



# County of Santa Cruz

## PARKS, OPEN SPACE & CULTURAL SERVICES

979 17<sup>TH</sup> AVENUE, SANTA CRUZ, CA 95062

(831) 454-7901 FAX: (831) 454-7940 TDD: (831) 454-7978

BARRY C. SAMUEL, DIRECTOR

January 10, 2006

AGENDA: January 24, 2006

BOARD OF SUPERVISORS  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

RE: Option to Purchase 1.25 Acres of the McGregor Site for Use as Public Park

Dear Members of the Board:

On today's agenda, your Board acting as the Board of Directors of the Santa Cruz County Redevelopment Agency (RDA), will be considering a project which would allow for joint use of the McGregor Property (APN 038-081-36) as an affordable housing site and a public park.

A related action needs to be undertaken by the Santa Cruz County Board of Supervisors. The County of Santa Cruz must enter into an option to purchase 1.25 acres of the McGregor site for use as a public park. The pre-development agreement with South County Housing Corporation, approved by the Board of Directors of the RDA, includes an interim loan of \$463,596 to cover the costs attributable to the cost of purchasing the 1.25 acre park site portion of the property.

The attached Option to Purchase Real Property sets forth the conditions of the option and provides the County, once the County has processed the Land Division, Rezoning and General Plan change to accommodate the proposed land uses, the County will have the opportunity to purchase 1.25 acres for a public park at a cost of \$463,596. The exact location of the park site on APN 038-081-36 will be determined at a later date.

Funds for the eventual purchase of the property are available from District 2 Proposition 12 funds (\$250,000) and District 1 Proposition 40 funds (\$300,000).

It is therefore Recommended that your Board take the following actions;

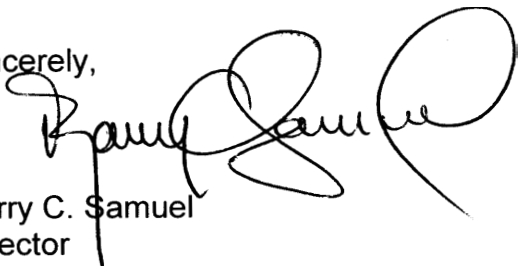
52

BOARD OF SUPERVISORS  
Option to Purchase 1.25 Acres of  
McGregor Property for Use as Public Park  
Page Two

AGENDA: January 24, 2006

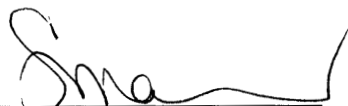
- I. Authorize the Parks Director to sign the Option to Purchase agreement for the 1.25 acre public park on the McGregor property; and
2. Authorize the Parks Director to take any other actions needed to complete the transaction.

Sincerely,



Barry C. Samuel  
Director

BCS:bp



Susan A. Mauriello  
County Administrative Officer

Attachments: Option to Purchase Real Property

cc: CAO, County Counsel, Auditor-Controller, RDA, Parks Department

**GRANT OF OPTION TO PURCHASE REAL PROPERTY**

South County Housing Corporation  
a California non-profit corporation

and

The County of Santa Cruz

January 17, 2006

GRANT OF OPTION TO PURCHASE REAL PROPERTY

County Housing Corporation, a California non-profit corporation, hereinafter referred to as "Seller" hereby grants to The County of Santa Cruz (referred to as "County" or as "Buyer") an option to purchase the Property (as below described) upon the terms and conditions set forth below.

R E C I T A L S

- A. Seller is the owner of certain real property known as APN # 038-081-36 and consisting of 2.95 unimproved acres in the community of Aptos in Santa Cruz County, California, more particularly described in Section 1.9 and in Exhibit A, which is attached to this Agreement.
- B. The Property is currently zoned for Visitor Accommodation Use and both parties to this Agreement recognize that APN 038-081-36 is subject to final approval of a Land Division, Re-zoning and General Plan change by the Board of Supervisors and Coastal Commission in order to establish the Property that is subject to the terms of this Option Agreement.
- C. Seller desires to grant to County an option to purchase the Property in the event that the Land Division, Rezoning and General Plan change are above and, if County exercises its option, to sell the Property to County.

