

RESOLUTION NO. 2007-6847

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS AUTHORIZING CITY ACQUISITION OF 20.8 ACRES OF PROPERTY (A.P.N. 220-200-02,19,47,48; 221-110-20,30,40; 220-200-59,60,61) IN AN AMOUNT NOT TO EXCEED \$13,400,000 IN THE HEART OF THE CITY SPECIFIC PLAN AREA FROM UNIVERSITY PLACE SAN MARCOS, LLC WITH PROVISIONS FOR REPURCHASE AND AUTHORIZING THE CITY MANAGER TO CONCLUDE NEGOTIATIONS AND EXECUTE ALL NECESSARY AGREEMENTS AND CONTRACTUAL DOCUMENTATION TO THE SATISFACTION OF THE CITY MANAGER

WHEREAS, the City of San Marcos approved the Heart of the City Specific Plan Area (HOCSPA) in 1988 to promote quality development in the area surrounding the California State University, San Marcos (CSUSM); and

WHEREAS, significant development constraints exist on the remaining undeveloped areas of the HOCSPA due to the absence of public infrastructure and the existence of multiple small parcels and resultant inability of developers to assemble sufficient land area necessary to implement development in the HOCSPA; and

WHEREAS, these development constraints require significant up front financial commitments and expenditures by developers in order to initiate a development proposal to the City; and

WHEREAS, University Place San Marcos, LLC, a California Limited Liability Company ("UPSM") has requested that the City acquire 20.8 acres of UPSM properties in the amount of \$13,400,000, with a re-purchase provision; and

WHEREAS, this assistance would allow UPSM to re-invest proceeds to further assemble properties needed to implement the development desired by City and UPSM; and

WHEREAS, properties acquired by the City have a current market value exceeding the purchase price and would be purchased only after all necessary due diligence was accomplished; and

WHEREAS, UPSM and the City have reviewed property owned by City consisting of excess right of way and other properties owned by UPSM in the HOCSPA and have concluded that purchase and re-purchase options need to be available to both City and UPSM for these properties in order to enhance the development opportunities in the HOCSPA; and

WHEREAS, UPSM and the City have initiated negotiations regarding a PURCHASE, ASSIGNMENT AND REPURCHASE AGREEMENT which will contain all necessary documentation to permit the acquisition and repurchase for the 20.8 acres and options on other properties owned by City and UPSM in the HOCSPA; and

WHEREAS, the assistance provided by City in acquisition of the 20.8 acres of properties owned by UPSM will not involve eminent domain and will therefore demonstrate the ability of the City to use other means to promote economic development; and

WHEREAS, development in the HOCSPA by UPSM and any proposed amendment to the HOCSPA will be subject to the normal development processes and development rules and regulations in effect in the City and will require public workshops and both Planning Commission and City Council review; and

WHEREAS, it is in the best interests of the City to assist UPSM due to the benefit to the City in furthering the development of the HOCSPA which will provide a government, educational, corporate, and mixed use environment to advance the City's quality of life and regional image; and

WHEREAS, the City is entering into the PURCHASE, ASSIGNMENT AND REPURCHASE AGREEMENT with UPSM based on the experience and personal attributes of the principals and therefore the options in favor of UPSM will be personal to the current principals of UPSM and will not be assignable by UPSM without City consent, which shall be exercised at its sole discretion.

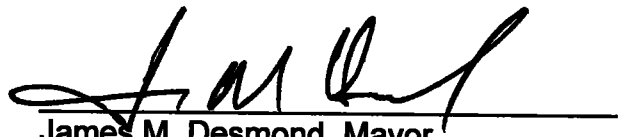
NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Marcos has determined that the City Manager is authorized to negotiate, finalize, and execute a PURCHASE, ASSIGNMENT AND REPURCHASE AGREEMENT and all other required contractual documentation acceptable to the City Manager for the City to purchase 20.8 acres in an amount not to exceed \$13,400,000 to further development in the Heart of the City Specific Plan Area.

PASSED, APPROVED and ADOPTED by the City Council of the City of San Marcos on the 13th day of March, 2007, by the following roll call vote:

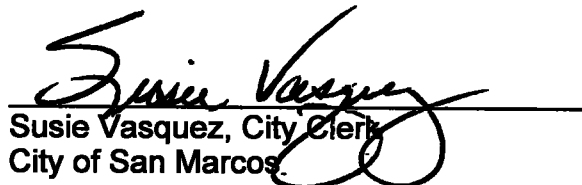
AYES: COUNCILMEMBERS: JONES, MARTIN, ORLANDO, PRESTON, DESMOND

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE


James M. Desmond, Mayor
City of San Marcos

ATTEST:


Susie Vasquez, City Clerk
City of San Marcos

CONTRACT COVER SHEET

City of San Marcos
1 Civic Center Drive
San Marcos, California 92069-2918

This sheet must accompany all contracts/agreements submitted to the City Clerk Department. Please PRINT in ink or TYPE this information.

All contracts submitted for Council approval must be submitted in **Original Form** with **Two** completed copies. A signature line for the City Attorney and an attest line for the City Clerk must appear on all contracts. Failure to submit as required will result in the return of the document to your Department for completion.

NUMBER: (to be completed by City Clerk Department) •3590	APPROVING AGENCY: (CC, IDA, FD, RDA, PFA, S (staff), CM (City Manager) etc.): •CC	CASE NUMBER: (TSM, CUP, CIP, ETC.): •
APPROVAL DATE: (Date approved by CC, etc.) •03-13-07	EXPIRATION DATE: (Month/Day/Year) •N/A	RESOLUTION/ORDINANCE: (applicable Resolution/Ordinance approving contract): •Resolution No. 2007-6847 1st Amend Reso No. 2012-7634
STAFF CONTACT PERSON: (Name and extension of City Staff responsible): •Paul Malone, X3115/Charlie Schaffer, X3230	SUBJECT CATEGORY: (Specific Description of Contract) •Authorization to Acquire Property •Approval of Purchase, Assignment, and Repurchase Agreement between City of San Marcos and University Place San Marcos, L.L.C. <input type="checkbox"/> Advisory to staff <input type="checkbox"/> Advisory to City Council	
CONTRACTOR: (Name of Company or Person) •University Place San Marcos, L.L.C. Attn: Gary Levitt (Street Address): •3525 Del Mar Heights Rd., Suite 246 (City/State/Zip Code): •San Diego, CA 92130		
CONTRACTOR: (Name of Company or Person) University Place San Marcos, L.L.C. Attn: Michael McDonald (Street Address): 16870 West Bernardo Dr., Suite 260 (City/State/Zip Code): San Diego, CA 92127		
COMMENTS: •-Original Agreement to City Clerk- The Purchase, Assignment, and Repurchase Agreement assists UPSM in the assemblage of vacant and under-developed properties totaling 20.8 acres in the Heart of the City Specific Plan Area. The agreement allows the City to expend \$13,400,000 to acquire 20.8 acres owned or controlled by UPSM. UPSM will use these proceeds to acquire additional properties. UPSM has the right to repurchase the 20.8 acres from the City at a future date specified in the agreement. First Amendment - dated 3/27/12 (Access 4/11/12)		
<input type="checkbox"/> Form 730 attached (MUST BE FILED WITH CONTRACT) <input type="checkbox"/> Notice of Completion (MUST BE FILED upon completion of project)		

Fox P40: 11-12-08

FIRST AMENDMENT TO PURCHASE ASSIGNMENT AND REPURCHASE
AGREEMENT

This FIRST AMENDMENT TO PURCHASE, ASSIGNMENT AND REPURCHASE AGREEMENT ("First Amendment") is entered into as of March 27, 2012, by and between City of San Marcos ("City") and Urban Villages San Marcos, LLC, ("UVSM") successor in interest to University Place San Marcos, LLC ("UPSM"). All references in this First Amendment to UVSM shall also be deemed references to UPSM.

RECITALS:

WHEREAS, City and UVSM are parties to that certain PURCHASE, ASSIGNMENT AND REPURCHASE AGREEMENT dated as of March 28, 2007 ("Agreement") in accordance with assignment of the Agreement by University Place San Marcos, LLC ("UPSM") to UVSM with the consent of the City dated December 18, 2007.

WHEREAS, under the terms of the Agreement, UVSM sold, assigned and conveyed certain Properties to the City.

WHEREAS, under Agreement Section 14, relating to the right to repurchase Properties conveyed or assigned to the City under the Agreement, and Section 15, relating to purchase of City Properties, UVSM retained an option, to be exercised during an Option Period, to require City to sell to UVSM all or any portion of the Properties, as well as City Properties covered by the Specific Plan.

WHEREAS, by its terms under the Agreement, the Option Period will expire on or before March 29, 2012.

WHEREAS, under Section 16 of the Agreement, if within six (6) months after the expiration of the Option Period, UVSM had not commenced development work pursuant to a development permit on any of the Specific Plan Properties owned by UVSM, then the City had the right to purchase all the UVSM Specific Plan Properties ("City Purchase Option").

WHEREAS, by correspondence dated January 14, 2010, the City acknowledged that development had commenced on certain Properties, thus eliminating the City Purchase Option.

WHEREAS, on or about August 25, 2011, UVSM exercised its option rights to purchase from the City certain UVSM Specific Plan Properties at a purchase price of \$2,072,378 ("Purchase Price").

WHEREAS, as of the date of this First Amendment, the calculated Repurchase Price for Properties originally conveyed to the City under the Agreement, but not repurchased by UVSM on August 25, 2011 (as legally described in Exhibit A), is \$15,050,153 ("Starting Value").

WHEREAS, City and UVSM desire to amend the Agreement as set forth herein. All initially capitalized terms not otherwise defined in this First Amendment shall have the same meanings as set forth in the Agreement.

AGREEMENT:

1. Extension of Option Period. The Option Period as defined in Section 14 of the Agreement is hereby extended to December 31, 2014 (the "Extended Option Period").

2. Modification of Purchase Price under Section 14.2(d). As it applies to the period of time commencing from the date of the Agreement to the end of the Option Period ("Extended Option Period") as extended by this First Amendment, the applicable interest rate to be applied to the formula to determine the Repurchase Prices shall be simple fixed rate of 5% per annum ("Extended Repurchase Price Interest Rate"), said rate to apply to the Starting Value. Alternatively, UVSM may make monthly interest payments to the City commencing upon execution of this First Amendment, based on simple fixed rate of 3% per annum for the first year of the Extended Option period, increasing to 3.5% for the balance of the Extended Option period. The balance of Section 14.2(d) shall remain in full force and effect.

3. Reinstatement of City Purchase Option with Respect to Certain Properties. If within six (6) months of the expiration of the Extended Option period, UVSM or its successor have not commenced commercial grading and rock crushing activities pursuant to CUP #10-833, the City and UVSM agree as follows:

(a) The City's purchase option provided in Section 16 of the Agreement ("City's Purchase Option") shall be reinstated with respect only to those Properties owned by UVSM or its successors and located north of Barham Drive and west of Twin Oaks Valley Road within the University Specific Plan.

(b) The City Purchase Option with respect to the Properties (referred to in Section 3(a) of this First Amendment above) shall be assignable at City's sole option.

4. Exception to Purchase Price under Section 15, relating to purchase of other City Properties. In the event UVSM intends to exercise its right to purchase other City Properties, the purchase price for those City Properties acquired from the Archstone (or its affiliate) ("Archstone Properties") shall be the greater of the fair market value as established under Section 15.2 of the Agreement or the price paid by the City in its acquisition of the Archstone Properties.

5. Application to City Right of First Refusal ("ROFR"). To the extent that the City's ROFR (Section 17 of Agreement) has expired, so long as the City extends its City Purchase Option, the ROFR shall also be extended and shall then be deemed co terminus with the City Purchase Option.

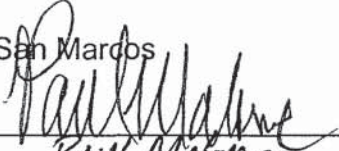
6. Subject to Memorandum of Option to Purchase. City and UVSM acknowledge and agree that the Memorandum of Option recorded in the Official records of the San Diego County Recorder's Office as Document No: 2007-0251796 shall apply to this First Amendment.

7. Counterparts and Facsimile Signatures. This First Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. The Parties shall exchange original signatures but, should that not occur, the Parties are entitled to rely on facsimile copies of the executed First Amendment.

8. Effect of First Amendment. Except as expressly amended hereby, the Agreement remains in full force and effect.

IN WITNESS WHEREOF, Buyer, Seller has executed this First Amendment as of the date set forth above.

City of San Marcos

By: 
Name: Paul Malone
Its: City Manager

Urban Villages San Marcos, LLC

By: _____
Name: _____
Its: _____

6. Subject to Memorandum of Option to Purchase. City and UVSM acknowledge and agree that the Memorandum of Option recorded in the Official records of the San Diego County Recorder's Office as Document No: 2007-0251796 shall apply to this First Amendment.

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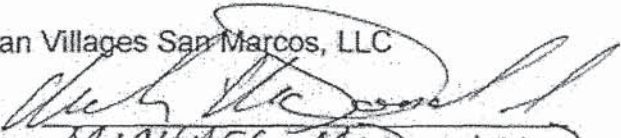
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IN WITNESS WHEREOF, Buyer, Seller has executed this First Amendment as of the date set forth above.

City of San Marcos

By: _____
Name: _____
Its: _____

Urban Villages San Marcos, LLC

By: 
Name: MICHAEL McDONALD
Its: MANAGER.

UVSM Repurchase Agreement
Amended Agreement dated 3/27/2012

Principal:		\$15,050,153	
Interest Rate:	(See option note)	3.00%	3.50%

Date	Interest	Payments	Balance
3/27/2012			\$15,050,153.00
4/1/2012	\$4,948.00		15,055,101.00
5/1/2012	\$37,625.38		15,092,726.38
6/1/2012	\$37,625.38		15,130,351.76
7/1/2012	\$37,625.38		15,167,977.14
8/1/2012	\$37,625.38		15,205,602.53
9/1/2012	\$37,625.38		15,243,227.91
10/1/2012	\$37,625.38		15,280,853.29
11/1/2012	\$37,625.38		15,318,478.67
12/1/2012	\$37,625.38		15,356,104.06
1/1/2013	\$37,625.38		15,393,729.44
2/1/2013	\$37,625.38		15,431,354.82
3/1/2013	\$37,625.38		15,468,980.20
3/27/2013	\$32,161.97		15,501,142.17
4/1/2013	\$5,772.66		15,506,914.84
5/1/2013	\$43,896.28		15,550,811.11
6/1/2013	\$43,896.28		15,594,707.39
7/1/2013	\$43,896.28		15,638,603.67
8/1/2013	\$43,896.28		15,682,499.95
9/1/2013	\$43,896.28		15,726,396.23
10/1/2013	\$43,896.28		15,770,292.51
11/1/2013	\$43,896.28		15,814,188.79
12/1/2013	\$43,896.28		15,858,085.07
1/1/2014	\$43,896.28		15,901,981.35
2/1/2014	\$43,896.28		15,945,877.63
3/1/2014	\$43,896.28		15,989,773.91
4/1/2014	\$43,896.28		16,033,670.19
5/1/2014	\$43,896.28		16,077,566.47
6/1/2014	\$43,896.28		16,121,462.75
7/1/2014	\$43,896.28		16,165,359.03
8/1/2014	\$43,896.28		16,209,255.31
9/1/2014	\$43,896.28		16,253,151.59
10/1/2014	\$43,896.28		16,297,047.87
11/1/2014	\$43,896.28		16,340,944.15
12/1/2014	\$43,896.28		16,384,840.43
12/31/2014	\$43,294.96		16,428,135.39
Totals	\$1,377,982.39	\$15,050,153.00	\$16,428,135.39

Note: Per Michael McDonald UVSM would like to elect the payment alternative of paying interest monthly at the lower interest rate of 3% until 3/27/2012 and 3.5% until 12/31/2014. The City will bill UVSM monthly.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of SAN DIEGO

On April 3, 2012 before me, CHARLES J. CETOLA, Notary Public
(Here insert name and title of the officer)

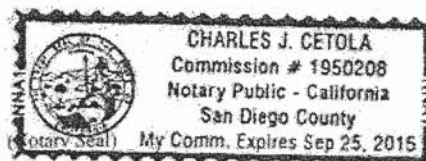
personally appeared PAUL MICHAEL McDONALD

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.

Charles J. Cetola
Signature of Notary Public



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

Exhibit A

EXHIBIT "A"
LEGAL DESCRIPTION
CITY OF SAN MARCOS OWNED PROPERTY

APN 220-200-81 (Previously APN No: 220-200-60)

Parcel "C" of Certificate of Compliance recorded August 31, 2011 as Document No. 2011-0451110 of Official Records, being a portion of Parcel 3 of Parcel Map No. 2738, in the City of San Marcos, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, June 7, 1974, of Official Records.

Contains 0.74 Acres, more or less.

APN 220-200-82 (Previously APN No: 220-200-61)

Parcel "D" of Certificate of Compliance recorded August 31, 2011 as Document No. 2011-0451110 of Official Records, being a portion of Parcel 4 of Parcel Map No. 2738, in the City of San Marcos, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, June 7, 1974, of Official Records.

Contains 1.08 Acres, more or less.

APN 220-200-79 (Previously APN No: 220-200-19)

Parcel "B" of Certificate of Compliance recorded August 31, 2011 as Document No. 2011-0451110 of Official Records, being a portion of Lot 11 in Block 58 of Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806, filed in the Office of the County Recorder of San Diego County December 21, 1895 of Official Records.

Contains 3.66 Acres, more or less.

NOTE: The above parcels are referenced in the Certificate of Compliance recorded in the San Diego County Recorder's office as Doc. #2011-045110.

APNs 220-200-40, 47 and 48

All of Lot 12 in Block 58 of Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806, filed in the Office of the County Recorder of San Diego County December 21, 1895 of Official Records.

