanics' or materialmens' liens and other customary matters affecting title to the Property in form reasonably satisfactory to Escrow Holder;

8.6.6 All books and records relating to the use, occupancy, and maintenance of the Property, if any;

8.6.7 Fully executed counterparts of an agreed upon closing and proration statement (the "**Closing Statement**");

8.6.8 Such other instruments and documents as may be reasonably requested by Escrow Holder or BUYER and are reasonably required to transfer the Property to BUYER in accordance with this Agreement.

8.7 Policy of Title Insurance

At the Closing, Escrow Holder shall deliver to BUYER an ALTA 2006 extended Owner's Policy of Title Insurance (the "**Policy of Title Insurance**") in the amount of the Purchase Price insuring title vested in BUYER as of the date of Closing, free of encumbrances, subject only to the Permitted Exceptions, with full extended coverage over all general exceptions, and containing, if available, an endorsement insuring against violations of state or local subdivision laws or ordinances and such other endorsements as BUYER may reasonably require.

8.8 Disbursement and Other Actions By Escrow Holder

Upon the Closing, Escrow Holder shall promptly undertake all of the following in the manner herein below indicated:

8.8.1 Cause the Deed and the Easement Agreements and any other instruments which the parties so direct to be recorded in the Official Records of the county and state governing the Property.

8.8.2 Disburse all funds deposited with Escrow Holder by BUYER in payment of the Purchase Price for the Property as follows:

A) Deduct therefrom all items chargeable to the account of SELLER pursuant hereto;

B) The remaining balance of the funds so deposited by or for the account of BUYER shall be disbursed to SELLER promptly upon the Closing.

8.8.3 Deliver the Policy of Title Insurance to BUYER;

IX. REPRESENTATIONS AND WARRANTIES OF SELLER

9.1 Operating Covenants.

Prior to the Closing, SELLER shall keep and maintain the Property in a manner consistent with its current practices and applicable legal requirements, and shall not, without the prior written consent of BUYER (not to be unreasonably withheld or delayed), do any of the following with respect to the Property:

(a) Enter into any lease or other contract that will not be fully performed by SELLER on or before the Closing Date.

(b) Sell, assign or create any right, title or interest whatsoever in or to the Property (including any so called "back-up contract) or create or permit to exist any lien, encumbrance or charge thereon, other than liens or encumbrances noted in the Title Commitment.

(c) Take any action, or omit to take any action, which action or omission would have the effect of violating any of the representations and warranties of SELLER contained in the contract.

(d) Rezone, plat, restrict or encumber, or permit to be rezoned, platted, restricted or encumbered, any portion of the Property; grant any licenses, easements, or other uses affecting any portion of the Property; permit any mechanic's or materialmen's lien to attach to any portion of the Property; place or permit to be placed on, or remove or permit to be removed from, the Property any buildings, structures or other improvements of any kind; or excavate or permit the excavation of the Property or any portion thereof.

9.2 SELLER Representations.

SELLER represents and warrants to BUYER as follows, which representations and warranties shall be deemed to have been remade on the Closing Date that, to the best of SELLER's knowledge:

(a) No Litigation. SELLER has received no summons regarding, and there is no litigation pending or threatened, against the Property or SELLER's interest therein, including, without limitation, proceedings for or involving collections, condemnation, eminent domain, alleged environmental or zoning violations, or personal injuries or property damage alleged to have occurred on the Property or by reason of the condition, use of, or operations on, the Property.

(b) Zoning. There are no pending or threatened requests, applications or proceedings to alter or restrict the zoning or other use restrictions applicable to the Property.

(c) Eminent Domain. There is no pending or threatened condemnation or eminent domain proceeding against the Property.

(d) Bankruptcy or Debt of SELLER. SELLER has not made a general assignment for the benefit of creditors, filed any voluntary petition in bankruptcy or received written notice of any threatened filing of an involuntary petition by SELLER's creditors or appointment of a receiver to take possession of all, or substantially all, of SELLER's assets.

(e) Hazardous Substances. SELLER has received no written notice from any governmental authority that there is any Hazardous Material present at the Property in violation of any Environmental Laws, and has no knowledge of Hazardous Material present on the Property. "**Hazardous Material**" shall mean and include, without limitation: (i) those substances included within the definitions of "hazardous substances", "hazardous waste", "toxic substances", "contaminants", and/or "pollutants" in any Environmental Law; and (ii) any material, waste, or substance, which is or contains asbestos, polychlorinated biphenyls, petroleum and its derivative by products, and/or any other explosive or radioactive materials. "**Environmental Law**" shall mean any federal, state, or local law, statute, ordinance, rule, or regulation pertaining to health, industrial hygiene, or the environmental conditions on or under the Property, or relating to releases, discharges, emissions, or disposals to air, water, soil, or ground water, or relating to the withdrawal or use of ground water, or relating to the use, handling, or disposal of polychlorinated biphenyls, asbestos, or urea formaldehyde, or relating to the treatment, transportation, disposal, storage, or management of Hazardous Materials (defined hereinafter), including, without limitation, the Comprehensive Environmental Response Compensation, and Liability Act of 1980, as amended, and the Resource Conservation and Recovery Act of 1976, as amended, and all rules, and regulations, published pursuant thereto or promulgated thereunder.

(f) Authority. This Agreement and all agreements, instruments and documents herein provided to be executed by SELLER are duly authorized, executed and delivered by and binding upon SELLER in accordance with their terms. SELLER has the legal power, right and authority to enter into this Agreement and consummate the transactions contemplated hereby.

(g) Requisite Action. All requisite action (corporate, trust, partnership or otherwise) has been taken or obtained by SELLER in connection with the entering into this Agreement and the consummation of the transactions contemplated hereby, or shall have been taken prior to the Closing Date.

The representations and warranties made in this Article IX by SELLER will not merge into any instrument or conveyance delivered at Closing. Notwithstanding anything to the contrary contained in this Agreement, BUYER acknowledges that BUYER will not be entitled to rely on any representation or warranty made by SELLER to the extent, prior to Closing, BUYER has or obtained actual knowledge of any information that was contrary to such representation or warranty.

X. REPRESENTATIONS AND WARRANTIES OF BUYER

10.1 BUYER's Reliance.

In addition to any other representations and warranties contained in this Agreement, BUYER represents and warrants that in making its decision to purchase the Property, BUYER represents that it has relied and will rely solely upon its own investigations of the Property, SELLER's specific representations and warranties contained in this Agreement and the Commitment, and is not relying on any statement or act or omission of SELLER, its agents or representatives, except as specifically set forth in this Agreement.

10.2 BUYER's Authority.

CLAT BUYER is duly organized and validly exists as a corporation under the laws of the State of California, 501 SPECTRUM BUYER and S&S CHAMBERS BUYER are duly organized and validly exist as limited liability companies under the laws of the State of California, and BUYER is qualified to do business in the state in which the Property is located. BUYER has the right and authority to enter into this Agreement. The person signing this Agreement on behalf of BUYER represents that he or she is authorized to do so. The execution and delivery of this Agreement or any other document in connection with the transactions contemplated by this Agreement will not violate any provision of BUYER's organizational documents or of any regulations or laws to or by which BUYER is bound. This Agreement has been duly authorized, executed and delivered by BUYER, is a valid and binding obligation of BUYER and is enforceable against BUYER in accordance with its terms. SELLER has obtained all consents and permissions required under any covenant, agreement, encumbrance, law or regulation by which SELLER or the Property is bound.

