

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (this "Agreement") is effective as of the ____ day of _____, 2024, and is made by and between the City of Sonora, a political subdivision of the State of California, ("Buyer" or "the City"), and Symons Properties I, LLC, a California Limited Liability Company"; ("Seller" or "Symons").

RECITALS:

WHEREAS, Seller is the fee simple owner of that certain real property located in the City of Sonora, Tuolumne County, California commonly known as the parking lot at the corner of Church and Stewart Streets, Sonora, California 95370 and depicted on the Parcel Map and legally described collectively on **Exhibit "A"** hereto (the "Real Estate"). The Real Estate consists of unimproved land which includes a parking lot with a small building located thereon and consisting of approximately 5,653 square feet in size (APN 002-151-012); and

WHEREAS, Buyer owns and has been in possession of a parking lot located generally west and contiguous of the Real Estate; and

WHEREAS, as a result of Buyer's ownership of the contiguous property, is familiar with the Real Estate; and

WHEREAS, Buyer desires to purchase from Seller, and Seller desires to convey to Buyer the Real Estate on the terms, subject to the conditions, and for the considerations hereinafter set forth herein.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants, promises and the respective representations, warranties, agreements, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, agree that the foregoing recitals are incorporated herein by reference and as follows:

ARTICLE I

CERTAIN DEFINITIONS

1.1 Certain Definitions. When used herein, the following terms shall have the respective meanings set forth opposite each such term:

Agreement: This Real Estate Purchase Agreement, including the Exhibits attached hereto, are incorporated herein and made a part hereof.

Claim: Any claim, lawsuit, demand, suit, motion, litigation, proceeding, arbitration, or other dispute, whether civil, criminal, administrative or otherwise, or any hearing, investigation or notice of a violation by a Governmental Authority.

Closing: The consummation of the purchase and sale of the Real Estate contemplated by this Agreement, which shall take place on the Closing Date and be held at such place and in such manner as Seller and Buyer reasonably agree. This may be effected through the Escrow.

Deed: That certain recordable Grant Deed prepared, executed and delivered in accordance with the laws of the State of California to be delivered by Seller to Buyer at the Closing conveying the Real Estate to Buyer, subject only to the Permitted Exceptions.

Escrow Agreement: An escrow agreement in the form of escrow instructions to be prepared by Yosemite Title Company, between Seller, Buyer and Title Insurer as the Escrowee.

Escrow Date: Five (5) days after full execution of this Agreement.

Escrowee: Yosemite Title Company, Inc. 208 S. Washington Street, Sonoma, California 95370

Governmental Approvals: Approvals for the development of the Real Estate for the purposes from various Governmental Authorities, including (if applicable), entitlements, general plan land use designations, zoning designations, conditional use permits, licenses, encroachment rights, and other environmental and/or land use approvals.

Governmental Authority: Any legislative, judicial, executive, regulatory or administrative body, agency, commission, authority or instrumentality of the United States of America or of any state, county, city or other political subdivision within the United States of America, and any arbitrator or panel of arbitrators whose rulings, orders, and awards are, in the particular circumstances presented, enforceable in a court of law within the United States of America.

Losses: All claims, investigations, actions or causes of action, losses, liabilities, fines, penalties, judgments, liens, injuries, damages, costs of settlement or other costs or expenses of whatever kind or nature (including any action or proceeding brought, threatened or ordered by any Governmental Authority), including reasonable attorneys' and reasonable experts' fees and court costs and expenses, and investigation and remediation costs.

Permitted Exceptions: Those items approved in writing by Buyer, at their sole discretion, following their review of the Title Commitment, the Survey, (if any), the Existing Due Diligence Information, any other information learned by Buyer in its due diligence review of the Real Estate, and those items which are liens or exceptions which arise from an act or omission by or claim against Buyer or an agent of Buyer.

Purchase Price: The consideration payable by Buyer to Seller for the Real Estate as provided in **Section 3.1 and 3.2** hereof.

Real Estate: All of the land, structures, fixtures, parking area, and other improvements thereon as set forth on the Parcel Map, together with a legal description of the Real Estate collectively attached as **Exhibit “A”**, together with all privileges, rights, title, interests, easements, hereditaments, and appurtenances thereunto belonging to Seller, and all right, title, and interest of Seller in and to all streets, alleys, passages, and other rights-of-way included therein or adjacent thereto.

Title Commitment: A commitment for a 1992 ALTA Form Owner's Title Insurance Policy for the Real Estate issued by the Title Insurer in the amount of the Purchase Price allocated by the parties hereunder to the Real Estate, covering title to the Real Estate on or after the date hereof. Subject to the provisions of **Section 6.1** hereof, such commitment shall insure and show that Seller is the titled owner of the Real Estate in fee simple, free and clear of all liens, assessments, defects, restrictions, encumbrances, easements, leases, tenancies, claims or rights of use or possession, and other title objections whatsoever (including any lien or future claim from materials or labor supplied for improvement of such real property), except those existing easements, covenants, conditions, reservations, agreements, and restrictions of record, government ordinances, zoning regulations, and public utilities easements, if any, which are acceptable to Buyer at Buyer's sole discretion and the Permitted Exceptions, if any; and subject to real estate taxes and assessments, both general and special, which are a lien but not yet due and payable.

Title Insurer: Stewart Title Guaranty Company, a Texas corporation

ARTICLE II

PURCHASE AND SALE

2.1 **Purchase and Sale.** On the terms and subject to the conditions contained in this Agreement, Seller agrees to sell, convey, transfer, assign, and deliver to Buyer, and Buyer agrees to purchase, acquire, and accept from Seller the Real Estate by proper execution, delivery and acceptance of the Deed.

ARTICLE III

PURCHASE PRICE

3.1 **Purchase Price.** The Purchase Price for the Real Estate shall be ONE HUNDRED TWENTY-FOUR THOUSAND NINE HUNDRED FORTY-TWO AND 38/100 DOLLARS (\$124,942.38).

3.2 **“As Is”.** The property shall be transferred from Seller to Buyer on an “as is” basis as set forth in paragraph 4.3 below.

3.3 **Payment of Purchase Price.** The Purchase Price shall be paid as follows:

A. **Initial Deposit and Down Payment.** The total amount of the down payment shall be the sum of five thousand dollars (\$5,000). Buyer shall deposit five thousand dollars (\$5,000) (the “Initial Deposit”) with Escrowee within five (5) days of the opening of escrow. The initial deposit shall be applied to the purchase price but, with the exception of a refund occurring under Article IV, 4.1D and Article XII, 12.7, shall be non-refundable and subject to the provisions of Article X (Liquidated Damages) below, should the escrow not close. The balance of the purchase price shall be paid pursuant to paragraph 3.4 below.

3.4 **Balance of Purchase Price—All Cash at Close.** Buyer shall pay the balance of the purchase price in the sum of \$119,942.38 with either a cashier’s check submitted to the escrowee at close, or by causing the wiring of funds to the Seller’s bank account. In the event the balance of the purchase price is paid by wire, Seller shall provide wiring instructions to the escrowee and buyer shall pay all wire costs.

