CITY COUNCIL OF THE CITY OF SONORA
STAFF REPORT

MEETING DATE: January 21, 2020

TO: CITY COUNCIL

FROM: DOUGLAS L. WHITE, CITY ATTORNEY

SUBJECT: RESOLUTION AUTHORIZING CITY MANAGER TO EXECUTE PURCHASE AND SALE AGREEMENTS FOR PROPERTIES LOCATED AT 178 AND 184 FAIRVIEW LANE

RECOMMENDATION:

Approve an agreement to sell the real property at 178 and 184 Fairview Lane in Sonora, California and direct and authorize the City Administrator to execute all documentation and take actions that may be necessary to accomplish said sale of real property.

BACKGROUND:

The City of Sonora ("City") owns real property at 178 and 184 Fairview Lane in Sonora, California (collectively, the "Fairview Properties"). In 2011, the former Redevelopment Agency of the City of Sonora ("Former Redevelopment Agency") acquired the Fairview Properties from the City. Soon afterward, the State of California dissolved redevelopment agencies, and ownership of the Fairview Properties transferred back to the City. In 2015, the California State Controller's Office ("State Controller's Office"), however, found the initial 2011 transfer did not abide by the procedures and requirements of the Dissolution Act.[1] The State Controller's Office reversed the 2011 transfer and directed the City to return the funds from the initial sale to the successor agency of the Former Redevelopment Agency ("Successor Agency"), but allowed the City to retain ownership of the Fairview Properties.[2] To comply with the State Controller's Office's directive, the City, now with equitable title to the Fairview Properties, seeks to sell the Fairview Properties to the Resource Development Center ("Buyer"), a California non-profit corporation, for the purpose of maintaining housing for populations in need.

DISCUSSION:

The law requires public agencies to follow certain procedures when disposing of surplus lands for purposes of prioritizing affordable housing and recreational/open-space land uses.[3] The California State Legislature recently enacted new requirements under the Surplus Lands Act

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[1] Assem. Bill 1X 26 (2011-2012 1st Ex. Sess.).
[2] See Resolutions No. OB 10-03-2018-A and No. SA 11-05-2018-A.
[3] Gov. Code, § 54220 et seq. (the "Surplus Lands Act").

("SLA"), effective in 2020, when cities dispose of surplus property. However, the City entered into a legally binding agreement with Buyer to dispose of the Fairview Properties prior to the enactment of the new SLA requirements. As such, the prior SLA requirements apply to this sale, and the sale is exempt from SLA procedures under those prior requirements because the Properties are not considered surplus land.[4] The Fairview Properties were not for the City's use, since they were previously held by the Former Redevelopment Agency. Additionally, the Fairview Properties became a holding for purposes of exchange during the dissolution of redevelopment and subsequent title-clearing process.[5] Nonetheless, the sale furthers the goals of the SLA procedures by conveyance to a Buyer who intends to use the Fairview Properties as housing for populations in need.

Where disposal of City property is not subject to surplus land procedures, any conveyance still must be for the common benefit.[6] Conveyance of the Fairview Properties is for residents' common benefit by receipt of fair value for the Fairview Properties, and by sale to a non-profit association serving the public interest. While the City is not legally required to obtain an appraisal before selling the property, an appraisal helps ensure the City obtains a reasonable price for the property and can prevent challenges alleging the sale constitutes a gift of public funds.[7] The City's planning agency also confirmed the disposition conforms with the general plan.[8]

Dambacher Appraisal Services appraised the Fairview Properties in 2018. The appraised value for 178 Fairview Lane is $195,000 and the appraised value for 184 Fairview Lane is $230,000. On February 10, 2019, the Buyer offered to purchase 178 Fairview Lane for $185,000 and 184 Fairview Lane for $200,000, based on their own assessment of the Fairview Properties and necessary repairs. On March 21, 2019, the City accepted the Buyer's offer of $185,000 for 178 Fairview Lane and made a counter-offer of $219,400 for 184 Fairview Lane. On March 22, 2019, the Buyer accepted the City's counter-offer and agreed to purchase 178 Fairview Lane for $185,000 and 184 Fairview Lane for $219,400. These prices reflect a fair assessment of the Fairview Properties' values based on their condition and the repairs the Buyer will be required to complete. The Fairview Properties are being sold "as-is."

To complete the sale, the City and the Buyer will execute purchase and sale agreements for the properties and related documentation.

OPTIONS:

1. Adopt the Resolution as written;

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[4] See Gov. Code, § 54234 ["If a local agency, as of September 30, 2019, has entered into [a]... legally binding agreement to dispose of property, the provisions of this article as it existed on December 31, 2019, shall apply... to the disposition of the property to the party that had entered into such agreement..."].
[5] Former Gov. Code, § 54221, subd. (b) ["surplus land" does not include land held by a local agency "for purposes of exchange"].
[6] Gov. Code, §§ 37350, 37351.
[7] See *Winkelman v. City of Tiburon* (1973) 32 Cal.App.3d 834 [sale of public agency property to nonprofit corporation for less than fair market value is for public purpose and not a gift of public funds].
[8] Gov. Code, § 65402, subd. (a).

2. Reject the Resolution; or
3. Continue introduction of the Resolution to the next regular City Council meeting with changes or revisions as provided by the City Council.

FISCAL IMPACT:

From the proceeds of the sale of the Fairview Properties, the City will first transfer to the Successor Agency $326,612.00 in cash, to return the amount the City received from the Former Redevelopment Agency for the Properties in 2011, as directed by the State Controller's Office. The remaining proceeds from the sale will be transferred into the City's general fund.

ENVIRONMENTAL:

The City's proposed sale of the Fairview Properties is a "Project" for purposes of the California Environmental Quality Act ("CEQA") at Public Resources Code 21000 et seq. and the California Code of Regulations, Title 14, section 1500 et seq. ("CEQA Guidelines"). The CEQA Guidelines exempt certain projects from further CEQA evaluation, including Class Twelve for Surplus Government Property Sales (Cal. Code Regs., tit. 14, § 15312), and projects where there is no potential for significant effect on the environment (Cal. Code Regs., tit. 14, § 15061, subd. (b)(3)). The City reviewed and considered the possible environmental effects of the proposed action. The Buyer's proposed use of the Fairview Properties will continue as single-family residential, and thus involves no change to the surrounding environment. As such, the sale is exempt from CEQA review.

ATTACHMENTS:

Resolution
Purchase and Sale Agreements

RESOLUTION 01-21-2020-A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SONORA AUTHORIZING THE EXECUTION OF PURCHASE AND SALE AGREEMENTS FOR THE SALE OF PROPERTIES AT 178 AND 184 FAIRVIEW LANE, SONORA, CALIFORNIA 95370.

WHEREAS, the City of Sonora ("City") is a municipal corporation incorporated, organized and existing pursuant to the California Constitution, the Government Code, and the Sonora Municipal Code; and

WHEREAS, on November 30, 2011, the former Redevelopment Agency of the City ("Former Redevelopment Agency") acquired certain real property from the City consisting of two affordable rental properties located at 178 and 184 Fairview Lane, respectively Assessor Parcel Numbers ("APN") 002-210-039 and 002-210-040 (the "Properties"); and

WHEREAS, in 2011, the California Legislature passed Assembly Bill 1X 26 (the "Dissolution Act"), which dissolved and set out procedures for the wind-down of the affairs of all redevelopment agencies throughout the State effective February 1, 2012. Pursuant to the Dissolution Act, City of Sonora designated a successor agency responsible for winding down the affairs of the Former Redevelopment Agency ("Successor Agency"); and

WHEREAS, the State Controller's Office, exercising its oversight duties under the Dissolution Act, reviewed asset transfers between the Former Redevelopment Agency and the City after January 1, 2011. In its final Asset Transfer Review Report dated December 31, 2015, the California State Controller's Office ("State Controller's Office") found the City's conveyance of the Properties to the Former Redevelopment Agency in 2011 to be an "unallowable transfer" under the requirements of the Dissolution Act; and

WHEREAS, on October 3, 2018, pursuant to the findings of the State Controller's Office, the oversight board of the Successor Agency ("Oversight Board") approved Resolution No. OB 10-03-2018-A directing that the 2011 conveyance of the Properties be reversed, that the Successor Agency transfer ownership of the Properties back to the City, and that the City turn over to the Successor Agency the $326,612.00 in cash the City received from the Former Redevelopment Agency for the Properties in 2011; and

WHEREAS, on November 5, 2018, the City Council approved Resolution No. 11-05-2018-A implementing the Oversight Board's orders in Resolution No. OB 10-03-2018-A; and

WHEREAS, the City maintains equitable title to the Properties, but legal title to the Properties remains vested in the Former Redevelopment Agency. Upon official conveyance of the Properties from the Successor Agency to the City, the City will possess legal title to the Properties; and

WHEREAS, an appraisal of the Properties was completed on May 30, 2018, to determine the fair market value, and an acceptable sale price and conditions of sale were negotiated with the prospective buyer of the Properties, the Resource Development Center ("Buyer"), per the purchase and sale agreements; and