XI. BROKERAGE COMMISSION

SELLER represents and warrants to BUYER, and BUYER represents and warrants to SELLER, that no broker or finder has been engaged by either of them, respectively, in connection with any of the transactions contemplated by this Agreement, or to either of their knowledge is in any way connected with any such transactions.

XII. TAX CERTIFICATION

Section 1455 of the Internal Revenue Code provides that the transferee of a United States real property interest must deduct and withhold a tax equal to ten percent (10%) of the amount realized by the transferor on the disposition, if the transferor is a foreign person. SELLER warrants that SELLER is not a foreign person, and "FIRPTA" certification will be provided to BUYER through Escrow.

XIII. EXCHANGE BY SELLER/BUYER

The parties agree to cooperate with each other in effecting a tax-deferred exchange under Internal Revenue Code Section 1031. Both parties shall have the right, expressly reserved here, to elect this tax-deferred exchange at any time before the Closing; however, SELLER and BUYER agree that consummation of this Agreement is not predicated or conditioned on the exchange being effected. If either party elects to effect a tax-deferred exchange, the other party agrees to execute additional escrow instructions, documents, agreements or instruments to effect the exchange, provided, that such party shall incur no additional costs, expenses or liabilities in this transaction as a result of or connected with the exchange.

XIV. NOTICES

Any notice, delivery or demand shall be in writing and shall be deemed to have been received: (a) upon receipted delivery if sent by personal messenger, (b) by 5:00 p.m. three (3) business days after being deposited in the U.S. mail, registered or certified, return receipt requested, (c) by 5:00 p.m. one (1) business day after being deposited with a national recognized overnight courier service, or (d) upon confirmation of transmission if sent by facsimile or email, in each case with postage/delivery prepaid or billed to the sender and addressed as follows:

To SELLER: City Manager
City of Brisbane
50 Park Place
Brisbane, CA 94005

With a copy to: Director of Public Works
City of Brisbane
50 Park Place
Brisbane, CA 94005

To BUYER: c/o BLT Enterprises
1714 16th Street
Santa Monica, CA 90404
Attn: Robert Solomon
Email: rsolomon@blt-enterprises.com

with a copy to: c/o BLT Enterprises
1714 16th Street
Santa Monica, CA 90404
Attn: Elijah Rosenthal
Email: erosenthal@blt-enterprises.com

XV. RISK OF LOSS

15.1. Condemnation and Casualty.

If, prior to Closing, all or any portion of the Property is taken by condemnation or eminent domain, or is the subject of a pending taking which has not been consummated, or is destroyed or damaged by fire or other casualty, SELLER shall notify BUYER of such fact promptly after SELLER obtains knowledge thereof. If such condemnation or casualty is "**Material**" (as hereinafter defined), BUYER shall have the option to terminate this Agreement upon notice to SELLER given not later than fifteen (15) days after receipt of SELLER's notice, or Closing, whichever is earlier. If this Agreement is terminated, the Escrow Deposit shall be returned to BUYER and thereafter neither SELLER nor BUYER shall have any further rights or obligations to the other hereunder except with respect to obligations expressly identified within this Agreement as continuing after expiration or earlier termination. If this Agreement is not terminated, SELLER shall not be obligated to repair any damage or destruction but (x) SELLER shall assign, without recourse, and turn over to BUYER all of the insurance proceeds or condemnation proceeds, as applicable, net of any costs of repairs incurred by SELLER and net of reasonable collection costs (or, if such have not been awarded, all of its right, title and interest therein) payable with respect to such fire or other casualty or condemnation including any rent abatement insurance for such casualty or condemnation and BUYER shall receive a credit at Closing for any deductible, uninsured or coinsured amount under said insurance policies and (y) the parties shall proceed to Closing pursuant to the terms hereof without abatement of the Purchase Price.

15.2. Condemnation Not Material.

If the condemnation is not Material, then Closing shall occur without abatement of the Purchase Price and, after deducting SELLER's reasonable costs and expenses incurred in collecting any award, SELLER shall assign, without recourse, all remaining awards or any rights to collect awards to BUYER at Closing.

15.3. Casualty Not Material.

If the casualty is not Material, then Closing shall occur without abatement of the Purchase Price and SELLER shall not be obligated to repair such damage or destruction and SELLER shall assign, without recourse, and turn over to BUYER all of the insurance proceeds net of any costs of repairs and net of reasonable collection costs (or, if such have not been awarded, all of its right, title and interest therein) payable with respect to such fire or such casualty including any rent abatement insurance for such casualty and BUYER shall receive a credit at Closing for any deductible, uninsured or coinsured amount under said insurance policies.

15.4. Materiality.

For purposes of this Article XV (i) with respect to a taking by eminent domain, the term "**Material**" shall mean any taking whatsoever, regardless of the amount of the award or the amount of the Property taken, excluding, however, any taking solely of subsurface rights or takings for utility easements or right of way easements, if the surface of the Property, after such taking, may be used in the same manner, as reasonably determined by BUYER, as though such rights had not been taken, and (ii) with respect to a casualty, the term "**Material**" shall mean any casualty such that the reasonably estimated cost of repairs are greater than three percent (3%) of the Purchase Price.

XVI. MISCELLANEOUS

16.1 Time of Essence

Time is of the essence as to each and every provision of this Agreement. Any reference to a particular time of day in this Agreement shall be understood to mean the time of day in the time zone in which the Property is located. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which such period of time runs shall be excluded, and the last day of such period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which case the period shall be deemed to run until the end of the next Business Day. "**Business Day**" shall mean any day other than a Saturday, Sunday, or legal holiday on which national banks are authorized by federal law to close.

16.2 Entire Agreement

This Agreement contains the entire agreement between the parties hereto with respect to the matters covered herein and may be amended only by evidence of written documentation signed by both BUYER and SELLER prior to its submittal to any third party or entity for purposes of implementation, change or effect.

16.3 Further Documents

Each party will, whenever and as often as it shall be required by the other party, execute, acknowledge and deliver such further instructions as may be necessary in order to complete the sale, conveyance and transfer herein provided for, and to do any and all other acts and to execute, acknowledge and deliver to Escrow Holder any and all documents as may be reasonably requested in order to carry out the intent and purposes of this Agreement.

16.4 Consent to Assignment; Successors and Assigns

BUYER may not assign its rights under this Agreement without first obtaining SELLER's written approval, which approval may be withheld at SELLER's sole discretion. In the event BUYER intends to assign its rights hereunder, (a) BUYER shall send SELLER written notice of its request at least five (5) business days prior to Closing, and (b) BUYER and the proposed assignee shall execute an assignment and assumption of BUYER's right and interest under this Agreement, and (c) in no event shall any assignment of this Agreement release or discharge BUYER from any liability or obligation hereunder. Subject to the provisions of (a), (b) and (c) immediately above, BUYER may, without the consent of SELLER, assign this Agreement without SELLER's consent to an Affiliate (as hereinafter defined) and to effect an Exchange pursuant to Article XIII hereof. For the purposes of this Section, the term "Affiliate" means (a) an entity that directly or indirectly controls, is controlled by or is under common control with the BUYER, or (b) an entity at least a majority of whose economic interest is owned by BUYER; and the term "control" means the power to direct the management of such entity through voting rights, ownership or contractual obligations. This Agreement shall be binding on and inure to the benefit of the heirs, successors and assigns of the parties hereto. All assignments made in violation of this Section 16.4 shall be deemed void.

16.5 Severability

Should any part, term or provision of this Agreement, or any document dealing with any entity set forth within this Agreement and required herein to be executed or delivered at the Closing, be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or otherwise affected thereby.