Contains 4.79 Acres, more or less.

APNs 221-110-20 and 30

All of Lot 13 in Block 58 of Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806, filed in the Office of the County Recorder of San Diego County December 21, 1895 of Official Records.

Excepting therefrom the Northeasterly 80 feet of the Southeasterly 125.00 feet of the Southwesterly half of said Lot 13.

Contains 4.55 Acres, more or less.

APN 220-200-02

All of Lot 16 in Block 58 of Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806, filed in the Office of the County Recorder of San Diego County December 21, 1895 of Official Records.

Excepting therefrom all that portion conveyed to the State of California by Grant Deed recorded March 3, 1960 as File No. 44257 of Official Records.

Contains 3.44 Acres, more or less.

Gross Property 18.26 Acres, more or less.

PURCHASE, ASSIGNMENT AND REPURCHASE AGREEMENT

THIS PURCHASE, ASSIGNMENT AND REPURCHASE AGREEMENT ("Agreement") is made as of this 28 day of March, 2007 ("Effective Date"), by and between University Place San Marcos, LLC, a California limited liability company ("UPSM"), and City of San Marcos ("City"), with reference to the following facts:

RECITALS

WHEREAS, UPSM holds an undivided one hundred percent (100%) interest in the rights granted in those contracts listed and described on Exhibit A, attached hereto (each a "UPSM Contract" and collectively, the "UPSM Contracts");

WHEREAS, UPSM holds an undivided one hundred percent (100%) interest in those properties listed on Exhibit A, attached hereto (each a "UPSM Property" and collectively, the "UPSM Properties");

WHEREAS, UPSM desires to sell, assign, transfer, and convey all of its rights, title and interest in the UPSM Properties and the UPSM Contracts to City in exchange for the payments set forth below and certain rights granted by City and described in this Agreement, including, without limitation, a right to repurchase the UPSM Properties and the properties subject to the UPSM Contracts (such properties, including, without limitation, the UPSM Properties, are referred to herein individually, as a "Property" and collectively, as the "Properties");

WHEREAS, City desires to purchase such right, title and interest in the UPSM Contracts and the UPSM Properties in furtherance of the City's "Heart of the City" Specific Plan and in consideration for certain rights to purchase from UPSM (under those circumstances specified herein) certain properties owned by UPSM which are located within the area covered by the City's "Heart of the City" Specific Plan, as the same may be amended from time to time;

WHEREAS, the City desires to enter into a transaction to further the City's "Heart of the City" Specific Plan;

WHEREAS, the City's "Heart of the City" Specific Plan is designed to improve the esthetic and economic business environment of the City; and

WHEREAS, the City's "Heart of the City" Specific Plan and this transaction are being supported exclusively by City funds for the exclusive benefit of the City.

NOW, THEREFORE, the parties hereby agree as follows:

AGREEMENT

1. Conveyance and Assignment. On and subject to the terms and conditions of this Agreement, UPSM hereby agrees to sell, assign, transfer and convey the UPSM Properties and the UPSM Contracts to City, and City hereby agrees to assume and perform the obligations of UPSM under the UPSM Contracts and with respect to each Property from and after the Closing (as defined below) for such Property. Except as specifically provided herein, UPSM is selling,

assigning, transferring and conveying the UPSM Contracts and its interest in the Properties "as-is" without any representations or warranties whatsoever.

2. Purchase Price. In consideration for the foregoing, and on and subject to the terms and conditions of this Agreement, City hereby agrees to pay through the Escrows at the Closings (as defined below) in immediately available funds the aggregate sum of Thirteen Million Three Hundred Ninety Seven Thousand Two Hundred Sixty-Nine Dollars and Thirty Cents (\$13,397,269.30) (the "Purchase Price"). The parties agree that such Purchase Price shall be allocated in the manner set forth on Exhibit B attached hereto with respect to each UPSM Property or UPSM Contract.

3. Opening of Escrow. UPSM and City promptly shall cause a new escrow (each, an "Escrow" and collectively, the "Escrows") to be opened for the consummation of each Closing contemplated hereunder with the company designated on Exhibit B for the Property which is the subject of such Closing (each, an "Escrow Holder") by delivering a fully executed copy of this Agreement to the Escrow Holder, along with such other documents as may be required hereunder to consummate each such transaction. This Agreement shall constitute instructions to the Escrow Holder with respect to each such transaction and corresponding Escrow. UPSM and City shall execute such additional escrow instructions as reasonably may be required to consummate the transactions contemplated by this Agreement and as UPSM and City may approve, which approval shall not be unreasonably withheld. To the extent such additional escrow instructions conflict with any provisions of this Agreement, the provisions of this Agreement shall control, unless such additional escrow instructions specifically state to the contrary and are executed by both parties.

4. Closing. The close of the transactions contemplated under Section 1 above (each a "Closing" and collectively, the "Closings") shall be deemed to be the date the Deed (as defined below) is recorded in the Official Records of the County of San Diego (the "Official Records") (including filing a separate statement of documentary transfer taxes due so that such amount does not appear on the Deed or otherwise in the Official Records) as to a UPSM Property, and the date on which a contract is assumed by the City as to a UPSM Contract; provided that Escrow for the Property designated as the "Gordon Property" in Exhibit A shall close on or before March 30, 2007 on a date (the "Closing Date") and at a time and place mutually agreed upon by the parties. Closing for the remaining UPSM Properties and the UPSM Contracts shall take place on or before April 17, 2007.

5. Condition of Title and Deed. At each Closing, UPSM shall (as appropriate) (i) convey fee simple title to the corresponding UPSM Property, if any, to City by Deed, subject only to (a) matters affecting title set forth on Exhibit C-1, Exhibit C-2 or Exhibit C-3, as applicable, attached hereto and (b) real property taxes and assessments (including facilities improvement district assessments) not then delinquent (collectively, "Permitted Exceptions"); and (ii) assign the UPSM Contracts, if any, to the City. Neither title nor possession of a Property shall pass to City until the Closing for such Property.

6. Title Insurance. UPSM shall be solely responsible for arranging directly with a title insurance company such real property title insurance for the Properties as City requests ("City Title Policies"). The City Title Policies shall be ALTA Extended Owner's Policies of title

insurance with coverage in the amount of the Purchase Price for the applicable Property as set forth on Exhibit B attached hereto; provided, however, in the event that UPSM is unable to obtain an ALTA Extended Owner's Policy for a Property prior to the Closing for such Property, then UPSM shall obtain a CLTA Standard Owner's Policy of title insurance at such Closing and, thereafter, shall use its commercially reasonable and diligent efforts to cause such CLTA Standard Owner's Policy of title insurance to be converted into an ALTA Extended Owner's Policy. The premium for any such City Title Policies shall be paid by UPSM.

7. Representations and Warranties of UPSM. UPSM hereby represents and warrants to City as of the date of this Agreement and, with respect to each Property or UPSM Contract as of the date of the Closing for such Property or UPSM Contract (as applicable), as follows:

7.1 Organization, Power and Qualification. UPSM is a limited liability company duly organized, existing and in good standing under the laws of the State of California. UPSM has all requisite power and authority to enter into this Agreement and all of the other documents necessary to consummate the transaction contemplated hereby, and such actions have been and will be authorized by all requisite actions of UPSM.

7.2 Due Execution, Binding. This Agreement has been duly executed and delivered by UPSM, and assuming the due execution and delivery of this Agreement by City, constitutes the legal, valid and binding obligation of UPSM, enforceable against UPSM in accordance with its terms.

7.3 No Violation. The execution and delivery of this Agreement and the performance of the transactions contemplated hereby does not and will not constitute a violation of nor be a default under or conflict with UPSM's organizational documents, the terms of any contract, lease, indenture, agreement, order, judgment or decree to which UPSM is a party or by which it is bound (other than to the extent caused by a failure to obtain the UPSM Consents (as defined below)), and does not and will not, to UPSM's actual knowledge, violate or constitute a default under any statute, rule, regulation, order, decree, judgment or ordinance of any governmental, judicial or arbitral body, whether federal, state local or otherwise (collectively, "Laws").

7.4 Ownership, Right to Convey. UPSM owns the UPSM Properties and the rights in the UPSM Contracts and (other than to the extent caused by a failure to obtain the UPSM Consents) has all power and authority to contribute, sell, assign, transfer, and convey the UPSM Properties and the UPSM Contracts to City, and UPSM is not contractually obligated to sell or otherwise transfer the UPSM Properties or the UPSM Contracts to any other person or entity.

7.5 Bankruptcy. UPSM is not insolvent or unable to pay its debts as they become due and has no present intent to file any voluntary petition in bankruptcy or to seek relief, protection, reorganization, liquidation, dissolution or similar relief for debtors under any federal or state law, or in equity, or to take any action which would directly or indirectly cause the UPSM Contracts or the UPSM Properties to become the subject of any bankruptcy, dissolution, litigation or insolvency proceedings.

7.6 Consents. No approval or consent (other than the UPSM Consents) not previously obtained by any person or entity is necessary in connection with the execution of this Agreement by UPSM or the performance of its obligations under this Agreement.

7.7 Hazardous Material. To UPSM's actual knowledge, with no duty to investigate, there is no Hazardous Material located on the Properties other than as may be disclosed in environmental surveys or reports regarding the Properties provided to City by UPSM. "Hazardous Material" means (a) any "hazardous substance" as defined in § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended from time to time [42 U.S.C. §§ 9601 et seq.]; (b) petroleum and petroleum products (including, without limitation, crude oil, natural gas, natural gas liquids, liquefied natural gas and synthetic gas); (c) polychlorinated biphenyls (PCBs); (d) asbestos; (e) urea formaldehyde; (f) radon gas; (g) methane; and (h) any additional substances, materials or waste which are classified or considered to be hazardous or toxic under the state and local laws, rules, regulations, ordinances and codes of California or any applicable federal laws, rules, regulations, ordinances and codes.

7.8 No Defaults; Liabilities. To UPSM's actual knowledge, it is not in default under any of the UPSM Contracts. Exhibit A to this Agreement contains a true, complete and accurate list of the UPSM Contracts. True and complete copies of the UPSM Contracts have been delivered to City.

7.9 Litigation. To UPSM's actual knowledge, there is no suit, action, claim or proceeding pending and UPSM has not received notice of any potential suit, action claim or proceeding with respect to the UPSM Contracts or any of the Properties.

8. Representations and Warranties of City. City hereby represents and warrants to UPSM as of the date of this Agreement and as of the date of each Closing, as follows:

8.1 Due Execution, Binding. This Agreement has been duly executed and delivered by City, and assuming the due execution and delivery of this Agreement by UPSM, constitutes the legal, valid and binding obligation of City, enforceable against City in accordance with its terms.

8.2 No Violation. The execution and delivery of this Agreement and the performance of the transactions contemplated hereby does not and will not constitute a violation of nor be a default under or conflict with City's charter, the terms of any contract, lease, indenture, agreement, order, judgment or decree to which City is a party or by which it is bound, and does not and will not, to the best of City's knowledge, violate or constitute a default under any Laws.

8.3 Consents. No approval or consent not previously obtained by any person or entity is necessary in connection with the execution of this Agreement by City or the performance of its obligations under this Agreement.

9. Conditions to Closing

9.1 Conditions of City to Closing. The obligation of City to consummate each Closing shall be subject to the timely satisfaction of, or its waiver of, the following conditions precedent:

9.1.1 Purchase Agreement. UPSM shall have duly executed and delivered into the corresponding Escrow this Agreement.

9.1.2 Deeds. UPSM shall have executed, notarized and delivered into the corresponding Escrow a deed in the form attached hereto as Exhibit E granting fee simple title to the applicable UPSM Properties from UPSM to City (the "Deed"), subject only to the Permitted Exceptions with respect to such UPSM Properties.

9.1.3 Assignment of UPSM Contracts. UPSM shall have executed and delivered into the corresponding Escrow the assignment and assumption agreement for the applicable UPSM Contracts from UPSM to City substantially in the form attached hereto as Exhibit F (the "Assignment of UPSM Contracts").

9.1.4 Memorandum of Option to Purchase. UPSM shall have duly executed and delivered into the corresponding Escrow the Memorandum of Option to Purchase (as defined below) with regard to the applicable Properties.

9.1.5 Closing Documents. UPSM shall have duly executed and delivered into the corresponding Escrow such other agreements or documents reasonably requested by City or Escrow Holder necessary for the consummation of the transactions contemplated for such Closing by this Agreement, including, but not limited to, the consents of any party to any of the UPSM Contracts being assigned to the City pursuant to the applicable Assignment of UPSM Contracts (the "UPSM Consents").

9.1.6 Representations and Warranties. UPSM's representations and warranties set forth in Section 7 hereof shall be true and correct in all material respects, as of such Closing.

9.1.7 Material Covenants. UPSM shall have timely performed, satisfied and complied with all material covenants, agreements and conditions required by this Agreement to be performed or complied with by it on or before the applicable Closing.

9.1.8 Form 593-C. UPSM shall have delivered into the corresponding Escrow a duly executed Withholding Exemption Certificate on California Franchise Tax Board Form 593-C.

9.1.9 FIRPTA. UPSM shall have delivered into the corresponding Escrow a completed and duly executed certification as to the non-foreign status of UPSM for federal tax withholding purposes.

9.1.10 Due Authorization. UPSM shall have delivered into the corresponding Escrow written evidence reasonably satisfactory to City and the Escrow Holder that the person who executed this Agreement on behalf of UPSM and any person who executes

documents at or for such Closing on behalf of UPSM was and will be duly authorized to do so, and UPSM was and will be bound by UPSM's or their actions.

The foregoing conditions are solely for the benefit of City and may be waived only by City. City shall at all times have the right to waive any condition, which waiver or waivers must be in writing to be effective. Notwithstanding anything to the contrary contained in this Agreement, in the event there is a failure of a condition precedent to the applicable Closing in favor of City which City does not elect to waive, this Agreement shall be of no further force or effect with respect to such Closing, the rights and obligations of UPSM and City hereunder shall terminate with respect to such Closing and Escrow Holder shall immediately return to the applicable party any funds and documents deposited into the corresponding Escrow by such party.

9.2 Conditions of UPSM to Closing. The obligation of UPSM to assign the UPSM Contracts and otherwise consummate each Closing shall be subject to the timely satisfaction of, or its waiver of, the following conditions precedent:

9.2.1 Purchase Agreement. City shall have duly executed and delivered into the corresponding Escrow this Agreement.

9.2.2 Assignment of UPSM Contracts. City shall have duly executed and delivered into the corresponding Escrow the applicable Assignment of UPSM Contracts.

9.2.3 Memorandum of Option to Purchase. City shall have duly executed and delivered into the corresponding Escrow the applicable Memorandum of Option to Purchase (as defined below).

9.2.4 Closing Documents. City shall have duly executed and delivered into the corresponding Escrow such other agreements or documents reasonably requested by UPSM necessary for the consummation of the transactions contemplated for such Closing by this Agreement.

9.2.5 Representations and Warranties. City's representations and warranties set forth in Section 8 hereof shall be true and correct in all material respects, as of such Closing.

9.2.6 Material Covenants. City shall have timely performed, satisfied and complied with all material covenants, agreements and conditions required by this Agreement to be performed or complied with by it on or before such Closing.

9.2.7 Purchase Price. City shall have delivered into the corresponding Escrow the Purchase Price corresponding to the UPSM Property or UPSM Contract being acquired as set forth on Exhibit B attached hereto. Such corresponding Purchase Price, if delivered, shall be held by the Escrow Holder in an interest-bearing money-market account, at the prevailing rate of interest, on terms and conditions acceptable to UPSM, and any interest earned thereon shall be for the benefit of UPSM and shall not be applicable to the Purchase Price.

9.2.8 Due Authorization. City shall have delivered into the corresponding Escrow written evidence reasonably satisfactory to UPSM and Escrow Holder that the person who executed this Agreement on behalf of City and any person who executes documents at or for such Closing on behalf of City was and will be duly authorized to do so, and City was and will be bound by City's or their actions.

The foregoing conditions are solely for the benefit of UPSM and may be waived only by UPSM. UPSM shall at all times have the right to waive any condition, which waiver or waivers must be in writing to be effective. Notwithstanding anything to the contrary contained in this Agreement, in the event there is a failure of a condition precedent to the applicable Closing in favor of UPSM which UPSM does not elect to waive, this Agreement shall be of no further force or effect with respect to such UPSM Property or UPSM Contract, the rights and obligations of UPSM and City hereunder shall terminate with respect to such UPSM Property or UPSM Contract and Escrow Holder shall immediately return to the applicable party any funds and documents deposited into the applicable Escrow by such party.

10. Disbursements and Other Actions by Escrow Holder. Upon each Closing, Escrow Holder promptly shall undertake all of the following:

10.1 Purchase Price. Administer all of the funds deposited with Escrow Holder by City in payment of the Purchase Price for the applicable UPSM Property or UPSM Contract as follows:

10.1.1 Deductions of Prorations. If as a result of the prorations under Section 12 amounts are to be charged to the account of UPSM, deduct the total amount of such charges and pay and credit as appropriate the amount of such charges to City.

10.1.2 Retain in Escrow. Retain the remaining balance of the funds in Escrow promptly upon such Closing (the "UPSM Funds"). Such UPSM Funds shall be invested for the benefit of UPSM in such manner as directed by UPSM. Escrow Holder shall release the UPSM Funds under the following circumstances and in the manner provided below:

(a) To pay in such manner as UPSM may direct, commissions owing to brokers or finders in connection with the acquisition and disposition of the UPSM Properties or the assignment of the UPSM Contracts.

(b) With respect to any escrow opened in connection with UPSM's purchase of any real property located within the area covered by the Specific Plan (as such term is defined below) (any real property located within the area covered by the Specific Plan is referred to herein individually, a "Specific Plan Property" and collectively, the "Specific Plan Properties"), Escrow Holder shall promptly deliver such amount of the UPSM Funds as UPSM may direct into any such escrow.