WHEREAS, the City entered a legally binding agreement with the Buyer on March 22, 2019, to dispose of the Properties and thus the provisions of the Surplus Lands Act ("SLA") at Government Code section 54220 et seq. in existence on December 31, 2019 apply. The Properties are not surplus land under the past requirements of the SLA. The Properties did not serve a municipal use since the Properties were returned to the City as a result of the redevelopment wind-down. Further, during the redevelopment wind-down and subsequent title-clearing, the City was holding on to the Properties for purposes of exchange. Nonetheless, the sale furthers the goals of the SLA by conveyance to a Buyer intending to use the Properties as housing for populations in need; and

WHEREAS, once the sale is completed and the funds received from Buyer, the City will pay the Successor Agency $326,612.00 in cash to return the amount the City received from the Former Redevelopment Agency for the Properties in 2011, as directed by the State Controller's Office, and will transfer the remaining proceeds into the general fund; and

WHEREAS, the City Council has determined that conveyance of the land and property at 178 and 184 Fairview Lane subject to the terms and conditions of the purchase and sale agreements is in the best interest of City residents' health, safety and welfare; and

WHEREAS, the Guidelines for the California Environmental Quality Act ("CEQA"), at California Code of Regulations, title 14, section 15000 et seq., exempt certain projects from further CEQA evaluation, including Class Twelve for Surplus Government Property Sales (Cal. Code Regs., tit. 14, § 15312), and projects where there is no possibility of significant effect on the environment (Cal. Code Regs., tit. 14, § 15061, subd. (b)(3)). As such, the sale of the Properties is exempt from CEQA review; and

WHEREAS, upon the completion of all terms and provisions closing the purchase and sale agreement, a grant deed for the Properties will be prepared in acceptable form and content.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Sonora hereby:

1. Authorizes and directs the City Administrator, or an acting City Administrator, to execute the purchase and sale agreement and complete the necessary steps for the sale of the Properties and as necessary to finalize the City's compliance with the State Controller's Office's directive to turn over to the Successor Agency the $326,612.00 in cash the City received from the Former Redevelopment Agency for the Properties in 2011.

2. Finds the sale of the Properties to serve the public interest by receipt of fair value for the Properties, as well as by transfer to a non-profit association that will use the Properties as housing for populations in need.

3. Finds the proposed sale of the Properties conforms to the City's General Plan as required by Government Code section 65402.

4. Finds the disposal and sale of the Properties to be exempt from CEQA as sale of surplus government property, pursuant to California Code of Regulations, title 14, section 15312, and as a conveyance of property without potential for causing a significant effect on the environment, pursuant to California Code of Regulations, title 14, section 15061, subdivision (b)(3). The City Clerk is directed to file the Notice of Exemption in accordance with the terms of CEQA and its implementing regulations.

PASSED, APPROVED AND ADOPTED as a Resolution by the Sonora City Council at a meeting held by the City Council on the 21st day of January, 2020, by the following vote:

AYES: _____

_____

NOES: _____

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ABSENT: _____

Dated: January 21, 2020

_____
James M. Garaventa, Mayor

ATTEST: _____
Colette Such, City Clerk Pro Tempore

APPROVED AS TO FORM:

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Douglas L. White
Sonora City Attorney

PURCHASE AND SALE AGREEMENT WITH ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT WITH ESCROW INSTRUCTIONS ("Agreement") is entered on January _____, 2020, ("Effective Date") by and between the City of Sonora, a California municipal corporation ("Seller") and the Resource Development Center, a California non-profit corporation ("Buyer"). Seller and Buyer may be referred to herein as a "Party" or collectively as the "Parties." There are no other parties to this Agreement.

RECITALS

A. Seller owns that certain parcel of land with improvements thereon located in the County of Tuolumne, Assessor Parcel Numbers 002-210-039 with the physical address 178 Fairview Lane, Sonora, California 95370, and as further described in the legal description attached and incorporated hereto as **Exhibit A** (the "Property").

B. Buyer desires to purchase the Property, and Seller desires to sell the Property, according to the terms and conditions of this Agreement.

C. On January 21, 2020, the City Council for the City of Sonora, at a duly noticed meeting, approved the sale of the Property pursuant to the terms and conditions in this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **Sale of Real Property.** Seller shall convey the Property to Buyer in consideration of the Purchase Price and in accordance with the terms of this Agreement. The transfer shall include all of Seller's rights, title and interest in and to all mineral rights, zoning rights, governmental permits and licenses, rights-of-way, roadways and alleyways, reversions, appurtenances, easements, or other rights and privileges used in connection with the beneficial use of, or associated with, the Property.

2. **Purchase Price.** The purchase price for the 178 Fairview Lane, Sonora, California 95370 is One Hundred Eighty-Five Thousand Dollars ($185,000.00) (the "Purchase Price"). The Purchase Price shall be payable at Closing (as defined below) in cash, cashier's check, or by wire transfer.

3. Escrow Instructions.

(a) *Escrow Agent.* After execution of this Agreement by Seller and Buyer, Buyer shall promptly open an escrow account (the "Escrow") with Yosemite Title Company (the "Escrow Agent") by delivering three (3) fully executed counterpart originals of this Agreement to the Escrow Agent. After delivery, Escrow Agent shall sign each counterpart and promptly deliver a fully executed counterpart of this Agreement to each Party. The Parties agree to be bound by the Escrow Agent's standard form or general provisions and shall execute and deliver to the Escrow Agent such other reasonable or customary supplemental instruments as may be required by Escrow Agent in order to consummate the transaction. This Agreement shall control in the event of any inconsistency between this Agreement and the Escrow Agent's standard form, general provisions, or any other documentation provided by the Escrow Agent.

(b) *Escrow Deposit.* Within five (5) business days after the Effective Date, Buyer shall deposit with Escrow Agent the sum of Five Thousand Dollars ($5,000.00), in cashier's or certified check (the "Escrow Deposit"). The Escrow Deposit shall be non-refundable to Buyer if Buyer elects to terminate this Agreement after the expiration of the Inspection Period (defined below), unless provisions for refunding the Escrow Deposit to Buyer are provided in this Agreement, such as an event of default by Seller or non-satisfaction of any of the Conditions Precedent (defined below). Upon Closing, the Escrow Deposit shall be credited toward the Purchase Price.

(c) *Closing Deadline.* Conveyance of the Property (the "Close of Escrow" or "Closing") shall occur no later than February 28, 2020. The following shall occur on or before the date that is two (2) business days prior to the scheduled date of the Closing:

(i) *Seller's Delivery Obligations.* Seller shall deliver the following to into Escrow: (1) a grant deed for the Property, properly executed and notarized (the "Deed"); (2) duly executed certifications to the extent applicable to Seller as required by the Foreign Investment in Real Property Tax Act and its California Revenue and Taxation Code equivalent (together, "FIRPTA"); (3) an affidavit on the Escrow Agent's standard forms so that the Escrow Agent can delete or modify the standard printed exceptions as to parties in possession, unrecorded liens (including statutory materialmen's liens), and similar matters; (4) an acknowledged closing statement reflecting the Purchase Price and the closing adjustments and prorations contemplated by this Agreement (the "Closing Statement"); and

(ii) *Buyer's Delivery Obligations.* Buyer shall deliver the following into Escrow: (1) cash for the balance of the Purchase Price and the other obligations to be paid by Buyer pursuant to this Agreement; and (2) an executed counterpart of the Closing Statement.

Simultaneously with or following the Closing, the Parties will execute such additional documents and perform such other acts as will be reasonably required to carry out the intent and purposes of this Agreement.

(d) *Close of Escrow.* In addition to those listed in Section 7, the following are Conditions Precedent that must be delivered to Escrow prior to Closing: (i) written notice from both Buyer and Seller that the conditions to Closing hereunder have been satisfied; (ii) all deliverables contemplated by Section 3(c) above; and (iii) the Title Policy (defined below) that Escrow Agent is prepared to issue and deliver to Buyer. Once the above conditions are satisfied, the Escrow Agent shall: (1) record the Deed with the Tuolumne County Recorder, with the documentary transfer tax shown on a separate paper; (2) deliver the proceeds of the sale to Seller; (3) deliver to Buyer the FIRPTA statement and the Title Policy; (4) pay all costs and expenses as authorized by these instructions and charge each Party's account for such costs and expenses as required by this Agreement; and (5) deliver to each Party the executed Closing Statement and itemized statement of costs charged to each Party's account. To comply with Internal Revenue Code § 6045(e), Escrow Agent is designated as the "person responsible for closing the transaction" and also as the "reporting person" for purposes of filing any required information or returns with the Internal Revenue Service.

4. Inspection of the Property.

(a) *Tests.* Buyer and Buyer's authorized agents, contractors, employees and designees shall have the right, after the Effective Date and prior to Closing, or until this Agreement is terminated, to enter the Property for the purpose of making such surveys, soil, engineering, geological, environmental and other tests, inspections and measurements, including Phase I Environmental Assessment (the "Tests") as Buyer deems advisable, provided they are done without cost to Seller and such activities do not unreasonably interfere with Seller. Buyer shall give reasonable written, telephonic, or email advanced notice to Seller of any Tests that Buyer or Buyer's agents will perform. The notice shall specify the nature of the Tests to be performed, the approximate time the Tests will be performed, and the person or entity performing the Tests. Buyer is responsible for the cost of repairing any damage to the Property caused by Buyer's inspection activities.