16.6 Attorneys' Fees

The prevailing party in any action instituted to enforce or interpret any provision of this Agreement shall be entitled to all fees, expenses and costs, including reasonable attorneys' fees, as fixed by the Court.

16.7 Choice of Law; Venue.

The validity, interpretation and performance of this Agreement shall be controlled and construed under the laws of the state in which the Property is located without regard to conflicts of laws principles and the state or federal district courts in the county in which the Property is located, shall have non-exclusive jurisdiction over any legal action concerning or relating to this Agreement.

16.8 No Implied Representations

No representations, promises, conditions or warranties with reference to the execution of this Agreement have been made or entered into between the parties hereto other than as herein expressly provided, and except to the extent that express warranties are contained in Article IX.

16.9 Possession

BUYER shall be entitled to possession of the Property at the Closing. Possession shall be delivered outside of Escrow, and Escrow Holder shall incur no liability with respect thereto.

16.10 Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be

deemed an original but all of which, taken together, shall constitute a single instrument. SELLER and BUYER agree that the delivery of an executed copy of this Agreement by facsimile or e-mail shall be legal and binding and shall have the same full force and effect as if an original executed copy of this Agreement had been delivered.

16.11 Cumulative Remedies

No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

16.12 Rollback Taxes

If SELLER changes the use of the Property before Closing or if denial of a special valuation on the Property claimed by SELLER results in the assessment of additional taxes, penalties or interest for periods before Closing, such assessments will be the obligation of SELLER. If the sale of the Property or BUYER's use of the Property after Closing results in the assessment of additional taxes, penalties or interest for periods before Closing, such assessments will be the obligation of BUYER. The provisions of this Section 16.12 shall survive Closing and any termination of this Agreement.

16.13 Not Binding Until Executed by BUYER

Neither this Agreement, nor any of the terms and provisions hereof, shall be binding upon or enforceable against BUYER unless and until the same is executed by BUYER.

XVII. SPECIAL PROVISIONS

17.1 Creation of Hiking Paths

Promptly after Closing, BUYER shall at BUYER's expense construct a hiking path on (a) approximately 832 square feet currently owned by BUYER, as shown on attached **Exhibit B** ("Hiking Path Strip #1") and (b) approximately 1,106 square feet currently owned by SELLER, also as shown on attached **Exhibit B** ("Hiking Path Strip #2") in accordance with the provisions of the easement referenced in Section 17.2 below, the details of which Hiking Paths are subject to approval by SELLER. Hiking Path Strip #2 is a portion of the Property being conveyed to BUYER at Closing. The legal descriptions of Hiking Path Strips #1 and #2 shall be set forth in the easement referenced in Section 17.2 below. BUYER shall construct Hiking Path Strip #1 and Hiking Path Strip #2 at the same time that BUYER constructs the Proposed Improvements.

17.2 Easement

At Closing, BUYER shall grant to SELLER an easement covering Hiking Path Strips #1 and #2 in the form attached hereto as **Exhibit F**.

17.3 Drainage Canal

A drainage canal (the "**Drainage Canal**") is located adjacent to and along the south side of the Property, as shown on attached **Exhibit G**. BUYER shall be responsible for the regular cleaning, maintenance and repair of the Drainage Canal. Prior to conducting any such cleaning, maintenance or repair, BUYER shall first contact SELLER and obtain SELLER'S approval of the proposed work. BUYER shall provide verification to SELLER on September 1 annually that the Drainage Canal is properly maintained and functional, and shall permit SELLER to physically enter upon the property and confirm that necessary maintenance has been performed. BUYER'S obligation to clean, maintain and repair the Drainage Canal shall run with the Property and any

subsequent purchaser shall be required to assume all of BUYER'S responsibilities pursuant to this agreement. At SELLER'S option, SELLER shall have the right to enhance or install native vegetation in the Drainage Canal, provided that there is no additional cost to BUYER for installation or maintenance. BUYER shall provide SELLER reasonable access if SELLER determines to exercise this option. At closing, BUYER shall grant SELLER an easement covering access to the Drainage Canal in the form attached hereto as Exhibit G.

[Signatures Appear on following page]

Excess Property # _____

XVIII. EXECUTION

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below their respective signatures.

BUYER:

CENTRAL LOS ANGELES TRANSFER,
a California corporation

By: [Signature]
Name: LUKAS HUBERMAN
Its: VICE PRESIDENT

501 SPECTRUM CIRCLE, LLC,
a California limited liability company

By: [Signature]
Name: LUKAS HUBERMAN
Its: MANAGER

Approved as to Form
Legal

S&S CHAMBERS LLC,
a California limited liability company

By: [Signature]
Name: STEVEN PERRY
Its: Manager

Dated: _____, 2024

SELLER:

CITY OF BRISBANE,
a municipal corporation

By: _____
Name: _____
Its: _____

Dated: _____, 2024

EXHIBIT A

Legal Description of Property

That portion of Lot 1, Block "I" of Tract No. 852 filed for record December 15, 1968 in Book 68 of Maps at page 32 in the office of the County Recorder of San Mateo County, State of California, lying westerly of the southerly prolongation of the easterly line of Parcel A having a bearing of South 22 ° 38' 57" West and a length of 268.69 as shown on a Parcel Map filed for record on June 27, 1978 in Book 42 of Parcel Maps at Page 57 in the Office of said Recorder, and containing approximately 28,019.22 square feet.