(c) In the event the rights of City and UPSM under this Agreement terminate, then Escrow Holder shall promptly release the remainder of the UPSM Funds in the corresponding Escrow, if any, to UPSM in such manner as UPSM may direct.

10.2 Recordation. Cause the Deed (with documentary transfer tax information to be affixed after recording), the Memorandum of Option to Purchase with respect to the applicable Property and any other documents which the parties may mutually direct to be recorded in the Official Records in the order set forth in this Section 10.2.

10.3 Copies of Deed and Memorandum of Option to Purchase. Prepare and deliver to each of UPSM and City two conformed copies of the Deed and the Memorandum of Option to Purchase.

10.4 Deliver Assignment of UPSM Contracts. Deliver two executed copies of the Assignment of UPSM Contracts to each of UPSM and City.

10.5 Deliver UPSM's Proof of Authority. Deliver to City the proof of authority deposited into the corresponding Escrow by UPSM pursuant to Section 9.1.10 above.

10.6 Deliver FIRPTA. Deliver to City the certifications deposited into the corresponding Escrow by UPSM pursuant to Section 9.1.9 above.

10.7 Deliver City's Proof of Authority. Deliver to UPSM the proof of authority deposited into the corresponding Escrow by City pursuant to Section 9.2.8 above.

11. Closing Costs. In connection with the each Closing and each Repurchase Closing (as defined below), UPSM agrees that it shall pay the escrow fees, documentary transfer taxes, recording fees, and all other costs customarily payable in connection with a real property closing in the County of San Diego ("Closing Costs"). Each party shall be responsible for its own attorneys' fees. If an Escrow fails to close hereunder, then UPSM shall be responsible for the payment of the cancellation and other charges required to be paid by and to the Escrow Holder.

12. Prorations. Escrow Holder shall prorate real property taxes for the UPSM Properties as of each Closing and Repurchase Closing on the basis of a thirty (30) day month, based upon the latest available tax bills. If on the applicable Closing the latest available tax bills for the applicable UPSM Property are for the fiscal year preceding the fiscal year in which the proration date occurs, UPSM and City shall reprorate real property taxes after such Closing on the basis of the tax bills for the fiscal year in which the proration date occurs as soon as the final bills are available. If such bills give effect to the transactions contemplated by this Agreement, such effect shall be disregarded for purposes of the reparation. If any supplemental taxes are assessed against the UPSM Properties after such Closing, UPSM promptly shall pay City upon demand the portion, if any, of the supplemental taxes which is applicable to the period prior to such Closing. If the tax bills cover real property owned by UPSM in addition to the applicable UPSM Property, UPSM and City agree that for purposes of this section, the amount of the taxes allocable to the applicable UPSM Property shall be an amount which bears the same relationship to the total real property taxes set forth in the bills as the fair market value of the applicable UPSM Property bears to the fair market value of the real property covered by the bills.

13. City Post-Closing Covenants.

13.1 City Obligations under UPSM Contracts. City hereby covenants that it shall perform all of UPSM's obligations under the UPSM Contracts that are to be performed after

the Closing for such UPSM Contracts and shall use its good faith and commercially reasonable efforts to cause close escrow to occur under the UPSM Contracts assigned to City hereunder. City further covenants that it shall not amend, revise or supplement the terms of the UPSM Contracts after the Closing for such UPSM Contracts without the prior written consent of UPSM, which consent shall not be unreasonably withheld.

13.2 No Encumbrance or Conveyance of Properties by City. With respect to the Properties, after the applicable Closing date whereby City acquires fee title to any of the real property comprising the Properties, City shall not without the prior written consent of UPSM, which consent may be withheld in UPSM's reasonable discretion:

(a) subject or suffer to be subjected any of the Properties to any mortgage, deed of trust, lien, license, encumbrance, claim, charge, equity, writ, injunction, decree, order, judgment, covenant, condition, restriction, easement, right, right of way, lease, tenancy, occupancy agreement or similar right or other matter affecting such portion of the Properties or enter into any agreement to do, permit or suffer any of the foregoing; provided, however City shall have the right to enter into a lease, tenancy, occupancy agreement or similar right, provided that such agreement terminates prior to June 1, 2008 or is terminable upon thirty (30) days' prior notice;

(b) sell, transfer or assign any of the Properties or agree to any future transfer or grant to any party of an option to acquire any Properties; or

(c) enter into any other agreements binding on the Properties.

(d) The foregoing notwithstanding, the City may encumber the Properties at any time commencing thirty-six (36) months after the first Closing hereunder without UPSM's prior consent.

13.3 Use of Properties. With respect to the Properties, after the applicable closing date (including, without limitation, the Closing) whereby City acquires fee title to any of the real property comprising the Properties, City agrees that it shall not:

(a) fail to materially comply and cause others to materially comply with all present and future federal, state and local laws, rules, regulations, ordinances and codes and all covenants, conditions, restrictions and easements which may be applicable to such portion of the Properties or to the use of such portion of the Properties; or

(b) use or permit the use of the Properties in any manner that will tend to create waste or a nuisance.

In addition, after the applicable closing (including, without limitation, the Closing) whereby City acquires fee title to any portion of the properties comprising of the Properties, City shall timely pay prior to delinquency all taxes and assessments of any kind levied against such portion of the Properties and all other costs of ownership of such portion of the Properties ("Upkeep Costs").

14. UPSM Right to Repurchase. At any time during the period (the "Option Period") commencing on the first Closing hereunder and terminating the earlier of three (3) years after City has approved a specific plan update or an amendment substantially equivalent to a specific plan update to City's "Heart of the City" Specific Plan (SP 87-29, approved January 12, 1988, as amended to date) covering the area described on Exhibit G attached hereto (with regard to such area only and as so updated and/or amended, the "Specific Plan") or five (5) years after the first Closing hereunder, UPSM shall have the option to require City to sell to UPSM all or any portion of the Properties in accordance with the following terms:

14.1 Deed. City shall convey to UPSM by Deed fee simple title to such portion of the Properties that UPSM elects to purchase from City from time to time pursuant to the terms of this Section 14, subject only to the Permitted Exceptions.

14.2 Repurchase Price. With respect to such portion of the Properties that UPSM elects to purchase from City from time to time pursuant to this Section 14, UPSM shall pay to City an amount equal to the sum of the following (the "Repurchase Price"):

(a) Provided UPSM is acquiring a UPSM Property from the City, then the portion of the Purchase Price allocated to such UPSM Property less any leasehold income received by City from such UPSM Property;

(b) Provided UPSM is acquiring a Property purchased by the City pursuant to the terms of a UPSM Contract, then PLUS the purchase price amount paid by City under the UPSM Contract for such Property less any leasehold income received by City from such Property;

(c) PLUS the Upkeep Costs paid by City with respect to such Property;

(d) PLUS, to the extent applicable, interest on the total sum of items (a) through (c) at a simple fixed rate of six percent (6%) per annum, which interest shall accrue with respect to any such amounts from the date such amounts are paid by City in accordance with the terms of this Agreement; provided, however, that any leasehold income received by City from such Property shall be deducted prior to calculating the amount of interest accrued under items (a) and (b) and; provided further, however, that interest with respect item (a) shall accrue from the date such portion of the Purchase Price is deposited into the applicable Escrow by City.

As a condition precedent to UPSM's obligation to pay the Repurchase Price to City, City agrees that it shall provide as proof of payment for the foregoing items written invoices, receipts, settlement statements and assessments reasonably acceptable to UPSM. UPSM acknowledges and agrees that the Repurchase Price shall not be reduced in the event City dedicates a portion of the Properties for a public purposes.

14.3 Additional Terms of Repurchase Option. UPSM may exercise its option rights from time to time by giving written notice to City at any time prior to expiration of the Option Period. If UPSM gives notice of exercise to City then, within fifteen (15) days of such

notice, and except as otherwise provided in this Section 14, UPSM and City, with City as seller and UPSM as buyer, shall enter into a purchase agreement containing only those representations and warranties and conditions precedent which are provided in this Agreement with respect to the Closing hereunder. Notwithstanding the foregoing, but subject to terms of Section 16 below, after the close of escrow under such purchase agreement, City shall have no right under this Agreement to repurchase that portion of the Properties acquired under such purchase agreement from UPSM and UPSM shall not be subject to any post-closing obligations to City pursuant to this Agreement. The closing under such repurchase shall take place on the first business day (other than a Monday or a Friday) which is thirty (30) days after UPSM's notice of exercise is delivered to City.

15. UPSM Option to Purchase Other City Properties. During the Option Period, UPSM shall have the right upon delivery of written notice to City to purchase from City all or any portion of the properties (other than the Properties, with respect to which UPSM has the rights of repurchase provided in Section 14 above) owned by City located within the area covered by the Specific Plan (any such property, a "City Property" and collectively, the "City Properties") on the following terms:

15.1 Condition of Title. City shall convey fee simple title to any City Property subject only to the Permitted Exceptions.

15.2 Purchase Price. The purchase price for any such City Property shall be paid in cash at the closing and shall be an amount equal to the fair market value as mutually agreed to by the parties. In the event UPSM and City are unable to agree upon a fair market value for the applicable City Property within fifteen (15) days after the date City receives UPSM's notice to purchase such City Property, then within ten (10) days thereafter, each party, at its own cost and by giving notice to the other party, shall appoint an M.A.I. real estate appraiser with at least ten (10) years full-time commercial retail real estate appraisal experience in San Diego County to appraise and set the fair market value for such City Property. If either party fails to nominate an appraiser, the appraiser nominated by the other party shall determine the City Property's fair market value. If each party timely nominates an appraiser, the two appraisers appointed by the parties shall meet and attempt to set the fair market value for such City Property within forty-five (45) days after the second appraiser has been appointed. If the two appraisers are unable to agree on the fair market value for such City Property, then the two appraiser shall appoint a third appraiser within ten (10) days thereafter. Each of the parties shall pay one-half (1/2) of the cost of the third appraiser's fee. Within forty-five (45) days after the selection of the third appraiser, the third appraiser shall determine the fair market value for such City Property and provide such determination to each of the parties in writing. The determination of the appraiser(s) by either of the approaches described above shall be binding on the parties. In lieu of payment of the purchase price in immediately available funds upon the close of escrow under the terms of the purchase agreement for any such City Property which is located within the area covered by the Specific Plan and East of Twin Oaks Valley Road (each such property, an "Eastern City Property", and collectively, the "Eastern City Properties"), City shall have the right, in its sole discretion, to elect by written notice delivered to UPSM within fifteen (15) days after the date City receives UPSM's notice to purchase such Eastern City Property, to receive, in lieu of a cash payment, an equity position in UPSM on terms substantially similar to those offered by UPSM to other investors; provided, however, if there

have not been any new cash investors in UPSM within the six (6) months prior to the date UPSM receives City's notice, then City shall be permitted to acquire an equity position in UPSM on terms that, in UPSM's reasonable judgment, reflect the fair market value of an equity interest in UPSM at the time of close of escrow under the purchase agreement and which include the same "promote"; carried interest or other compensation for UPSM's managers as UPSM's managers receive from other investors in UPSM as set forth in UPSM's Operating Agreement then in effect.

15.3 Other Terms. In connection with any such purchase, UPSM and City, with City as seller and UPSM as buyer, shall enter into a purchase agreement containing only those representations and warranties and conditions precedent which are provided in this Agreement with respect to the Closings hereunder. Notwithstanding the foregoing, but subject to the terms of Section 16 below, after the close of escrow under any such purchase agreement, City shall have no right under this Agreement to repurchase such City Property from UPSM and UPSM shall not be subject to any post-closing obligations to City pursuant to this Agreement. The closing under any such purchase agreement shall take place on the first business day (other than a Monday or a Friday) which is thirty (30) days after the fair market value of the applicable City Property has been determined in accordance with this Section 15.

16. City Option to Purchase Certain UPSM Properties. If, within six (6) months after the expiration of the Option Period, UPSM or its successors have not commenced development work pursuant to a development permit (e.g., a building permit or grading permit) on the surface area of any of the Specific Plan Properties owned by UPSM or its successors at the time of the expiration of the Option Period (the "UPSM Specific Plan Properties"), then City shall have the right, upon delivery of written notice to UPSM during the period commencing six (6) months after the expiration of the Option Period and ending twelve (12) thereafter, to purchase all but not a portion of the UPSM Specific Plan Properties on the following terms:

16.1 Condition of Title. UPSM shall convey fee simple title to the UPSM Specific Plan Properties subject only to the Permitted Exceptions.

16.2 Purchase Price. The purchase price shall be paid in cash at the closing and shall be the fair market value of the UPSM Specific Plan Properties as mutually agreed to by the parties ("UPSM Specific Plan Properties Purchase Price"). In the event UPSM and City are unable to agree upon a fair market value for the UPSM Specific Plan Properties within fifteen (15) days after the date UPSM receives City's notice to purchase the UPSM Specific Plan Properties, then within ten (10) days thereafter, each party, at its own cost and by giving notice to the other party, shall appoint an M.A.I. real estate appraiser with at least ten (10) years full-time commercial retail real estate appraisal experience in San Diego County to appraise and set the fair market value for the UPSM Specific Plan Properties. If either party fails to nominate an appraiser, the appraiser nominated by the other party shall determine the UPSM Specific Plan Properties' fair market value. If each party timely nominates an appraiser, then the two appraisers appointed by the parties shall meet and attempt to set the fair market value for the UPSM Specific Plan Properties within forty-five (45) days after the second appraiser has been appointed. If the two appraisers are unable to agree on the fair market value for the UPSM Specific Plan Properties, then the two appraiser shall appoint a third appraiser within ten (10) days thereafter. Each of the parties shall pay one-half (1/2) of the cost of the third appraiser's

fee. Within forty-five (45) days after the selection of the third appraiser, the third appraiser shall determine the fair market value for the UPSM Specific Plan Properties and provide such determination to each of the parties in writing. The determination of the appraiser(s) by either of the approaches described above shall be binding on the parties.

16.3 Other Terms. Such purchase of such UPSM Specific Plan Properties shall be consummated pursuant to a purchase agreement containing only those representations and warranties and conditions precedent which are provided in this Agreement with respect to the Closings hereunder. Notwithstanding the foregoing, after the close of escrow under such purchase agreement, UPSM shall have no right to repurchase such UPSM Specific Plan Properties from City and City shall not be subject to any post-closing obligations to UPSM pursuant to this Agreement. The closing under any such purchase agreement shall take place on the first business day (other than a Monday or a Friday) which is thirty (30) days after fair market value of such UPSM Specific Plan Property has been determined in accordance with this Section 16.

17. City Right of First Refusal. During the period ("ROFR Period") commencing on the first Closing hereunder and terminating upon the earlier of (i) the date City has approved the Specific Plan or (ii) expiration of the Option Period, if UPSM proposes to sell any UPSM Specific Plan Property (the "First Refusal Property") pursuant to a written offer ("Bonafide Offer") to a third party that will not agree to develop such property in a manner consistent with the Specific Plan, then UPSM shall notify City in writing (the "First Refusal Notice") and shall offer the First Refusal Property to City at its fair market value as mutually agreed upon by City and UPSM, subject to the terms set forth herein. If City, within five (5) business days after receipt of UPSM's notice, indicates in writing its agreement to purchase all of such First Refusal Property that is described in the First Refusal Notice, and City is not in default under this Agreement, then City shall purchase in cash all of such First Refusal Property at its fair market value pursuant to the terms of a purchase agreement containing those representations and warranties and conditions precedent which are provided in this Agreement with respect to the Closings hereunder. If City does not indicate within five (5) business days after receipt of the First Refusal Notice its agreement to purchase all of such First Refusal Property, then UPSM shall thereafter have the right to sell such First Refusal Property to a third party upon the terms set forth in the Bonafide Offer and City's right of first refusal with respect to such First Refusal Property shall terminate and be of no further force or effect; provided, however, in the event UPSM fails to consummate the sale of such First Refusal Property substantially in accordance with the Bonafide Offer within six (6) months after City's receipt of the First Refusal Notice and the ROFR Period has not otherwise terminated, then City's right of first refusal with respect to such First Refusal Property shall be reinstated.

In the event City and UPSM are unable to agree upon a fair market value for such First Refusal Property within fifteen (15) days after the date City indicates in writing its agreement to purchase all of such First Refusal Property, then, within ten (10) days thereafter, each party, at its own cost and by giving notice to the other party, shall appoint an M.A.I. real estate appraiser with at least ten (10) years full-time commercial retail real estate appraisal experience in San Diego County to appraise and set the fair market value for such First Refusal Property. If either party fails to nominate an appraiser, the appraiser nominated by the other party shall determine such First Refusal Property's fair market value. If each party timely nominates an appraiser, then

the two appraisers appointed by the parties shall meet and attempt to set the fair market value for such First Refusal Property within forty-five (45) days after the second appraiser has been appointed. If the two appraisers are unable to agree on the fair market value for such First Refusal Property, then the two appraiser shall appoint a third appraiser within ten (10) days thereafter. Each of the parties shall pay one-half (1/2) of the cost of the third appraiser's fee. Within forty-five (45) days after the selection of the third appraiser, the third appraiser shall determine the fair market value for such First Refusal Property and provide such determination to each of the parties in writing. The determination of the appraiser(s) by either of the approaches described above shall be binding on the parties.

18. Entry. Prior to the expiration of the Option Period, UPSM shall have the right to enter upon any City Property and any Property that may be owned by City at such time, at its own cost and expense entirely, for any purpose in connection with its proposed purchase or use of any such City Property or Property, including, without limitation, the right to make such studies, inspections, appraisals, audits, tests, evaluations, investigations, surveys and reports of such City Property or Property and other reasonable diligence as UPSM may elect to make or obtain (including, without limitation, the taking of soil and water samples in connection with any environmental audit of such City Property or Property) and for purposes of performing certain pre-development activities thereon, including, grading and construction of in-tract infrastructure, all in accordance with all plans approved by City or any other authority or agency having jurisdiction (collectively, the "Authorities") and any other requirements of the Authorities. City shall grant a temporary, nonexclusive license to UPSM and the UPSM Parties, as applicable, for purposes of entry on the portion of the applicable City Property or Property for any of the foregoing purposes. Such license shall be in the form attached hereto as Exhibit I.