(b) *Inspection Period.* If Buyer, in its sole discretion, for any reason or no reason at all, decides not to proceed with Closing, Buyer shall have the right at any time within thirty (30) calendar days after the Effective Date (the "Inspection Period") to terminate this Agreement by written notice to Seller. If terminated, Buyer shall provide Seller with copies of all reports, if any, relating to the Property that Buyer received as a result of the Tests. Buyer makes no warranty or representations as to the accuracy or completeness of these reports.

(c) *Property Documents*. During the Inspection Period, Seller shall make available to Buyer for Buyer's inspection, within five (5) business days after Buyer's request, all documents and information in Seller's possession or control pertaining to the Property or an interest in the Property, including but not limited to any and all leases, liens, tentative and final maps, surveys, plats, title reports, soil reports, assessment and financing district documentation, environmental studies, and entitlement documents (collectively the "Property Documents"). Seller shall not be obligated to disclose to Buyer any appraisal or opinions of the value of the Property, any of Seller's internal financial analyses, credit analyses business plans, materials relating to Seller's cost to acquire the Property, or any documents or communications subject to the attorney/client privilege. Buyer acknowledges that the Property Documents are furnished to Buyer solely as a courtesy and Seller has neither verified the accuracy of any statements or other information contained in those documents, nor the qualifications of the persons preparing such information. Inspection of the Property Documents shall be performed at a location agreeable to Seller and Buyer during reasonable business hours. Buyer shall be entitled to copy, at Buyer's expense, any of the Property Documents it chooses. If this Agreement is terminated prior to Closing, Buyer shall, upon Seller's request, promptly return to Seller all Property Documents and all copies of those materials delivered to or obtained by Buyer from Seller.

5. Title.

(a) *Permitted Exceptions*. At Closing, Seller shall convey fee title to the Property to Buyer free and clear of all liens and encumbrances, excepting only: (a) general and special real property taxes and assessments not yet due and payable; (b) all exceptions to title set forth in the Title Report (defined below), which have been approved by Buyer; (c) any new or existing community facilities district bonds, special taxes, fire assessment districts, and the like for the Property as approved by Buyer during the Inspection Period; and (d) any exceptions to title caused by acts or omissions of Buyer (collectively, the "Permitted Exceptions").

(b) *Title Report*. Seller, at its sole cost and expense, shall deliver to Buyer a current, preliminary title reports for the Property no later than ten (10) business days after the Effective Date, together with legible copies of all documents referenced therein as exceptions to title (the "Title Report"). The Title Report shall be issued by Escrow Agent and dated no earlier than thirty (30) days before the Effective Date.

(c) *Objections by Buyer*. Within ten (10) business days after its receipt of the Title Report, Buyer shall notify Seller, in writing, of any objection that Buyer has to the title exceptions reflected in the Title Report (the "Buyer Objection Notice"). Buyer's failure to timely deliver to Seller the Buyer Objection Notice shall be deemed to constitute Buyer's approval of the Title Report. Seller shall have a period of five (5) business days after receipt of the Buyer Objection Notice in which to deliver written notice to Buyer of Seller's election to either: (i) agree to remove,

at Seller's sole cost and expense, the objectionable items prior to Closing; or (ii) decline to remove the objectionable items (the "Seller Response Notice"). Seller's failure to timely deliver to Buyer the Seller Response Notice shall be deemed to constitute Seller's election not to remove the objectionable items. If Seller elects to remove the objectionable items and, thereafter, fails to do so prior to Closing, then Seller shall be deemed in default under this Agreement. If Seller elects (or is deemed to have elected) not to remove the objectionable items, then Buyer shall have the right, by written notice to Seller (the "Buyer Election Notice") delivered within seven (7) business days after Buyer's receipt of the Seller Response Notice (or, if Seller has failed to timely deliver to Buyer the Seller Response Notice, within seven (7) business days after the expiration of said five (5) business day period), to either: (i) immediately terminate this Agreement, in which event this Agreement and all of the rights and obligations of Buyer and Seller shall terminate, except that Buyer and Seller shall share equally the expenses of canceling Escrow; or (ii) waive its objection to the title exceptions in question. Buyer's failure to timely deliver to Seller the Buyer Election Notice shall be deemed to constitute Buyer's waiver of its objections to the title exceptions in question.

(d) *Title Policy.* At Closing, the Escrow Agent shall issue to Buyer a standard California Land Title Association ("CLTA") policy of title insurance, with such endorsements as Buyer may reasonably request, in the amount of the Purchase Price, showing title to the Property vested in Buyer, and containing no exceptions to title other than the Permitted Exceptions (the "Title Policy").

6. Operations. From the Effective Date through Closing or termination of this Agreement, whichever occurs earlier, Seller shall: (a) maintain the Property in the same condition as presently exists, with the exception of reasonable wear and tear or changes attributable to Buyer; (b) not, without Buyer's prior written consent (which may be withheld in Buyer's sole discretion), terminate, amend, extend or renew any lease or other contract affecting the Property or enter into any contract or commitment or incur any expenditure or obligation affecting the Property or the title thereto, which would extend beyond the Closing; (c) pay promptly when due all taxes, assessments, utility charges, indebtedness secured by deed of trust or other liens, and, generally, all expenses (including repairs and replacements) incurred by Seller in the operation of the Property; and (d) not, without Buyer's prior written consent (which may be withheld in Buyer's sole discretion), take or consent to any action which could modify the status of title to the Property, present zoning of, access to, licenses, permits or entitlements to, or assessed valuations of, the Property or cut or permit the cutting of any trees on the Property. Seller shall promptly notify Buyer, in writing, of any failure by Seller to comply with its obligations under this Section 6.

7. Conditions Precedent to Closing. The following conditions must be met in order for Closing to occur (the "Conditions Precedent"): (a) the Property must be in substantially the same condition at Closing as on the Effective Date, reasonable wear and tear and any damages or

changes attributable to Buyer excepted; (b) all deeds of trust, liens and other charges against the Property not assumed by Buyer must be paid and cancelled by Seller prior to, or with funds made available at, Closing; (c) except those attributable to Buyer, no uncured material, adverse change to the title to the Property shall have occurred since the Effective Date; (d) neither Seller nor the Property shall be subject to any court judgment or decree or to any litigation or administrative proceeding which would adversely affect the Property in any material respect or which would be binding upon Buyer or its assigns; (e) Seller shall have complied with and otherwise performed, in all material respects, each of its obligations set forth in this Agreement (including, but not limited to, the obligations of Section 6) and each of Seller's representations and warranties set out in this Agreement shall remain true in all material respects and, as to those representations limited to Seller's knowledge, the specific fact or condition that was the subject of the representation must also be true.

If any of the Conditions Precedent is not met prior to the Closing deadline, Buyer shall, in its sole discretion, notify Seller of such in writing, and take one of the following actions: (i) extend the Closing deadline as long as necessary for Seller to satisfy the applicable Conditions Precedent, (ii) waive the Conditions Precedent and proceed with Closing; or (iii) terminate this Agreement, in which event Seller shall be responsible for all expenses of cancelling Escrow. The election of (i) above shall not prohibit a subsequent election of (ii) or (iii) above.

8. Prorations and Adjustments.

(a) *Closing Costs*. The following costs related to Closing shall be prorated as follows: (i) Buyer shall pay the fees and charges of the Escrow Agent; (ii) Buyer shall pay all documentary and other transfer taxes and shall bear the cost of the Title Policy (standard CLTA coverage); and (iii) Buyer and Seller shall each pay for their own respective legal, accounting and other consultant fees, charges and costs incurred related to this Agreement. Seller will furnish all documents, releases and cancellations as necessary in order to discharge all existing liens and encumbrances of record against the Property. Buyer will pay all associated recording costs.

(b) *Property Taxes*. All current ad valorem taxes and all current general and special taxes and assessments on the Property shall be prorated through Escrow between Buyer and Seller as of the Closing date based upon the latest available tax information and the portion of the taxable year each party has possession of the Property, without regard to any reassessments or subsequent changes. All supplemental taxes (regardless of whether a bill for such taxes is received after the Closing by Buyer or Seller) and future assessments or encumbrances levied by any assessment, maintenance, school district or like entity, attributable to the Property or this sale, shall be prorated on the same basis, as shall special taxes and any assessments under Mello-Roos Community Facilities District and the like now encumbering the Property or proposed to encumber the Property.

9. Possession. At Closing, the right to possession of the Property shall transfer to Buyer. At Closing, Seller shall deliver to Buyer exclusive possession of the Property, free and clear of occupancy by all persons, firms or corporations, whether or not under claim of right or color of title.