19

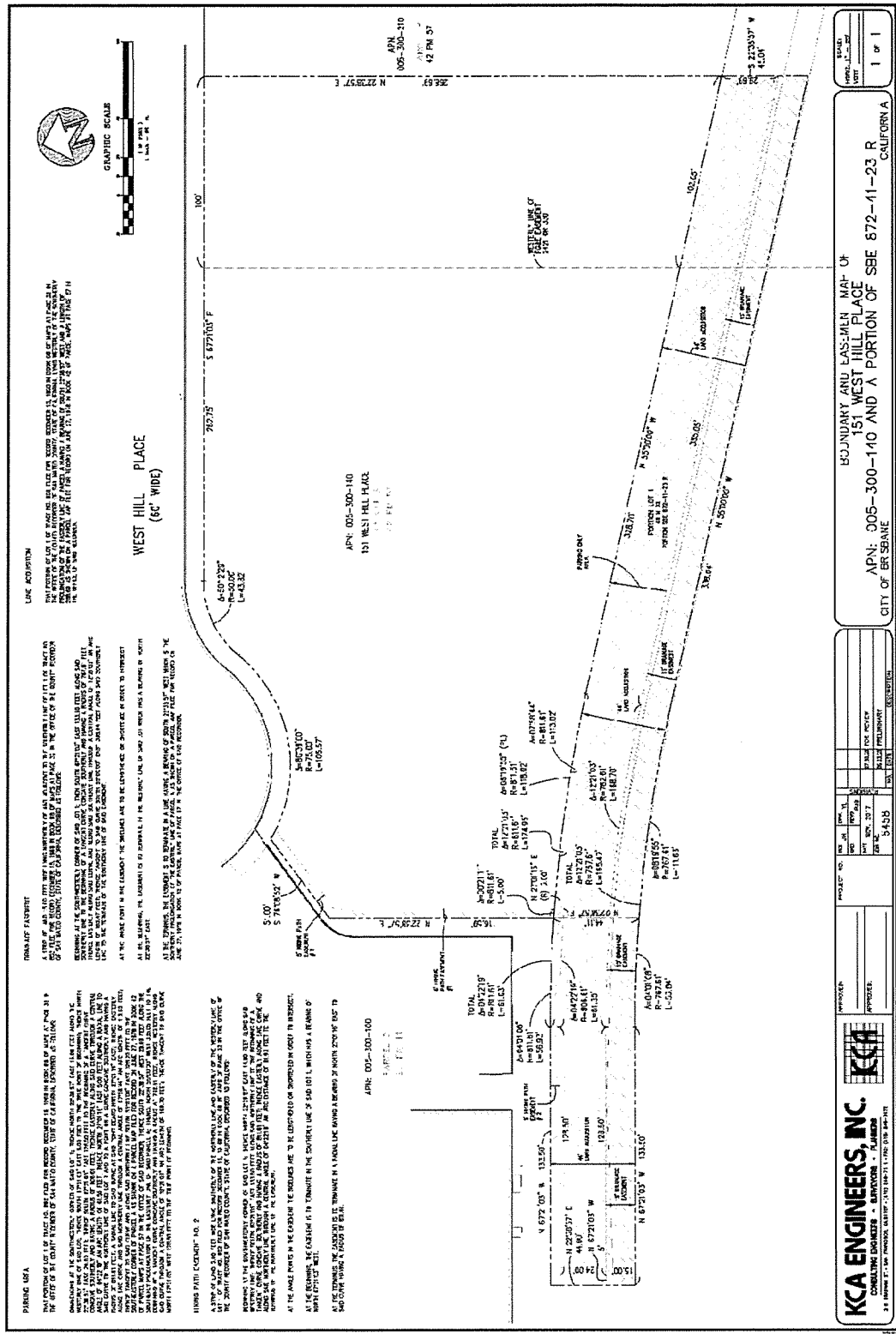


EXHIBIT C
Form of Deed

WHEN RECORDED MAIL TO:

MAIL TAX STATEMENTS TO:

(Space above this line is for recorder's use)

APN: _____

GRANT DEED

THE UNDERSIGNED GRANTOR DECLARES:

DOCUMENTARY TRANSFER TAX is \$ _____

CITY TAX is \$ _____

☒ computed on full value of property conveyed, or ☐ computed on full value less value of liens or encumbrances remaining at time of sale,

☐ Unincorporated area: _____, ☒ City of Brisbane

FOR VALUE RECEIVED, CITY OF BRISBANE, a municipal corporation ("Grantor"), hereby grants to CENTRAL LOS ANGELES TRANSFER, a California corporation, as to an undivided 62.40% interest, 501 SPECTRUM CIRCLE, LLC, a California limited liability company, as to an undivided 32.02% interest, and S&S CHAMBERS LLC, a California limited liability company, as to an undivided 5.58% interest, as tenants in common (collectively, "Grantee"), that certain real property (the "Property") situated in the City of Brisbane, County of San Mateo, State of California, described in Exhibit A attached hereto and incorporated by reference, together with all contracts, agreements, plans and specifications, warranties, guaranties, licenses, permits, entitlements, governmental approvals and certificates of occupancy that specifically relate to the Property.

THE PROPERTY IS CONVEYED TO GRANTEE SUBJECT TO:

- A. All liens, encumbrances, easements, covenants, conditions and restrictions of record;
- B. All matters which would be revealed or disclosed in an accurate survey or inspection of the Property;
- C. Liens for taxes on real property not yet delinquent, and liens for any general or special assessments of record against the Property not yet delinquent; and
- D. All laws, ordinances and governmental rules, regulations and restrictions affecting the Property.

E. The Property, other than the portions of the Property to be used for the Hiking Path and Drainage Canal purposes, shall be used exclusively for the parking of motor vehicles and access over and across the same related to such parking and for green space, all in accordance with applicable laws.

Grantor and Grantee acknowledge and agree that the Deed Restrictions are covenants running with the land, and will be binding on all successors, heirs and assigns that acquire any right, title or interest in or to the Deed Restricted Property. Grantee, by its acceptance hereof, agrees to abide by and comply with the Deed Restrictions and acknowledges that Grantor would not have conveyed the Deed Restricted Property to Grantee in the absence of the Deed Restrictions. Such Deed Restrictions are for the exclusive benefit of Grantor, the City of Brisbane, and Grantor shall have the right to enforce the Deed Restrictions by any proceeding at law or in equity against any violation or attempted violation including (but not limited to) obtaining an injunction against any actions in violation of the Deed Restrictions. Failure to enforce the Deed Restrictions shall not operate to waive the right to enforce the Deed Restrictions in the future.

IN WITNESS WHEREOF, the undersigned Grantor has executed this Grant Deed as of _____, 2024.

GRANTOR:

CITY OF BRISBANE
a municipal corporation

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

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

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT A to Deed

Legal Description of Property

That portion of Lot 1, Block "I" of Tract No. 852 filed for record December 15, 1968 in Book 68 of Maps at page 32 in the office of the County Recorder of San Mateo County, State of California, lying westerly of the southerly prolongation of the easterly line of Parcel A having a bearing of South 22 ° 38' 57" West and a length of 268.69 as shown on a Parcel Map filed for record on June 27, 1978 in Book 42 of Parcel Maps at Page 57 in the Office of said Recorder, and containing approximately 28,019.22 square feet.

EXHIBIT D

Form of SELLER's Certificate

SELLER'S CERTIFICATE

_____, a _____ ("SELLER"), hereby certifies to
_____, a _____, that all of the representations
and warranties set forth in Article IX of that certain Agreement for Purchase and Sale of Real
Property dated as of _____, _____, are true and accurate in all material respects, as of the date
hereof.

Dated: _____, _____.

SELLER:

_____,
a _____

By: _____
Name: _____
Title: _____

EXHIBIT E

Form of Certificate of Non-Foreign Status

CERTIFICATION OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform _____, a _____ ("Transferee"), that withholding of tax is not required upon the disposition of a U.S. real property interest by _____, a _____ ("SELLER"), the undersigned hereby certifies the following:

1. SELLER is a "United States Person" and is not a "foreign person" in accordance with and for the purposes of the provisions of sections 7701 and 1445 (as may be amended) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.
2. SELLER's U.S. Employer Identification Number is: _____.
3. SELLER is not a disregarded entity, as that term is defined in Section 1.1445 - 2(b)(2)(iii); and
4. SELLER's office address is:

The undersigned understands that this certification is made under penalty of perjury, may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Dated: _____, _____, _____.

SELLER:

_____,
a _____

By: _____
Name: _____
Title: _____

EXHIBIT F

FORM OF EASEMENT AGREEMENT

Recording Requested by:

When Recorded, Mail to:

[SPACE ABOVE THIS LINE FOR RECORDER'S USE]

EASEMENT AGREEMENT

(County of San Mateo, City of Brisbane, California)

(the "**Agreement**")

1. **Grant of Easement.** CENTRAL LOS ANGELES TRANSFER, a California corporation, 501 SPECTRUM CIRCLE, LLC, a California limited liability company, and S&S CHAMBERS LLC, a California limited liability company (collectively herein, "**Grantor**"), hereby grants to the CITY OF BRISBANE, a municipal corporation (herein "**Grantee**"), a non-exclusive easement (herein "**Easement**") in, on, over, along, and across the certain land described on **Exhibit "A"** (the "**Easement Area**"), attached hereto and made a part hereof, for the limited purpose of constructing, installing, maintaining, repairing, replacing a public hiking path for the general public, in accordance with the terms and conditions hereinafter set forth.