19. Entitlements. UPSM shall have the right, but not the obligation, at its own cost and expense entirely, (a) to obtain or attempt to obtain from the City and Authorities whatever approvals, zoning, licenses, registrations, permits, entitlements, environmental documentation under the California Environmental Quality Act, redevelopment-related approvals and authorizations (collectively, "Entitlements") may be necessary for UPSM's planned acquisition, development, use and disposition of the City Properties or the Properties, including, but not limited to, the development of commercial, office, retail and residential mixed use lots and related improvements, and (b) to file and process with the City and other Authorities such applications, maps, plans, specifications, drawings, documents and other materials (collectively, "Governmental Material") as may be necessary in connection with obtaining the Entitlements if, and only if, the Entitlements are not binding upon the City Property or the Property before the date UPSM purchases such City Property or Property without City's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed). City shall cooperate with UPSM in UPSM's efforts to obtain Entitlements with respect to any Specific Plan Property, including, without limitation, processing and executing any Governmental Material requiring City's consent and taking whatever action may be necessary for UPSM to obtain access to the other Authorities, file and process Governmental Material with the other Authorities, and to obtain or attempt to obtain Entitlements from such other Authorities.

20. Monetary Encumbrances. Neither City nor UPSM shall transfer to the other any Specific Plan Property pursuant to the terms of this Agreement with any monetary encumbrances (other than non-delinquent property taxes, liens for public improvements and similar

assessments). In the event UPSM purchases any Specific Plan Property from City under the terms of this Agreement, City, at its sole cost and expense, shall pay all prepayment costs with respect to any encumbrances against such property (including, without limitation, all costs of pre-paying bonds, and related opinion letters). Prior to the termination of the City's option to purchase the UPSM Specific Plan Properties pursuant to the terms of Section 16 above, UPSM shall not encumber any of the UPSM Specific Plan Properties purchased with UPSM Funds with financing in excess of ninety-five percent (95%) of the fair market value of such UPSM Specific Plan Properties. In the event City purchases the UPSM Specific Plan Properties from UPSM under the terms of this Agreement, UPSM, at its sole cost and expense, shall pay all prepayment costs associated with the prepayment of any financing secured by such property.

21. Indemnity and Insurance.

21.1 Indemnity. UPSM agrees to protect, indemnify, defend, reimburse, save and hold harmless City from and against any and all claims, demands, liabilities, obligations, damages, causes of action, judgments, losses, costs and expenses (including, without limitation, reasonable attorneys' fees and including further all fines, charges, penalties and consultants' fees, and all cleanup, repair, detoxification, removal, remedial, response and abatement costs) which City may incur or suffer by reason of or in connection with the presence of Hazardous Material upon or beneath the Properties ("Hazardous Material Claim"); provided, however, that the obligations of UPSM under this Section 21 shall survive for a period of five (5) years after the Effective Date and thereafter be void and of no further force or effect and, with respect to any Property, shall not exceed the amount set forth on Exhibit D attached hereto with respect to such Property.

21.2 Insurance. Prior to the first Closing hereunder, UPSM shall obtain, or have a binding commitment to issue, for City's benefit, as named insured, environmental insurance coverage insuring against damages arising from Hazardous Material on or under the Properties as follows ("Environmental Insurance"): (i) the amount of coverage shall be One Million Dollars (\$1,000,000); (ii) the term of such coverage shall be five (5) years; and (iii) the insuring company shall be a company mutually acceptable to the UPSM and City, in their reasonable discretion. In the event that prior to the first Closing hereunder, UPSM has been unable to obtain, or have a binding commitment to issue, such Environmental Insurance, then the Escrow Holder shall retain \$500,000.00 in the Escrow for such first Closing ("Hazardous Material Holdback"). Escrow Holder shall release the Hazardous Material Holdback to UPSM upon the earlier of (i) the date UPSM provides Escrow Holder with written notice containing a certificate of insurance confirming that UPSM has obtained the Environmental Insurance or (ii) five (5) years after the Effective Date. If required by Escrow Holder, a separate holding escrow agreement in a form reasonably acceptable to the parties, shall be entered into by Escrow Holder, UPSM and City upon such first Closing.

In the event that City incurs costs in connection with a Hazardous Material Claim prior to the release of the Hazardous Material Holdback to UPSM, City shall provide written notice to Escrow Holder and UPSM (x) stating that there has been a Hazardous Material Claim, (y) providing a detailed explanation, with reasonable supporting documentation, including, without limitation, all related correspondence, explaining the scope and nature of such Hazardous Material Claim and (z) stating the amount of such Hazardous Material Claim ("Hazardous

Material Claim Amount"), along with paid invoices detailing such amount which are reasonably acceptable to UPSM. Upon receipt of the written consent of UPSM, which consent shall not be unreasonably withheld, conditioned or delayed, Escrow Holder shall release to City from the Hazardous Material Holdback an amount equal to the Hazardous Material Claim Amount. All escrow fees incurred in connection with the escrow described in this paragraph shall be paid by UPSM.

22. Memorandum of Option to Purchase. Within five (5) business days after the Effective Date, City and UPSM shall duly execute a Memorandum of Option to Purchase in the form attached hereto as Exhibit H (the "Memorandum of Option to Purchase") to evidence the provisions of this Agreement, which shall be recorded in the Official Records against all Specific Plan Properties owned by either City or UPSM as of the Effective Date. Thereafter, during the Option Period, City and UPSM shall cause, upon the acquisition of any additional Specific Plan Property by either City or UPSM, a duly executed Memorandum of Option to Purchase to be recorded in the Official Records against such property.

23. Default. If either party fails to perform any act required to be performed by it pursuant to this Agreement, fails to observe any term, covenant, agreement or condition herein contained on that party's part to be observed and performed, or if any representation or warranty made by that party is breached as of the date of this Agreement or the Closing (each an event of "Default"), then the non-defaulting party shall deliver written notice to the defaulting party of such Default. The defaulting party shall have ten (10) business days to cure such Default or, if such cure cannot reasonably be completed within such period, to commence and diligently pursue such cure to completion, but in no event shall such Default remain uncured for a period of twenty (20) business days after notice. Subject to the terms of Sections 4, 9.1 and 9.2 regarding failure of a condition precedent to Closing, should such Default remain uncured for more than twenty (20) business days after notice, the non-defaulting party shall be entitled to all remedies at law or in equity, including the right to cancel this Agreement and seek damages caused by such Default, or seek specific performance of this Agreement.

24. Miscellaneous.

24.1 Waiver. Any term or provision of this Agreement may be waived by the party which is entitled to the benefits thereof. Any waiver hereunder must be signed by the party against whom enforcement of the waiver is sought. No waiver by any party of any condition, or the breach of any term, covenant, agreement, representation or warranty contained in this Agreement, in any one or more instances, shall be deemed to be a further or continuing waiver of any such condition or breach of any other term, covenant, agreement, representation or warranty contained in this Agreement. Delay or failure to exercise any right or remedy shall not be deemed a waiver thereof. The rights and remedies in respect to any breach of representations or warranties by any party shall not be affected by any investigation made, or to be made, by or on behalf of any party, or by any party rescinding, or failure to rescind this Agreement or by any other event or matter whatsoever, except by specific and duly authorized written waiver or release.

24.2 Expenses. Except as expressly provided herein, each party shall pay its own costs and expenses relating to this Agreement, including fees of their respective attorneys, accountants and consultants.

24.3 Enforcement and Attorneys' Fees. If a dispute arises concerning the performance, meaning, or interpretation of any provision of this Agreement or any document executed in connection with this Agreement, the prevailing party in such dispute, shall be awarded any and all costs and expenses incurred by such prevailing party in enforcing, defending, or establishing its rights under this Agreement or such document including without limitation court costs and expert witnesses' and attorneys' fees. In addition to the foregoing award of costs and fees, such prevailing party shall also be entitled to recover its court costs and expert witnesses' and attorneys' fees incurred in any post judgment proceedings to collect or enforce any judgment. This provision is separate and several and shall survive the merger of this Agreement or any such other document into any judgment on this Agreement or such document.

24.4 Binding Effect; Assignment. This Agreement is binding upon and will inure to the benefit of the parties and their respective permitted successors and assigns. Nothing in this Agreement, express or implied, is intended to or will confer on any person other than the parties and their permitted successors and assigns, any rights, remedies or claims under or by reason of this Agreement. This Agreement may not be assigned by City without the express written permission of UPSM, which may be withheld in UPSM's reasonable discretion. UPSM's rights under Section 15 above may not be assigned by UPSM without the express written permission of City, which may be withheld in City's reasonable discretion (which reasonable discretion shall include, without limitation, the financial condition of the proposed assignee, the experience of the proposed assignee, such assignee's reputation, and prior dealings of such proposed assignee with the City).

24.5 Further Assurances. From time to time subsequent to the Closing, without further consideration, each party shall execute and deliver to the other such other instruments and documents and shall take such other actions as the other party reasonably may request in order more effectively to carry out the intent and accomplish the purposes of this Agreement.

24.6 Survival. All representations and warranties contained in this Agreement or in any certificate or other instrument delivered by or on behalf of the parties hereto are given as of the date of this Agreement and shall survive the execution of this Agreement, the Closing and the delivery of any documents pursuant to this Agreement. All covenants contained in this Agreement or in any certificate or other instrument delivered by or on behalf of the parties hereto shall be continuous and survive the execution of this Agreement, the Closing and the delivery of any documents pursuant to this Agreement.

24.7 Captions. The captions to Sections of this Agreement have been inserted for identification and reference purposes and shall not be used to determine the construction or interpretation of this Agreement.

24.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California as applied to contracts entered into and wholly to be performed within California by California residents.

24.9 Severability. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

24.10 Brokers. Each party represents to the other that it has not had any contact, dealings or communications with a broker or finder in connection with the transaction contemplated by this Agreement or any other person who can claim a right to a commission or finder's fee, other than the brokers and finders retained by UPSM, the fees and commissions of which shall be paid by UPSM pursuant to the terms of separate agreements between UPSM and such brokers and finders. If any other broker, finder or other person makes a claim for commissions or finder's fee based upon any contract, dealing or communication with a party, then such party shall indemnify, defend and hold the other party harmless from and against all damages, claims, losses and expenses, including attorneys' fees, arising out of the broker's, finder's or other person's claim.

24.11 Relationship between the Parties. UPSM and City agree that (a) the relationship between them is, is intended to be and shall at all times remain, in connection with the transactions contemplated by this Agreement, that of seller and purchaser and (b) neither party is, is intended to be or shall be construed as a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of the other party or any of its affiliates and neither party intends to ever assume such status.

24.12 Third Parties Not Benefited. This Agreement is made for the purpose of defining and setting forth certain rights and obligations of UPSM and City. It is made for the sole protection of UPSM and City, and UPSM's and City's heirs, executors, administrators, successors and assigns. No other person or entity shall have any rights of any nature under or by reason of this Agreement.

24.13 Entire Agreement. This Agreement constitutes and contains the entire agreement of the parties and supersedes any and all prior negotiations, correspondence, understandings and agreements between the parties respecting the subject matter hereof.

24.14 Amendment. This Agreement may be amended only by a written instrument signed by all the parties.

24.15 Jurisdiction. Any lawsuits arising out of or in connection with this Agreement shall be brought in the Superior Court of San Diego County, California or the Federal District Court of the Southern District of California in San Diego. The parties hereby consent to the exclusive jurisdiction and venue of the Superior Court of San Diego County, California and the Federal District Court of the Southern District of California in San Diego. Each party agrees that service of process may be made in the manner provided for notices in this Agreement.

24.16 Neither Party Deemed Drafter. Each party has thoroughly reviewed and revised this Agreement and has had the advice of counsel prior to the execution hereof, and the parties agree that neither party shall be deemed to be the drafter of this Agreement.

24.17 Notices. Any notice which a party is required or may desire to give the other shall be in writing and may be sent by (i) facsimile transmission, (ii) personal delivery, (iii) United States registered or certified mail, return receipt requested, postage prepaid, or (iv) Federal Express or similar generally recognized overnight carrier regularly providing proof of delivery, addressed as follows (subject to the right of a party to designate a different address for itself by notice similarly given):

To UPSM: University Place San Marcos, LLC
3525 Del Mar Heights Road, Suite 246
San Diego, CA 92130
Attn: Gary Levitt
Telephone: (858) 361-8555
Fax: (858) 755-1209

University Place San Marcos, LLC
16870 West Bernardo Drive, Suite 260
San Diego, CA 92127
Attn: P. Michael McDonald
Telephone: (858) 487-2400
Fax: (858) 487-5411

With a copy to: Sheppard Mullin Richter & Hampton, LLP
12275 El Camino Real, Suite 200
San Diego, CA 92130
Attn: Jerry J. Gumpel
Telephone: (858) 720-8900
Fax: (858) 509-3691

To City: The City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069
Attn: Paul Malone, City Manager
Telephone: (760) 744-1050, ext. 3115
Fax: (760) 744-7543

With a copy to: City of San Marcos
Lounsbery Ferguson Altona & Peak
960 Canterbury Place, Suite 300
Escondido, CA 92025
Attn: Helen Holmes Peak, City Attorney
Telephone: (760) 743-1226, ext. 108
Fax: (760) 743-9926

24.18 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

[SIGNATURE PAGE ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

UNIVERSITY PLACE SAN MARCOS, LLC
a California limited liability company

By: Sea Breeze Properties, LLC,
a limited liability company,

Its: Manager/Member

By: _____

Name: Craig Lavitt

Its: Manager

CITY OF SAN MARCOS

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM BY CITY _____

By: _____

Name: _____

Its: _____

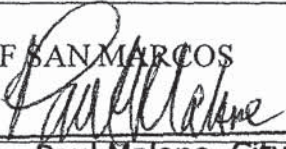
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

UNIVERSITY PLACE SAN MARCOS, LLC
a California limited liability company

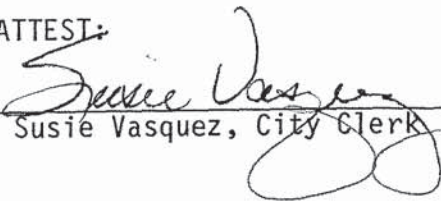
By: Sea Breeze Properties, LLC,
a limited liability company,
Its: Manager/Member

By: _____
Name: _____
Its: _____

CITY OF SAN MARCOS

By: 
Name: Paul Malone, City Manager
Its: _____

ATTEST:


Susie Vasquez, City Clerk

APPROVED AS TO FORM BY CITY ATTORNEY

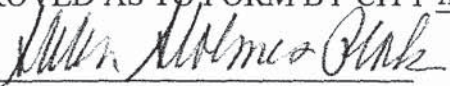
By: 
Name: Helen Holmes Peak
Its: City Attorney

EXHIBIT A

UPSM PROPERTIES & CONTRACTS

UPSM Properties

1. APN No. 220-200-59, 60 and 61 (Kimmel Property)
2. APN No. 220-200-40 and 221-110-20 and 30 (CB-5 Property)

UPSM Contracts:

1. With Thomas Eugene Gordon and Majorie Ann Gordon (APN Nos. 220-200-02, 19, 47 and 48)

EXHIBIT B

ALLOCATION OF PURCHASE PRICE

1. Gordon Property: \$7,326,795
2. Kimmel Property: \$2,171,466.13
3. CB-5 Property: \$3,899,008.17

EXHIBIT C-1

PERMITTED EXCEPTIONS
(KIMMEL PROPERTY)



Fidelity National Title Company

PRELIMINARY REPORT

*In response to the application for a policy of title insurance referenced herein, **Fidelity National Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.*


The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Exhibit A attached. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit A. Copies of the Policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The Policy(s) of title insurance to be issued hereunder will be policy(s) of Fidelity National Title Insurance Company, a California Corporation.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

Fidelity National Title Company
 *[Signature]*
[Signature]


Countersigned



Fidelity National Title Company

2763 Camino Del Rio South • San Diego, CA 92108
(619) 295-7332 • FAX (619) 297-2213

PRELIMINARY REPORT

TITLE OFFICER: John Mounier/619-725-2118

ORDER NO.: 07-2895352

LOAN NO.:

TO: Sea Breeze LLC
3525 Del Mar Heights Road #246
San Diego, CA 92130

ATTN: Gary Levitt

YOUR REFERENCE.: 220-200-59, 60, & 61 *Kimmel*

SHORT TERM RATE: No

PROPERTY ADDRESS: Vacant land, San Marcos, California

EFFECTIVE DATE: March 1, 2007, 07:30 A.M.

The form of Policy or Policies of title insurance contemplated by this report is:

California Land Title Association Standard Coverage Policy - 1990

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A FEE as to Parcel(s) A, C and E;
AN EASEMENT more fully described below as to Parcel(s) B and D

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

University Place San Marcos LLC, a California Limited Liability Company

3. THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE CITY OF SAN MARCOS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "ONE" ATTACHED HERETO AND MADE A PART HEREOF

VG\SR 03/09/2007

EXHIBIT "ONE"

Parcel A:

Parcel 2 of Parcel Map No. 2738, in the City of San Marcos, County of San Diego, State of California, as filed in the Office of the County Recorder of San Diego, June 7, 1974

Parcel B:

An easement and right of way for road purposes over, under, along and across the Easterly 30.00 feet of Parcel 4 as shown on Parcel Map No. 2738, in the City of San Marcos, County of San Diego, State of California, as filed in the Office of the County Recorder of said San Diego County, June 7, 1974 as File No. 74-151954, Official Records.