ARTICLE IV

DUE DILIGENCE

4.1 **Due Diligence.** Buyer shall have the right to perform a complete due diligence review of the Real Estate (the “Due Diligence”) to determine if it is feasible to purchase the Real Estate. Buyer shall have from the date of this Agreement until 10:00 a.m., Pacific Time on the date that is twenty (20) days from the date of this Agreement (the “Due Diligence Period”) to complete its Due Diligence, which may include investigations with regard to the Real Estate, matters of zoning, re-development potential, building codes, square footage contained in the Real Estate, flood zone status, seismic, taxes, fees and governmental regulations, architectural requirements, easements, issues with contiguous property owners, engineering tests, pests, water quality, utility access and flow rates, building structural reports, history of past repairs, soils and geologic reports, as well as toxic and environmental, all matters disclosed by the Existing Due Diligence Information and Title Commitment and any other inspections, evaluations, studies and/or investigations of any nature Buyer may elect to make or obtain.

A. **Inspection.** As set forth in this Agreement, Buyer shall have the right to enter onto the Real Estate at reasonable times prior to Closing for the purpose of performing such studies, surveys, tests and inspections of the Real Estate that Buyer may deem necessary or advisable. Seller specifically agrees to allow Buyer and/or Buyer’s agents or representatives reasonable access to the Real Estate during normal business hours, for purposes of any physical and/or environmental inspections of the Real Estate that Buyer may deem necessary or advisable. Except for the Title Commitment, and the Existing Due Diligence Information, all expenses in connection with the Due Diligence shall be paid solely by Buyer whether or not this transaction closes and whether or not the information is communicated to Seller.

B. **Indemnity.** Buyer shall not create or suffer to be created any damage, lien, or encumbrance against the Real Estate, as a result of Buyer or Buyer’s agents entering on the Real Estate. Buyer agrees to indemnify, defend and hold Seller harmless from and against any and all Losses or other liabilities arising out of any such Due Diligence

performed by Buyer or on Buyer's behalf ("Buyer's Indemnity Obligations"). If Seller is made a party to any Claim as a result of Seller's agreement to allow Buyer to have access to the Real Estate for the purposes of Buyer's Due Diligence, Buyer agrees to pay all of Seller's Losses. Buyer agrees that Seller shall not be liable for any Losses of any type whatsoever to any vehicle, equipment, or other personal property used, stored or left on the Real Estate by Buyer, its agents, or contractors, in connection with the performance of Buyer's Due Diligence, and agrees to defend, indemnify and hold Seller harmless from any such Loss.

C. **Copies of Information.** Within fifteen (15) days of execution of this Agreement, Seller shall provide copies of all documents in Seller's possession or under its control relating, regarding and/or affecting the Real Estate (the "Existing Due Diligence Information"). The Existing Due Diligence Information shall include, without limitation, any environmental reports, abstracts, maps, boundary line adjustment documents, leases and amendments, and surveys of the Real Estate currently in the Seller's possession or control. Buyer acknowledges that Seller does not warrant the accuracy or completeness of the Existing Due Diligence Information.

D. **Acceptance of Real Estate.** Buyer shall have until the expiration of the Due Diligence Period to approve or disapprove, in Buyer's sole and absolute discretion, the suitability of the Real Estate for Buyer's purposes by delivering written notice by way of a written document signed and dated by Buyer or an Agent/Individual authorized to act upon behalf of Buyer to Seller and Escrowee of such approval or disapproval (the "Feasibility Notice"). If Buyer fails to deliver to Seller and Escrowee the Feasibility Notice prior to the end of the Due Diligence Period, Buyer shall be deemed to have disapproved of the suitability of the Real Estate. In the event Buyer disapproves of the suitability of the Real Estate, this Agreement shall be terminated and the balance of the Initial Deposit shall be returned to Buyer, and neither party shall have any further obligation to the other with respect to this Agreement or the Real Estate except as otherwise expressly provided herein.

4.2 **Seller's Covenants.** Seller agrees, at all times during the Due Diligence Period and during the remaining term of this Agreement, to do the following:

A. **Maintenance of Real Estate.** Seller shall maintain the Real Estate, and all the improvements that are a part thereof, in substantially the same condition as it exists on the date of this Agreement and shall keep any and all insurance maintained by Seller on the Real Estate current through the Closing Date.

B. **No Further Encumbrances.** Seller shall not enter into any agreements affecting the ownership, use, possession, or development of the Real Estate which will be binding upon Buyer or the Real Estate after Closing Date or further encumber the Real Estate in any manner whatsoever.

C. **Leases.** Seller shall not at any time during the contract period enter into any lease amendments or extensions for all or any portion of the Real Estate which will be binding upon Buyer or the Real Estate after the Closing Date, without Buyer's prior written authorization.

D. **New Information.** Seller shall promptly disclose to Buyer any

information or notices Seller may obtain or receive prior to the Closing Date regarding (i) any claimed violation of law respecting the current use or condition of the Real Estate; (ii) any threatened or filed proceedings in eminent domain with respect to all or any portion of the Real Estate; (iii) the presence of Hazardous Materials on or within the soils or groundwater of or underlying all or any portion of the Real Estate; and/or (iv) the presence of any Hazardous Materials in, on, or within the Real Estate or neighboring properties that affects or could affect the Real Estate. For specific disclosures, see Article X, Representations and Warranties of Seller.

E. **Cooperation.** Seller shall cooperate with Buyer in Buyer's efforts to determine whether the Real Estate is suitable for Buyer's intended development or use.

4.3 **“AS-IS” PURCHASE.** Buyer acknowledges and agrees that it will be given, prior to Close of Escrow and pursuant to this Agreement, a full opportunity to inspect and investigate each and every aspect of the Real Estate, either independently or through agents of Buyer's choosing, including, without limitation, all matters relating to record title to the Property, together with all governmental and other legal requirements such as taxes, assessments, zoning, utilities, water, zoning status and requirements, building codes, and the physical condition and aspects of the Property including an examination for the presence or absence of any flammable explosives, radioactive materials, hazardous waste, toxic substances, or related materials (“Hazardous Materials”). Buyer therefore covenants and agrees as follows:

i. Buyer specifically acknowledges and agrees that Seller is selling and Buyer is purchasing the Property on an “AS-IS, WITH ALL FAULTS” basis. Buyer is not relying on any representations or warranties of any kind whatsoever, express or implied, made by Seller, its agents, attorneys, or brokers (if any), as to any matter concerning the Real Estate except as expressly set forth in this Agreement, including, without limitation: (a) the quality, nature and adequacy of the physical condition of the Real Estate; (b) the quality, nature, adequacy, and physical condition of the soils, geology and any groundwater on or in the vicinity of the Real Estate; (c) the development potential of the Real Estate and the Real Estate's use, habitability, merchantability, or the fitness, suitability, value or adequacy of the Real Estate for any particular purpose; (d) the zoning or other legal status of the Real Estate or any other public or private restrictions affecting the Real Estate; (e) compliance of the Real Estate with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and/or restrictions of any governmental or quasi-governmental entity or of any other person or entity; (f) the presence of Hazardous Materials in, on, under or about the Real Estate or the adjoining or neighboring properties; (g) the condition of title to the Real Estate; (h) any agreements affecting the Real Estate; and (i) the economics of ownership and/or operation of the Real Estate; (j) the nature, quality, adequacy and physical condition of any other sources of water for the Real Estate; and (k) the nature, quality, adequacy and physical condition of the sewer system servicing the Real Estate.

ii. The parties agree that all understandings and agreements heretofore made between them or their respective agents or representatives are merged into this Agreement, which alone fully and completely expresses their agreement. This Agreement has been entered into after full investigation, or with the parties satisfied with the opportunity afforded for full investigation. Buyer is not relying upon any statement or representation by or on behalf of Seller unless such statement or representation is specifically embodied in this

Agreement. Buyer acknowledges that Seller has requested Buyer to inspect fully the Real Estate and investigate all matters relevant thereto and to rely solely upon the results of Buyer's own inspections or other information obtained or otherwise available to Buyer.

iii. As the Real Estate consists of a parking lot and a small outbuilding, should Buyer not need the full twenty (20) day due diligence period, it shall notify Seller when ascertained.