Now, therefore, Seller and County agree as follows:

ARTICLE 1  
DEFINITIONS

For purposes of this Agreement the following terms shall have the following meanings:

- 1.1 Closing Date. The Closing Date is set forth in Section 8.2.
- 1.2 Days. Calendar days, provided if the day for performance falls on a weekend or a legal holiday (as defined in the Civil Code), the time for such performance shall be extended until the next following working day.
- 1.4 Effective Date. The date the last signatory to this Agreement shall execute this Agreement.

1.5 Closing. The date all documents required to be recorded hereunder are recorded in the Official Records of the County in which the Property is located.

1.6 Due Diligence Period. The period beginning on the Effective Date and expiring thirty days thereafter.

1.7 Escrow Holder: First American Title Company, 1737N. First Street, Suite 100 San Jose, CA, 95112 (408) 451-7828. Escrow Number 203142. Escrow Officer is Dian Blair.

1.8 Hazardous Materials. Any hazardous, explosive or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 15122.7, or is listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 11 of Title 22 of the California Code of Regulations, Division 4, Chapter 30, (vii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1317), (viii) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 41 U.S.C. 6901 *et seq.* (42 U.S.C. 6903), (ix) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 41 U.S.C. 9601 *et seq.* (42 U.S.C. 9601), (x) a petroleum product, or (xi) asbestos containing material.

1.9 Property. The Real Property described on Exhibit A hereto and commonly designated as a portion of APN # 038-081-36 and consisting of 1.25 unimproved acres in the community of Aptos in Santa Cruz County, California. The exact dimensions of the parcel to be purchased shall be determined by mutual agreement of both Buyer and Seller.

1.10 Purchase Price. The sum of Four Hundred Sixty-Three Thousand Five Hundred and Ninety-Six dollars (\$463,596), which shall be increased by 4% per annum from the date Seller acquires the Kumar Property through Closing hereunder.

1.11 Real Property. The real property more particularly described in Exhibit A, all improvements located thereon, all easements, licenses and other rights appurtenant thereto.

1.12 Title Insurer. First American Title Insurance Company.

1.13 Permitted Exceptions. Those title exceptions which County has approved pursuant to the provisions of Article 4.

## ARTICLE 2 GRANT OF OPTION

2.1 Grant of Option. For and in consideration of delivery within ten (10) days following the Effective Date to Escrow Holder of the sum (the "Initial Deposit") of one hundred dollars (\$100.00) and the agreements of County set forth in this Agreement, Seller hereby grants to County the exclusive option to purchase the Property in accordance with the terms and conditions set forth in Articles 3 through 11 below.

2.2 Term of Option. The term of this Option shall commence on the Effective Date and shall terminate 24 months following the Effective Date (the "Initial Option Term") at 5:00 p.m. (with the Initial Option Term "Option Term"). The Initial Option Term may be extended on the written agreement of Seller and Buyer.

If County fails to exercise this Option in accordance with the terms and conditions hereof within the Option Term, the Option and all rights granted hereunder shall automatically and immediately terminate without notice. Notwithstanding any other provision of this Agreement, County may terminate this option at *any* time on written notice to Seller.

2.3 Covenants of Seller. Seller covenants and agrees:

2.3.1 At all times prior to Closing to allow County, its agents and employees (including without limitation its contractors, engineers, pest inspectors and environmental consultants) access to the Property for County to engage in appraisal activities, engineering and environmental studies, inspections, discussions with the tenants and other studies and activities necessary for County to assess the condition of the Property and the suitability of the Property to County, in its discretion, for County's purposes.

2.3.2 That Seller shall not, after the Effective Date, without the prior written consent of County, (i) encumber the Property in any manner, (ii) enter into any new lease or occupancy agreement for the Property, or (iii) amend any existing lease or occupancy agreement for the Property.