Excepting therefrom all that portion lying Northerly of the Easterly prolongation of the Northerly line of Parcel A above.

Parcel C:

Parcel 3 of Parcel Map No. 2738, in the City of San Marcos, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, June 7, 1974 as File No. 74-151954 of Official Records.

Parcel D:

An easement and right of way for ingress and egress, road and utility purposes, including but not limited to electric power, telephone, gas, water, sewer and cable television lines and appurtenances thereto, together with the right and power to convey the same to others over, under, along and across that portion of Parcel 4 of Parcel Map No. 2738, in the City of San Marcos, County of San Diego, State of California, June 7, 1974 as File No. 74-151954 of Official Records, which lies on Southerly of the Easterly prolongation of the Northerly line of Parcel 3 of said Parcel Map.

Parcel E:

Parcel 4 of Parcel Map No. 2738, filed in the Office of the County Recorder June 7, 1974, being a Division of Lot 10, Block 58, of Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806.

Assessor's Parcel No: 220-200-59, 60, & 61

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2007-2008.

2. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California.

3. Any rights, liens and/or encumbrances, including but not limited to, easements, rights of way and agreements that may be shown by the public records.
 Affects: Parcels B and D

4. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the Parcel Map No. 2738.
 Purpose: 30 foot wide access easement
 Affects: As shown on said Map.

5. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document;
 Granted to: Donald E. Marchant
 Purpose: road
 Recorded: June 16, 1977, Instrument No. 77-237050, of Official Records
 Affects: As shown in said document.

 Reference is made to said document for full particulars.

6. Easement(s) for the purpose(s) shown below and rights incidental thereto as reserved in a document;
 Reserved by: Raymond V. Redel and Dorothy M. Redel
 Purpose: road and Public utilities
 Recorded: June 24, 1977, Instrument No. 77-250845, of Official Records
 Affects: As shown in said document.

 Reference is made to said document for full particulars.

7. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document;
 Granted to: Glennwood W. Whitt and Candace E. Whitt
 Purpose: road
 Recorded: July 12, 1977, Instrument No. 77-276563, of Official Records
 Affects: As shown in said document.

 Reference is made to said document for full particulars.

8. Matters contained in that certain Road Maintenance Agreement executed by and between Raymond V. Redel and Dorothy M. Redel, Donald E. Marchant, Indeco, Inc., a California Corporation and Glennwood W. Whitt and Candace E. Whitt which document, among other things, may provide for liens and charges.

Recorded: June 16, 1977, Instrument Nos. 77-237053 and 77-237054,
June 24, 1977 as Instrument Nos. 77-250850 and 77-250851
and July 12, 1977 as Instrument No. 77-276565, all of Official
Records

Reference is made to said document for full particulars.

9. Matters contained in that certain document entitled "Declaration of Covenants for Street Improvements" dated June 7, 1974, executed by and between Raymond V. Redel and Dorothy M. Redel, husband and wife and the City of San Marcos recorded December 1, 1977, Instrument No. 77-496320, of Official Records.

Reference is hereby made to said document for full particulars.

10. A Notice of Sewage Disposal Facilities Installation

Recorded: March 2, 1978, Instrument No. 78-084057, of Official Records.

Reference is made to said document for full particulars.

11. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document;

Granted to: San Diego Gas and Electric Company
Purpose: Public utilities, ingress and egress
Recorded: November 28, 1979, Instrument No. 79-500783, of Official
Records
Affects: As shown in said document.

Reference is made to said document for full particulars.

12. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document;

Granted to: The Pacific Telephone and Telegraph Company
Purpose: Public utilities, ingress and egress
Recorded: April 10, 1980, Instrument No. 80-122517, of Official Records
Affects: As shown in said document.

Reference is made to said document for full particulars.

13. A covenant and agreement entitled "Declaration of Covenants for Street Improvements and Waiver of Protest"

Executed by: Modulaire Leasing Company, a California Corporation
In favor of: The City of San Marcos
Recorded: July 8, 1981, Instrument No. 81-214813, of Official Records

Reference is hereby made to said document for full particulars.

14. The fact that said land is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document.

Redevelopment

Agency: San Marcos Redevelopment Project Area No. 1
 Recorded: July 13, 1983, Instrument No. 83-239024, of Official Records

15. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document;

Granted to: San Marcos County Water District
 Purpose: a pipeline
 Recorded: December 3, 1984, Instrument No. 84-450393, of Official Records
 Affects: As shown in said document.

Reference is made to said document for full particulars.

16. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document;

Granted to: San Marcos County Water District
 Purpose: pipelines and incidental purposes
 Recorded: December 3, 1984, Instrument No. 84-450394, of Official Records
 Affects: As shown in said document.

Reference is made to said document for full particulars.

An Agreement, and the terms and conditions as contained therein by and between The San Marcos County Water District and 4-R Construction Co., Inc. recorded May 7, 1986 as Instrument 86-180343, Official Records, regarding Encroachment Permit.

Reference is hereby made to said Document for full particulars.

17. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document;

Granted to: San Diego Gas and Electric Company
 Purpose: Public utilities, ingress and egress
 Recorded: March 10, 1988, Instrument No. 88-111350, of Official Records
 Affects: As shown in said document.

The exact location and extent of said easement is not disclosed of record.

Reference is made to said document for full particulars.

18. A pending assessment for the District shown below. When notice of the assessment is recorded with the County Recorder the assessment shall become a lien on said land.

District: Future Annexation Area of Community Facilities District No. 98-01 (Police & Fire) Improvement Area No. 1 (Police Only) of the City of San Marcos
 Disclosed by: Assessment District Boundary Map
 Recorded: October 19, 2001, Instrument No. 2001-0758505, of Official Records

19. A pending assessment for the District shown below. When notice of the assessment is recorded with the County Recorder the assessment shall become a lien on said land.

District: Future Annexation Area of Community Facilities District No. 2001-01 of the San Marcos Fire Protection
 Disclosed by: Assessment District Boundary Map
 Recorded: October 19, 2001, Instrument No. 2001-0758700, of Official Records

20. Before issuing its policy of title insurance, this Company will require for review, the following documents from the Limited Liability Company named below.

Limited Liability Company: University Place San Marcos LLC

- (a) A copy of its operating agreement and any and all amendments, supplements and/or modifications thereto, certified by the appropriate manager or member.
- (b) Confirmation that its Articles of Organization (LLC-1), and Certificate of Amendment (LLC-2), any restated Articles of Organization (LLC-10) and/or Certificate of Correction (LLC-11) have been filed with the Secretary of State.
- (c) If the Limited Liability Company is member-managed a full and complete current list of members certified by the appropriate manager or member.
- (d) If the Limited Liability Company was formed in a foreign jurisdiction, evidence satisfactory to the Company, that it was validly formed, is in good standing and authorized to do business in the state of origin.
- (e) If the Limited Liability Company was formed in a foreign jurisdiction, evidence satisfactory to the Company, that it has complied with California "doing business" laws, if applicable.

After review of the requested documents, the Company reserves the right to add additional items or make additional requirements prior to the issuance of any policy of title insurance.

21. This company will require a statement of information from the parties named below in order to complete this report, based on the effect of documents, proceedings, liens, decrees, or other matters which do not specifically describe said land, but which, if any do exist, may affect the title or impose liens or encumbrances thereon. After review of the requested Statement(s) of Information the Company may have additional requirements before the issuance of any policy of title insurance.

Parties: The Buyers in this Transaction

(Note: The statement of information is necessary to complete the search and examination of title under this order. Any title search includes matters that are indexed by name only, and having a completed statement of information assists the Company in the elimination of certain matters which appear to involve the parties but in fact affect another party with the same or similar name. Be assured that the statement of information is essential and will be kept strictly confidential to this file).

END OF ITEMS

EXHIBIT C-2

PERMITTED EXCEPTIONS
(GORDON PROPERTY)

UPSM and City acknowledge and agree that exception items 6 through 8 as shown on Schedule B of that certain Third Amended Preliminary Report dated as of March 14, 2007 (Order No.: 33010460-U13) are not Permitted Exceptions.



CHICAGO TITLE COMPANY

PRELIMINARY REPORT

THIRD AMENDED

Dated as of: March 14, 2007 at 7:30 AM

Reference: 33010460E

Order No.: 33010460 - U13

CHICAGO TITLE COMPANY

hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception in Schedule B or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage of said Policy or Policies are set forth in the attached list. Copies of the Policy forms are available upon request.

Please read the exceptions shown or referred to in Schedule B and the exceptions and exclusions set forth in the attached list of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of title insurance policy and should be carefully considered. It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

THIS REPORT (AND ANY SUPPLEMENTS OR AMENDMENTS HERETO) IS ISSUED SOLELY FOR THE PURPOSE OF FACILITATING THE ISSUANCE OF POLICY OF TITLE INSURANCE AND NO LIABILITY IS ASSUMED HEREBY. IF IT IS DESIRED THAT LIABILITY BE ASSUMED PRIOR TO THE ISSUANCE OF POLICY OF TITLE INSURANCE, A BINDER OR COMMITMENT SHOULD BE REQUESTED

The form of policy of title insurance contemplated by this report is:
CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY

Visit Us On The Web: westerndivision.ctt.com

Title Department:



CHICAGO TITLE COMPANY

2365 NORTHSIDE DRIVE #500

SAN DIEGO, CA 92108

(619)521-3542 fax: (619)521-3605

Michael Brady
TITLE OFFICER

SCHEDULE A

Order No: 33010460 U13

Your Ref: 33010460E

1. The estate or interest in the land hereinafter described or referred to covered by this report is:

A FEE

2. Title to said estate or interest at the date hereof is vested in:

THOMAS EUGENE GORDON AND MARJORIE ANN GORDON, husband and wife as community property, AS TO LOTS 11 AND 16 AND IN

THOMAS E. GORDON AND MARJORIE ANNE GORDON, husband and wife as joint tenants AS TO THE EASTERLY 172 FEET OF LOT 12, BLOCK 58, RANCHO LOS VALLECITAS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 581, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY FEBRUARY 11, 1889.

3. The land referred to in this report is situated in the State of California, County of SAN DIEGO and is described as follows:

SEE ATTACHED DESCRIPTION

DESCRIPTION

PARCEL A:

LOT 16 IN BLOCK 58, RANCHO LOS VALLECITAS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 581, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY FEBRUARY 11, 1889.

EXCEPTING THEREFROM ALL THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY GRANT DEED RECORDED MARCH 3, 1960 AS FILE NO. 44257 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF LOT C IN SAID BLOCK AS PER SAID MAP, DISTANT ALONG SAID WESTERLY LINE $S. 8^{\circ} 44' 44''$ W., 410.37 FEET FROM THE NORTHWESTERLY CORNER OF SAID LOT C, SAID CORNER BEING AT COORDINATES $Y=354,173.38$ FEET AND $X=1,720,596.69$ FEET; THENCE LEAVING SAID WESTERLY LINE, $N. 12^{\circ} 18' 06''$ E., 219.28 FEET; THENCE $N. 69^{\circ} 29' 02''$ E., 279.89 FEET; THENCE $N. 77^{\circ} 42' 44''$ E., 671.27 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 3,030 FEET THROUGH AN ANGLE OF $0^{\circ} 15' 07''$, A DISTANCE OF 13.32 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 16, DISTANT ALONG SAID EASTERLY LINE, $S. 16^{\circ} 58' 34''$ E., 217.81 FEET FROM THE NORTHEASTERLY CORNER OF SAID LOT 16, SAID CORNER BEING A COORDINATES $Y=354,434.18$ FEET AND $X=1,721,448.46$ FEET.

PARCEL B:

LOT 11 IN BLOCK 58, RANCHO LOS VALLECITAS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY DECEMBER 21, 1895.

PARCEL C:

THE EASTERLY 172 FEET OF LOT 12, BLOCK 58, RANCHO LOS VALLECITAS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 581, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY FEBRUARY 11, 1889.

SCHEDULE B

Page 1

Order No: 33010460 U13

Your Ref: 33010460E

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in the policy form designated on the face page of this Report would be as follows:

AG 1. PROPERTY TAXES, INCLUDING ANY ASSESSMENTS COLLECTED WITH TAXES, TO BE LEVIED FOR THE FISCAL YEAR 2007-2008 THAT ARE A LIEN NOT YET DUE.

A) PROPERTY TAXES, INCLUDING ANY PERSONAL PROPERTY TAXES AND ANY ASSESSMENTS COLLECTED WITH TAXES, FOR THE FISCAL YEAR 2006-2007

1ST INSTALLMENT: \$1,968.75 (PAID)
2ND INSTALLMENT: \$1,968.75
PENALTY AND COST: \$206.87 (DUE AFTER APRIL 10)
HOMEOWNERS
EXEMPTION: \$NONE
CODE AREA: 13109
ASSESSMENT NO: 220-200-02

B) PROPERTY TAXES, INCLUDING ANY PERSONAL PROPERTY TAXES AND ANY ASSESSMENTS COLLECTED WITH TAXES, FOR THE FISCAL YEAR 2006-2007

1ST INSTALLMENT: \$998.17 (PAID)
2ND INSTALLMENT: \$998.17
PENALTY AND COST: \$109.81 (DUE AFTER APRIL 10)
HOMEOWNERS
EXEMPTION: \$NONE
CODE AREA: 13109
ASSESSMENT NO: 220-200-19

C) PROPERTY TAXES, INCLUDING ANY PERSONAL PROPERTY TAXES AND ANY ASSESSMENTS COLLECTED WITH TAXES, FOR THE FISCAL YEAR 2006-2007

1ST INSTALLMENT: \$237.56 (PAID)
2ND INSTALLMENT: \$237.56
PENALTY AND COST: \$33.75 (DUE AFTER APRIL 10)
HOMEOWNERS
EXEMPTION: \$NONE
CODE AREA: 13109
ASSESSMENT NO: 220-200-47

D) PROPERTY TAXES, INCLUDING ANY PERSONAL PROPERTY TAXES AND ANY ASSESSMENTS COLLECTED WITH TAXES, FOR THE FISCAL YEAR 2006-2007

1ST INSTALLMENT: \$237.56 (PAID)
2ND INSTALLMENT: \$237.56
PENALTY AND COST: \$33.75 (DUE AFTER APRIL 10)
HOMEOWNERS

SCHEDULE B
(continued)

Order No: 33010460 U13

Your Ref: 33010460E

EXEMPTION: \$NONE
CODE AREA: 13109
ASSESSMENT NO: 220-200-48

B 2. THE LIEN OF SUPPLEMENTAL TAXES, IF ANY, ASSESSED PURSUANT TO THE PROVISIONS OF CHAPTER 3.5 (COMMENCING WITH SECTION 75) OF THE REVENUE AND TAXATION CODE OF THE STATE OF CALIFORNIA.

C 3. THE FACT THAT THE OWNERSHIP OF SAID LAND DOES NOT INCLUDE RIGHTS OF ACCESS TO OR FROM THE STREET OR HIGHWAY ABUTTING SAID LAND, SUCH RIGHTS HAVING BEEN SEVERED FROM SAID LAND BY THE DOCUMENT

RECORDED: MARCH 3, 1960 AS FILE NO. 44257, OFFICIAL RECORDS
AFFECTS: NORTHERLY PORTION OF LOT 16

AH 4. INTENTIONALLY OMITTED.

AI 5. INTENTIONALLY OMITTED.

H 6. A DEED OF TRUST TO SECURE AN INDEBTEDNESS IN THE ORIGINAL AMOUNT SHOWN BELOW

AMOUNT: \$9,022.70
DATED: OCTOBER 4, 1973
TRUSTOR: EXTRA SPACE CO., A GENERAL PARTNERSHIP COMPOSED OF BERT CASTER AND RICHARD CASTER
TRUSTEE: CAL-WEST MORTGAGE CO., A California Corporation
BENEFICIARY: MATEO PABLOFF AND ANNA PABLOFF, husband and wife as joint tenants
RECORDED: OCTOBER 12, 1973 AS FILE NO. 73-287840, OFFICIAL RECO

J AN ASSIGNMENT OF THE BENEFICIAL INTEREST UNDER SAID DEED OF TRUST WHICH NAMES

AS ASSIGNEE: GEOFFREY B. DANIELS AND PATRICIA J. DANIELS, husband and wife as joint tenants

RECORDED: OCTOBER 2, 1973 AS FILE NO. 73-287841, OFFICIAL RECORDS

J THE EFFECT OF A FULL RECONVEYANCE OF SAID DEED OF TRUST EXECUTED BY CAL-WEST MORTGAGE CO., AS TRUSTEE AND RECORDED FEBRUARY 25, 1975 AS FILE NO. 75-042629, OFFICIAL RECORDS.

THE EFFECT OF AN ASSIGNMENT OF SAID DEED OF TRUST BY MATEO PABLOFF AND ANNA

SCHEDULE B
(continued)

Order No: 33010460 U13

Your Ref: 33010460E

PABLOFF TO THOMAS EUGENE AND MARJORIE ANN GORDON, husband and wife as community property RECORDED APRIL 26, 1984 AS FILE NO. 84-153550, OFFICIAL RECORDS.

- K 7. A DEED OF TRUST TO SECURE AN INDEBTEDNESS IN THE ORIGINAL AMOUNT SHOWN BELOW

AMOUNT: \$30,000.00
DATED: OCTOBER 4, 1973
TRUSTOR: EXTRA SPACE CO.
TRUSTEE: CAL-WEST MORTGAGE CO., A California Corporation
BENEFICIARY: MATEO PABLOFF AND ANNA PABLOFF, husband and wife as joint tenants
RECORDED: OCTOBER 12, 1973 AS FILE NO. 73-287842, OFFICIAL RECO

AFFECTS LOT 11

- L THE BENEFICIAL INTEREST UNDER SAID DEED OF TRUST WAS ASSIGNED OF RECORD BY MESNE ASSIGNMENTS OF RECORD TO BARBARA C. WHITNEY, ANNA SCHIERHOLI, AND MATEO PABLOFF AND ANNA PABLOFF, AS TENANTS IN COMMON.