ARTICLE V

TITLE

5.1 **Title.** Seller shall, at Buyer's cost and expense, obtain and deliver the Title Commitment to Buyer as of the Escrow Date. If the Title Commitment discloses exceptions to title other than the Permitted Exceptions (such non-Permitted Title Exception matters hereinafter referred to as "Unpermitted Exceptions") including liens or encumbrances of an undisputed, definite, or ascertainable amount which can be removed by the payment of money at the time of the Closing in an amount not in excess of the amount to be paid in cash hereunder by Seller on the Closing Date ("Definite Lien(s)"), which Seller may so remove on the Closing Date by using the funds to be paid on delivery of the Deed, Buyer shall notify Seller of such Unpermitted Exceptions/Definite Lien(s) prior to the expiration of the Due Diligence Period. If Buyer fails to notify Seller of such Unpermitted Exceptions/Definite Lien(s) prior to the expiration of the Due Diligence Period, Buyer shall be deemed to have not approved of the Title Commitment and all exceptions to title and liens or encumbrances on the Title Commitment shall be deemed Unpermitted Exceptions. If Seller elects to remove all Unpermitted Exceptions, Seller shall give notice to Buyer of its intention to remove such Unpermitted Exceptions within five (5) business days of the expiration of the Due Diligence Period and shall have until the Closing Date to have such Unpermitted Exceptions removed from the Title Commitment or to have the Title Insurer, at Seller's sole cost and expense, issue its endorsement insuring against damage caused by such Unpermitted Exceptions, provided such Unpermitted Exceptions will not materially interfere with Buyer's intended use of the Real Estate. If Seller fails to give the foregoing notice, this Agreement shall automatically terminate. If Seller fails to have such Unpermitted Exceptions removed on or before the Closing Date and fails to make arrangements to have the Definite Lien(s) paid, the Closing Date shall be extended for five (5) business days, and Buyer, on or before the extended Closing Date, may elect, as its sole remedy, either: (i) to terminate this Agreement (in which event this Agreement shall be void and of no further effect and neither party shall have any further rights or obligations hereunder); (ii) cause the Title Insurer to insure over the Unpermitted Exceptions at Buyer's sole cost and expense; or (iii) to accept title subject to such uncured Unpermitted Exceptions and Definite Lien(s) and close the transaction contemplated herein (and from and after such election to close, all such uncured Unpermitted Exceptions and Definite Lien(s) shall be deemed to be Permitted Exceptions for all purposes of this Agreement). Seller shall not be in default hereunder if it fails to remove any Unpermitted Exceptions or pay any Definite Lien(s) but in the event Seller so elects to remove such Unpermitted Exceptions, at its sole cost and expense, and/or pay any Definite Lien(s),

Seller shall proceed diligently to remove promptly such Unpermitted Exceptions and pay any Definite Lien(s) at or prior to Closing.

5.2 **Seller's Affidavits/Indemnity.** Seller shall provide such affidavits/indemnity agreements to the Escrowee or take such other actions as are reasonably necessary to enable the Escrowee to remove all the exceptions, other than the Permitted Exceptions, from the Title Commitment, provided however, that in no event shall this **Section 5.2** require Seller to cure the Unpermitted Exceptions, or pay the Definite Liens unless Seller has elected to do pursuant to **Section 5.1** of this Agreement.

ARTICLE VI

POSSESSION, PRO-RATIONS AND CLOSING COSTS

6.1 **Possession.** Seller shall deliver exclusive possession of the Real Estate to Buyer on the Closing Date.

6.2 **Pro-rations.** General and special real estate and other ad valorem taxes and assessments and other state, county, local, or city taxes, fees, charges and assessments affecting the Real Estate; utility charges and deposits; insurance; rents; and all other items of accrued or prepaid income and expenses customarily prorated on the transfer of properties similar to the Real Estate in Tuolumne County, California, shall be prorated on an accrual basis as of the Closing Date on the basis of the most recent ascertainable amounts of or other reliable information in respect to each such item of income and expense, and the net credit to Buyer or Seller shall be paid in cash or as a credit against the Purchase Price on the Closing Date. All prorations hereunder shall be final. Buyer shall assume and timely discharge all obligations with respect to accrued expenses and prepaid income for which it receives proration credit and Buyer shall indemnify, defend, and hold Seller harmless against any claims with respect to accrued expenses and prepaid income for which it receives a proration credit.

6.3 **Allocation of Closing Costs.** In connection with the Closing, Buyer shall pay all state, county and municipal transaction/transfer taxes, if any, all of the title insurance premium for an ALTA title policy (and for any additional endorsements requested by Buyer) if requested by Buyer, all of the fees due to Escrowee, all of the Natural Hazard Disclosure Report, and all of the recording fees for the Deed. Seller shall pay any unpaid Definite Lien(s) which Seller has elected to remove pursuant to **Section 5.1**, and preparation and recording fees for documents required to clear Seller's title to the Real Estate, if any. Buyer shall pay any additional cost for an ALTA title policy (if requested by Buyer), any inspections of the Real Estate, the cost of the Survey (if any), the cost of an updated Phase I or new Phase I (if any), the cost of a new Phase II (if any), and the recording costs for any loan that Buyer may require which secures the Loan, should Buyer require financing to fund the purchase price. Any other closing costs not referenced in this paragraph shall be allocated by the Escrowee based on local custom. Should any of the Parties desire to obtain counsel to review this agreement, each shall pay their respective attorneys fees.

6.4 **Custom.** Buyer and Seller shall defer to the Escrowee as to the custom for payment of real estate tax and assessment proration and closing costs not specifically allocated in this Agreement.

ARTICLE VII

ESCROW

7.1 **Escrow.** The transaction contemplated by this Agreement shall close through an escrow with the Escrowee, Yosemite Title Company, Sonora, California in accordance with the Escrow Agreement. Within five (5) days of the mutual execution of this Agreement, the parties shall open escrow with Escrowee, by the deposit of a copy of this Agreement with the Escrowee. Seller and Buyer agree to prepare and execute such escrow instructions as may be necessary and appropriate to close the transaction in accordance with the terms of this Agreement. The Escrow Agreement shall be auxiliary to this Agreement, and this Agreement shall not be merged into nor in any manner superseded by the Escrow Agreement. Should said instructions fail to be executed as required, Escrowee shall be and hereby is directed to close escrow pursuant to the terms and conditions of this Agreement. The Escrowee shall file, unless otherwise directed by Buyer, with the Internal Revenue Service the information return (Form 1099B) required by Section 6045(e) of the Internal Revenue Code and any regulations issued pursuant thereto. Seller shall be responsible to give to the Escrowee such information with respect to Seller as the Escrowee needs in order to complete such form and any other forms required in connection with the Closing.