2. **Construction of Hiking Path.** Grantor shall, at its own cost and expense, have, or cause to have, the hiking path facilities (e.g., surfaces, handrails, and directional signs) for the Easement designed, installed and constructed in accordance with applicable law; provided, however, neither Grantee nor Grantor shall erect or maintain any improvements in the Easement Area which are inconsistent with the use of a public hiking path or which interfere with the use of either Grantor's or Grantee's adjoining property. Grantor shall install and construct the hiking path facilities at the same time as Grantor installs and constructs the parking pad on property Grantor has acquired from Grantee,

3. **Protection Statutes.** The parties acknowledge and agree Grantor has entered into this Agreement in material reliance upon Grantee's representations that Grantor is protected from liability by California Civil Code Section 846 (as may be amended, superseded or replaced from time to time, the "**Recreational Use Statute**") and California Government Code Section 831.4 (as may be amended, superseded or replaced from time to time, the "**Trail Immunity Statute**"; together with the Recreational Use Statute, the "**Protection Statutes**"). In that regard, Grantee may not take any action (or, in the event an affirmative obligation is required, refrain from taking any action) that would

invalidate Grantor's protection from liability under the Protection Statutes. Without intending to limit the generality of the foregoing, Grantee specifically agrees to the following terms and conditions:

A. Hiking Path Use. The Easement Area will be used only for a public hiking path and for no other purpose whatsoever. Grantee may not do, or fail to do, or permit, or fail to permit, anything to be done to the Easement Area that may be inconsistent with its classification as a "hiking path" or "trail" (as that term is used in the Trail Immunity Statute or as such term is applied in applicable law interpreting such statute).

B. Entry Fee. Neither Grantee nor any other party may charge a fee or any other consideration in exchange for the general public's entry upon, or use of, any portion of the Easement Area or hiking path (expressly including portions of the hiking path that are located outside of the Easement Area).

C. Public Use; Prohibition against Express Invitation. The parties agree that the Easement is an easement for use by the general public. Notwithstanding the foregoing, the parties acknowledge that the Recreational Use Statute will not protect Grantor or Grantee if either party expressly invites the general public to enter upon or use the Easement Area. Accordingly, Grantor and Grantee are prohibited from expressly inviting the general public to enter upon or use the Easement Area; provided, however, subject to the terms and conditions herein, Grantee will "permit" the general public to use the Easement Area for a public hiking path.

D. Duty to Guard or Warn. Grantee must guard and/or warn against any condition, use, structure or activity within the Easement Area which constitutes a hazard to health or safety. Such obligation shall be the sole responsibility of Grantee.

4. **Maintenance, Repair and Replacement.**

A. Grantee, at Grantee's sole cost, must maintain, repair and replace the Easement Area and any improvements located thereon in a good and safe condition, including, without limitation, any surfaces of the Easement Area (paved or unpaved), vegetation, trees or other landscaping.

B. If any damage, destruction or disturbance occurs on Grantor's property as a result of the actions of Grantee or the general public, then, within thirty (30) days following written notice such damage, destruction or disturbance, Grantee shall repair and restore Grantor's property and the improvements thereon to their condition that existed immediately prior to such damage, destruction or disturbance at no cost to Grantor.

5. **Utilities and Personal Property Tax.** Grantee shall promptly pay any charges for electricity (e.g., for pathway lighting should Grantee elect to install same) and other utilities furnished to the Easement Area and for any personal property taxes on improvements located in the Easement Area.

6. **Use by Grantor; Rights Reserved.** Grantor may use the Easement Area for all purposes which will not unreasonably interfere with the rights granted herein (as determined by Grantor). For the avoidance of doubt, Grantor reserves the right to construct, reconstruct, or maintain any utilities in the Easement Area. Further, the

Easement and associated rights granted herein are, and shall be, subject to (i) any and all rights of Grantor not specifically granted herein, and (ii) all rights and matters of record as of the date hereof. Grantor reserves all rights, if any, in and to oil, gas, sulfur, uranium, fissional materials, and other minerals under the surface of the Easement Area.

7. **Transfer**. Grantor may sell, assign, transfer or convey this Agreement or its interest in this Agreement. Grantee may not assign or otherwise transfer, mortgage or encumber this Agreement. Any attempt by Grantee to transfer this Agreement will be void and will constitute a default of the Agreement without any obligation for Grantor to provide a notice of default.

8. **Permits and Licenses; Compliance with Laws**. Grantor shall procure at its sole expense any permits and licenses required for construction of the Easement, and Grantee will comply with all applicable laws, ordinances and governmental regulations in connection with Grantee's use and operation of the hiking path.

9. **Waiver and Indemnity**. Grantor shall not be liable to Grantee or Grantee's employees, agents, visitors, personal representatives, contractors or subcontractors, successors or assigns or any other person acting directly or indirectly through or under Grantee (collectively, the "**Grantee Parties**"), or to any other person whomsoever, for any injury to person or damage to property on or about the Easement Area, or arising out of any breach or default by Grantee in the performance of its obligations hereunder. Grantee will indemnify, defend (with counsel of Grantor's choice), and hold harmless Grantor and its affiliates, and their respective lessees, employees, agents, personal representatives, contractors, successors and assigns (collectively, the "**Grantor Parties**") against any and all claims, demands, loss, liabilities, costs, fines, penalties, expenses, damages, including suits, liens, causes of action and judgments (including, but not limited to attorney's fees) (collectively, the "**Claims**") arising out of, or in any way related to, or in connection with, or as a result or consequence of (i) any entry upon and/or use of the Easement Area by Grantee, Grantee Parties, the general public or any other party whomsoever; (ii) any intentional misconduct or negligent acts, errors or omissions by Grantee; (iii) any violation of applicable federal, state or local laws, regulations, ordinances, administrative orders or rules by Grantee; (iv) any breach or default by Grantee and/or Grantee Parties of any of their representations, warranties and/or obligations in this Agreement; and (v) any other acts by Grantee and/or Grantee Parties in violation of this Agreement and not cured within any applicable period. This indemnity shall include reasonable attorney's fees and costs and all other expenses incurred in the defense of any suit and shall survive the termination or expiration of the rights granted hereunder.

10. **Waiver of Sovereign Immunity**. Grantee hereby waives any right to assert the defense of governmental immunity or sovereign immunity with respect to any Claims by Grantor hereunder, regardless of whether Grantor's claim or demand is based in contract (including, without limitation, any indemnity claim) or tort.

11. **Default and Remedies**. In the event Grantee fails to perform any obligations hereunder, Grantor shall notify Grantee of such failure in writing. If Grantee fails to remedy such default within thirty (30) days after receipt of such written notice or if such default cannot be cured within thirty (30) days, in the event Grantee fails to commence the cure of such default within such thirty (30) day period and continue to diligently pursue such cure to completion, Grantor may, at its option: (i) perform such obligation and pay any and all costs and charges associated therewith, which costs and

expenses shall be reimbursed to the Grantor by Grantee; or (ii) terminate this Agreement.

If Grantor elects to exercise its self-help rights in this section, then Grantor shall be entitled to recover from Grantee the reasonable out-of-pocket charges, fees, costs and expenses incurred by the performing party (including reasonable attorneys' fees) in connection therewith, together with interest thereon at a rate equal to twelve percent (12%) per annum and an administrative fee equal to twelve percent (12%) of the total amount of charges, fees, costs and expenses incurred by Grantor. Such charges, fees, costs, expenses and interest shall be paid by Grantee within thirty (30) days after receipt of a statement therefor from the Grantor.

12. **Surrender.** At the expiration or earlier termination of this Agreement, Grantee, at Grantee's expense, must remove any improvements from the Easement Area and otherwise repair and restore the Easement Area to the condition existing as of the date of this Agreement.