- M 8. A DEED OF TRUST TO SECURE AN INDEBTEDNESS IN THE ORIGINAL AMOUNT SHOWN BELOW

AMOUNT: \$95,000.00
DATED: JANUARY 6, 1978
TRUSTOR: THOMAS EUGENE GORDON AND MARJORIE ANNE GORDON
TRUSTEE: SAFECO TITLE INSURANCE COMPANY
BENEFICIARY: U-STORE-IT, a California General Partnership
RECORDED: JANUARY 30, 1978 AS FILE NO. 78-036841, OFFICIAL RECOR

N AFFECTS LOT 11

- O 9. AN EASEMENT FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS SET FORTH IN A DOCUMENT

GRANTED TO: SAN MARCOS COUNTY WATER DISTRICT
PURPOSE: PIPELINE OR PIPELINES
RECORDED: DECEMBER 3, 1984 AS FILE NO. 84-450387, OFFICIAL RECORDS
AFFECTS: THE ROUTE AFFECTS A PORTION OF SAID LOTS 11 & 16 AS MORE FULLY DESCRIBED IN SAID DOCUMENT

- P 10. AN EASEMENT FOR THE PURPOSE SHOWN BELOW AND RIGHTS INCIDENTAL THERETO AS SET FORTH IN A DOCUMENT

SCHEDULE B
(continued)

Order No: 33010460 U13

Your Ref: 33010460E

GRANTED TO: SAN MARCOS COUNTY WATER DISTRICT
PURPOSE: PIPELINE OR PIPELINES
RECORDED: DECEMBER 3, 1984 AS FILE NO. 84-450390, OFFICIAL
RECORDS
AFFECTS: THE ROUTE AFFECTS A PORTION OF SAID LOT 12 AS MORE
FULLY DESCRIBED IN SAID DOCUMENT

- Q 11. AN AGREEMENT, AND THE TERMS AND CONDITIONS AS CONTAINED THEREIN

DATED: OCTOBER 27, 1993
BY AND BETWEEN: MARJORIE GORDON AND THOMAS GORDON
RECORDED: NOVEMBER 5, 1993 AS FILE NO. 1993-0745078 OF OFFICIAL
RECORDS
REGARDING: HOLD HARMLESS AGREEMENT DRAINAGE

REFERENCE IS MADE TO SAID DOCUMENT FOR FULL PARTICULARS.

- R 12. A PENDING ASSESSMENT FOR THE DISTRICT SHOWN BELOW. WHEN NOTICE OF THE
ASSESSMENT IS RECORDED WITH THE COUNTY RECORDER THE ASSESSMENT SHALL BECOME
A LIEN ON SAID LAND.

DISTRICT: COMMUNITY FACILITIES DISTRICT NO. 98-01 (POLICE &
FIRE) IMPROVEMENT AREA NO. 1 (POLICE ONLY)
DISCLOSED BY: ASSESSMENT DISTRICT BOUNDARY
RECORDED: OCTOBER 19, 2001 AS FILE NO. 2001-0758505 OF OFFICIAL
RECORDS.

- S 13. A PENDING ASSESSMENT FOR THE DISTRICT SHOWN BELOW. WHEN NOTICE OF THE
ASSESSMENT IS RECORDED WITH THE COUNTY RECORDER THE ASSESSMENT SHALL BECOME
A LIEN ON SAID LAND.

DISTRICT: FUTURE ANNEXATION AREA OF COMMUNITY FACILITIES
DISTRICT NO. 2001-01 OF THE SAN MARCOS FIRE PROTECTION
DISTRICT
DISCLOSED BY: ASSESSMETN DISTRICT BOUNDARY
RECORDED: OCTOBER 19, 2001 AS FILE NO. 2001-0758700 OF OFFICIAL
RECORDS.

- T 14. RIGHTS OF PARTIES IN POSSESSION OF SAID LAND.
MATTERS AFFECTING THE RIGHTS OF SAID PARTIES ARE NOT SHOWN HEREIN.

- U 15. MATTERS WHICH MAY BE DISCLOSED BY AN INSPECTION OR SURVEY OF SAID LAND OR
BY INQUIRY OF THE PARTIES IN POSSESSION THEREOF.

- AJ 16. INTENTIONALLY OMITTED.

- V END OF SCHEDULE B

SCHEDULE B
(continued)

Order No: 33010460 U13

Your Ref: 33010460E

W NOTE NO. 1: THIS COMPANY WILL REQUIRE MORE INFORMATION ABOUT THE MCDONALD GROUP REGARDING THE TYPE OF ENTITY IT IS, PRIOR TO ADVISING YOU OF ANY FURTHER REQUIREMENTS IN THE ISSUANCE OF A POLICY OF TITLE INSURANCE.

X NOTE NO. 2: WE WILL REQUIRE A STATEMENT OF INFORMATION FROM THE PARTIES NAMED BELOW IN ORDER TO COMPLETE THIS REPORT, BASED ON THE EFFECT OF DOCUMENTS, PROCEEDINGS, LIENS, DECREES, OR OTHER MATTERS WHICH DO NOT SPECIFICALLY DESCRIBE SAID LAND, BUT WHICH, IF ANY DO EXIST, MAY AFFECT THE TITLE OR IMPOSE LIENS OR ENCUMBRANCES THEREON.

PARTIES: THOMAS EUGENE GORDON AND MARJORIE ANN GORDON

(NOTE: THE STATEMENT OF INFORMATION IS NECESSARY TO COMPLETE THE SEARCH AND EXAMINATION OF TITLE UNDER THIS ORDER. ANY TITLE SEARCH INCLUDES MATTERS THAT ARE INDEXED BY NAME ONLY, AND HAVING A COMPLETED STATEMENT OF INFORMATION ASSISTS THE COMPANY IN THE ELIMINATION OF CERTAIN MATTERS WHICH APPEAR TO INVOLVE THE PARTIES BUT IN FACT AFFECT ANOTHER PARTY WITH THE SAME OR SIMILAR NAME. BE ASSURED THAT THE STATEMENT OF INFORMATION IS ESSENTIAL AND WILL BE KEPT STRICTLY CONFIDENTIAL TO THIS FILE.)

AB NOTE NO. 3 INTENTIONALLY OMITTED.

AK NOTE NO. 4 INTENTIONALLY OMITTED.

Z JL
1STAMEND/CT
2AMEND/CT
3AMEND/CT

CHICAGO TITLE INSURANCE COMPANY
Fidelity National Financial Group of Companies' Privacy Statement
July 1, 2001

We recognize and respect the privacy expectation of today's consumers and the requirements of applicable federal and state privacy laws. We believe that making you aware of how we use your non-public personal information ("Personal Information"), and to whom it is disclosed, will form the basis for a relationship of trust between us and the public that we serve. This Privacy Statement provides that explanation. We reserve the right to change this Privacy Statement from time to time consistent with applicable privacy laws.

In the course of our business, we may collect Personal Information about you from the following sources:

- * From applications or other forms we receive from you or your authorized representative;
- * From your transactions with, or from the services being performed by, us, our affiliates, or others;
- * From our internet web sites;
- * From the public records maintained by governmental entities that we either obtain directly from those entities, or from our affiliates or others; and
- * From consumer or other reporting agencies.

Our Policies Regarding The Protection Of The Confidentiality And Security Of Your Personal Information

We maintain physical, electronic and procedural safeguards to protect your Personal Information from unauthorized access or intrusion. We limit access to the Personal Information only to those employees who need such access in connection with providing products or services to you or for other legitimate business purposes.

Our Policies and Practices Regarding the Sharing of Your Personal Information

We may share your Personal Information with our affiliates, such as insurance companies, agents, and other real estate settlement service providers. We may also disclose your Personal Information:

- * to agents, brokers or representatives to provide you with services you have requested;
- * to third-party contractors or service providers who provide services or perform marketing or other functions on our behalf; and
- * to others with whom we enter into joint marketing agreements for products or services that we believe you may find of interest.

In addition, we will disclose your Personal Information when you direct or give us permission, when we are required by law to do so, or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

One of the important responsibilities of some of our affiliated companies is to record documents in the public domain. Such documents may contain your Personal Information.

Right To Access Your Personal Information And Ability To Correct Errors Or Request Change Or Deletion

Certain states afford you the right to access your Personal Information and, under certain circumstances, to find out to whom your Personal Information has been disclosed. Also, certain states afford you the right to request correction, amendment or deletion of your Personal Information. We reserve the right, where permitted by law, to charge a reasonable fee to cover the costs incurred in responding to such requests.

All requests must be made in writing to the following address:

Privacy Compliance Officer
Fidelity National Financial, Inc.
601 Riverside Drive
Jacksonville, FL 32204

Multiple Products or Services:

If we provide you with more than one financial product or service, you may receive more than one privacy notice from us. We apologize for any inconvenience this may cause you.

LIST OF PRINTED EXCEPTIONS AND EXCLUSIONS

CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

EXCEPTIONS FROM COVERAGE — SCHEDULE B, PART I

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.

Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL TITLE INSURANCE POLICY (6-1-87)
EXCLUSIONS

In addition to the exceptions in Schedule B, you are not insured against loss, costs, attorney's fees and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
 - land use
 - land division
 - improvements on the land
 - environmental protection

This exclusion does not apply to the violations or the enforcement of these matters which appear in the public records at Policy Date. This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.

2. The right to take the land by condemning it, unless:
 - a notice of exercising the right appears in the public records on the Policy Date
 - the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking
3. Title Risks:
 - that are created, allowed, or agreed to by you
 - that are known to you, but not to us, on the Policy Date - unless they appeared in the public records
 - that result in no loss to you
 - that first affect your title after the Policy Date - this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
4. Failure to pay value for your title
5. Lack of a right
 - to any land outside the area specifically described and referred to in item 3 of Schedule A, or
 - in streets, alleys, or waterways that touch your land

This exclusion does not limit the access coverage in Item 5 of Covered Title Risks

EXCEPTIONS FROM COVERAGE

In addition to the Exclusions, you are not insured against loss, costs, attorneys' fees and expenses resulting from.

1. Someone claiming an interest in your land by reason of:
 - A. Easements not shown in the public records
 - B. Boundary disputes not shown in the public records
 - C. Improvements owned by your neighbor placed on your land.
2. If, in addition to a single family residence, your existing structure consists of one or more Additional Dwelling Units, Item 12 of Covered Title Risks does not insure you against loss, costs, attorneys' fees, and expenses resulting from:
 - A. The forced removal of any Additional Dwelling Unit, or,
 - B. The forced conversion of any Additional Dwelling Unit back to its original use

if said Additional Dwelling Unit was either constructed or converted to use as a dwelling unit in violation of any law or government regulation.

CALIFORNIA LAND TITLE ASSOCIATION HOMEOWNER'S POLICY OF TITLE INSURANCE (6/2/98)

CLTA Homeowner's Policy of Title Insurance (6/2/98)

ALTA Homeowner's Policy of Title Insurance (10/17/98)

EXCLUSIONS

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
 - a. building
 - c. Land use
 - e. Land division
 - b. zoning
 - d. improvements on the Land
 - f. environmental protection

This Exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.

This Exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.

2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
 - a. a notice of exercising the right appears in the Public Records at the Policy Date; or
 - b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.
4. Risks:
 - a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.d, 22, 23, 24 or 25.
5. Failure to pay value for Your Title.
6. Lack of a right:
 - a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10-17-92)
WITH ALTA ENDORSEMENT - FORM 1 COVERAGE
and
AMERICAN LAND TITLE ASSOCIATION LEASEHOLD LOAN POLICY (10-17-92)
WITH ALTA ENDORSEMENT - FORM 1 COVERAGE

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim or priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
 - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

The above policy forms may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following General Exceptions:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.

Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (10-17-92)
and
AMERICAN LAND TITLE ASSOCIATION LEASEHOLD OWNER'S POLICY (10-17-92)

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
 - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or
 - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
 - (a) to timely record the instrument of transfer; or
 - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

The above policy forms may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following General Exceptions:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.

Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

EXHIBIT C-3

PERMITTED EXCEPTIONS
(CB5 PROPERTY)



Fidelity National Title Company

PRELIMINARY REPORT

*In response to the application for a policy of title insurance referenced herein, **Fidelity National Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.*


The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in Exhibit A attached. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Exhibit A. Copies of the Policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The Policy(s) of title insurance to be issued hereunder will be policy(s) of Fidelity National Title Insurance Company, a California Corporation.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

Fidelity National Title Company
 *[Signature]*
[Signature]

[Signature]
Countersigned



Fidelity National Title Company

2763 Camino Del Rio South • San Diego, CA 92108
(619) 295-7332 • FAX (619) 297-2213

PRELIMINARY REPORT

TITLE OFFICER: John Mounier/619-725-2118

ORDER NO.: 07-2895342

TO: Sea Breeze LLC
3525 Del Mar Heights Road #246
San Diego, CA 92130

LOAN NO.:

ATTN: Gary Levitt

YOUR REFERENCE.: 220-200-40 & 221-110-20/0

SHORT TERM RATE: Yes

PROPERTY ADDRESS: Vacant land, San Marcos, California

EFFECTIVE DATE: March 1, 2007, 07:30 A.M.

The form of Policy or Policies of title insurance contemplated by this report is:

California Land Title Association Standard Coverage Policy - 1990

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A Fee

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

University Place San Marcos, LLC

3. THE LAND REFERRED TO IN THIS REPORT IS SITUATED IN THE CITY OF SAN MARCOS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "ONE" ATTACHED HERETO AND MADE A PART HEREOF

VG\SR 03/09/2007

EXHIBIT "ONE"

Parcel 1:

Lot 12 in Block 58 of Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 581, filed in the Office of the County Recorder of San Diego County, February 11, 1889.

Excepting the Easterly 172 feet.

Parcel 2:

Lot 13 in Block 58 of Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 581, filed in the Office of the County Recorder of San Diego County, February 11, 1889.

Excepting therefrom the Northeasterly 80 feet of the Southeasterly 125.00 feet of the Southwesterly one-half of said Lot 13

Assessor's Parcel No: 220-200-40 & 221-110-20 & 30

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2007-2008.
2. Property taxes, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2006-2007, Assessor's Parcel Number 220-200-40.

Code Area Number: 13109
 1st Installment: \$4,598.87 Paid
 2nd Installment: \$4,598.87 Open
 Land: \$884,340.00
 Improvements: \$0.00
 Exemption: \$None
 Personal Property: \$None

3. Supplemental assessment for 2006-2007

Bill No.: 859-310-18-55
 1st Installment: \$372.45 Paid
 Must be paid by: December 10, 2006
 2nd Installment: \$372.45 Open
 Must be paid by: April 10, 2007

4. Supplemental assessment for 2006-2007

Bill No.: 859-809-30-35
 1st Installment: \$865.30 Open
 Must be paid by: April 30, 2007
 2nd Installment: \$865.30 Open
 Must be paid by: August 31, 2007

5. Supplemental assessment for 2006-2007

Bill No.: 869-310-18-46
 1st Installment: \$1,400.51 Paid
 Must be paid by: December 10, 2006
 2nd Installment: \$1,400.51 Open
 Must be paid by: April 10, 2007

6. Property taxes, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2006-2007, Assessor's Parcel Number 221-110-20.

Code Area Number: 13109
 1st Installment: \$6,486.80 Paid
 2nd Installment: \$6,486.80 Open
 Land: \$1,248,480.00
 Improvements: \$0.00
 Exemption: \$None
 Personal Property: \$None

7. Supplemental assessment for 2006-2007

Bill No.: 859-310-28-85
1st Installment: \$175.88 Paid
Must be paid by: December 10, 2006
2nd Installment: \$175.88 Open
Must be paid by: April 10, 2007

8. Supplemental assessment for 2006-2007

Bill No.: 859-809-30-45
1st Installment: \$1,281.72 Open
Must be paid by: April 30, 2007
2nd Installment: \$1,281.72 Open
Must be paid by: August 31, 2007

9. Supplemental assessment for 2006-2007

Bill No.: 869-310-28-76
1st Installment: \$577.05 Paid
Must be paid by: December 10, 2006
2nd Installment: \$577.05 Open
Must be paid by: April 10, 2007

10. Property taxes, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2006-2007, Assessor's Parcel Number 221-110-30.

Code Area Number: 13109
1st Installment: \$5,838.36 Paid
2nd Installment: \$5,838.36 Open
Land: \$1,123,632.00
Improvements: \$0.00
Exemption: \$None
Personal Property: \$None

11. Supplemental assessment for 2006-2007

Bill No.: 859-310-29-05
1st Installment: \$159.58 Paid
Must be paid by: December 10, 2006
2nd Installment: \$159.58 Open
Must be paid by: April 10, 2007

12. Supplemental assessment for 2006-2007

Bill No.: 859-809-30-55
1st Installment: \$1,154.77 Open
Must be paid by: April 30, 2007
2nd Installment: \$1,154.77 Open
Must be paid by: March 31, 2007

13. Supplemental assessment for 2006-2007

Bill No.: 869-310-28-96
1st Installment: \$524.52 Paid
Must be paid by: December 10, 2006
2nd Installment: \$524.52 Open
Must be paid by: April 10, 2007

14. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California.
15. The fact that said land is included within a project area of the Redevelopment Agency shown below, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document.

Redevelopment

Agency: San Marcos Redevelopment Project Area No. 1
Recorded: July 13, 1983, Instrument No. 83-239024, of Official Records

16. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document;

Granted to: San Marcos County Water District
Purpose: pipelines and incidental purposes
Recorded: December 27, 1984, Instrument No. 84-480962, of Official Records
Affects: As shown in said document.

Reference is made to said document for full particulars.