ARTICLE VIII

LIQUIDATED DAMAGES

8.1 Default.

8.1 **LIQUIDATED DAMAGES.** PROVIDED BUYER HAS NOT ELECTED TO TIMELY TERMINATE THIS AGREEMENT PURSUANT TO ANY OF BUYER'S RIGHTS TO DO SO CONTAINED HEREIN, AND THEREAFTER BUYER COMMITS A MATERIAL DEFAULT OR FAILS TO PROVIDE FUNDS TO CLOSE ESCROW UNDER THIS AGREEMENT AND OR THE CLOSE OF ESCROW FAILS TO OCCUR SOLELY BY REASON OF SUCH DEFAULT, THEN YOSEMITE TITLE COMPANY SHALL BE INSTRUCTED BY SELLER TO CANCEL THE ESCROW AND SELLER SHALL THEREUPON BE RELEASED FROM THEIR OBLIGATIONS HEREUNDER. BUYER AND SELLER AGREE THAT BASED UPON THE CIRCUMSTANCES NOW EXISTING, KNOWN AND UNKNOWN, IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO ESTABLISH SELLER'S DAMAGE BY REASON OF BUYER'S DEFAULT. ACCORDINGLY, BUYER AND SELLER AGREE THAT IT WOULD BE REASONABLE AT SUCH TIME TO AWARD SELLER "LIQUIDATED DAMAGES" EQUAL TO SUM OF \$5,000. SELLER AND BUYER ACKNOWLEDGE AND AGREE THAT THE FOREGOING AMOUNT IS REASONABLE AS LIQUIDATED DAMAGES AND SHALL BE SELLER'S SOLE AND EXCLUSIVE

REMEDY IN LIEU OF ANY OTHER RELIEF, RIGHT, OR REMEDY, AT LAW OR IN EQUITY, TO WHICH SELLER MIGHT OTHERWISE BE ENTITLED BY REASON OF BUYER'S DEFAULT UNDER THIS AGREEMENT.

Buyers' Initials: _____

8.2 Release of Funds in Event of Default. In the event Buyer defaults beyond any applicable cure period or in the event Seller defaults beyond any applicable cure period, any funds deposited into escrow shall not be released to the entitled party unless: (a) both parties issue joint instructions to Escrow Holder to release such funds to the party so entitled thereto; said instructions shall not be unreasonably withheld by either Buyer or Seller; or (b) an order to release such funds is made pursuant to a judicial decision or arbitration award.

ARTICLE IX

CONDEMNATION

9.1 Condemnation. If, subsequent to the date hereof and prior to the Closing Date, any proceeding (judicial, administrative, or otherwise) relating to the proposed taking of all or any substantial portion of the Real Estate or the taking or closing of any right of access to the Real Estate, by condemnation, eminent domain, or any action in the nature of eminent domain is instituted or commenced, then Buyer may, prior to the Closing Date and at Buyer's sole and exclusive option, elect either: (i) to terminate this Agreement, in which event this Agreement shall be void and of no further effect and no party shall have any further rights or obligations hereunder; or (ii) to close the transaction contemplated hereby as scheduled, in which event, Seller shall at the Closing assign to Buyer all of Seller's rights in and to the proceeds of such condemnation (the "Condemnation Proceeds"). Seller hereby agrees to furnish Buyer written notification in respect to any such proceedings immediately upon receipt of the same.

ARTICLE X

REPRESENTATIONS AND WARRANTIES OF SELLER

10.1 Representations and Warranties of Seller. To induce Buyer to execute, deliver, and perform this Agreement, Seller represents and warrants to Buyer on and as of the date hereof and on and as of the Closing Date as follows:

A. Organization. Seller is a California limited liability company, validly existing, and in good standing under the laws of the State of California.

B. Authority. Seller has full capacity, right, power, and authority to execute, deliver, and perform this Agreement and all documents to be executed by Seller pursuant hereto, and all required actions and approvals therefore have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Seller are and shall be duly authorized to sign the same on Seller's behalf and to bind Seller thereto. This Agreement and all documents to be executed

pursuant hereto by Seller are and shall be binding upon and enforceable against Seller in accordance with their respective terms.

C. **No Impediments.** Neither the execution and delivery of this Agreement, any of the documents or agreements delivered or to be delivered herewith by Seller, the performance by Seller, nor the consummation of the transactions contemplated hereby by Seller will: (i) violate, conflict with, or constitute a default under, or result with the passage of time or the giving of notice, in the violation of any provision of any mortgage, lien, lease, contract, agreement, permit, indenture, license, or instrument to which Seller is a party; (ii) violate or conflict with any law, order, arbitration award, judgment, or decree to which Seller is subject; (iii) require any consent or authorization for, order or approval of, or filing or registration with any federal, state or local governmental commission, board, or other regulatory body, or any other third party; or (iv) violate any provision of Seller's organizational documents.

D. **Real Estate.** Seller has received no notice by any Governmental Authority of any existing, pending, contemplated, threatened, or anticipated: (i) condemnation of any part of the Real Estate; (ii) widening, change of grade, or limitation on use of streets abutting the Real Estate; (iii) special tax or assessment to be levied against the Real Estate; (iv) change in the zoning classification of the Real Estate; or (v) increase in the tax assessment of the Real Estate.

E. **Compliance With Laws.** Seller has not received any written notice of violation of any federal, state, and local health, safety, and environmental protection laws, orders, and regulations as such laws, orders, and regulations relate to the Real Estate, and neither Seller nor the Real Estate have been cited for any violation of any such law or regulation. Seller does not have knowledge of any material capital expenditures that are required to be incurred in order for the Real Estate to be in compliance on the date of the Closing with any and all applicable federal, state, or local laws, orders, or regulations relating to the protection of health, safety, or the environment of the Real Estate as currently being used.

F. **Title and Encumbrances.** Seller has good and marketable title to the Real Estate. The Real Estate is free and clear of any and all restrictions on or conditions to transfer or assignment and free and clear of any and all liens, pledges, charges, encumbrances, equities, claims, leases, easements, rights of way, covenants, conditions, or other restrictions, or other contracts or agreements affecting the Real Estate, and, other than as set forth in any existing leases, no person or entity has any right of first refusal or option to purchase, lease, or otherwise use, occupy, or benefit from the Real Estate, or any part thereof, or any interest therein, except as shown in the Title Commitment. Seller has not received any written notice addressed to Seller, or any partner of Seller, and sent by any Governmental Authority and has no knowledge of any intended public improvements which will result in any charge being levied or assessed against the Real Estate or any delinquent taxes, assessments (general, special, or otherwise), or bonds of any nature affecting the Real Estate or any portion thereof.

G. **Tax Withholding.** Seller is not subject to tax withholding in connection with this transaction under the Internal Revenue Code or other federal or state law.