2.4 Covenants of County. County covenants and agrees to indemnify, defend and hold Seller harmless from any claim, cost, loss, expense or other liabilities arising by reason of County making investigations upon the Property; provided, County shall have no obligation or liability to Seller as a result of any Hazardous Material discovered on the Property by County or its consultants.

2.5 Effect of Termination. Upon the expiration of the Option Term (unless County shall have properly exercised its option to acquire the Property), or the sooner termination of the Option Term for any reason, neither party shall have any further rights or obligation except that County shall remain obligated to indemnify, defend and hold Seller harmless from any claim, cost, loss, expense or other liabilities asserted against Seller as described in Section 2.4.

2.6 Exercise of Option. County may, within 90 days of seller obtaining all necessary land use approvals and establishment of a legal parcel, exercise this Option to purchase the Property by delivering to Seller a written notice of exercise. An extension to this time frame can be extended by mutual agreement of both the buyer and seller. Upon exercise of this Option, Seller shall be obligated to sell, and County shall be obligated to purchase, the Property on the terms and conditions set forth in Article 3 through 11.

2.7 Disposition of Option Consideration. In the event county does not exercise its option within the Option Term, the parties shall have the following rights with regard to the Initial Deposit. The Initial Deposit shall be returned to the County if it terminates this Agreement by written notice to Seller on or before the expiration of the Due Diligence Period. If County does not terminate this Agreement on or before the expiration of the Due Diligence Period, but nevertheless, does not exercise its option and acquire the Property (for any reason except for the default of Seller or Seller's failure to deliver title subject only to the Permitted Exceptions), then the Initial Deposit shall be retained by Seller in consideration of the grant of the option hereunder. If County acquires the Property, the Initial Deposit shall be credited against the Purchase Price at Closing.

### ARTICLE 3 CONDITIONS TO COUNTY'S OBLIGATIONS

All duties of County to purchase the Property shall be expressly conditioned upon the occurrence and satisfaction of each of the conditions set forth below on or before the Closing Date, unless a sooner date is set forth in the clause relating to such condition, in which event such condition must be satisfied within such sooner time. If any of the conditions contained herein shall not be met within the time period related to said condition, County shall have the right to terminate this Agreement. The failure of County to notify Seller, in writing, of the failure of any condition within five (5) days following the date required for satisfaction of same shall be conclusively deemed a satisfaction and/or waiver of said condition. If this Agreement is terminated as a result of the failure of any condition, County shall be entitled to receive back the Initial Deposit.

3.1 Title Policy. At Closing, Title Insurer being ready, willing and able to issue its standard CLTA Policy of Title Insurance insuring title to the Property vested in County subject only to the Permitted Exceptions.

3.2 Condition of Property At Closing the Property shall be in substantially the same condition as on the Effective Date (ordinary wear and tear excepted). If the Property is not in substantially the same condition, then at the election of County either (i) Seller shall complete prior to the Closing any repairs or replacements that are required to return the Property to substantially the same condition as on the Effective Date; (ii) County may continue this Agreement, purchase the Property and deduct from the Purchase Price the reasonably estimated cost of such work; or (iii) County may elect to terminate this Agreement and receive back the Initial Deposit and any other Deposits made prior to the date of termination.

3.3 Seller's Representations. That as of the Closing each of the representations and warranties of Seller contained in the Article captioned "Representations and Warranties of Seller" shall be true and correct in all respects, to the same extent as if made as of the date of the Closing.

3.4 Seller's Covenants Fulfilled. That Seller shall have performed in a timely fashion all covenants made by Seller under this Agreement.

3.5 Definition of Parcel to be Conveyed. That Buyer and Seller shall, by mutual agreement, determine the exact boundaries of the parcel to be conveyed which shall be approved by the County Planning Department and Board of Supervisors, as appropriate, through an application for Minor Land Division prior to Close of Escrow and shall be approximately 1.25 acres. Alternatively, Seller may convey the Property to Buyer without formal subdivision, pursuant to Government Code Section 66428(A)(2).