17. A pending assessment for the District shown below. When notice of the assessment is recorded with the County Recorder the assessment shall become a lien on said land.

District: Assessment District No. 83-1 of The San Marcos County Water District
Disclosed by: Assessment District Diagram
Recorded: January 17, 1985, Instrument No. 85-016470, of Official Records

18. A pending assessment for the District shown below. When notice of the assessment is recorded with the County Recorder the assessment shall become a lien on said land.

District: Community Facilities, District No. 98-01 (Police & Fire) Improvement Area No. 1 (Police Only)
Disclosed by: Assessment District Boundary
Recorded: October 19, 2001, Instrument No. 2001-0758505, of Official Records

19. A pending assessment for the District shown below. When notice of the assessment is recorded with the County Recorder the assessment shall become a lien on said land.

District: Community Facilities District No. 2001-01 of the San Marcos Fire Protection District
Disclosed by: Assessment District Boundary
Recorded: October 19, 2001, Instrument No. 2001-0758700, of Official Records

20. Before issuing its policy of title insurance, this Company will require for review, the following documents from the Limited Liability Company named below.

Limited Liability Company: University Place San Marcos, LLC

- (a) A copy of its operating agreement and any and all amendments, supplements and/or modifications thereto, certified by the appropriate manager or member.
- (b) Confirmation that its Articles of Organization (LLC-1), and Certificate of Amendment (LLC-2), any restated Articles of Organization (LLC-10) and/or Certificate of Correction (LLC-11) have been filed with the Secretary of State.
- (c) If the Limited Liability Company is member-managed a full and complete current list of members certified by the appropriate manager or member.
- (d) If the Limited Liability Company was formed in a foreign jurisdiction, evidence satisfactory to the Company, that it was validly formed, is in good standing and authorized to do business in the state of origin.
- (e) If the Limited Liability Company was formed in a foreign jurisdiction, evidence satisfactory to the Company, that it has complied with California "doing business" laws, if applicable.

After review of the requested documents, the Company reserves the right to add additional items or make additional requirements prior to the issuance of any policy of title insurance.

21. This company will require a statement of information from the parties named below in order to complete this report, based on the effect of documents, proceedings, liens, decrees, or other matters which do not specifically describe said land, but which, if any do exist, may affect the title or impose liens or encumbrances thereon. After review of the requested Statement(s) of Information the Company may have additional requirements before the issuance of any policy of title insurance.

Parties: The Buyers in this Transaction

(Note: The statement of information is necessary to complete the search and examination of title under this order. Any title search includes matters that are indexed by name only, and having a completed statement of information assists the Company in the elimination of certain matters which appear to involve the parties but in fact affect another party with the same or similar name. Be assured that the statement of information is essential and will be kept strictly confidential to this file).

END OF ITEMS

- Note 1. The charge for a policy of title insurance, when issued through this title order, will be based on the Short Term Rate.

EXHIBIT D

HAZARDOUS MATERIAL INDEMNITY ALLOCATION

1. Gordon Property: \$7,326,795
2. Kimmel Property: \$2,171,466.13
3. CB-5 Property: \$3,899,008.17

EXHIBIT E
FORM OF DEED

When Recorded Mail to:

The City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

Title Order No: 33010460-U13

Escrow No: 33010460-N77

APN 220-200-02, 220-200-19

220-200-47 & 220-200-48

Space Above for Recorder's Use Only

GRANT DEED

The undersigned declares that the documentary transfer tax is set forth on separate declaration and
is computed on the full value of the interest or property conveyed or
is computed on the full value less the value of liens or encumbrances remaining thereon at the time of
sale.

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

Thomas Eugene Gordon, also known as Thomas E. Gordon, and Marjorie Anne Gordon,
also known as Marjorie Ann Gordon, husband and wife,

hereby GRANT(S) to

The City of San Marcos, a chartered municipal corporation,

the following described real property in the County of San Diego, State of California:

Parcel A: Lot 16 in Block 58, Rancho Los Vallecitas de San Marcos, in the City
of San Marcos, in the County of San Diego, State of California, according to
Map thereof No. 581, filed in the Office of the County Recorder of San Diego
County, February 11, 1889, AS MORE PARTICULARLY DESCRIBED IN
EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE, MADE A
PART HEREOF.

Parcel B: Lot 11 in Block 58, Rancho Los Vallecitas de San Marcos, in the City
of San Marcos, in the County of San Diego, State of California, according to
Map thereof No. 806, filed in the Office of the County Recorder of San Diego
County, December 21, 1895.

Parcel C: The Easterly 172 feet of Lot 12, Block 58, Rancho Los Vallecitas de
San Marcos, in the City of San Marcos, in the County of San Diego, State of
California, according to Map thereof No. 581, filed in the Office of the County
Recorder of San Diego County, February 11, 1889

Dated: March 16, 1007

Thomas Eugene Gordon

Marjorie Anne Gordon

State of California)
County of San Diego)

On _____, before me, _____,
a Notary Public, personally appeared **Thomas Eugene Gordon** personally known to me or
proven 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.

WITNESS my hand and official seal.

State of California)
County of San Diego)

On _____, before me, _____,
a Notary Public, personally appeared **Marjorie Anne Gordon** personally known to me or
proven 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.

WITNESS my hand and official seal.

EXHIBIT A

PARCEL A:

LOT 16 IN BLOCK 58, RANCHO LOS VALLECITAS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 581, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY FEBRUARY 11, 1889.

EXCEPTING THEREFROM ALL THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY GRANT DEED RECORDED MARCH 3, 1960 AS FILE NO. 44257 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF LOT C IN SAID BLOCK AS PER SAID MAP, DISTANT ALONG SAID WESTERLY LINE $S.8^{\circ}44'44''$ W., 410.37 FEET FROM THE NORTHWESTERLY CORNER OF SAID LOT C, SAID CORNER BEING AT COORDINATES $Y=354,173.38$ FEET AND $X=1,720,596.69$ FEET; THENCE LEAVING SAID WESTERLY LINE, $N.12^{\circ}18'06''$ E., 219.28 FEET; THENCE $N.69^{\circ}29'02''$ E., 279.89 FEET; THENCE $N.77^{\circ}42'44''$ E., 671.27 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 3,030 FEET THROUGH AN ANGLE OF $0^{\circ}15'07''$, A DISTANCE OF 13.32 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 16, DISTANT ALONG SAID EASTERLY LINE, $S.16^{\circ}58'34''$ E., 217.81 FEET FROM THE NORTHEASTERLY CORNER OF SAID LOT 16, SAID CORNER BEING A COORDINATES $Y=354,434.18$ FEET AND $X=1,721,448.46$ FEET.

PARCEL B:

LOT 11 IN BLOCK 58, RANCHO LOS VALLECITAS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 806, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY DECEMBER 21, 1895.

PARCEL C:

THE EASTERLY 172 FEET OF LOT 12, BLOCK 58, RANCHO LOS VALLECITAS DE SAN MARCOS, IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 581, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY FEBRUARY 11, 1889.

EXHIBIT F
FORM OF ASSIGNMENT

Assignment of Interest – University Place San Marcos, LLC, a California limited liability company hereby assigns all its rights, title and interest in this escrow, and all right to acquire title to the property described in this escrow, to **The City of San Marcos, a chartered municipal corporation** (“Second Assignee Buyer” and/or “Buyer”). University Place San Marcos, LLC is not assigning its Deposit (Initial Deposit, Second Deposit, Additional Applicable Deposits, and Additional Non-Applicable Deposits) and additional \$15,000.00 sum to Second Assignee Buyer. Second Assignee Buyer shall deposit funds sufficient to cover the total consideration, the Non Applicable Deposits of \$90,000.00, and Buyer’s costs of this escrow. At closing, escrow holder is instructed to disburse to University Place San Marcos, LLC its Deposit, additional \$15,000.00 sum and interest earned thereon.

University Place San Marcos, LLC, a California limited liability company,

By: Sea Breeze Properties, LLC, a

California limited liability company,

Its: Manager/Member,

By: _____

Gary Levitt, Manager

By: Gondor Management, LLC, a

California limited liability

company,

Its: Manager,

By: _____

Gary Levitt, Manager

By: L & M Development Ventures

LLC, a California limited liability

company,

Its: Manager/Member,

By: Vault/Land LLC,

Its: Manager,

By: _____

Lance Burris, Manager

By: PHGC Corporation,

Its: Manager,

By: _____

P. Michael McDonald

Its: President

Buyer – The Buyer of the subject property of this escrow is amended to be as follows:
The City of San Marcos, a chartered municipal corporation (“Second Assignee Buyer”). By its execution of this instruction below, the undersigned Second Assignee Buyer acknowledges receipt of and does hereby ratify and agree to be bound by the terms and conditions of the following documents:

- (i) Agreement of Purchase and Sale and Joint Escrow Instructions dated June 20, 2003;
- (ii) Letter dated September 22, 2003 from P. Michael McDonald to Mary A. Heath of Chicago Title Company regarding title report approval;
- (iii) First Amendment to Agreement, dated October 2, 2003;
- (iv) General Provisions, dated October 2, 2003;
- (v) Addendum to First Amendment;
- (vi) Letter dated October 22, 2003 from P. Michael McDonald to PJ Team of Chicago Title Company removing contingency of Paragraph 4 of the First Amendment;
- (vii) Letter dated October 21, 2005 from Lance Burris to Thomas and Marjorie Gordon regarding exercise of option to extend escrow for one year; and,
- (viii) Second Amendment to Agreement of Purchase and Sale and Joint Escrow Instructions dated January 12, 2005(6);
- (ix) Third Amendment to Agreement of Purchase and Sale and Joint Escrow Instructions dated July 24, 2006.

EXHIBIT G

SPECIFIC PLAN AREA

The Specific Plan area includes the real properties (described by APN No.) provided on the schedule attached hereto.

University Place
San Marcos, California
 Cash Flow Forecast Through Acquisition and Entitlement
PROPERTIES OWNED OR UNDER CONTRACT

LEGAL PARCEL	Status	Closing Date	APN	Location	Acres
WEST SIDE -					
SBUC	Owned		221-080-05/16/32	West Side	20.47
Bluth Trust	Owned		221-100-04/03//02/69//52/4	West Side	3.93
Tucker Lewis	Under Contract		221-080-20	West Side	2.36
Chamberlin	Under Contract		221-100-10(080-8,6,7)	West Side	12.70
Bluth Trust	Owned		221-100-04/03//02/69//52/4	West Side	14.00
Shubin	Owned		221-100-40/65	West Side	1.65
Ling 1/31	Owned		221-100-35/60/66	West Side	0.79
Franco Trust-3/14	Owned		221-100-68	West Side	1.52
Jimenez 10/17	Owned		221-100-61	West Side	0.24
Rapp 3/14	Owned		220-181-37	West Side	0.61
Ferretiz	Owned		220-180-77	West Side	0.34
Philip Loizeaux	Owned		221-100-59	West Side	0.31
Molokan Church	Owned		221-100-70	West Side	1.05
Pabloff Family Trust	In Escrow 90 days notice		221-100-44	West Side	0.43
Dela Cruz	In Escrow	11/30/3006	221-100-57 / 25	West Side	0.68
Wilson Family Trust	In Escrow	10/31/2007	221-100-45	West Side	0.46
EAST SIDE					
Gordon	In Escrow	3/31/2007	220-200-02/19/47/48	East Side	11.08
CB-5	Owned		221-110-20/30/40	East Side	6.31
Gonzalez	Owned		221-110-31	East Side	0.25
Hamby	Owned	1/31/2007	221-110-50/54/58/59	East Side	0.86
Kimmel	Owned	12/20/2006	220-200-59/60/61	East Side	3.41
Kimmel II	In Escrow		220-200-43	East Side	2.12
Nemeth (Zatkin)	In Escrow		221-110-22/24	East Side	0.69
Eckert	In Escrow		221-110-23	East Side	0.27
					86.53

PROPERTIES NOT YET UNDER CONTRACT

WEST SIDE					
Bu Caroff*			221-100-54	West Side	0.23
Saloman Lazcano			221-100-48	West Side	0.43
Benjamin Perez			221-100-47	West Side	0.43
Jose & Maria Gallegos			221-100-46	West Side	0.43
Elisa Wright*			221-100-43	West Side	0.43
Frankosky			221-100-58	West Side	0.32
Pastarna			221-100-09	West Side	1.00
Christy Applegate			221-100-72	West Side	0.55

University Place
San Marcos, California

Cash Flow Forecast Through Acquisition and Entitlement
 Closing

LEGAL PARCEL	Status	Date	APN	Location	Acres
Phil Blaney			221-180-78	West Side	0.34
Phil Blaney			221-080-17	West Side	0.50
Kaiser Foundation			221-080-25	West Side	1.68
City			221-170-10	West Side	0.70
City - ex Brown			221-170-36	West Side	2.43
City - ex Brown			221-170-37	West Side	1.24
CM Development Group			220-170-11	West Side	3.35
City Nomura			221-080-22	West Side	5.91
City			221-100-62	West Side	0.54
City			221-100-21	West Side	0.52
City			221-100-22	West Side	0.50
City			221-100-16	West Side	0.29
City			221-080-26	West Side	0.96
City			221-080-27	West Side	0.96
Allen Peterson			221-100-63	West Side	1.13
White*			221-100-37/71	West Side	0.44
Tucker			221-100-38	West Side	0.22
Alfredo Padilla*			221-100-56	West Side	0.48
Meredith			221-100-55	West Side	0.32
Russell Family Trust			221-100-24	West Side	0.75
Mike & Cynthia James			221-100-32	West Side	1.00
Archstone			221-100-14	West Side	4.83
Archstone			221-100-33	West Side	1.00
Archstone			221-100-64	West Side	2.89
EAST SIDE					
Schott			220-200-52	East Side	1.17
Sullivan			221-110-39/51/52/53	East Side	0.54
Sarno			21-110-40/41/42/	East Side	0.72
Carapia M			221-110-33	East Side	0.42
Carapia G			221-110-32	East Side	0.38
Leahy / Blumenthal			220-200-58	East Side	1.34
Irish Construction			21-110-46/55/56/57	East Side	2.19
Misc?			221-110-26	East Side	0.16
Bala			221-110-63	East Side	0.16
EDL			221-10-09/29	East Side	0.93
Santos			221-200-17	East Side	0.23
GHS			221-110-18	East Side	0.29
Lampe			221-1110-16	East Side	1.39

EXHIBIT H

FORM OF MEMORANDUM OF OPTION TO PURCHASE

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Sheppard, Mullin, Richter & Hampton LLP
12275 El Camino Real, Suite 200
San Diego, CA 92130
Attention: Jerry J. Gumpel, Esq.

THIS SPACE ABOVE FOR RECORDER'S USE

MEMORANDUM OF OPTION TO PURCHASE

This Memorandum of Option to Purchase (this "Memorandum") is entered into as of _____, 20__, by and between City of San Marcos ("City"), and UNIVERSITY PLACE SAN MARCOS, LLC, a California limited liability company ("UPSM").

A. City and UPSM are parties to that certain Purchase, Assignment and Repurchase Agreement dated as of March __, 2007, as the same may be amended from time to time (the "Purchase Agreement"). All capitalized terms used in this Memorandum and not defined shall have the meanings set forth in the Purchase Agreement.

B. City and UPSM desire to execute this Memorandum for purpose of giving notice of the existence of each party's rights and obligations regarding the purchase and sale of real property located within the area described in Exhibit "1" attached hereto (the "Specific Plan Property") on the terms and conditions set forth in the Purchase Agreement.

NOW, THEREFORE, for and in consideration of the promises and mutual covenants contained in the Purchase Agreement, City and UPSM hereby agree as follows:

1. Rights and Obligations Regarding the Specific Plan Property. Upon the terms and conditions stated in the Purchase Agreement, which is unrecorded, City and UPSM shall have rights and obligations regarding the purchase and sale of real property located within the Property on the terms and conditions set forth in the Purchase Agreement.

2. Recording and Notice. This Memorandum is executed and recorded solely for the purpose of giving notice to the public that the Property is subject to the provisions of the Purchase Agreement and of the need to inquire into all of the terms and conditions of the Purchase Agreement, which terms and conditions are hereby incorporated by reference into this Memorandum. In the event of any conflict between the terms of the Purchase Agreement and the terms of this Memorandum, the terms of the Purchase Agreement shall control.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the day and year first above written.

CITY:

CITY OF SAN MARCOS

By: _____

Name: _____

Its: _____

UPSM

UNIVERSITY PLACE SAN MARCOS, LLC
a California limited liability company

By: Sea Breeze Properties, LLC,
a limited liability company,

Its: Manager/Member

By: _____

Name: _____

Its: _____

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, a Notary Public,
personally appeared _____, personally known to me (or 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.

WITNESS my hand and official seal.

Signature _____

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, a Notary Public,
personally appeared _____, personally known to me (or 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.

WITNESS my hand and official seal.

Signature _____



RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

APR 13, 2007 4:42 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 48.00
OC: AFNF
PAGES: 8

Sheppard, Mullin, Richter & Hampton LLP
12275 El Camino Real, Suite 200
San Diego, CA 92130
Attention: Jerry J. Gumpel, Esq.



2007-0251796
THIS SPACE ABOVE FOR RECORDER'S USE

MEMORANDUM OF OPTION TO PURCHASE

THIS DOCUMENT IS EXECUTED IN COUNTER-PART. ALL PARTS TOGETHER SHALL BE DEEMED ONE DOCUMENT.

This Memorandum of Option to Purchase (this "Memorandum") is entered into as of April 11, 20 07, by and between City of San Marcos ("City"), and UNIVERSITY PLACE SAN MARCOS, LLC, a California limited liability company ("UPSM").

A. City and UPSM are parties to that certain Purchase, Assignment and Repurchase Agreement dated as of March 28, 2007, as the same may be amended from time to time (the "Purchase Agreement"). All capitalized terms used in this Memorandum and not defined shall have the meanings set forth in the Purchase Agreement.