13. **Attorney's Fees and Costs.** The prevailing party in an action brought to cure or redress a default under this Agreement shall be entitled to recover its reasonable attorney's fees, expenses and court costs; this right is in addition to, and not exclusive of, any other right to seek attorney's fees and costs under other rule, law or statute.

14. **Notice.** Notice given under this Agreement must be in writing delivered both by U.S. certified mail, postage prepaid, return receipt requested, and via regular U.S. Mail, addressed to the intended recipient at the address shown in the signature blocks of this Agreement. Any address for notice may be changed by written notice delivered as provided herein.

15. **Miscellaneous.**

A. This Agreement constitutes the entire agreement of the parties. There are no oral representations, warranties, agreements or promises pertaining to this Agreement. This Agreement may be amended only by an instrument in writing signed by Grantor and Grantee. If any provision of this Agreement, or portion thereof, or the application thereof to any person or circumstances, shall, to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; it shall not be deemed that any such invalid provision affects the consideration for this Agreement; and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

B. No delay or omission of any party in the exercise of any right accruing upon any default of the other party shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by any party of a breach of, or a default in, any of the terms and conditions of this Agreement by the other party shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement.

C. This Agreement and the Easement shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective tenants, occupants and successors and/or assigns.

D. This Agreement shall be construed in accordance with the laws of the State of California.

E. The headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof.

F. Nothing herein contained shall be deemed or constructed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

G. This Agreement may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same Agreement.

[SIGNATURE(S) APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantor hereunto set its signature this _____
day of _____, 2024.

GRANTOR:

CENTRAL LOS ANGELES TRANSFER,
a California corporation

By: _____
Name: _____
Its: _____

501 SPECTRUM CIRCLE, LLC,
a California limited liability company

By: _____
Name: _____
Its: _____

S&S CHAMBERS LLC,
a California limited liability company

By: _____
Name: _____
Its: _____

Grantor's Mailing Address:
1714 16th Street
Santa Monica, CA 90404

ACKNOWLEDGMENT

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

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

GRANTEE:

CITY OF BRISBANE,
a municipal corporation

By: _____
Name: _____
Title: _____

Grantee's Mailing Address:
City of Brisbane
50 Park Place
Brisbane, California 94005
Attn: Director of Public Works

ACKNOWLEDGMENT

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

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT A to Easement Agreement

LEGAL DESCRIPTION OF EASEMENT AREA (the locations of which are shown on the attached Exhibit B)

Hiking Path Easement No. 1

A strip of land 5.00 feet wide lying southeasterly and easterly of the westerly line of Parcel A as shown on a Parcel Map filed for record on June 27, 1978 in Book 42 of Parcel Maps at page 57 in the office of the County Recorder of San Mateo County, State of California described as follows:

Beginning at the northwesterly corner of said Parcel A where the westerly line of the property having a bearing of South 76°08'52" West and a length of 51.00 feet intersects with the southerly line of West Hill Place in a point on a curve concave northerly and having a radius of 75.00 feet, as shown on said map; thence South 76°08'52" West 51.00 feet and South 22°38'57" West 116.59 feet to the southerly line of said Parcel A and the terminus of the westerly line of the easement.

At the angle point in the easement the sidelines are to be lengthened or shortened in order to intersect.

At the beginning the easement is to terminate in the southerly line of the West Hill Place cul-de-sac which is a curve concave northerly and having a radius of 75.00 feet as shown on said Parcel Map.

At the terminus, the easement is to terminate in the southerly line of Parcel A which is a curve concave southerly and having a radius of 811.61 feet as shown on said Parcel Map.

Hiking Path Easement No. 2

A strip of land 5.00 feet wide lying southerly of the northerly line and easterly of the westerly line of Lot 1 of Tract No. 852 filed for record December 15, 1968 in Book 68 of Maps of page 32 in the office of the County Recorder of San Mateo County, State of California, described as follows:

Beginning at the southwesterly corner of said lot 1; thence North 22°38'57" East 44.00 feet along said westerly line; thence South 67°21'03" East 133.50 feet along said northerly line to the beginning of a tangent curve concave southerly and having a radius of 811.61 feet; thence easterly along said curve and along said northerly line through a central angle of 04°22'19" an arc distance of 61.93 feet to the terminus of the northerly line of the easement.

At the angle points in the easement the sidelines are to be lengthened or shortened in order to intersect.

At the beginning, the easement is to terminate in the southerly line of said Lot 1, which has a bearing of North 67°21 '03" West.

At the terminus, the easement is to terminate in a radial line having a bearing of North 27°01'16" East to said curve having a radius of 811.61.

EXHIBIT G

FORM OF EASEMENT AGREEMENT

Recording Requested by:

When Recorded, Mail to:

[SPACE ABOVE THIS LINE FOR RECORDER'S USE]

EASEMENT AGREEMENT

(County of San Mateo, City of Brisbane, California)
(the "**Agreement**")

1. **Grant of Easement.** CENTRAL LOS ANGELES TRANSFER, a California corporation, 501 SPECTRUM CIRCLE, LLC, a California limited liability company, and S&S CHAMBERS LLC, a California limited liability company (collectively herein, "**Grantor**"), hereby grants to the CITY OF BRISBANE, a municipal corporation (herein "**Grantee**"), a non-exclusive easement (herein "**Easement**") in, on, over, along, and across certain land described on **Exhibit A** (the "**Easement Area**"), attached hereto and made a part hereof, for the limited purpose of operating and inspecting the drainage canal (the "**Drainage Canal**") that is located within the Easement Area and to confirm that the cleaning, maintenance and repair of the Drainage Canal by Grantor is acceptable to Grantee, in accordance with the terms and conditions hereinafter set forth.

2. **Cleaning, Maintenance and Repair.** Grantor shall be obligated to clean, maintain and repair the Drainage Canal. Prior to conducting the cleaning, maintenance or repair of the Drainage Canal, Grantor shall contact Grantee and obtain Grantee's approval of the proposed work. Grantor shall provide verification to Grantee on September 1 annually that the Drainage Canal is properly maintained and functional. Grantee shall have the easement rights described in Paragraph 1 above to enter upon the Easement Area to confirm that the cleaning, maintenance and repair work have been properly performed.

3. **Installation of Vegetation.** Grantee, at Grantee's sole cost, shall also have the right to enhance or install native vegetation within the Drainage Canal and to enter upon the Easement Area for such purposes.

4. **Use by Grantor; Rights Reserved.** Grantor may use the Easement Area for all purposes which will not unreasonably interfere with the rights granted herein. The Easement and associated rights granted herein are, and shall be, subject to (i) any and all rights of Grantor not specifically granted herein, and (ii) all rights and matters of record as of the date hereof.

5. **Waiver and Indemnity.** Grantor shall not be liable to Grantee or Grantee's employees, agents, visitors, personal representatives, contractors or subcontractors, successors or assigns or any other person acting directly or indirectly through or under Grantee (collectively, the "**Grantee Parties**"), or to any other person whomsoever, for any injury to person or damage to property on or about the Easement Area, arising out of Grantee's performance of its permitted activities hereunder. Grantee will indemnify, defend (with counsel of Grantor's choice), and hold harmless Grantor and its affiliates, and their respective lessees, employees, agents, personal representatives, contractors, successors and assigns (collectively, the "**Grantor Parties**") against any and all claims, demands, loss, liabilities, costs, fines, penalties, expenses, damages, including suits, liens, causes of action and judgments (including, but not limited to attorney's fees) (collectively, the "**Claims**") arising out of, or in any way related to, or in connection with, or as a result or consequence of (i) any entry upon and/or use of the Easement Area by Grantee, Grantee Parties, the general public or any other party whomsoever; (ii) any intentional misconduct or negligent acts, errors or omissions by Grantee; (iii) any violation of applicable federal, state or local laws, regulations, ordinances, administrative orders or rules by Grantee; (iv) any breach or default by Grantee and/or Grantee Parties of any of their representations, warranties and/or obligations in this Agreement; and (v) any other acts by Grantee and/or Grantee Parties in violation of this Agreement and not cured within any applicable period. This indemnity shall include reasonable attorney's fees and costs and all other expenses incurred in the defense of any suit and shall survive the termination or expiration of the rights granted hereunder.