10. Representations and Warranties.

(a) *Brokers*. Neither party has contacted or entered into any agreement with any real estate broker, agent, finder, or any other party in connection with this transaction ("Broker"), and neither Party has taken any action that would result in any other Broker's or other fees or commissions being due or payable to any other party with respect to this transaction. If a Broker brings a claim for a commission or fee related to the Property, the Party through whom the Broker makes the claim shall be solely liable and responsible for any amount owed to Broker and any expenses incurred by the other Party in defending against the same. The provisions of this paragraph shall survive Closing.

(b) *Seller's Representations*. Seller makes the following representations and warrantees:

(i) Seller has the right, power, and authority to enter into this Agreement and sell the Property in accordance with these terms; each of the persons executing this Agreement on behalf of Seller is authorized to do so; and this Agreement constitutes a valid and legally binding obligation of the Seller, enforceable in accordance with its terms.

(ii) Seller has good and marketable, fee simple title to the Property, free and clear of any and all liens, encumbrances or other restrictions, whether existing of record or otherwise, other than the Permitted Exceptions. Seller has no actual knowledge of any unrecorded or undisclosed legal or equitable interest in the Property owned or claimed by anyone other than Seller.

(iii) The current use and operation of the Property is authorized by and in compliance with all existing zoning, land-use, building, fire, health, labor and safety laws, ordinances, rules and regulations applicable to the Property, and there is no litigation, action, or other legal or administrative proceedings related to the current use and operation of the Property.

(iv) There are no pending or, to Seller's knowledge, threatened condemnation or other legal proceedings against, or affecting title to, any part of the Property.

(v) No contracts, agreements, or options (other than those which have already expired) have been granted to others to purchase or to lease any interest in the Property or any part thereof or which will survive Closing or otherwise impose an obligation on Buyer, and Seller otherwise has the exclusive right of possession to the Property.

(vi) Seller has not filed, or been the subject of any filing of, any petition under the Federal Bankruptcy Law or any other bankruptcy or insolvency laws.

(vii) Seller has no knowledge of any violation of governmental laws, regulations or orders relating to the Property.

(viii) To the best of Seller's knowledge: (i) the Property is free of Hazardous Materials (defined below); (ii) there has been no storage, generation, disposal, release, discharge or treatment of any Hazardous Materials upon or in the Property; (iii) no radon gas has been detected at the Property; and (iv) the Property has not been the subject of any federal, state or local government action or third party claim because of the release, threat of release, discharge, storage, treatment, generation, emission or disposal of any Hazardous Materials on, in or from the Property. Seller shall not, prior to Closing, bring or permit any Hazardous Materials to be brought onto the Property. The term "Hazardous Materials" shall mean, without limitation, any material or substance which is defined as a "hazardous waste", "hazardous substance", or the like under the laws or regulations of the State of California or United States (collectively, "Environmental Laws") including any material or substance that is: (a) petroleum, oil, gas, or any direct or derivative product or byproduct thereof; (b) defined or listed as a hazardous waste, extremely hazardous waste or restricted hazardous waste under the Hazardous Waste Control Law (Cal. Health and Safety Code §§ 25115, 25118, 25122.7 and 25140); (c) defined as a hazardous substance under the Carpenter-Presley-Tanner Hazardous Substance Account Act (Cal. Health and Safety Code § 25316); (d) defined as a hazardous material, hazardous substance, or hazardous waste under the Hazardous Materials Release Response Plans and Inventory (Cal. Health and Safety Code §§ 25501 and 25501.1); (e) defined as a hazardous substance under Underground Storage of Hazardous Substances (Cal. Health and Safety Code § 25281); (f) used oil (*see* Cal. Health and Safety Code § 25250.1; (g) asbestos; (h) material listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 1 of Title 22 of the California Code of Regulations, Division 4, Chapter 30; (i) material defined as waste or a hazardous substance pursuant to the Porter-Cologne Act (Cal. Water Code § 13050); (j) material designated as a toxic pollutant pursuant to the Federal Water Pollution Control Act (33 U.S.C. § 1318); (k) material defined as a hazardous waste pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*; (l) material defined as a hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, (42 U.S.C. § 9601 *et seq.*); (m) material defined as a hazardous material pursuant to the Hazardous Materials Transportation Act; or (n) material regulated by any Superfund or Superlien law, or any other

federal, state or local law, statute, ordinance code, rule, regulation, order or decree that is in effect and regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials, oil wells, underground storage tanks or pipelines. Hazardous Materials include asbestos, petroleum products, and any other hazardous waste or substance which has, as of the date hereof, been determined to be hazardous or a pollutant by the U.S. Environmental Protection Agency, the U.S. Department of Transportation, or any instrumentality authorized to regulate substances in the environment which has jurisdiction over the Property which substance causes the Property (or any part thereof) to be in material violation of Environmental Laws.

(ix) Seller is not a foreign person and is a "United States Person" as that term is defined in the Internal Revenue Code, as amended. (*See* I.R.C. § 7701(a)(30)).

(x) Seller is not an entity named on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury, as last updated prior to the Effective Date, and Seller shall take any actions required to comply with the USA Patriot Act of 2001, as amended, and any regulations promulgated under the foregoing law, Executive Order No. 13244 on Terrorist Financing, any sanctions program administrated by the U.S. Department of Treasury's Office of Foreign Asset Control or Financial Crimes Enforcement Network, or any other laws, regulations, executive orders or government programs designed to combat terrorism or money laundering, if applicable to this Agreement.

(xi) The representations and warranties of Seller set forth in this Agreement and the materials delivered by Seller to Buyer do not contain any untrue statements of material fact. Seller has not omitted any material fact that would thereby cause its representations and warranties to be misleading.

EXCEPT FOR THE WARRANTIES SET OUT ABOVE AND THE WARRANTIES OF TITLE MADE IN THE DEED, SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION, TITLE, OR USE OF THE PROPERTY. THE PARTIES ACKNOWLEDGE THAT SELLER HAS NOT UNDERTAKEN ANY INDEPENDENT INVESTIGATION IN ORDER TO OBTAIN ANY KNOWLEDGE FOR PURPOSES OF MAKING THE WARRANTIES AND REPRESENTATIONS MADE BY IT IN THIS AGREEMENT.

Buyer: _____ **Seller:** _____

(c) *Buyer's Representations.* Buyer makes the following representations and warrantees:

(i) Buyer has the right, power and authority to enter into this Agreement and to purchase the Property in accordance with the expressed terms and conditions hereof.

(ii) Each of the persons executing this Agreement on behalf of Buyer is authorized to do so.

(iii) This Agreement constitutes a valid and legally binding obligation of Buyer, enforceable in accordance with its terms.

The above representations and warranties are made by each Party with the knowledge and expectation that the other Party is placing complete reliance thereon, and such warranties shall survive Closing. Each Party shall not cause or permit any action to be taken which will cause any of its representations or warranties to be untrue in any material respects upon Closing. None of the representations and warranties shall be deemed merged into or superseded by the execution or delivery of any documents or agreements in connection with this Agreement. Each Party agrees to indemnify, defend, and hold the other Party harmless from all liabilities, claims, losses, damages, costs and expenses (including reasonable attorneys' fees and costs) in connection with a breach of these representations and warranties. This indemnification obligation shall survive the Closing.

11. Risk of Loss. Seller bears all risk of loss prior to the Closing. If, prior to Closing, any portion of the Property is materially damaged by any casualty (other than those attributable to Buyer) and such damage is not repaired by Seller or arrangements for the escrow of funds sufficient to pay for necessary repairs are not made prior to Closing, then Buyer will have the option to terminate this Agreement by providing written notice to Seller. If Buyer does not elect to terminate this Agreement, it will remain in full force and effect and Buyer shall purchase the Property "as is."

12. Eminent Domain. If, prior to Closing, condemnation proceedings are commenced or concluded by any entity other than Buyer and, in Buyer's reasonable opinion, such proceedings will or have materially and adversely affected the Property, Buyer will have the option to terminate this Agreement by providing written notice to Seller. If Buyer does not elect to terminate this Agreement, it will remain in full force and effect and, at Closing, Seller shall be deemed to have assigned to Buyer all of Seller's right, title and interest in any awards that have been made or may be made for the taking. Any such condemnation proceeds received by Seller prior to Closing shall be credited against the Purchase Price otherwise due at Closing from Buyer.

13. Memorandum of Agreement. The Parties agree that this instrument shall not be recorded; however, at the request of either Party, the other Party shall execute and deliver a Memorandum of Agreement, in recordable form, stating that the Property is under contract to Buyer and the duration of this Agreement.

14. Default and Remedies. If, prior to Closing, either Party is in default of its covenants or obligations under this Agreement, and such defaulting Party fails to cure such default within ten (10) business days after receipt of written notice thereof, the non-defaulting Party may elect to terminate this Agreement by sending written notice of termination to the defaulting party. If Seller is the defaulting Party, Buyer may seek specific performance of Seller's obligations, provided that any action for specific performance must be filed within sixty (60) business days of Seller's alleged default. If, however, the specific performance remedy is not available to Buyer because of Seller's acts after the Effective Date, then Buyer shall have the right to recover its direct out-of-pocket expenses reasonably incurred in connection with this Agreement, up to a maximum of Twenty Thousand Dollars ($20,000.00). In no event shall Buyer be entitled to recover, and Buyer expressly waives any right to recover, consequential, special, punitive, or speculative damages. The Parties further agree that no liquidated damages shall be imposed or paid in connection with this Agreement. If the Agreement is terminated due to default, the defaulting Party shall be liable for all direct Escrow costs. With respect to breach of any of the Survival Obligations (defined below), the non-defaulting Party shall be entitled to the remedies provided by this Agreement, law, statute, ordinance, and otherwise. The use of any one of these remedies by a non-defaulting Party with respect to a breach of any of the Survival Obligations shall not preclude such Party's right to use any and all other remedies.