B. City and UPSM desire to execute this Memorandum for purpose of giving notice of the existence of each party's rights and obligations regarding the purchase and sale of real property located within the area described in Exhibit "1" attached hereto (the "Specific Plan Property") on the terms and conditions set forth in the Purchase Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the day and year first above written.

CITY:

CITY OF SAN MARCOS

By: *Paul Malone*

By: Name: _____

Its: Paul Malone, City Manager

Optioner

UPSM

UNIVERSITY PLACE SAN MARCOS, LLC
a California limited liability company

By: Sea Breeze Properties, LLC,
a limited liability company,

Its: Manager/Member

By: _____

Name: _____

Its: _____

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.

On April 11, 2007, before me, Susie Vasquez, a Notary Public, personally appeared **PAUL MALONE, CITY MANAGER OF THE CITY OF SAN MARCOS**, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Susie Vasquez
Susie Vasquez, Notary Public



LEGAL DESCRIPTION OF PROPERTY

[Title Company to attach]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Sheppard, Mullin, Richter & Hampton LLP
12275 El Camino Real, Suite 200
San Diego, CA 92130
Attention: Jerry J. Gumpel, Esq.

THIS SPACE ABOVE FOR RECORDER'S USE

MEMORANDUM OF OPTION TO PURCHASE

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This Memorandum of Option to Purchase (this "Memorandum") is entered into as of APRIL 12, 2007, by and between City of San Marcos ("City"), and UNIVERSITY PLACE SAN MARCOS, LLC, a California limited liability company ("UPSM").

A. City and UPSM are parties to that certain Purchase, Assignment and Repurchase Agreement dated as of March 28, 2007, as the same may be amended from time to time (the "Purchase Agreement"). All capitalized terms used in this Memorandum and not defined shall have the meanings set forth in the Purchase Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the day and year first above written.

CITY:

CITY OF SAN MARCOS

By: _____

Name: _____

Its: _____

UPSM

UNIVERSITY PLACE SAN MARCOS, LLC
a California limited liability company

By: Sea Breeze Properties, LLC,
a limited liability company,

Its: Manager/Member

By: _____

Name: _____

Its: _____

STATE OF CALIFORNIA)
)
 COUNTY OF SAN DIEGO)

On APRIL 12, 2007, before me, D. LYNCH, a Notary Public,
 personally appeared GARY LEVITT, personally known to me (or 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.

WITNESS my hand and official seal.

Signature _____




STATE OF CALIFORNIA)
)
 COUNTY OF _____)

On _____, before me, _____, a Notary Public,
 personally appeared _____, personally known to me (or 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.

WITNESS my hand and official seal.

Signature _____

LEGAL DESCRIPTION OF PROPERTY

[Title Company to attach]

EXHIBIT "ONE"

Parcel A:

Parcel 2 of Parcel Map No. 2738, in the City of San Marcos, County of San Diego, State of California, as filed in the Office of the County Recorder of San Diego, June 7, 1974

Parcel B:

An easement and right of way for road purposes over, under, along and across the Easterly 30.00 feet of Parcel 4 as shown on Parcel Map No. 2738, in the City of San Marcos, County of San Diego, State of California, as filed in the Office of the County Recorder of said San Diego County, June 7, 1974 as File No. 74-151954, Official Records.

Excepting therefrom all that portion lying Northerly of the Easterly prolongation of the Northerly line of Parcel A above.

Parcel C:

Parcel 3 of Parcel Map No. 2738, in the City of San Marcos, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, June 7, 1974 as File No. 74-151954 of Official Records.

Parcel D:

An easement and right of way for ingress and egress, road and utility purposes, including but not limited to electric power, telephone, gas, water, sewer and cable television lines and appurtenances thereto, together with the right and power to convey the same to others over, under, along and across that portion of Parcel 4 of Parcel Map No. 2738, in the City of San Marcos, County of San Diego, State of California, June 7, 1974 as File No. 74-151954 of Official Records, which lies on Southerly of the Easterly prolongation of the Northerly line of Parcel 3 of said Parcel Map.

Parcel E:

Parcel 4 of Parcel Map No. 2738, filed in the Office of the County Recorder June 7, 1974, being a Division of Lot 10, Block 58, of Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806.

Assessor's Parcel No: 220-200-59, 60, & 61

Recorded Request Of
FIDELITY NATIONAL TITLE
SAN DIEGO OFFICE

15785

DOC # 2007-0251798



RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

APR 13, 2007 4:42 PM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 42.00
OC: AFNF
PAGES: 6

Sheppard, Mullin, Richter & Hampton LLP
12275 El Camino Real, Suite 200
San Diego, CA 92130
Attention: Jerry J. Gumpel, Esq.



2007-0251798

THIS SPACE ABOVE FOR RECORDER'S USE

MEMORANDUM OF OPTION TO PURCHASE

THIS DOCUMENT IS EXECUTED IN COUNTER-PART. ALL PARTS TOGETHER SHALL BE DEEMED ONE DOCUMENT.

This Memorandum of Option to Purchase (this "Memorandum") is entered into as of APRIL 11, 2007, by and between City of San Marcos ("City"), and UNIVERSITY PLACE SAN MARCOS, LLC, a California limited liability company ("UPSM").

A. City and UPSM are parties to that certain Purchase, Assignment and Repurchase Agreement dated as of March 28, 2007, as the same may be amended from time to time (the "Purchase Agreement"). All capitalized terms used in this Memorandum and not defined shall have the meanings set forth in the Purchase Agreement.

B. City and UPSM desire to execute this Memorandum for purpose of giving notice of the existence of each party's rights and obligations regarding the purchase and sale of real property located within the area described in Exhibit "1" attached hereto (the "Specific Plan Property") on the terms and conditions set forth in the Purchase Agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the day and year first above written.

CITY:

CITY OF SAN MARCOS

By: *Paul Malone*
 Name: Paul Malone, City Manager
 Its: Optioner

UPSM

UNIVERSITY PLACE SAN MARCOS, LLC
 a California limited liability company

By: Sea Breeze Properties, LLC,
 a limited liability company,
 Its: Manager/Member

By: _____
 Name: _____
 Its: _____

STATE OF CALIFORNIA)
 COUNTY OF SAN DIEGO) ss.

On April 11, 2007, before me, Susie Vasquez, a Notary Public, personally appeared PAUL MALONE, CITY MANAGER OF THE CITY OF SAN MARCOS, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Susie Vasquez
 Susie Vasquez, Notary Public



RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Sheppard, Mullin, Richter & Hampton LLP
12275 El Camino Real, Suite 200
San Diego, CA 92130
Attention: Jerry J. Gumpel, Esq.

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CITY:

CITY OF SAN MARCOS

By: _____
Name: _____
Its: _____

UPSM

UNIVERSITY PLACE SAN MARCOS, LLC
a California limited liability company

By: Sea Breeze Properties, LLC,
a limited liability company,
Its: Manager/Member

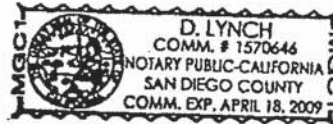
By: _____
Name: _____
Its: _____

STATE OF CALIFORNIA)
)
 COUNTY OF SAN DIEGO)

On APRIL 12, 2007, before me, D..LYNCH, a Notary Public,
 personally appeared GARY LEVITT, personally known to me (or 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.

WITNESS my hand and official seal.

Signature _____

STATE OF CALIFORNIA)
)
 COUNTY OF _____)

On _____, before me, _____, a Notary Public,
 personally appeared _____, personally known to me (or 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.

WITNESS my hand and official seal.

Signature _____

EXHIBIT "ONE"

15790

Parcel 1:

Lot 12 in Block 58 of Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 581, filed in the Office of the County Recorder of San Diego County, February 11, 1889.

Excepting the Easterly 172 feet.

Parcel 2:

Lot 13 in Block 58 of Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 581, filed in the Office of the County Recorder of San Diego County, February 11, 1889.

Excepting therefrom the Northeasterly 80 feet of the Southeasterly 125.00 feet of the Southwesterly one-half of said Lot 13

Assessor's Parcel No: 220-200-40 & 221-110-20 & 30

LEGAL DESCRIPTION OF PROPERTY

[Title Company to attach]



EXHIBIT I

FORM OF ENTRY LICENSE

LICENSE FOR ENTRY ON PROPERTY

AND CONSTRUCTION OF IMPROVEMENTS

THIS LICENSE FOR ENTRY ON PROPERTY AND CONSTRUCTION OF IMPROVEMENTS (this "License") is made and entered into as of the ____ day of _____ 20__ by and between THE CITY OF SAN MARCOS ("Licensor"), and _____ ("Licensee").

R E C I T A L S:

A. Licensor and University Place San Marcos, LLC, a California limited liability company ("UPSM"), entered into that certain Purchase, Assignment and Repurchase Agreement dated as of _____, 2007 (the "Purchase Agreement"), for purchase of real property, assignment of rights under certain real property purchase agreements, and repurchase of certain real property located within that certain area of the City's "Heart of the City" Specific Plan, as amended by a specific plan amendment, which is depicted on Exhibit A attached hereto (with regard to such area only and as so amended, the "Specific Plan") (any such real property located within the area covered by the Specific Plan, a "Specific Plan Property").

B. Licensee desires a temporary non-exclusive license for any purpose in connection with its proposed purchase or use of any Specific Plan Property which is owned by Licensor ("City Property"), including, without limitation, the right to make such studies, inspections, appraisals, audits, tests, evaluations, investigations, surveys and reports of such City Property and other reasonable diligence as Licensee may elect to make or obtain (including, without limitation, the taking of soil and water samples in connection with any environmental audit of such City Property) and for purposes of performing certain pre-development activities thereon, including, grading and construction of in-tract infrastructure.

NOW, THEREFORE, in consideration of the above recitals and the performance of the covenants herein contained, Licensor does hereby grant Licensee a temporary license upon the terms and conditions hereinafter set forth.

1. GRANT OF LICENSE. Subject to the terms of this License, Licensor hereby grants unto Licensee and its affiliates and their respective joint venturers, employees, agents and contractors (collectively referred to as "Licensee's Parties") a temporary license to enter upon that portion of City Property described on Exhibit B attached hereto (the "License Area") for any purpose in connection with its proposed purchase or use of any such License Area, including, without limitation, the right to make such studies, inspections, appraisals, audits, tests, evaluations, investigations, surveys and reports of such License Area and other reasonable diligence as Licensee or Licensee's Parties may elect to make or obtain (including, without limitation, the taking of soil and water samples in connection with any environmental audit of such License Area) and for purposes of performing certain pre-development activities thereon,

including, grading and construction of in-tract infrastructure, all in accordance with all plans approved by Licensors or any other authority or agency having jurisdiction (the "Improvements").

2. TERM. The term of this License shall commence as of the date hereof (the "Effective Date"). This License and the rights and license granted herein shall terminate upon the earlier to occur of (i) any termination of the Purchase Agreement, (ii) the close of escrow for Licensors sale of the License Area under the terms of the Purchase Agreement, or (iii) any termination by Licensors under Section 7 below.

3. RESTORATION OF THE LICENSE AREA. In the event this License is terminated as provided in items (i) and (iii) of Section 2 or in Section 7 herein, upon written notice from Licensors, the Licensee shall, at its sole cost and expense, and within a reasonable period not to exceed thirty (30) days, remove all equipment of Licensee or Licensee's Parties, repair any damage to the License Area; provided, however, that neither Licensee or Licensee's Parties shall be required to restore any grading improvements or other in-tract improvements constructed in accordance with the plans approved by Licensors or any other authority or agency having jurisdiction. If it is determined that any grading improvements undertaken by Licensee or the Licensee's Parties have not been completed in accordance with the plans approved by Licensors or any other authority or agency having jurisdiction, upon written notice from Licensors, Licensee shall, at its sole cost and expense, and within a commercially reasonable period of time, restore the License Area to its original graded condition prior to the date of this Agreement, including without limitation, removal of all or any portion of improvements constructed thereon, as per the instructions of Licensors.

4. LIENS. The Licensee shall keep the License Area free and clear of any mechanics' and materialmens' liens arising out of any entry or construction activities by any of Licensee or any of the Licensee's Parties. The Licensee shall, at its cost and expense, within fifteen (15) days discharge of record any liens, judgments or other encumbrances that are filed or recorded (including, without limitation, liens for services, labor or materials furnished) in connection with the Improvements.

5. INDEMNIFICATION. The Licensors shall not be liable for any loss, damage or injury of any kind or character to any person or property arising from the entry on or use of the License Area or any part thereof by Licensee or Licensee's Parties, and the Licensee shall protect, indemnify, defend, and hold harmless the Licensors from and against any and all claims, actions, damages, liabilities, and expenses (including without limitation, reasonable attorneys' fees, expert witness fees, court costs and expenses) in connection with any loss of life, personal injury, damage to the License Area, violation of laws and regulations (including without limitation environmental laws and regulations), design or construction defects, liens, loss or theft of property or other casualty arising from or out of the entry, construction activity, occupancy or use by Licensee or Licensee's Parties of the License Area or any part thereof. The indemnity obligations in this Section shall not apply for any loss, damage or injury of any kind or character to the extent arising from the negligence or willful misconduct of the Licensors or its employees, agents or representatives. The indemnity obligations in this Section shall survive any termination of this Agreement.

6. INSURANCE/LIABILITY COVERAGE. Without limiting Licensee's indemnity obligations under Section 5 above, prior to entering upon License Area, Licensee shall at its

expense maintain with a reputable company or companies (rated at least A-VII in the latest edition of Best's Insurance Guide) qualified to do business in the State of California (but not necessarily admitted or licensed by the State of California), a policy of Workers' Compensation insurance in statutory amounts, and comprehensive general liability insurance with respect to the License Area and the operations of or on behalf of Licensee on or about the License area, including, but not limited to, owned, non-owned and hired automobile (vehicle) liability, personal injury, blanket contractual, broad form property damage, products/completed operations coverage and manufacturers' and contractors' basic coverage with XC&U exclusions deleted for not less than Two Million Dollars (\$2,000,000) combined single limit for bodily injury, death and property damage liability per occurrence. Licensee shall cause the policy of insurance required above to be primary and to name Licensors as an additional insured. A certificate issued by the insurance carrier of the policy of insurance required to be maintained by Licensee, stating the limits and other provisions required under this Section 6, shall be delivered to Licensors prior to Licensee's or any of Licensee's Parties entry on the License Area.

7. BREACH/TERMINATION. Should Licensee default in the performance of or breach any covenant, condition, or restriction of this License herein provided to be kept or performed by Licensee, and should such default or breach continue uncured for a period of thirty (30) calendar days from and after written notice thereof by Licensors to Licensee, then in any such event, Licensors may exercise any and all rights and remedies available at law or in equity, including but not limited to terminating this License. Licensee shall not be deemed to have breached or defaulted such covenant, condition or restriction, however, if Licensee's obligation requires more than thirty (30) calendar days for performance and Licensee commences to perform within the thirty (30) day period and afterwards diligently completes it. Notwithstanding any provision to the contrary set forth in this License, in no event shall Licensors have any right to collect damages (i.e., punitive, consequential or otherwise) other than actual damages for any default by Licensee hereunder.

8. MISCELLANEOUS.

8.1 Interpretations; Governing Law. This License is the result of negotiations between the parties hereto and shall be construed according to its fair meaning. This License shall be governed and construed in accordance with the laws of the State of California in effect at the time of the execution of this License. Titles and captions are for convenience only and shall not constitute a portion of this License.

8.2 No waiver; Modifications; Severability. No waiver by a party of any default by another party under this License shall be implied from any omission or delay by the non-defaulting party to take action on account of the default if the default persists or is repeated. The consent or approval by a party to or of any act by the other party shall not be deemed to waive or render unnecessary consent or approval to or of any subsequent act. Any alteration, change or modification of or to this License, in order to become effective, shall be made by written instrument or endorsement thereof, and in each such instance executed on behalf of each party hereto. If any term, covenant, condition or provision of this License is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated hereby.

8.3 Execution in Counterpart. This License may be executed in several counterparts, and all so executed, shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

8.4 Legal Fees. In the event of the bringing of any action or suit by a party against another party under this License by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of such other party arising out of this License, the party in whose favor final judgment shall be entered shall be entitled to have and recover of and from the other party all costs and expenses of suit, including reasonable attorneys' fees (or, in the event of any action to enforce this License, the prevailing party shall be entitled to recover all of its costs and expenses of the action, including reasonable attorneys' fees), as determined by a court of competent jurisdiction.

8.5 Successors and Assigns. This License shall be binding upon and shall inure to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns, except that Licensee shall not voluntarily or by operation of law assign or transfer any rights, interest or obligations under this License without Licensor's express prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

8.6 Required Actions. The parties agree to execute all instruments and documents and to take all actions as may be required in order to consummate the transactions contemplated by this License.

8.7 Relationship Between Parties. Licensor and Licensee agree that (a) the relationship between them is, is intended to be, and shall at all times remain, in connection with the transactions contemplated by this License, that of an owner with respect to Licensor and a developer as to Licensee and (b) no party is, is intended to be, or shall be construed, as a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of any other party or any of its affiliates and no party intends to ever assume such status.

8.8 No Third Party Beneficiaries. This License shall not be deemed to confer any rights upon any individual or entity which is not a party hereto, and the parties hereto expressly disclaim any such third-party benefit.

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IN WITNESS WHEREOF, the parties hereto have executed this License as of the day and year first above written.

[_____]

By: _____
Name: _____
Its: _____

CITY OF SAN MARCOS

By: _____
Name: _____
Its: _____

APPROVED AS TO FORM BY CITY _____

By: _____
Name: _____
Its: _____

EXHIBIT A

Legal Description – Specific Plan Property

EXHIBIT B

Legal Description – License Area