#### ARTICLE 4 TITLE

Within ten (10) days following the Effective Date, Buyer shall obtain a current preliminary title report (the "Title Report") dated subsequent to the Effective Date and describing the Property, together with full copies of all exceptions set forth therein and a legal description of the Property. County shall have until the expiration of the Due Diligence Period (the "Approval Period") to notify Seller of County's disapproval of any exception shown in the Title Report or the legal description. If County does not give written notice of approval or disapproval within the Approval Period, the Title Report shall be deemed approved. If County disapproves in writing of any exception, Seller shall have ten (10) days from the date of Seller's receipt of written notice of the disapproval either (i) to give notice to County that Seller shall remove the disapproved exception prior to Closing or (ii) to give notice to County that Seller cannot or will not remove such disapproved exception. Notwithstanding any other provision of this Article 4, by execution of this Agreement Seller agrees that it will remove the liens of all deeds of trust and any mechanics liens and any other liens caused or permitted by Seller, or Seller's acts from title at or prior to Closing.



4.1 Seller's Response to Disapproved Exception. If Seller fails to notify County of Seller's response to any disapproved exception within the permitted period, Seller shall be deemed to have elected not to remove such disapproved exception.

4.2 Seller Notice of Non Removal. If Seller elects (whether by written notice or by failure to respond) not to remove any disapproved exception, County shall have five (5) days from receipt of such notice (or expiration of Seller's period to respond, as the case may be) either (i) to terminate this Agreement and receive back all sums paid to Seller or delivered to Escrow Holder or (ii) to waive its disapproval of such exception and agree to purchase the Property subject to the disapproved exception. If County fails to notify Seller within five (5) days of its election pursuant to this Section 4.2, County shall be deemed to have elected to terminate this Agreement.

4.3 County's Election Following Seller's Response. If County, pursuant to written notice, or as a result of its failure to otherwise respond as required herein, elects to terminate this Agreement then, except as to obligations which specifically are stated to survive such termination, each party shall be discharged of its duties hereunder and County shall receive back all sums paid to Seller and all sums delivered to Escrow Holder.

4.4 Permitted Exception. A "Permitted Exception" shall be any exception on the Title Report which County has approved hereunder, either by County's failure to disapprove such exception, or by County's waiver of a disapproval pursuant to Section 4.2, but in no event shall the lien of any deed of trust or any mechanics' lien or other monetary lien (except taxes and non delinquent assessments be a Permitted Exception.

## ARTICLE 5 COVENANTS OF SELLER

Seller covenants and agrees as follows:

5.1 Maintain the Property. Once it acquires the Kumar Property, to maintain the Property in substantially the same condition as existed on the Effective Date.

5.2 Delivery of Documents and Information. To deliver to County within five (5) days from the Effective Date copies of any of the following documents in Seller's immediate possession: appraisals; environmental reports; soils and geotechnical investigation reports; boundary, topographic and other surveys; site engineering studies and plans; building plans and specifications; real and personal property tax bills for the last three calendar years, together with a copy of the current notice of assessment for the Property, if available; and a full description of any oral agreements regarding occupancy rights to the Property. Seller shall promptly request any third parties who have documents in the categories listed above with regard to the Property (but which are not in Seller's possession) deliver such documents to County not later than twenty (20) days following the Effective Date. Buyer acknowledges that Seller does not own the

Property and that any documents delivered to Buyer will have been obtained from third parties and will be delivered without warranty as to their accuracy or completeness.

ARTICLE 6  
REPRESENTATIONS AND WARRANTIES OF SELLER; AS IS

Seller hereby represents and warrants, based only on such investigations as Seller has made with regard to the Property through the Effective Date, to County that to Seller's knowledge:

6.1 Hazardous Materials. There is not any hazardous or toxic waste or substance in existence on or below the surface of the Property, which constitutes a violation of any law, ordinance, rule or regulation of any governmental entity having jurisdiction over the Property, or which subjects the owner of the Property to any liability to third parties.