15. Survival. Any obligations, representations and warranties that are expressly provided to survive termination of the Agreement and, if Closing occurs, any provision which by its nature and effect is required to be performed after Closing (collectively, the "Survival Obligations") shall survive the Closing and remain binding and for the benefit of the Parties until fully performed. Upon termination, neither Party shall have any further obligations under the Agreement except for the Survival Obligations.

16. Notices. Except where such other form of notice is expressly permitted by this Agreement, any notice required or permitted to be given in connection with this Agreement must be in writing and will be deemed to have been given: (a) when hand delivered (deemed received on receipt or refusal of delivery); (b) when delivered by a nationally recognized overnight express delivery service (deemed received the next business day); or (c) when deposited in the United States Mail, registered or certified mail, postage prepaid, return receipt requested (deemed received the third business day after posting). Notices may be executed and sent by the other Party's legal counsel.

Each notice shall be addressed, transmitted, or delivered, as the case may be, as set out below, or at such other address as may from time to time be designated in writing in accordance with this subsection:

If to Buyer: City of Sonora
94 North Washington Street
Sonora, CA 95370
Attn: City Administrator

courtesy copy to: Churchwell White LLP
1414 K Street, 3rd Floor
Sacramento, CA 95814
Attn: Douglas L. White, City Attorney

If to Seller: Resource Development Center
19043 B Standard Road
Sonora, CA 95370
Attn: Heather Carter, Direct Services Director

courtesy copy to: _____
_____
_____
_____

If to Escrow Agent: _____
_____
_____
_____

17. Assignment. This Agreement may be assigned by Buyer without Seller's consent if the assignment is to any entity controlled by any elected or appointed officials of Buyer. Any other attempted assignment by Buyer (except as part of a tax-deferred exchange) may not be made without Seller's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. No assignment, however, shall release the original Buyer from its obligations under the Agreement. If this Agreement is assigned, the Agreement shall be binding on the assignee, its successors and assigns.

18. General Provisions.

(a) *Exhibits*. All attached Exhibits are incorporated by reference and made a part of this Agreement.

(b) *Entire Agreement*. This Agreement contains the entire understanding and agreement between the Parties with respect to the subject matter hereof and all prior or contemporaneous oral or written agreements or instruments are merged into this Agreement.

(c) *Amendment*. No amendments to this Agreement shall be effective unless such amendment is made in writing, signed by both Parties. No waiver of any right or remedy shall be effective unless in writing and signed by the Party against which it is sought to be enforced.

(d) *Counterparts*. This Agreement may be executed simultaneously and in several identical counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. This Agreement has been executed in three (3) counterpart originals. Seller and Buyer are each to receive one (1) of the fully executed counterparts after delivery to the Escrow Agent. This Agreement may be signed and delivered using facsimile machines and electronic transmission. Any signed facsimile or electronic transmission of this Agreement shall constitute an original counterpart.

(e) *Time is of the Essence*. Time is of the essence with respect to the payments and undertakings required of the Parties. If any time period under this Agreement ends on a Saturday, Sunday or any day on which the state courts of Tuolumne County, California are closed, that time period shall be extended until the next business day.

(f) *Good Faith*. Whenever a party's consent or approval is required under this Agreement, that consent or approval will not be unreasonably withheld, conditioned, or delayed, except as expressly provided to the contrary in this Agreement.

(g) *Severability*. If any provision of this Agreement is determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable under any federal or state law which becomes effective after the Effective Date, the remaining provisions shall continue in full force and effect and shall be interpreted to give effect to the purpose and intent of this Agreement. If, however, the Agreement is determined by a court to be invalid and unenforceable in its entirety, then the Agreement shall automatically terminate; provided that any obligations intended to survive a termination of this Agreement shall remain in effect to the extent otherwise permitted by law.

(h) *Attorney's Fees; Venue*. In the event any legal action or demand for arbitration (if applicable) is filed in relation to this Agreement, the unsuccessful Party in that proceeding shall pay to the successful Party the latter's reasonable attorney's fees in addition to any other relief recovered. Venue for legal proceedings shall be the Tuolumne County Superior Court and this Agreement shall be governed by and construed in accordance with the laws of the State of California.

(i) *Waiver*. Waiver by any Party of a breach of any provision of this Agreement shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof, unless specifically stated in writing.

(j) *Drafting Presumptions*. Each party acknowledges and agrees that it has reviewed this Agreement and had the opportunity to review the Agreement with its own legal counsel. Each party further acknowledges and agrees that it freely entered into this Agreement. Should any provision of this Agreement require judicial interpretation, the court interpreting or construing the provision shall not apply the rule of construction that a document is to be construed more strictly against the drafting Party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date set forth above.

SELLER:

City of Sonora, a California municipal corporation

By:_____
Rachelle Kellogg, Interim City Administrator

BUYER:

Resource Development Center, a California non-profit corporation

_____
Heather Carter, Direct Services Director

APPROVED AS TO FORM:

By: _____
Douglas L. White, City Attorney

ACKNOWLEDGMENT AND ACCEPTANCE

Receipt of an original of the foregoing Agreement and the enclosures listed therein is acknowledged, and we agree to act as Escrow Agent under and pursuant to the terms and conditions of the Agreement.

ESCROW AGENT:

_____

_____

Name: _____

Date: _____

EXHIBIT A

Legal Description of the Property

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

Parcel A, as shown and designated on that certain Parcel map filed in the Office of the County Recorder of Tuolumne County, California on November 3, 2011 in Book 54 of Parcel Maps at Page 8, Tuolumne County Records.

Assessor's Parcel Number 002-210-039

PURCHASE AND SALE AGREEMENT WITH ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT WITH ESCROW INSTRUCTIONS ("Agreement") is entered on January _____, 2020, ("Effective Date") by and between the City of Sonora, a California municipal corporation ("Seller") and the Resource Development Center, a California non-profit corporation ("Buyer"). Seller and Buyer may be referred to herein as a "Party" or collectively as the "Parties." There are no other parties to this Agreement.

RECITALS

A. Seller owns that certain parcel of land with improvements thereon located in the County of Tuolumne, Assessor Parcel Number 002-210-040 with the physical address 184 Fairview Lane, Sonora, California 95370, and as further described in the legal description attached and incorporated hereto as **Exhibit A** (the "Property").

B. Buyer desires to purchase the Property, and Seller desires to sell the Property, according to the terms and conditions of this Agreement.

C. On January 21, 2020, the City Council for the City of Sonora, at a duly noticed meeting, approved the sale of the Property pursuant to the terms and conditions in this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **Sale of Real Property.** Seller shall convey the Property to Buyer in consideration of the Purchase Price and in accordance with the terms of this Agreement. The transfer shall include all of Seller's rights, title and interest in and to all mineral rights, zoning rights, governmental permits and licenses, rights-of-way, roadways and alleyways, reversions, appurtenances, easements, or other rights and privileges used in connection with the beneficial use of, or associated with, the Property.

2. **Purchase Price.** The purchase price for 184 Fairview Lane, Sonora, California 95370 is Two Hundred Nineteen Thousand Four Hundred Dollars ($219,400.00) (the "Purchase Price"). The Purchase Price shall be payable at Closing (as defined below) in cash, cashier's check, or by wire transfer.

3. Escrow Instructions.

(a) *Escrow Agent.* After execution of this Agreement by Seller and Buyer, Buyer shall promptly open an escrow account (the "Escrow") with Yosemite Title Company (the "Escrow Agent") by delivering three (3) fully executed counterpart originals of this Agreement to the Escrow Agent. After delivery, Escrow Agent shall sign each counterpart and promptly deliver a fully executed counterpart of this Agreement to each Party. The Parties agree to be bound by the Escrow Agent's standard form or general provisions and shall execute and deliver to the Escrow Agent such other reasonable or customary supplemental instruments as may be required by Escrow Agent in order to consummate the transaction. This Agreement shall control in the event of any inconsistency between this Agreement and the Escrow Agent's standard form, general provisions, or any other documentation provided by the Escrow Agent.

(b) *Escrow Deposit.* Within five (5) business days after the Effective Date, Buyer shall deposit with Escrow Agent the sum of Five Thousand Dollars ($5,000.00), in cashier's or certified check (the "Escrow Deposit"). The Escrow Deposit shall be non-refundable to Buyer if Buyer elects to terminate this Agreement after the expiration of the Inspection Period (defined below), unless provisions for refunding the Escrow Deposit to Buyer are provided in this Agreement, such as an event of default by Seller or non-satisfaction of any of the Conditions Precedent (defined below). Upon Closing, the Escrow Deposit shall be credited toward the Purchase Price.