6. **Waiver of Sovereign Immunity.** Grantee hereby waives any right to assert the defense of governmental immunity or sovereign immunity with respect to any Claims by Grantor hereunder, regardless of whether Grantor's claim or demand is based in contract (including, without limitation, any indemnity claim) or tort.

7. **Attorney's Fees and Costs.** The prevailing party in an action brought to cure or redress a default under this Agreement shall be entitled to recover its reasonable attorney's fees, expenses and court costs; this right is in addition to, and not exclusive of, any other right to seek attorney's fees and costs under other rule, law or statute.

8. **Notice.** Notice given under this Agreement must be in writing delivered both by U.S. certified mail, postage prepaid, return receipt requested, and via regular U.S. Mail, addressed to the intended recipient at the address shown in the signature blocks of this Agreement. Any address for notice may be changed by written notice delivered as provided herein.

9. **Miscellaneous.**

A. This Agreement constitutes the entire agreement of the parties. There are no oral representations, warranties, agreements or promises pertaining to this Agreement. This Agreement may be amended only by an instrument in writing signed by

Grantor and Grantee. If any provision of this Agreement, or portion thereof, or the application thereof to any person or circumstances, shall, to any extent be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; it shall not be deemed that any such invalid provision affects the consideration for this Agreement; and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

B. No delay or omission of any party in the exercise of any right accruing upon any default of the other party shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by any party of a breach of, or a default in, any of the terms and conditions of this Agreement by the other party shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Agreement.

C. This Agreement and the Easement shall run with the land and be binding upon and inure to the benefit of the parties hereto and their respective tenants, occupants and successors and/or assigns.

D. This Agreement shall be construed in accordance with the laws of the State of California.

E. The headings in this Agreement are for convenience only, shall in no way define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part hereof.

F. Nothing herein contained shall be deemed or constructed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

G. This Agreement may be executed in several counterparts, each of which may be deemed an original, and all of such counterparts together shall constitute one and the same Agreement.

[SIGNATURE(S) APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantor hereunto set its signature this _____
day of _____, 2024.

GRANTOR:

CENTRAL LOS ANGELES TRANSFER,
a California corporation

By: _____
Name: _____
Its: _____

501 SPECTRUM CIRCLE, LLC,
a California limited liability company

By: _____
Name: _____
Its: _____

S&S CHAMBERS LLC,
a California limited liability company

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Title: _____

Grantor's Mailing Address:
1714 16th Street
Santa Monica, CA 90404

ACKNOWLEDGMENT

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

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

GRANTEE:

CITY OF BRISBANE,
a municipal corporation

By: _____
Name: _____
Title: _____

Grantee's Mailing Address:
City of Brisbane
50 Park Place
Brisbane, California 94005
Attn: Director of Public Works

ACKNOWLEDGMENT

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

State of California)
County of _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT A to EASEMENT AGREEMENT

Legal Description of Easement Area

(the location of which is shown on the attached Exhibit B)

Drainage Canal

A strip of land 15.00 feet wide lying northerly of and adjacent to the southerly line of Lot 1 of Tract No. 852 filed for record December 15, 1968 in Book 68 of Maps at page 32 in the office of the County Recorder of San Mateo County, State of California, described as follows:

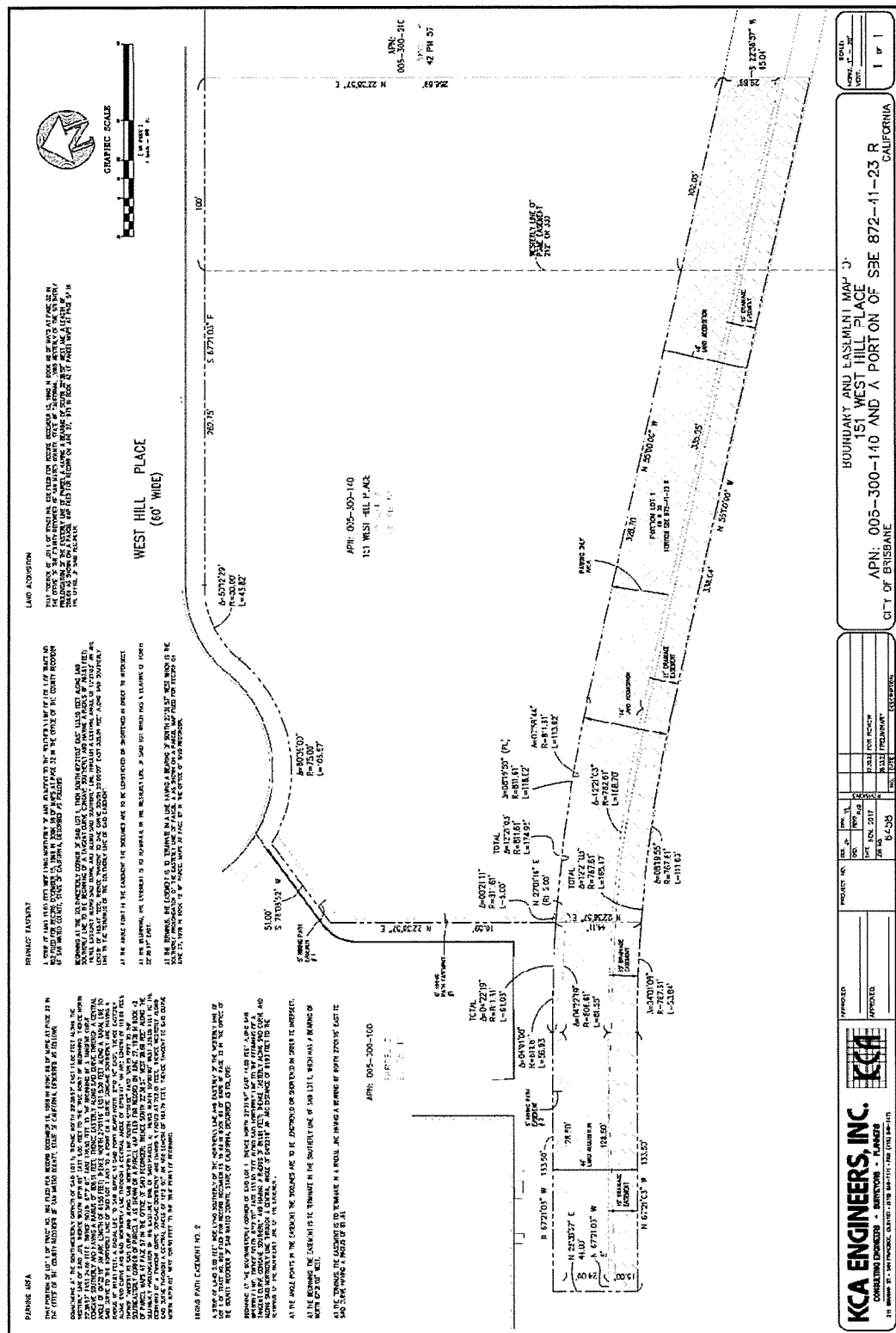
Beginning at the southwesterly corner of said Lot 1; then South 67°21'03" East 133.50 feet along said southerly line to the beginning of a tangent curve concave southerly and having a radius of 767.61 feet; thence easterly along said curve and along said southerly line through a central angle of 12°21'03" an arc length of 165.47 feet; thence tangent to said curve South 55°00'00" East 338.04 feet along said southerly line to the terminus of the southerly line of said easement.