6.2 Special Assessments or Condemnation. There are no pending any special assessments or condemnation actions not now in the public records against the Property nor has Seller received any notice of any special assessments or condemnation actions being contemplated.

6.3 Compliance with Agreements. Neither this Agreement nor anything provided to be done hereunder, including, but not limited to, the conveyance of the Property, violates or shall violate any contract, agreement or instrument to which Seller is a party.

6.4 State of Facts. Seller is not in default of any of its obligations or liabilities pertaining to the Property, nor is Seller aware of facts or circumstances or conditions or events which, after notice or lapse of time or both, would constitute or result in any such default.

6.5 Litigation. Seller is not involved in or aware of any pending or threatened litigation which does or will affect the Property. There are no actions or proceedings pending or, to the best knowledge of Seller, threatened against Seller before any court or administrative agency in any way connected with or relating to the Property, or affecting Seller's ability to fulfill all of its obligations under this Agreement.

6.6 Authority. The persons signing this Agreement on behalf of Seller have full power and authority to sign this Agreement and to bind Seller by such signature. Seller has taken all actions and obtained consents that are required for the Seller's representative signing below to be valid and binding on Seller.

6.7 Service Contracts. There are no service contracts or other contractual obligations upon which Seller is obligated pertaining to the Property except those which can be terminated upon not more than thirty (30) days notice.

6.8 True and Correct Copies. That the copies of all documents delivered to County by Seller pursuant to this Agreement are complete copies of available documents and as of their respective dates true and correct copies.

6.9 Leases. That there are no leases or sub leases in effect which pertain to the Property.

6.10 Survival. Seller's representations, warranties and covenants contained in this Article 6 shall survive Closing for a period of 6 months.

6.11 AS IS. Buyer represents and warrants that Buyer will have satisfied itself prior to the end of the Due Diligence Period as to the physical, environmental, legal and economic condition and all other aspects of the Property and its suitability for the purposes intended by Buyer. Buyer understands that Seller does not yet own the Property and the only information Seller has with regard to the Property has been obtained either from the current owner, or through Seller's investigations and studies (copies of which Seller is conveying to Buyer). Except for Seller's representations and warranties expressly set forth in this Agreement, Seller disclaims the making of any representations or warranties, express or implied, regarding the Property or matters affecting the Property, including without limitation, the physical condition of the Property, title to or boundaries of the Property, soil condition, the presence of hazardous waste, hazardous materials, toxic waste or other environmental matters, compliance with building , health, safety, land use and zoning laws, regulations and orders, and all other information pertaining to the Property. Buyer further acknowledges that except as may be expressly set out in this Agreement, Seller has made no representation or warranty regarding the accuracy or completeness of any reports or studies relating to the Property which may have been delivered to or made available to Buyer other than that the same are true and correct copies of the reports and studies available to Seller. Subject to Seller's express representations and warranties set forth in this Agreement, Buyer shall purchase the property in its "As Is" condition on the closing date and Buyer assumes the risk that adverse physical, environmental, economic or legal conditions may not have been revealed by its investigations. Seller shall have no liability for any subsequently discovered defects, whether latent or patent, except as expressly provided in this Agreement. Buyer agrees that, from and after Closing, Buyer, for itself and its agents, affiliates, successors, and assigns, shall release and forever discharge Seller, its agents, affiliates, successors and assignees from, and waives any right to proceed against Seller for, any and all rights, claims and other aspects and demands at law or in equity relating to the physical, environmental, economic or legal condition of the Property.

Such release shall survive the Closing. Buyer has read and has been fully advised of the contents of Section 1542 of the Civil Code of the State of California, which reads as follows:

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

Buyer hereby acknowledges that it may have sustained damages, losses, costs and/or expenses

that are presently unknown and unsuspected, and that such damages, losses, costs and expenses as may have been sustained may give rise to additional damages, loss, cost or expense in the future; nevertheless, Buyer acknowledges that the foregoing Release has been negotiated and agreed upon and expressly waives any and all rights which it may have under section 1542 of the California Civil Code , or any other state of federal statute or common law principle of similar effect, with respect to the Claims released herein.