(c) *Closing Deadline.* Conveyance of the Property (the "Close of Escrow" or "Closing") shall occur no later than February 28, 2020. The following shall occur on or before the date that is two (2) business days prior to the scheduled date of the Closing:

(i) *Seller's Delivery Obligations.* Seller shall deliver the following to into Escrow: (1) a grant deed for the Property, properly executed and notarized (the "Deed"); (2) duly executed certifications to the extent applicable to Seller as required by the Foreign Investment in Real Property Tax Act and its California Revenue and Taxation Code equivalent (together, "FIRPTA"); (3) an affidavit on the Escrow Agent's standard forms so that the Escrow Agent can delete or modify the standard printed exceptions as to parties in possession, unrecorded liens (including statutory materialmen's liens), and similar matters; (4) an acknowledged closing statement reflecting the Purchase Price and the closing adjustments and prorations contemplated by this Agreement (the "Closing Statement"); and

(ii) *Buyer's Delivery Obligations.* Buyer shall deliver the following into Escrow: (1) cash for the balance of the Purchase Price and the other obligations to be paid by Buyer pursuant to this Agreement; and (2) an executed counterpart of the Closing Statement.

Simultaneously with or following the Closing, the Parties will execute such additional documents and perform such other acts as will be reasonably required to carry out the intent and purposes of this Agreement.

(d) *Close of Escrow.* In addition to those listed in Section 7, the following are Conditions Precedent that must be delivered to Escrow prior to Closing: (i) written notice from both Buyer and Seller that the conditions to Closing hereunder have been satisfied; (ii) all deliverables contemplated by Section 3(c) above; and (iii) the Title Policy (defined below) that Escrow Agent is prepared to issue and deliver to Buyer. Once the above conditions are satisfied, the Escrow Agent shall: (1) record the Deed with the Tuolumne County Recorder, with the documentary transfer tax shown on a separate paper; (2) deliver the proceeds of the sale to Seller; (3) deliver to Buyer the FIRPTA statement and the Title Policy; (4) pay all costs and expenses as authorized by these instructions and charge each Party's account for such costs and expenses as required by this Agreement; and (5) deliver to each Party the executed Closing Statement and itemized statement of costs charged to each Party's account. To comply with Internal Revenue Code § 6045(e), Escrow Agent is designated as the "person responsible for closing the transaction" and also as the "reporting person" for purposes of filing any required information or returns with the Internal Revenue Service.

4. Inspection of the Property.

(a) *Tests.* Buyer and Buyer's authorized agents, contractors, employees and designees shall have the right, after the Effective Date and prior to Closing, or until this Agreement is terminated, to enter the Property for the purpose of making such surveys, soil, engineering, geological, environmental and other tests, inspections and measurements, including Phase I Environmental Assessment (the "Tests") as Buyer deems advisable, provided they are done without cost to Seller and such activities do not unreasonably interfere with Seller. Buyer shall give reasonable written, telephonic, or email advanced notice to Seller of any Tests that Buyer or Buyer's agents will perform. The notice shall specify the nature of the Tests to be performed, the approximate time the Tests will be performed, and the person or entity performing the Tests. Buyer is responsible for the cost of repairing any damage to the Property caused by Buyer's inspection activities.

(b) *Inspection Period.* If Buyer, in its sole discretion, for any reason or no reason at all, decides not to proceed with Closing, Buyer shall have the right at any time within thirty (30) calendar days after the Effective Date (the "Inspection Period") to terminate this Agreement by written notice to Seller. If terminated, Buyer shall provide Seller with copies of all reports, if any, relating to the Property that Buyer received as a result of the Tests. Buyer makes no warranty or representations as to the accuracy or completeness of these reports.

(c) *Property Documents*. During the Inspection Period, Seller shall make available to Buyer for Buyer's inspection, within five (5) business days after Buyer's request, all documents and information in Seller's possession or control pertaining to the Property or an interest in the Property, including but not limited to any and all leases, liens, tentative and final maps, surveys, plats, title reports, soil reports, assessment and financing district documentation, environmental studies, and entitlement documents (collectively the "Property Documents"). Seller shall not be obligated to disclose to Buyer any appraisal or opinions of the value of the Property, any of Seller's internal financial analyses, credit analyses business plans, materials relating to Seller's cost to acquire the Property, or any documents or communications subject to the attorney/client privilege. Buyer acknowledges that the Property Documents are furnished to Buyer solely as a courtesy and Seller has neither verified the accuracy of any statements or other information contained in those documents, nor the qualifications of the persons preparing such information. Inspection of the Property Documents shall be performed at a location agreeable to Seller and Buyer during reasonable business hours. Buyer shall be entitled to copy, at Buyer's expense, any of the Property Documents it chooses. If this Agreement is terminated prior to Closing, Buyer shall, upon Seller's request, promptly return to Seller all Property Documents and all copies of those materials delivered to or obtained by Buyer from Seller.

5. Title.

(a) *Permitted Exceptions*. At Closing, Seller shall convey fee title to the Property to Buyer free and clear of all liens and encumbrances, excepting only: (a) general and special real property taxes and assessments not yet due and payable; (b) all exceptions to title set forth in the Title Report (defined below), which have been approved by Buyer; (c) any new or existing community facilities district bonds, special taxes, fire assessment districts, and the like for the Property as approved by Buyer during the Inspection Period; and (d) any exceptions to title caused by acts or omissions of Buyer (collectively, the "Permitted Exceptions").

(b) *Title Report*. Seller, at its sole cost and expense, shall deliver to Buyer a current, preliminary title reports for the Property no later than ten (10) business days after the Effective Date, together with legible copies of all documents referenced therein as exceptions to title (the "Title Report"). The Title Report shall be issued by Escrow Agent and dated no earlier than thirty (30) days before the Effective Date.

(c) *Objections by Buyer*. Within ten (10) business days after its receipt of the Title Report, Buyer shall notify Seller, in writing, of any objection that Buyer has to the title exceptions reflected in the Title Report (the "Buyer Objection Notice"). Buyer's failure to timely deliver to Seller the Buyer Objection Notice shall be deemed to constitute Buyer's approval of the Title Report. Seller shall have a period of five (5) business days after receipt of the Buyer Objection Notice in which to deliver written notice to Buyer of Seller's election to either: (i) agree to remove,

at Seller's sole cost and expense, the objectionable items prior to Closing; or (ii) decline to remove the objectionable items (the "Seller Response Notice"). Seller's failure to timely deliver to Buyer the Seller Response Notice shall be deemed to constitute Seller's election not to remove the objectionable items. If Seller elects to remove the objectionable items and, thereafter, fails to do so prior to Closing, then Seller shall be deemed in default under this Agreement. If Seller elects (or is deemed to have elected) not to remove the objectionable items, then Buyer shall have the right, by written notice to Seller (the "Buyer Election Notice") delivered within seven (7) business days after Buyer's receipt of the Seller Response Notice (or, if Seller has failed to timely deliver to Buyer the Seller Response Notice, within seven (7) business days after the expiration of said five (5) business day period), to either: (i) immediately terminate this Agreement, in which event this Agreement and all of the rights and obligations of Buyer and Seller shall terminate, except that Buyer and Seller shall share equally the expenses of canceling Escrow; or (ii) waive its objection to the title exceptions in question. Buyer's failure to timely deliver to Seller the Buyer Election Notice shall be deemed to constitute Buyer's waiver of its objections to the title exceptions in question.

(d) *Title Policy.* At Closing, the Escrow Agent shall issue to Buyer a standard California Land Title Association ("CLTA") policy of title insurance, with such endorsements as Buyer may reasonably request, in the amount of the Purchase Price, showing title to the Property vested in Buyer, and containing no exceptions to title other than the Permitted Exceptions (the "Title Policy").

6. Operations. From the Effective Date through Closing or termination of this Agreement, whichever occurs earlier, Seller shall: (a) maintain the Property in the same condition as presently exists, with the exception of reasonable wear and tear or changes attributable to Buyer; (b) not, without Buyer's prior written consent (which may be withheld in Buyer's sole discretion), terminate, amend, extend or renew any lease or other contract affecting the Property or enter into any contract or commitment or incur any expenditure or obligation affecting the Property or the title thereto, which would extend beyond the Closing; (c) pay promptly when due all taxes, assessments, utility charges, indebtedness secured by deed of trust or other liens, and, generally, all expenses (including repairs and replacements) incurred by Seller in the operation of the Property; and (d) not, without Buyer's prior written consent (which may be withheld in Buyer's sole discretion), take or consent to any action which could modify the status of title to the Property, present zoning of, access to, licenses, permits or entitlements to, or assessed valuations of, the Property or cut or permit the cutting of any trees on the Property. Seller shall promptly notify Buyer, in writing, of any failure by Seller to comply with its obligations under this Section 6.