At the angle point in the easement the sidelines are to be lengthened or shortened in order to intersect.

At the beginning, the easement is to terminate in the westerly line of said lot which has a bearing of North 22°38'57" East.

At the terminus, the easement is to terminate in a line having a bearing of South 22°38'57" West which is the southerly prolongation of the easterly line of Parcel A as shown on a Parcel Map filed for record on June 27, 1978 in Book 42 of Parcel Maps at page 57 in the office of said recorder.

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RESOLUTION 2024-GPC-1

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
FINDING THE DISPOSITION OF CERTAIN REAL PROPERTY
FROM THE CITY OF BRISBANE TO CENTRAL LOS ANGELES TRANSFER (CLAT), 501 SPECTRUM
CIRCLE, LLC (501 SPECTRUM), AND S&S CHAMBERS LLC (S&S CHAMBERS)
CONFORMS TO THE CITY'S GENERAL PLAN

WHEREAS, City is the fee simple owner of the real property bearing Assessor's Parcel Number 005-300-999 ("City Parcel"); and

WHEREAS, Central Los Angeles Transfer (CLAT), 501 Spectrum Circle, LLC (501 Spectrum), and S&S Chambers LLC (S&S Chambers) are the fee simple owner of the real property bearing Assessor's Parcel Number 005-300-140 ("Subject Parcel"); and

WHEREAS, City and CLAT, 501 Spectrum, and S&S Chambers have entered into a Purchase and Sale Agreement ("PSA") concerning the above-mentioned properties owned by the City and CLAT, 501 Spectrum, and S&S Chambers; and

WHEREAS, the PSA provides that the City will convey to CLAT, 501 Spectrum, and S&S Chambers the City's fee interest in all of City Parcel, as shown on the schematic Exhibit A to this Resolution; and

WHEREAS, the PSA provides that CLAT, 501 Spectrum, and S&S Chambers will deed to the City an access easement in a portion of both City Parcel and Subject Parcel, as shown on the schematic Exhibit A to this Resolution; and

WHEREAS, California Government Code, Section 65402(a) requires that before the City disposes of real property such disposition is to be submitted to, and reported on by, the Planning Commission as to conformity with the City's General Plan; and

WHEREAS, the Planning Commission has considered the agenda report and supporting documents concerning the proposed disposition of City property; and

WHEREAS, such disposition is consistent with the City of Brisbane's General Plan, specifically with the land use element which designates this property for trade commercial development and with Local Economic Development Policy 8 and Crocker Park Subarea Policy CP.3 in that these policies refer to maintaining a diverse tax base and uses in the Crocker Park subarea that provide jobs, city revenues, and benefits to the community.

WHEREAS, such disposition is furthermore consistent with Land Use Policy LU.4, Circulation Policy C.34, Open Space Policy 86, and Crocker Park Subarea Policy CP.10 in that these policies refer to providing pedestrian access to natural areas such as San Bruno Mountain State and County Park; and

WHEREAS, the proposed resolution is exempt from California Environmental Quality Act (CEQA), pursuant to Section 15312 of the CEQA Guidelines, Surplus Government Property Sales. The exceptions to this categorical exemption referenced in Section 15300.2 do not apply.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission finds, in accordance with Government Code section 65402(a), that the location, purpose, and extent of the above-described disposition of real property between the City of Brisbane and CLAT, 501 Spectrum, and S&S Chambers conforms to the Brisbane General Plan.

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Commission of the City of Brisbane during the Regular Meeting of the Planning Commission on the twenty-seventh day of June 2024, by the following vote:

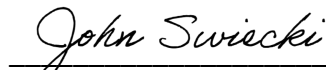
AYES: Funke, Gooding, Lau, Patel, Sayasane

NOES:

ABSENT:

Alex Lau
Chairperson

ATTEST:



JOHN A SWIECKI, Community Development Director

Brisbane, CA - PSA Concept

CLAT, 501 Spectrum, and S&S Chambers grants 832 SF access easement for hiking path on 151 W Hill Place

CLAT, 501 Spectrum, and S&S Chambers grants 1,106 SF access easement for hiking path on subject property

NOTE: DIMENSIONS ON OTHER PROPERTY ARE APPROXIMATE, NEED LEGIBLE PLAY TO CONFIRM DIMENSIONS

1,106 SF WALK PATH ON OTHER PROPERTY

City sells approximately 28,000 SF to CLAT, 501 Spectrum, and S&S Chambers



SITE PLAN - WALK PATH

WALK PATH AREA:

ON PROPERTY	832 SF
OFF PROPERTY	1,106 SF

RESOLUTION NO. 2024-XX

WHEREAS, the City of Brisbane owns a vacant, landlocked parcel located in Crocker Park, which parcel is approximately 28,000 square feet and adjoins property owned jointly by, several entities (Central Los Angeles Transfer, a California Corporation, 501 Spectrum Circle, LLC, and S&S Chambers, LLC, [hereafter, collectively, “Buyers”]); and

WHEREAS, the Buyers’ adjoining property is located at _____, is developed and houses _____; and

WHEREAS, the City acquired the vacant parcel from the McKesson Corporation in 1995 as part of a series of transactions between McKesson and the City that led to the development of Crocker Park; and

WHEREAS, on February 15, 2024, City Council received an agenda report concerning the potential sale of this parcel and, after discussion, Council adopted a resolution declaring the property as surplus land and directing staff to return the item to the Council when and if there is a potential purchaser of the property; and

WHEREAS, Staff sent the required notices under the Surplus Lands Act that the property was available to school districts, recreation districts, and affordable housing providers but within the time frame provided by the Surplus Land Act, the City received no interest from any of those districts or housing providers; and

WHEREAS, staff then contacted representatives of the Buyers to determine if the Buyers still had an interest in acquiring the property; and

WHEREAS, the Buyers were still interested in acquiring the property for the price-- \$718,250—that the Buyers had discussed earlier with staff and, to that end, the Buyers have signed an Agreement for the Purchase and Sale of Real Property (“PSA”); and

WHEREAS, on June 28, 2024, the Planning Commission made findings that the sale of this property is in conformity with the policies of the General Plan; and

WHEREAS, City Council at its regular meeting on July 18, 2024 considered the proposed PSA, the agenda report and recommendation of City staff, and all comments and concerns of the public.

NOW, THEREFORE, the City Council of the City of Brisbane resolves as follows:

Section 1. City Council approves the sale of the property to the Buyers and authorizes the City Manager to sign the Agreement for the Purchase and Sale of Real Property and all other documents necessary to carry out the sale.

Section 2. The City Clerk is directed to record the Grant Deed and all related Easements when the City Attorney has approved as to form all such documents and advises that all conditions precedent to closing escrow have been satisfied.

Section 3. This Resolution shall take effect immediately upon its adoption.

The above resolution was adopted at a regular meeting of the Brisbane City Council on July 18, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ingrid Padilla, City Clerk

Approved as to form:



Thomas R. McMorrow, City Attorney