H. **Bankruptcy or Insolvency.** Seller has not made a general assignment for the benefit of creditors, filed any voluntary petition in bankruptcy or suffered the

filing of an involuntary petition by its creditors, suffered the appointment of a receiver to take possession of substantially all of its assets, suffered the attachment or other judicial seizure of substantially all of its assets, admitted its inability to pay its debts as they come due, or made an offer of settlement, extension, or compromise to its creditors generally.

I. **Litigation.** There is no action, suit, proceeding or investigation pending or threatened, before any agency, court, or other governmental authority which relates to the Seller or the ownership, maintenance, or operation of the Real Estate.

J. **Specific Disclosures.** Seller herewith discloses to Buyer that the TUD Hookup to the Real Estate has been terminated, and that the building located on the Real Estate is in a dilapidated state and is littered with garbage and debris as a result of trespass by the homeless.

As used herein, the phrase “to the best of Seller’s knowledge” or other references herein to Seller’s knowledge or awareness means the knowledge a party would be expected to have by reason of continued involvement with the Real Estate as an owner with the assurance that such knowledge is based upon a reasonably diligent inquiry and the good faith, conscientious exercise of such party’s duties.

ARTICLE XI

REPRESENTATIONS AND WARRANTIES OF BUYER

11.1 **Representations and Warranties of Buyer.** To induce Seller to execute, deliver and perform this Agreement, Buyer hereby represents and warrants to Seller on and as of the date hereof and on and as of the Closing Date as follows:

A. **Organization.** Buyer is a political subdivision of the State of California.

B. **Authority.** Buyer has full capacity, right, power, and authority to execute, deliver, and perform this Agreement and all documents to be executed by Buyer pursuant hereto, and all required actions and approvals therefore have been duly taken and obtained. This Agreement and all documents to be executed pursuant hereto by Buyer are and shall be binding upon and enforceable against Buyer in accordance with their respective terms.

C. **No Impediments.** Neither the execution and delivery of this Agreement, any of the documents or agreements delivered or to be delivered herewith by Buyer, the performance by Buyer, nor the consummation of the transactions contemplated hereby by Buyer will: (i) violate, conflict with, or constitute a default under, or result with the passage of time or the giving of notice, in the violation of any provision of any mortgage, lien, lease, contract, agreement, permit, indenture, license, or instrument to which Buyer is a party; (ii) violate or conflict with any law, order, arbitration award, judgment, or decree to which Buyer is subject; or (iii) require any consent or authorization for, order or approval of, or filing or

registration with any federal, state or local governmental commission, board, or other regulatory body, or any other third party except as otherwise set forth in this Agreement.

D. **Creditworthiness.** Buyer has the ability to make all required payments in order to close escrow and to fulfill its obligations under the Agreement.

ARTICLE XII

CLOSING, DEFAULT

12.1 **Time and Place.** The Closing shall be held on or about ten (10) days from the removal of all contingencies. The date the Closing occurs shall be referred to herein as the "Closing Date". The Closing shall be held pursuant to the Escrow Agreement.

12.2 **Conditions to Close.**

A. **Buyer's Conditions to Close.** For Buyer's sole benefit, Buyer's obligation to complete the purchase of the Real Estate is subject to satisfaction of the conditions previously set forth in this Agreement and the following conditions at or prior to the Closing Date, unless waived by Seller in writing:

i. **Approval of Real Estate.** Buyer shall have delivered the Feasibility Notice (**if any**) to Seller on or before the expiration of the Due Diligence Period.

ii. **Approval of Title Commitment.** Buyer shall have approved of the Title Commitment and all Permitted Exceptions (if any) and Escrow has sufficient funds to pay all Definite Lien(s) (**if any**) which are to be paid in accordance with **Section 6.1**.

iii. **Title Policy.** Title Insurer shall be ready, willing, and able to issue the ALTA title policy pursuant to the Title Commitment with all requested endorsements.

iv. **Schedules.** There are no Schedules to this Agreement.

v. **Delivery of Deed.** Seller shall have executed, acknowledged, and delivered into escrow for recording and subsequent delivery to Buyer, the Deed in recordable form, conveying Seller's title to the Real Estate to Buyer subject only to the Permitted Exceptions.

vi. **Disclosure.** Buyer shall have approved of a Natural Hazard Disclosure Report for the Real Estate.

vii. **Real Estate Inspection.** Buyer shall have approved of a property inspection for the Real Estate (**if any**).

viii. Seller's Performance. Seller shall have performed all of the other terms and conditions to be performed by Seller prior to the Closing Date under the terms of this Agreement.

ix. Termination of Escrow. If any condition described in this **Section 12.2(A)** is not timely satisfied (or waived by Buyer in writing) on or prior to the Closing Date, then (i) the escrow shall terminate immediately upon receipt by Escrowee of notification from Buyer of the failure of such condition, (ii) Escrowee shall return all instruments and documents deposited into the Escrow to the parties depositing the same, (iii) Escrowee shall return to Buyer any other funds which are held on deposit from Buyer (including the Initial Deposit), less only applicable escrow cancellation fees, if any, which are due by Buyer, and (iv) neither party shall have any further rights or obligations under this Agreement, except to the extent that the failure of a condition also constitutes a default by Seller with respect to any of Seller's covenants or obligations under this Agreement.

B. Seller's Conditions to Close. For Seller's sole benefit, Seller's obligation to complete the sale of the Real Estate is subject to satisfaction of the following conditions at or prior to the Closing Date, unless waived by Seller in writing:

i. Receipt of Purchase Price. Title Company shall have received the Purchase Price for the Real Estate and shall be unconditionally able to deliver the Purchase Price to Seller in immediately available funds immediately upon Close of Escrow.

ii. Buyer's Performance. Buyer shall have performed all of the other terms and conditions to be performed by Buyer prior to the Closing under the terms of this Agreement.

iii. Termination of Escrow. If any condition described in this **Section 12.2(B)** is not timely satisfied (or waived by Seller in writing) on or prior to Closing Date, (i) the Escrow shall terminate immediately upon receipt by Escrowee of notification from Seller of the failure of such condition, (ii) Escrowee shall return all instruments and documents deposited into the Escrow to the parties depositing the same, (iii) Escrowee shall return to Buyer any other funds which are held on deposit from Buyer, less only applicable escrow cancellation fees, if any, which are due by Seller, and (iv) neither party shall have any further rights or obligations to the other under this Agreement except to the extent that the failure of a condition also constitutes a default by Buyer with respect to any of Buyer's covenants or obligations under this Agreement.

12.3 Seller's Deliveries. Seller shall deposit in the escrow the following:

- A. Within five (5) days of the Closing Date, the Deed;
- B. On the Closing Date, a settlement statement in form required by the Escrowee, if any;

C. On the Closing Date, an executed Affidavit or a qualifying statement from the U.S. Treasury Department indicating that the transaction contemplated hereby is exempt from the withholding tax requirement imposed by Section 1445A of the Internal Revenue Code and the rules and regulations promulgated thereunder ("Section 1445A"). In the event that Seller fails to deliver either the Affidavit or the qualifying statement as aforesaid, Seller agrees that Buyer may, at closing, deduct and withhold from the proceeds that are due to Seller the amount necessary to comply with the withholding tax requirement imposed by Section 1445A. Buyer shall deposit the amount so withheld in escrow with the Escrowee pursuant to terms and subject to the conditions acceptable to Seller, Buyer, and the Escrowee, but in any event, complying with Section 1445A; and

D. Such other documents, instruments, certifications, and confirmations required by the Escrow Agreement and as may be reasonably required and designated by Buyer to effect and consummate fully the transaction contemplated hereby.

