

Escrow Company _____
Escrow No. _____
Title Order No. _____

REAL PROPERTY PURCHASE AGREEMENT

(Escrow Instructions)

THIS REAL PROPERTY PURCHASE AGREEMENT ("Agreement") is entered into this ____ day of _____, 2014, by and between THE CITY OF CHULA VISTA, a charter City organized under the laws of the State of California ("Buyer"), and PAULA SEIBERLICH, TRUSTEE OF THE PAULA SEIBERLICH TRUST, DATED FEBRUARY 9, 2007 ("Seller"), (collectively "Parties") for purchase by Buyer of the hereinafter described real property.

WHEREAS, Buyer desires to purchase fee title in and to Seller's real property locate at 89 First Avenue, in the City of Chula Vista, County of San Diego, State of California ("Property"), and currently identified as San Diego County Assessors Parcel No. 566-131-16-00, and,

WHEREAS, Seller has offered to sell to Buyer said real property for **\$480,000**.

NOW THEREFORE, the Parties agree as follows:

1. AGREEMENT TO SELL AND PURCHASE

Buyer agrees to purchase from Seller and Seller agrees to sell to Buyer, upon the terms and for the consideration set forth in this Agreement, fee title in and to the Property more particularly described in the legal description designated as Exhibit "A" and as more particularly shown on a Plat thereof designated as Exhibit "B", both of which are attached hereto and are incorporated herein by this reference. Buyer's agreement to purchase the property is expressly contingent upon the adoption of a resolution by the City Council authorizing the acquisition. The parties hereto agree that the Property shall be conveyed in fee to the Buyer clear of all encumbrances except those previously approved by the Buyer.

2. PURCHASE PRICE

The total purchase price payable on the terms set forth herein shall be the sum of FOUR HUNDRED EIGHTY THOUSAND DOLLARS (**\$480,000.00**) to be paid to seller at the close of Escrow.

3. ESCROW AND TITLE INSURANCE

City agrees to open an escrow in accordance with this Agreement at Stewart Title of California ("Escrow Holder"), located at 7676 Hazard Center Drive, San Diego, California 92108 and deposit a fully executed copy of this agreement no later than _____. Buyer agrees to pay all usual and

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reasonable fees, charges, and costs (including transfer taxes, if any) which arise in the escrow, upon demand of Escrow Holder. Seller shall not be liable for any costs or fees in connection with this escrow.

This Agreement constitutes the joint escrow instructions of the Parties, and Escrow Holder to whom these instructions are delivered is hereby empowered to act under this Agreement. The Parties hereto agree to do all acts reasonably necessary to close escrow as soon as possible, but in all events no later than sixty (60) days after a fully executed copy of this Agreement, is deposited into escrow. The terms closing and/or close of escrow as used herein shall mean the date necessary instruments of conveyance are recorded in the office of the County Recorder. Recordation of instruments delivered through this escrow is authorized if necessary or proper in the issuance of title insurance pursuant to this Agreement.

Buyer shall, upon receipt of a statement of estimated closing cost from Escrow Holder, deposit the Purchase Price together with additional funds as set forth in said statement. Said deposit shall be made in accordance with the wire transfer instructions of the Escrow Holder and shall be made in sufficient time to allow for the timely close of escrow as set forth herein. Buyer shall also execute and deposit into escrow a Certificate of Acceptance accepting fee title to the Property in sufficient time to allow for the timely close of escrow as set forth herein.

Seller shall execute and deliver into escrow an executed Grant Deed conveying fee title to the Property to Buyer in sufficient time to allow for the timely close of escrow as set forth herein. Seller and Buyer agree to deposit with Escrow Holder any additional instruments as may be reasonable and necessary to complete this transaction in a timely manner as set forth herein.

All funds received in this escrow shall be deposited with other escrow funds in a general escrow account(s) and may be transferred to any other such escrow trust account in any State or National Bank doing business in the State of California. All disbursements shall be made by wire transfer from such account, unless Seller requests another form of payment.

If Buyer requests a policy of title insurance when Escrow Holder holds for Seller the Grant Deed in favor of Buyer, executed and acknowledged by Seller covering the Property, Escrow Holder shall cause to be issued and delivered to Buyer at Buyer's cost, a preliminary title report for Buyer review. Buyer shall have five (5) days to review and approve said preliminary report. After Buyer approval, Escrow Holder shall cause to be issued, as of the closing date and at Buyer's cost, a CLTA standard coverage policy of title insurance ("Title Policy"), issued by Commonwealth Land Title, with liability in the amount of the Purchase Price, covering the Property and showing title vesting in Buyer, free of all recorded and unrecorded, liens, encumbrances, leases and taxes except those previously approved by the Buyer, and:

- (a) All non-delinquent general and special real property taxes for the current fiscal year;
- (b) The standard printed exceptions and exclusions contained in the CLTA or ALTA form policy;
- (c) Public and Quasi-public utility, public alley, public street easements and rights of way of record; and

Escrow Holder is authorized to and shall pay and charge Buyer for any title insurance premium and the costs of any endorsements. Escrow Holder is authorized to and shall disburse funds and deliver the Grant Deed when Buyer and Seller have fulfilled all conditions of the escrow and purchase agreement.