ARTICLE 7  
REPRESENTATIONS AND WARRANTIES OF COUNTY

County hereby represents and warrants to Seller as follows:

7.1 Compliance with Agreements. Neither this Agreement nor anything provided to be done hereunder, including, but not limited to, the purchase of the Property, violates or shall violate any contract, agreement, instrument or restriction imposed by law to which County is a party or is bound.

7.2 State of Facts. County is not in default of any of its obligations or liabilities undertaken by contract or imposed by law, nor is there any state of facts or circumstances or condition or event which, after notice or lapse of time or both, would constitute or result in any such default.

7.3 Litigation. County is not involved in or aware of any pending or, to County's best knowledge, threatened litigation, or actions or proceedings pending or threatened against County before any court or administrative agency, which does or will affect its ability to perform its obligations pursuant to this Agreement.

7.4 Authority. If this Agreement is approved by the Board of Directors of County Housing Authority, this Agreement will have been, and all other documents delivered by County to Seller prior to or at Closing shall be duly authorized and executed and delivered by County, shall be legal, valid, and binding obligations of County. County has the legal power and right to enter into contracts, including this Agreement. County has no knowledge of pending or anticipated changes in applicable law which would cause the above representations to be modified or qualified.

7.5 Survival. County's representations, warranties and covenants contained in this Article 7 shall survive Closing for a period of six months.

ARTICLE 8  
ESCROW CLOSING

The transaction contemplated by this Agreement shall be consummated through an escrow opened with Escrow Holder. Seller and County each agreed to deposit with Escrow Holder all funds and documents necessary to consummate the transaction contemplated by this Agreement on or before the Closing Date.

8.1 Payment of Purchase Price. The Purchase Price shall be paid in cash at closing.

8.2 Closing Date. Closing shall occur on a date selected by County but in no event later than 10 days following exercise by County of its option hereunder.

8.3 Prorations. Seller shall pay all delinquent real property taxes at Closing. Current real property taxes, any current assessment payment and any prepaid rents shall be prorated as of Closing.

8.4 Closing Charges.

8.4.1 County conveyance taxes and County documentary transfer taxes shall be paid by Seller.

8.4.2 The cost of County's policy of title insurance and escrow fees shall be paid fifty percent by Seller and fifty percent by Buyer.

8.4.3 All recording charges and other closing costs shall be borne by the parties in accordance with the custom in the community.

8.5 Deposit by Seller. Seller shall deposit with Escrow Holder in sufficient time for escrow to close on or before the Closing Date the following:

8.5.1 Grant Deed. A duly executed and acknowledged grant deed describing the Property;

8.5.2 IRC 1445. All documents required under Internal Revenue Code Section 1445 certifying that Seller is not a "foreign person." In the event Seller fails to deliver such documentation, County may elect to withhold sums from the sales price in accordance with the Internal Revenue Code Section 1445.

8.5.3 R & T 18805. All documents required under California Revenue and Taxation Code section 18805 certifying that Seller is a California resident. In the event any party fails to deliver such documentation County may elect to withhold sums from the sales price in accordance with Revenue and Taxation Code Section 18805.

8.5.4 Final Documents. Such other documents and funds, including, without limitation, escrow instructions and any other documents as may be required of Seller to close the sale in accordance with this Agreement.

8.6 Deposit by County. County shall deposit with Escrow Holder, in sufficient time for escrow to close on or before the Closing Date the following:

8.6.1 Cash. Cash as required from County to close the escrow.

8.6.2 Prorations and Closing Costs. Additional cash in the amount necessary to pay County's share of closing costs and prorations.

8.6.3 Additional Documents. Such other documents and funds, including without limitation, escrow instructions, as are required of County to close the purchase in accordance with this Agreement.

8.7 Possession. At the Closing, Seller shall deliver to County possession of the Property free from all tenancies and occupants.