12.4 **Buyer's Deliveries.** Buyer shall deposit in the escrow the following:

A. On or prior to the Closing Date, the balance of the Purchase Price as provided in **Section 3** hereof plus or minus Buyer's share of closings costs, prorations and charges payable pursuant to this Agreement;

B. On the Closing Date, a settlement statement in form required by the Escrowee, if any;

C. On or prior to the Closing Date, Buyer's escrow instructions sufficient to enable Escrowee to close the escrow in accordance with the terms of this Agreement; and

D. Such other documents, instruments, certifications, and confirmations as required by the Escrow Agreement and as may be reasonably required and designated by Seller to effect and consummate fully the transaction contemplated hereby.

12.5 **Concurrent Deliveries.** Seller and Buyer shall jointly deposit with the Escrow or deliver to each other at the Closing certificates complying with the provisions of state, county, and local law applicable to the determination of transaction/transfer taxes, if any. In addition, after the Closing Date, each party covenants and agrees to execute and deliver at the request of any other party such instruments of transfer, bills of sale, assignments, and other similar documents as may be necessary or appropriate to complete the transactions contemplated by this Agreement, at no expense to the delivering party.

12.6 **Closing Documents; Form, Execution, and Substance.** All closing documents to be furnished by the parties pursuant hereto shall be in form, execution, and substance reasonably satisfactory to the other parties and their respective counsel.

12.7 **Buyer's Remedy for Seller's Default.** If Seller defaults hereunder prior to the Closing, and such default continues for five (5) business days after the delivery of Buyer's written notice of default (provided that no notice shall be required if the default is the failure to close hereunder on the Closing Date), and provided Buyer is itself not in default hereunder, then

Buyer shall have as its remedies, either: (i) terminate this Agreement, upon which the Agreement shall be void and of no further effect, and no party shall have any further rights or obligations hereunder; (ii) pursue applicable equitable remedies including specific performance; (iii) pursue applicable legal remedies for damages as permitted by law; or (iv) obtain other recovery as provided by this Agreement. The foregoing limitation shall not apply to remedies for any breach of a representation, warranty, covenant, or obligation by Seller under Seller's indemnity agreements set forth in this Agreement, or for any breach of a representation, warranty, covenant, or obligation by Seller that survives the Closing. Under no circumstances shall Seller be liable for any exemplary or punitive damages. If the Agreement is terminated pursuant to this paragraph, the Initial Deposit shall be promptly paid by Escrowee to Buyer.

12.8 **Seller's Remedy for Buyer's Default.** If Buyer defaults hereunder prior to the Closing, and such default continues for five (5) business days after the delivery of Seller's written notice of default (provided that no notice shall be required if the default is the failure to close hereunder on the Closing Date), and provided Seller is itself not in default hereunder, then Seller shall have as its remedies, to either: (i) terminate this Agreement, upon which the Agreement shall be void and of no further effect, and no party shall have any further rights or obligations hereunder; (ii) pursue applicable equitable remedies including specific performance; (iii) pursue applicable legal remedies for damages as permitted by law; or (iv) obtain other recovery as provided by this Agreement. The foregoing limitation shall not apply to remedies for any breach of a representation, warranty, covenant, or obligation by Buyer under Buyer's indemnity agreements set forth in this Agreement, or for any breach of a representation, warranty, covenant, or obligation by Buyer that survives the Closing. Under no circumstances shall Buyer be liable for any exemplary or punitive damages. If the Agreement is terminated pursuant to this paragraph, the Initial Deposit shall be promptly paid by Escrowee to Seller.

12.9 **Both Parties in Default.** In the event of a default exists under both **Sections 12.7 and 12.8** hereof, the Parties agree to meet and confer in good faith to attempt to resolve the controversy or dispute without an adversary proceeding. If the controversy or dispute is not resolved to the mutual satisfaction of the Parties within five (5) business days of notice of the controversy or dispute, the Parties agree to waive their rights, if any, to a jury trial and to pretrial discovery, and to submit the controversy or dispute to a retired judge or justice pursuant to Section 638 et seq. of the California Code of Civil Procedure, or any successor provision, for resolution in accordance with Chapter 6 (References and Trials by Referees), of Title 8 of Part 2 of the California Code of Civil Procedure, or any successor chapter. The Parties agree that the only proper venue for the submission of claims is the County of Tuolumne, California, and that the hearing before the referee shall be concluded within nine (9) months of the filing and service of the complaint. The Parties reserve the right to contest the referee's decision and to appeal from any award or order of any court.

ARTICLE XIII

INDEMNIFICATION

13.1 **Indemnification by Seller.** Seller agrees to indemnify and defend Buyer and Buyer's employees and agents and to hold them harmless from and against any and all claims, liabilities, damages and expenses (including, without limitation, the fees and expenses of

attorneys and expert witnesses, the costs of investigation and court costs) suffered or incurred by them, directly or indirectly, (a) in connection with the ownership, use or possession of the Real Estate, to the extent such claims, liabilities, damages and expenses are based on facts, circumstances, conditions or events that took place, existed or were caused on or prior to the Closing, (b) in connection with any written or oral contracts, agreements, understandings or commitments regarding the Real Estate entered into by Seller, and (c) in connection with or arising from any breach of any covenant, representation or warranty by Seller hereunder. Buyer shall have the right to assume the defense of any claim with Buyer's own counsel. Seller may participate, at its own expense, in the defense of any claim assumed by Buyer.

13.2 **Indemnification by Buyer.** Buyer agrees to indemnify and defend Seller and Seller's employees and agents and to hold them harmless from and against any and all claims, liabilities, damages and expenses (including, without limitation, the fees and expenses of attorneys and expert witnesses, the costs of investigation and court costs) suffered or incurred by them, directly or indirectly, (a) in connection with the ownership, use or possession of the Real Estate, to the extent such claims, liabilities, damages and expenses are based on facts, circumstances, conditions or events that took place, existed or were caused after the Closing, (b) in connection with any written or oral contracts, agreements, understandings or commitments regarding the Real Estate entered into by Buyer, and (c) in connection with or arising from any breach of any covenant, representation or warranty by Buyer hereunder. Seller shall have the right to assume the defense of any claim with Seller's own counsel. Buyer may participate, at its own expense, in the defense of any claim assumed by Seller.

ARTICLE XIV

NOTICES

14.1 Notices. Any notice, request, demand, instruction, or other document to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be delivered personally; by United States registered or certified mail, return receipt requested, postage prepaid; or by a nationally recognized overnight express courier, return receipt requested, postage prepaid, and in any event addressed to the parties at their respective addresses set forth below, and the same shall be effective upon receipt if delivered personally or by overnight courier service, or two (2) business days after deposit in the mail if mailed. A copy of such notice may also be sent by facsimile and/or email. A party may change its address for receipt of notices by service of a notice of such change in accordance herewith.