4. RESPONSIBILITY OF ESCROW HOLDER

Responsibility of Escrow Holder under this Agreement is expressly limited to paragraph 3 herein and to its liability under any policy of title insurance issued in regard to this transaction.

5. CONVEYANCE OF INTEREST

Seller agrees to convey by Grant Deed to Buyer title in and to said Property as contemplated by this Agreement. Fee title shall pass to buyer upon recordation of said Grant Deed

6. DEPOSIT OF FUNDS

Buyer agrees to deposit the Purchase Price of **\$480,000.00** to escrow for dispersal to Seller at closing.

7. CONDITION OF PROPERTY/AS IS.

a. BUYER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES AND SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY OBLIGATIONS OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR

PURPOSE OF THE PROPERTY, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, OR (H) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE, ZONING OR DEVELOPMENT OR REGIONAL IMPACT LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS", "WHERE IS" AND, "WITH ALL FAULTS" CONDITION AND BASIS.

Buyer's Initials: _____

b. Effective as of the close of escrow, Buyer shall, and by the execution of the Agreement, hereby does, forever release Seller of and from any and all losses, liabilities, damages, claims, demands, causes of action, costs and expenses, whether known or unknown, to the extent arising out of or in any way connected with the Property after the close of escrow, including, without limitation, the condition of title to the Property and the environmental and structural condition of the Property. Buyer agrees never to commence, aid in any way, or prosecute against Seller, any action or other proceeding based upon any losses, liabilities, damages, claims, demands, causes of action, costs and expenses, covered in this paragraph. Notwithstanding any provision to the contrary contained herein, nothing in this Section 7 shall be deemed to constitute a waiver of any rights or remedies arising from Seller's intentional fraud or intentional or misrepresentation of any material fact with an intent to mislead.

c. Buyer hereby fully and forever releases and discharges Seller from any and all claims, rights, actions, damages, and/or liabilities, of any nature whatsoever, fixed or contingent, existing now or arising in the future, known or unknown, in any way relating to the Property, excluding only claims arising under this Agreement. Buyer acknowledges Buyer may later learn of circumstances bearing

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upon the rights released in this Agreement. Buyer specifically waives the rights afforded by Section 1542 of the California Civil Code which provides:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her, must have materially affected his or her settlement with the debtor.”

Buyer's Initials: _____

8. SELLER DEFAULT. IF THE SELLER DEFAULTS UNDER THE TERMS OF THE AGREEMENT, AND IF SELLER FAILS TO CURE SUCH DEFAULT ON OR BEFORE THE DATE WHICH IS THREE (3) BUSINESS DAYS AFTER NOTICE THEREOF FROM BUYER (OR, IF EARLIER, ON THE CLOSING DATE), BUYER MAY, AS ITS SOLE AND EXCLUSIVE REMEDY, EITHER (I) TERMINATE THIS AGREEMENT BY DELIVERY OF NOTICE OF TERMINATION TO SELLER AND ESCROW HOLDER, IN WHICH EVENT THE DEPOSIT SHALL BE RETURNED TO BUYER, AND THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF BUYER AND SELLER HEREUNDER SHALL TERMINATE OR (II) SPECIFICALLY ENFORCE SELLER'S OBLIGATIONS.

Seller's Initials: *R.S.*

Buyer's Initials: _____

9. REAL ESTATE COMMISSIONS

No brokers or finders have been employed for a fee or are entitled to a commission or compensation in connection with this transaction. 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 the Agreement or any other person who can claim a right to a commission or finder's fee. 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.

10. RIGHT OF REPURCHASE/RIGHT OF FIRST REFUSAL

Seller shall have the right to repurchase the property from Buyer for a period of 18 (eighteen) months after payment of Buyer's final installment at the same price and for the same terms as Buyer purchased the property from Seller. Should Buyer receive an offer to purchase the property from a third party within said 18 month period, Seller will have the first right of refusal to repurchase the property at the same price and for the same terms as Buyer purchased the property from Seller. Should Seller refuse to purchase the Property, Buyer shall be free to sell to the third party. After the eighteen-month period, Buyer shall be free to market and sell the property as it sees fit.

11. MISCELLANEOUS

a. Legal Fees. In the event of the bringing of any action or suit by either party against the other party by reason of any breach of any of the covenants, conditions, agreements or provisions on the part of the other party arising out of this Agreement, 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 Agreement, the prevailing party shall be entitled to recover all of its costs and expenses of the action, including reasonable attorney's fees), as determined by a court of competent jurisdiction.

b. Time is of the Essence. Time is of the essence of each and every term, condition, obligation and provision of this Agreement.

c. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. Facsimile signatures are acceptable provided they are followed by hard copy originals within five days.

d. Severability. If any portion of this Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, such portion shall be deemed severed from this Agreement, and the remaining parts of this Agreement shall remain in full force and effect, as fully as though such invalid, illegal or unenforceable portion had never been part of this Agreement.

e. Governing Law. This Agreement is executed and delivered in the State of California and shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

IN WITNESS WHEREOF, the duly authorized representative of each party has executed this Agreement effective upon the date first written above.

BUYER: City of Chula Vista

By: _____

By: _____

Approved as to Form:

Glen Googins, City Attorney

SELLER: Paula Seiberlich Trust.

By: Paula Seiberlich