ARTICLE 9  
LIQUIDATED DAMAGES

SELLER AND COUNTY AGREE THAT IF AFTER EXERCISING ITS OPTION, COUNTY BREACHES ITS OBLIGATIONS TO PURCHASE THE PROPERTY PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DAMAGES FROM SUCH BREACH ARE NOW AND WOULD BE DIFFICULT AND IMPRACTICAL TO DETERMINE; AND THAT IN THE EVENT OF SUCH BREACH, SELLER SHALL BE ENTITLED TO RETAIN ANY OPTION CONSIDERATION THAT PREVIOUSLY HAS BEEN DELIVERED TO ESCROW HOLDER AS LIQUIDATED DAMAGES, AND NOT BY WAY OF FORFEITURE OR PENALTY, AS ITS SOLE REMEDY. SELLER HEREBY WAIVES ALL RIGHT TO SPECIFIC PERFORMANCE. THE PARTIES AGREE, BY INITIALING BELOW, THAT THE LIQUIDATED DAMAGES PROVIDED ABOVE REPRESENT A REASONABLE SUM UNDER THE CIRCUMSTANCES TO BE PAID TO SELLER IN THE EVENT OF A DEFAULT BY COUNTY.

SELLER: \_\_\_\_\_

COUNTY: \_\_\_\_\_

ARTICLE 10  
GENERAL PROVISIONS

10.1 Notices. Any and all written communications required or permitted by this Agreement or by law to be served or given to or by either part or the Escrow Holder, shall be in writing and deemed served and given when personally delivered. In lieu of personal service, notices may be delivered by U.S. mail, certified or registered, return receipt requested, or by recognized delivery service (such as Federal Express or UPS) in which event the notice shall be deemed received only (i) when actually received, as evidenced by the records of the delivery service or (ii) if receipt is refused, on the date of first notice of attempted delivery, as reflected by records of the delivery service. Further, notice may be delivered by electronic telecommunication of such written notice in which event notice shall be deemed given when such written telecommunication is received by the party to be notified.

Any notices to be delivered to County shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any notices to be delivered to Seller shall be addressed to:

South County Housing  
9015 Murray Avenue, Suite 100  
Gilroy, CA 95020  
Attention: Jan Lindenthal  
Facsimile no. (408) 843-9207

Either party may, by written notice to the other, change the address to which notices shall be sent thereafter.

10.2 Attorneys' Fees. If any litigation is commenced concerning the Property, this Agreement or the rights and duties of either party in relation thereto, whether an action for damages, equitable or declaratory relief, the prevailing party in such litigation, in addition to other relief, shall be entitled to receive from the other party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in connection with the litigation.

10.3 Assignment. County may assign its rights and delegate its duties hereunder to any third party of its choice, with the prior written consent of the other party which shall not be unreasonably withheld. An assignment shall not relieve the assigning party of its duties and obligations hereunder. County may assign its rights hereunder to an affiliate without Seller's prior consent .

10.4 Entire Agreement. This Agreement constitutes the entire agreement between Seller and County with respect to the purchase of the Property by County and supersedes all other agreements, letters, memoranda or understandings respecting same, whether oral or written. This Agreement may not be modified by either party by oral representation made before or after the execution of this Agreement. All modifications, amendments or additions to this Agreement must be in writing signed by Seller and County.

10.5 Time of the Essence. Time is of the essence for the performance of each and every covenant and the satisfaction of each and every condition contained in this Agreement.

10.6 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective assigns, heirs, successor and legal representatives of each of the parties.



10.7 Headings. The headings in this Agreement are for the purpose of reference only and shall not limit or define the interpretation of the content of this Agreement.

10.8 Counterparts. This Agreement may be executed in any number of counterparts or duplicate originals, each of which is an original for all purposes.

10.9 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of California.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates set forth below.

Seller:

South County Housing Corporation, a California non-profit corporation

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Dennis Lalor, Executive Director

Buyer:

Dated: \_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_

Exhibit A

Legal Description

[to be attached]