If to Buyer:

City of Sonora
Attn: Chris Gorsky
94 N. Washington Street
Sonora, CA 95370
Email: cgorsky@sonoraca.com
Phone: (209) 532-6331

If to Seller:

Symons Properties I, LLC
Attn: LeAnn Steelman
644 S. Washington Street
Sonora, CA 95370
Email: Lstclair@mlode.com
Facsimile: 209-532-3386
Phone: 209-532-1218

If to Escrowee:

Yosemite Title Company
Attn: Beth Whitehead
208 S. Washington St.
Sonora, CA 95370
Email: bwhitehead@yotitle.com
Phone: 209-532-8174

ARTICLE XV

MISCELLANEOUS

15.1 **Entire Agreement, Amendments, and Waivers.** This Agreement and the Escrow Agreement contain the entire agreement and understanding of the parties with respect to the subject matter hereof, and the same may not be amended, modified, or discharged nor may any of its terms be waived except by an instrument in writing signed by the party to be bound thereby.

15.2 **Further Assurances.** The parties each agree to do, execute, acknowledge, and deliver all such further acts, instruments, and assurances and to take all such further action before or after the Closing as shall be necessary or desirable to carry out fully this Agreement and to consummate and effect fully the transaction contemplated hereby.

15.3 **Binding Effect and No Third Party Benefits.** This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the parties hereto, and their respective successors and permitted assigns. Further, this Agreement is for the sole and exclusive benefit of the parties hereto, and their respective successors and permitted assigns, and no third party is intended to or shall have any rights hereunder.

15.4 **Captions.** The headings and captions herein are inserted for convenient reference only and the same shall not limit or construe the Articles, Sections, paragraphs, or provisions to which they apply or otherwise affect the interpretation hereof.

15.5 **Terms.** The terms "hereby", "hereof", "hereto", "herein", "hereunder", and any similar terms shall refer to this Agreement, and the term "hereinafter" shall mean after,

and the term "heretofore" shall mean before, the date of this Agreement. The terms "include", "including", and similar terms shall be construed as if followed by the phrase "but not limited to".

15.6 **Gender Neutral.** Words of the masculine, feminine, or neuter gender shall mean and include the correlative words of other genders, and words importing the singular number shall mean and include the plural number and vice versa.

15.7 **Persons.** Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations, and other legal entities, including public bodies, as well as natural persons.

15.8 **Construction of Agreement.** Notwithstanding the fact that this Agreement has been drafted or prepared by one of the parties, both Buyer and Seller confirm that both they and their respective counsel have reviewed, negotiated, and adopted this Agreement as the joint agreement and understanding of the parties. Accordingly, this Agreement is to be construed as a whole and any presumption that ambiguities are to be resolved against the primary drafting party shall not apply.

15.9 **Counterparts.** This Agreement and any document or instrument executed pursuant hereto may be executed in any number of counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

15.10 **Days.** Whenever under the terms of this Agreement the time for performance of a covenant or condition falls upon a Saturday, Sunday, or legal federal holiday, such time for performance shall be extended to the next business day. Unless expressly stated otherwise, all references herein to "days" shall mean calendar days.

15.11 **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of California without application of choice of law principles or provisions.

15.12 **Time.** Time is of the essence of this Agreement.

15.13 **Severability.** If any provision of this Agreement is or shall be deemed to be illegal, invalid, or unenforceable, the remaining provisions hereof shall remain in full force and effect and interpreted as if such illegal, invalid, or unenforceable provision did not exist herein.

15.14 **Legal Counsel.** Each of the parties hereto shall pay its own expenses incident to the preparation of this Agreement and the performance of its obligations hereunder, including any attorneys' fees incurred in connection herewith. Each of the Parties represents to the other that it has been advised by its legal counsel in connection with this Agreement.

15.15 **Survival Of Representations And Warranties.** The warranties and representations contained in BUYER'S REPRESENTATIONS AND WARRANTIES and SELLER'S REPRESENTATIONS AND WARRANTIES shall survive the Closing, the delivery of the Deed and the payment of the Purchase Price.

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

15.17. **Brokerage.** The Parties represent and warrant that they have not engaged a real estate broker in connection with this Agreement and with respect to the transactions contemplated hereby. The Parties hereby indemnify, protect and defend and hold one another harmless from and against all losses, claims, costs, commissions, expenses, damages (including, but not limited to, reasonable attorneys' fees of counsel selected by the indemnified party) resulting from the claims of any broker, finder, or other such party claiming by, through or under the acts or agreements of the Parties. The obligations of the parties pursuant to this **Section 15.17** shall survive any termination of this Agreement.

15.18. **Dispute Resolution.** In the event of any dispute, controversy, claim or disagreement arising out of or related to this Agreement or the acts or omissions of the parties with respect to this Agreement (each, a “**Dispute**”), the parties shall resolve such Dispute as follows:

(a) **Meet and Confer.** The parties shall, as soon as reasonably practicable, but in no case more than ten (10) days after one Party gives written notice of a Dispute to the other Party (the “Dispute Notice”), meet and confer in good faith regarding such Dispute at such time and place as mutually agreed upon by the parties (the “Meet and Confer”). The obligation to conduct a Meet and Confer pursuant to this Section does not obligate either party to agree to any compromise or resolution of the Dispute that such party does not determine, in its sole and absolute discretion, to be a satisfactory resolution of the Dispute. The Meet and Confer shall be considered a settlement negotiation for the purpose of all applicable laws protecting statements, disclosures or conduct in such context, and any offer in compromise or other statements or conduct made at or in connection with any Meet and Confer shall be protected under such laws.

(b) **Arbitration.** If any Dispute is not resolved to the mutual satisfaction of the parties within ten (10) business days after delivery of the Dispute Notice (or such other period as may be mutually agreed upon by the parties in writing), the parties shall submit such Dispute to arbitration conducted by an arbitration and/or mediation services company, or arbitrator or mediator, as agreed to by the parties, in accordance with the following rules and procedures:

- (i) Each party may commence arbitration by giving written notice to the other party demanding arbitration (the “Arbitration Notice”). The Arbitration Notice shall specify the Dispute, the particular claims and/or causes of actions alleged by the party demanding arbitration, and the factual and legal basis in support of such claims and/or causes of action.
- (ii) The arbitration shall be conducted in Tuolumne County, California in accordance with the commercial arbitration rules and procedures of the arbitration company as mutually agreed to by the parties, or the arbitrator in rules established under California law, to the extent such rules and procedures are not inconsistent with the

provisions set forth in this Section. In the event of a conflict between any rules and/or procedures of the arbitration company as mutually agreed to by the parties and the rules and/or procedures set forth in this Section, the rules and/or procedures set forth in this Section shall govern.