7. Conditions Precedent to Closing. The following conditions must be met in order for Closing to occur (the "Conditions Precedent"): (a) the Property must be in substantially the same condition at Closing as on the Effective Date, reasonable wear and tear and any damages or

changes attributable to Buyer excepted; (b) all deeds of trust, liens and other charges against the Property not assumed by Buyer must be paid and cancelled by Seller prior to, or with funds made available at, Closing; (c) except those attributable to Buyer, no uncured material, adverse change to the title to the Property shall have occurred since the Effective Date; (d) neither Seller nor the Property shall be subject to any court judgment or decree or to any litigation or administrative proceeding which would adversely affect the Property in any material respect or which would be binding upon Buyer or its assigns; (e) Seller shall have complied with and otherwise performed, in all material respects, each of its obligations set forth in this Agreement (including, but not limited to, the obligations of Section 6) and each of Seller's representations and warranties set out in this Agreement shall remain true in all material respects and, as to those representations limited to Seller's knowledge, the specific fact or condition that was the subject of the representation must also be true.

If any of the Conditions Precedent is not met prior to the Closing deadline, Buyer shall, in its sole discretion, notify Seller of such in writing, and take one of the following actions: (i) extend the Closing deadline as long as necessary for Seller to satisfy the applicable Conditions Precedent, (ii) waive the Conditions Precedent and proceed with Closing; or (iii) terminate this Agreement, in which event Seller shall be responsible for all expenses of cancelling Escrow. The election of (i) above shall not prohibit a subsequent election of (ii) or (iii) above.

8. Prorations and Adjustments.

(a) *Closing Costs*. The following costs related to Closing shall be prorated as follows: (i) Buyer shall pay the fees and charges of the Escrow Agent; (ii) Buyer shall pay all documentary and other transfer taxes and shall bear the cost of the Title Policy (standard CLTA coverage); and (iii) Buyer and Seller shall each pay for their own respective legal, accounting and other consultant fees, charges and costs incurred related to this Agreement. Seller will furnish all documents, releases and cancellations as necessary in order to discharge all existing liens and encumbrances of record against the Property. Buyer will pay all associated recording costs.

(b) *Property Taxes*. All current ad valorem taxes and all current general and special taxes and assessments on the Property shall be prorated through Escrow between Buyer and Seller as of the Closing date based upon the latest available tax information and the portion of the taxable year each party has possession of the Property, without regard to any reassessments or subsequent changes. All supplemental taxes (regardless of whether a bill for such taxes is received after the Closing by Buyer or Seller) and future assessments or encumbrances levied by any assessment, maintenance, school district or like entity, attributable to the Property or this sale, shall be prorated on the same basis, as shall special taxes and any assessments under Mello-Roos Community Facilities District and the like now encumbering the Property or proposed to encumber the Property.

9. Possession. At Closing, the right to possession of the Property shall transfer to Buyer. At Closing, Seller shall deliver to Buyer exclusive possession of the Property, free and clear of occupancy by all persons, firms or corporations, whether or not under claim of right or color of title.

10. Representations and Warranties.

(a) *Brokers*. Neither party has contacted or entered into any agreement with any real estate broker, agent, finder, or any other party in connection with this transaction ("Broker"), and neither Party has taken any action that would result in any other Broker's or other fees or commissions being due or payable to any other party with respect to this transaction. If a Broker brings a claim for a commission or fee related to the Property, the Party through whom the Broker makes the claim shall be solely liable and responsible for any amount owed to Broker and any expenses incurred by the other Party in defending against the same. The provisions of this paragraph shall survive Closing.

(b) *Seller's Representations*. Seller makes the following representations and warrantees:

(i) Seller has the right, power, and authority to enter into this Agreement and sell the Property in accordance with these terms; each of the persons executing this Agreement on behalf of Seller is authorized to do so; and this Agreement constitutes a valid and legally binding obligation of the Seller, enforceable in accordance with its terms.

(ii) Seller has good and marketable, fee simple title to the Property, free and clear of any and all liens, encumbrances or other restrictions, whether existing of record or otherwise, other than the Permitted Exceptions. Seller has no actual knowledge of any unrecorded or undisclosed legal or equitable interest in the Property owned or claimed by anyone other than Seller.

(iii) The current use and operation of the Property is authorized by and in compliance with all existing zoning, land-use, building, fire, health, labor and safety laws, ordinances, rules and regulations applicable to the Property, and there is no litigation, action, or other legal or administrative proceedings related to the current use and operation of the Property.

(iv) There are no pending or, to Seller's knowledge, threatened condemnation or other legal proceedings against, or affecting title to, any part of the Property.

(v) No contracts, agreements, or options (other than those which have already expired) have been granted to others to purchase or to lease any interest in the Property or any part thereof or which will survive Closing or otherwise impose an obligation on Buyer, and Seller otherwise has the exclusive right of possession to the Property.

(vi) Seller has not filed, or been the subject of any filing of, any petition under the Federal Bankruptcy Law or any other bankruptcy or insolvency laws.

(vii) Seller has no knowledge of any violation of governmental laws, regulations or orders relating to the Property.

(viii) To the best of Seller's knowledge: (i) the Property is free of Hazardous Materials (defined below); (ii) there has been no storage, generation, disposal, release, discharge or treatment of any Hazardous Materials upon or in the Property; (iii) no radon gas has been detected at the Property; and (iv) the Property has not been the subject of any federal, state or local government action or third party claim because of the release, threat of release, discharge, storage, treatment, generation, emission or disposal of any Hazardous Materials on, in or from the Property. Seller shall not, prior to Closing, bring or permit any Hazardous Materials to be brought onto the Property. The term "Hazardous Materials" shall mean, without limitation, any material or substance which is defined as a "hazardous waste", "hazardous substance", or the like under the laws or regulations of the State of California or United States (collectively, "Environmental Laws") including any material or substance that is: (a) petroleum, oil, gas, or any direct or derivative product or byproduct thereof; (b) defined or listed as a hazardous waste, extremely hazardous waste or restricted hazardous waste under the Hazardous Waste Control Law (Cal. Health and Safety Code §§ 25115, 25118, 25122.7 and 25140); (c) defined as a hazardous substance under the Carpenter-Presley-Tanner Hazardous Substance Account Act (Cal. Health and Safety Code § 25316); (d) defined as a hazardous material, hazardous substance, or hazardous waste under the Hazardous Materials Release Response Plans and Inventory (Cal. Health and Safety Code §§ 25501 and 25501.1); (e) defined as a hazardous substance under Underground Storage of Hazardous Substances (Cal. Health and Safety Code § 25281); (f) used oil (*see* Cal. Health and Safety Code § 25250.1; (g) asbestos; (h) material listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 1 of Title 22 of the California Code of Regulations, Division 4, Chapter 30; (i) material defined as waste or a hazardous substance pursuant to the Porter-Cologne Act (Cal. Water Code § 13050); (j) material designated as a toxic pollutant pursuant to the Federal Water Pollution Control Act (33 U.S.C. § 1318); (k) material defined as a hazardous waste pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*; (l) material defined as a hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, (42 U.S.C. § 9601 *et seq.*); (m) material defined as a hazardous material pursuant to the Hazardous Materials Transportation Act; or (n) material regulated by any Superfund or Superlien law, or any other

federal, state or local law, statute, ordinance code, rule, regulation, order or decree that is in effect and regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials, oil wells, underground storage tanks or pipelines. Hazardous Materials include asbestos, petroleum products, and any other hazardous waste or substance which has, as of the date hereof, been determined to be hazardous or a pollutant by the U.S. Environmental Protection Agency, the U.S. Department of Transportation, or any instrumentality authorized to regulate substances in the environment which has jurisdiction over the Property which substance causes the Property (or any part thereof) to be in material violation of Environmental Laws.

(ix) Seller is not a foreign person and is a "United States Person" as that term is defined in the Internal Revenue Code, as amended. (*See* I.R.C. § 7701(a)(30)).

(x) Seller is not an entity named on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury, as last updated prior to the Effective Date, and Seller shall take any actions required to comply with the USA Patriot Act of 2001, as amended, and any regulations promulgated under the foregoing law, Executive Order No. 13244 on Terrorist Financing, any sanctions program administrated by the U.S. Department of Treasury's Office of Foreign Asset Control or Financial Crimes Enforcement Network, or any other laws, regulations, executive orders or government programs designed to combat terrorism or money laundering, if applicable to this Agreement.

(xi) The representations and warranties of Seller set forth in this Agreement and the materials delivered by Seller to Buyer do not contain any untrue statements of material fact. Seller has not omitted any material fact that would thereby cause its representations and warranties to be misleading.

EXCEPT FOR THE WARRANTIES SET OUT ABOVE AND THE WARRANTIES OF TITLE MADE IN THE DEED, SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDITION, TITLE, OR USE OF THE PROPERTY. THE PARTIES ACKNOWLEDGE THAT SELLER HAS NOT UNDERTAKEN ANY INDEPENDENT INVESTIGATION IN ORDER TO OBTAIN ANY KNOWLEDGE FOR PURPOSES OF MAKING THE WARRANTIES AND REPRESENTATIONS MADE BY IT IN THIS AGREEMENT.

Buyer: _____ **Seller:** _____

(c) *Buyer's Representations.* Buyer makes the following representations and warrantees:

(i) Buyer has the right, power and authority to enter into this Agreement and to purchase the Property in accordance with the expressed terms and conditions hereof.