- (iii) The arbitration shall be conducted before a single impartial arbitrator (or panel of arbitrators from such arbitration company as mutually agreed to by the parties) covering Tuolumne County, California (the “Panel”). The parties shall use their good faith efforts to agree upon a mutually acceptable arbitrator within thirty (30) days after delivery of the Arbitration Notice. If the parties are unable to agree upon a mutually acceptable arbitrator within such time period, then each party shall select one arbitrator from the Panel, and those arbitrators shall select a single impartial arbitrator from the Panel to serve as arbitrator of the Dispute.
- (iv) The parties expressly waive any right to any and all discovery in connection with the arbitration; provided, however, that each party shall have the right to conduct no more than two (2) depositions and submit one set of interrogatories with a maximum of forty (40) questions, including subparts of such questions.
- (v) The arbitration hearing shall commence within thirty (30) days after appointment of the arbitrator. The substantive internal law (and not the conflict of laws) of the State of California shall be applied by the arbitrator to the resolution of the Dispute, and the California Evidence Code shall apply to all testimony and documents submitted to the arbitrator. The arbitrator shall have no authority to amend or modify the limitation on the discovery rights of the parties or any of the other rules and/or procedures set forth in this Section. As soon as reasonably practicable, but not later than thirty (30) days after the arbitration hearing is completed, the arbitrator shall arrive at a final decision, which shall be reduced to writing, signed by the arbitrator and mailed to each of the parties and their respective legal counsel.
- (vi) Any party may apply to a court of competent jurisdiction for entry and enforcement of judgment based on the arbitration award. The award of the arbitrator shall be final and binding upon the parties without appeal or review except as permitted by California law.
- (vii) The fees and costs of the arbitration company as mutually agreed to by the parties and the arbitrator, including any costs and expenses incurred by the arbitrator in connection with the arbitration, shall be borne equally by the parties, unless otherwise agreed to by the parties.

- (viii) Except as set forth in **Section 15.18(b)(vii)**, each party shall be responsible for the costs and expenses incurred by such party in connection with the arbitration, including its own attorneys' fees and costs; provided, however, that the arbitrator shall require one party to pay the costs and expenses of the prevailing party, including attorneys' fees and costs and the fees and costs of experts and consultants, incurred in connection with the arbitration if the arbitrator determines that the claims and/or position of a party were frivolous and without reasonable foundation.
- (ix) In lieu of the arbitration procedure for dispute resolution, the parties may agree to mediate their dispute by entering into an agreement for mediation under which both parties select a mediator, and each pay one-half of said mediator's costs, expenses and fees.

(c) **Survival.** This Section shall survive the expiration or termination of this Agreement.

IN WITNESS WHEREOF, this Real Estate Purchase Agreement has been executed and delivered by Seller and Buyer to be effective as of the day and date set forth herein above.

BUYER:

THE CITY OF SONORA

By: Chris Gorsky, Administrative Services Director

SELLER:

SYMONS PROPERTIES I, A California non-profit limited liability company

By: LeAnn Steelman, Executive Director

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

All that certain real property in the City of Sonora, County of Tuolumne, State of California, described as follows:

Lot 5A as shown and designated on that certain Parcel Map filed in the Office of the County Recorder of Tuolumne County, California on July 24, 2019 in Book 59 of Parcel Maps at Page 87, Tuolumne County Records.

Assessor's Parcel Number 002-151-012

Provided by:

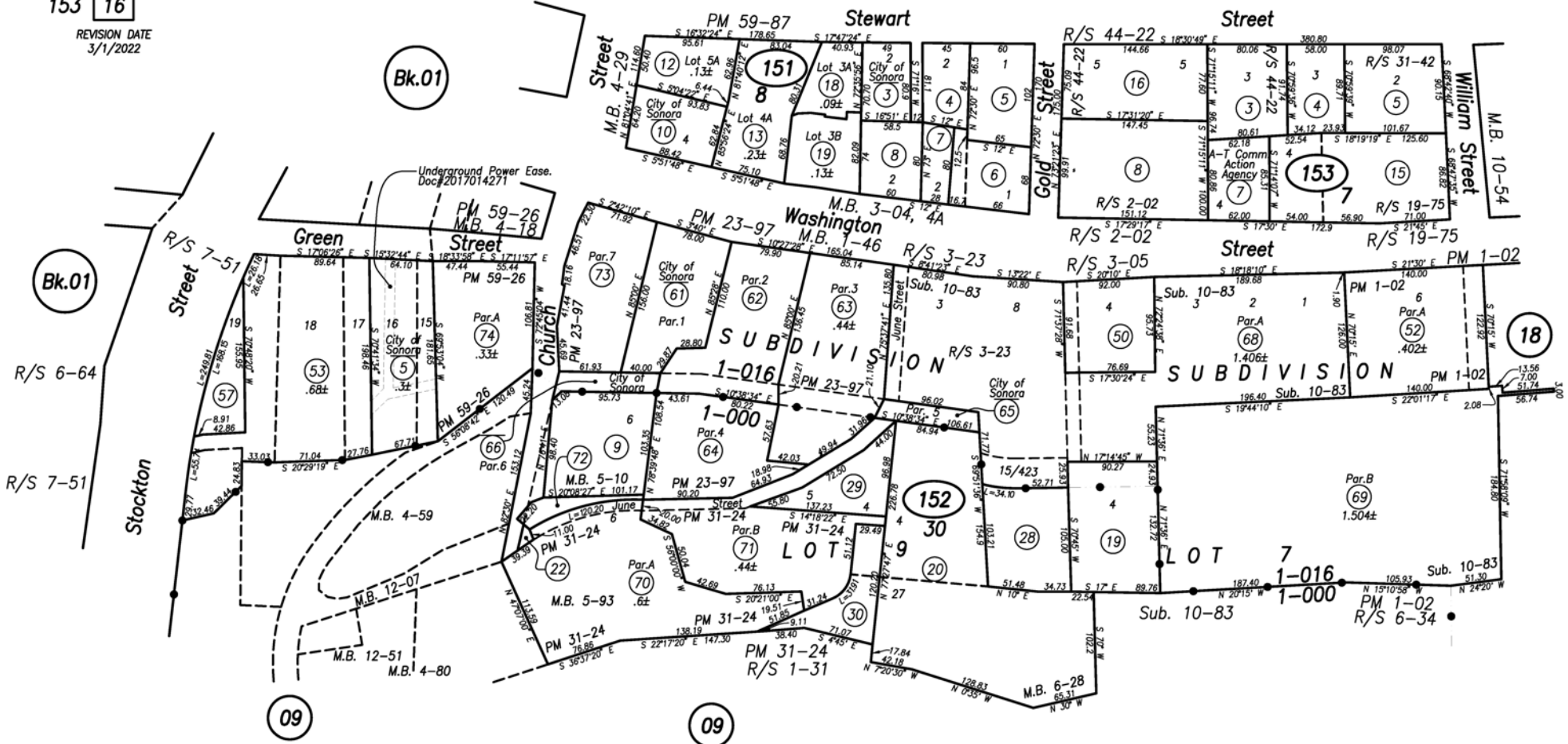
PARCELQUEST 151 19
 152 74
 153 16

REVISION DATE 3/1/2022

POR. S1/2 SEC.36 T.2N., R.14E., M.D.B.&M.

Tax Rate Area 02-15
 1-000
 1-016

1"=100'



Note: Assessor's Block Numbers Shown In Ellipses Assessor's Lot Numbers Shown In Circles

Note: This Plat Is For Assessment Purposes Only And Not An Official Map. Copyright ©1998 by Tuol. Co. Assessor

Symbol connects Assessor Parcels currently separated for tax purposes, but makeup a single legal parcel.

Subdivision Lot 9 M.O.R. Bk.1 Pg.46
Subdivision Lot 7 M.O.R. Bk.8 Pg. 22, 71

Assessor's Map 02-15
City of Sonora
County of Tuolumne, Calif.
1949