(ii) Each of the persons executing this Agreement on behalf of Buyer is authorized to do so.

(iii) This Agreement constitutes a valid and legally binding obligation of Buyer, enforceable in accordance with its terms.

The above representations and warranties are made by each Party with the knowledge and expectation that the other Party is placing complete reliance thereon, and such warranties shall survive Closing. Each Party shall not cause or permit any action to be taken which will cause any of its representations or warranties to be untrue in any material respects upon Closing. None of the representations and warranties shall be deemed merged into or superseded by the execution or delivery of any documents or agreements in connection with this Agreement. Each Party agrees to indemnify, defend, and hold the other Party harmless from all liabilities, claims, losses, damages, costs and expenses (including reasonable attorneys' fees and costs) in connection with a breach of these representations and warranties. This indemnification obligation shall survive the Closing.

11. Risk of Loss. Seller bears all risk of loss prior to the Closing. If, prior to Closing, any portion of the Property is materially damaged by any casualty (other than those attributable to Buyer) and such damage is not repaired by Seller or arrangements for the escrow of funds sufficient to pay for necessary repairs are not made prior to Closing, then Buyer will have the option to terminate this Agreement by providing written notice to Seller. If Buyer does not elect to terminate this Agreement, it will remain in full force and effect and Buyer shall purchase the Property "as is."

12. Eminent Domain. If, prior to Closing, condemnation proceedings are commenced or concluded by any entity other than Buyer and, in Buyer's reasonable opinion, such proceedings will or have materially and adversely affected the Property, Buyer will have the option to terminate this Agreement by providing written notice to Seller. If Buyer does not elect to terminate this Agreement, it will remain in full force and effect and, at Closing, Seller shall be deemed to have assigned to Buyer all of Seller's right, title and interest in any awards that have been made or may be made for the taking. Any such condemnation proceeds received by Seller prior to Closing shall be credited against the Purchase Price otherwise due at Closing from Buyer.

13. Memorandum of Agreement. The Parties agree that this instrument shall not be recorded; however, at the request of either Party, the other Party shall execute and deliver a Memorandum of Agreement, in recordable form, stating that the Property is under contract to Buyer and the duration of this Agreement.

14. Default and Remedies. If, prior to Closing, either Party is in default of its covenants or obligations under this Agreement, and such defaulting Party fails to cure such default within ten (10) business days after receipt of written notice thereof, the non-defaulting Party may elect to terminate this Agreement by sending written notice of termination to the defaulting party. If Seller is the defaulting Party, Buyer may seek specific performance of Seller's obligations, provided that any action for specific performance must be filed within sixty (60) business days of Seller's alleged default. If, however, the specific performance remedy is not available to Buyer because of Seller's acts after the Effective Date, then Buyer shall have the right to recover its direct out-of-pocket expenses reasonably incurred in connection with this Agreement, up to a maximum of Twenty Thousand Dollars ($20,000.00). In no event shall Buyer be entitled to recover, and Buyer expressly waives any right to recover, consequential, special, punitive, or speculative damages. The Parties further agree that no liquidated damages shall be imposed or paid in connection with this Agreement. If the Agreement is terminated due to default, the defaulting Party shall be liable for all direct Escrow costs. With respect to breach of any of the Survival Obligations (defined below), the non-defaulting Party shall be entitled to the remedies provided by this Agreement, law, statute, ordinance, and otherwise. The use of any one of these remedies by a non-defaulting Party with respect to a breach of any of the Survival Obligations shall not preclude such Party's right to use any and all other remedies.

15. Survival. Any obligations, representations and warranties that are expressly provided to survive termination of the Agreement and, if Closing occurs, any provision which by its nature and effect is required to be performed after Closing (collectively, the "Survival Obligations") shall survive the Closing and remain binding and for the benefit of the Parties until fully performed. Upon termination, neither Party shall have any further obligations under the Agreement except for the Survival Obligations.

16. Notices. Except where such other form of notice is expressly permitted by this Agreement, any notice required or permitted to be given in connection with this Agreement must be in writing and will be deemed to have been given: (a) when hand delivered (deemed received on receipt or refusal of delivery); (b) when delivered by a nationally recognized overnight express delivery service (deemed received the next business day); or (c) when deposited in the United States Mail, registered or certified mail, postage prepaid, return receipt requested (deemed received the third business day after posting). Notices may be executed and sent by the other Party's legal counsel.

Each notice shall be addressed, transmitted, or delivered, as the case may be, as set out below, or at such other address as may from time to time be designated in writing in accordance with this subsection:

If to Buyer: City of Sonora
94 North Washington Street
Sonora, CA 95370
Attn: City Administrator

courtesy copy to: Churchwell White LLP
1414 K Street, 3rd Floor
Sacramento, CA 95814
Attn: Douglas L. White, City Attorney

If to Seller: Resource Development Center
19043 B Standard Road
Sonora, CA 95370
Attn: Heather Carter, Direct Services Director

courtesy copy to: _____
_____
_____
_____

If to Escrow Agent: _____
_____
_____
_____

17. Assignment. This Agreement may be assigned by Buyer without Seller's consent if the assignment is to any entity controlled by any elected or appointed officials of Buyer. Any other attempted assignment by Buyer (except as part of a tax-deferred exchange) may not be made without Seller's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. No assignment, however, shall release the original Buyer from its obligations under the Agreement. If this Agreement is assigned, the Agreement shall be binding on the assignee, its successors and assigns.

18. General Provisions.

(a) *Exhibits.* All attached Exhibits are incorporated by reference and made a part of this Agreement.

(b) *Entire Agreement.* This Agreement contains the entire understanding and agreement between the Parties with respect to the subject matter hereof and all prior or contemporaneous oral or written agreements or instruments are merged into this Agreement.

(c) *Amendment.* No amendments to this Agreement shall be effective unless such amendment is made in writing, signed by both Parties. No waiver of any right or remedy shall be effective unless in writing and signed by the Party against which it is sought to be enforced.

(d) *Counterparts.* This Agreement may be executed simultaneously and in several identical counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. This Agreement has been executed in three (3) counterpart originals. Seller and Buyer are each to receive one (1) of the fully executed counterparts after delivery to the Escrow Agent. This Agreement may be signed and delivered using facsimile machines and electronic transmission. Any signed facsimile or electronic transmission of this Agreement shall constitute an original counterpart.

(e) *Time is of the Essence.* Time is of the essence with respect to the payments and undertakings required of the Parties. If any time period under this Agreement ends on a Saturday, Sunday or any day on which the state courts of Tuolumne County, California are closed, that time period shall be extended until the next business day.

(f) *Good Faith.* Whenever a party's consent or approval is required under this Agreement, that consent or approval will not be unreasonably withheld, conditioned, or delayed, except as expressly provided to the contrary in this Agreement.

(g) *Severability.* If any provision of this Agreement is determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable under any federal or state law which becomes effective after the Effective Date, the remaining provisions shall continue in full force and effect and shall be interpreted to give effect to the purpose and intent of this Agreement. If, however, the Agreement is determined by a court to be invalid and unenforceable in its entirety, then the Agreement shall automatically terminate; provided that any obligations intended to survive a termination of this Agreement shall remain in effect to the extent otherwise permitted by law.

(h) *Attorney's Fees; Venue.* In the event any legal action or demand for arbitration (if applicable) is filed in relation to this Agreement, the unsuccessful Party in that proceeding shall pay to the successful Party the latter's reasonable attorney's fees in addition to any other relief recovered. Venue for legal proceedings shall be the Tuolumne County Superior Court and this Agreement shall be governed by and construed in accordance with the laws of the State of California.

(i) *Waiver.* Waiver by any Party of a breach of any provision of this Agreement shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof, unless specifically stated in writing.

(j) *Drafting Presumptions.* Each party acknowledges and agrees that it has reviewed this Agreement and had the opportunity to review the Agreement with its own legal counsel. Each party further acknowledges and agrees that it freely entered into this Agreement. Should any provision of this Agreement require judicial interpretation, the court interpreting or construing the provision shall not apply the rule of construction that a document is to be construed more strictly against the drafting Party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date set forth above.

SELLER:

City of Sonora, a California municipal corporation

By:_____
Rachelle Kellogg, City Administrator

BUYER:

Resource Development Center, a California non-profit corporation

_____
Heather Carter, Direct Services Director

APPROVED AS TO FORM:

By: _____
Douglas L. White, City Attorney

ACKNOWLEDGMENT AND ACCEPTANCE

Receipt of an original of the foregoing Agreement and the enclosures listed therein is acknowledged, and we agree to act as Escrow Agent under and pursuant to the terms and conditions of the Agreement.

ESCROW AGENT:

_____

_____

Name: _____

Date: _____

EXHIBIT A

Legal Description of the Property

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

Parcel B, as shown and designated on that certain Parcel map filed in the Office of the County Recorder of Tuolumne County, California on November 3, 2011 in Book 54 of Parcel Maps at Page 8, Tuolumne County Records.

Assessor's Parcel Number 002-210-040