

OFFER TO SELLER FOR THE SALE AND PURCHASE OF REAL PROPERTY

THIS OFFER FOR THE SALE AND PURCHASE OF REAL PROPERTY (this “Contract”) is tendered by _____ (“Purchaser”) to Basin Wide Foundation, a 501 (c) 3 Public Charity, located at 56711 Twenty Nine Palms Highway, Yucca Valley, CA 92284 (“Seller”).

ARTICLE I.

AGREEMENT OF PURCHASE AND SALE

1.1. Agreement of Purchase and Sale. Should Seller accept this offer of Purchaser for the consideration and upon and subject to the terms, provisions and conditions hereinafter set forth, Seller agrees to sell and convey unto Purchaser, and Purchaser agrees to purchase from Seller all of Seller’s right, title and interest in the following:

(a) That certain real property more particularly described on Exhibit “A” (the “Land”); and

(b) All rights, privileges, easements and appurtenances to the Land, including all of Seller’s right, title and interest in and to all easements, rights, interests, rights-of-way and other appurtenances, if any, used or connected with the beneficial use or enjoyment of the Land, including any right, title and interest of Seller in and to any strips and gores adjoining such real property and in and to adjacent streets, roads, alleys, easements and rights-of-way and any and all water, well and mineral interests of whatever nature, producing or nonproducing, relating to said Land, including rights of Seller under any and all oil and gas leases covering the Land (the “Owner Rights”, together with the Land and the Improvements, and all such rights, privileges, easements and appurtenances are collectively referred to herein as the “Property”).

ARTICLE II.

PURCHASE PRICE

2.1. Purchase Price. The purchase price (“Purchase Price”) to be paid by Purchaser to Seller for the Property is the sum of _____ (\$_____).The Purchase Price shall be payable as follows:

- (a) An earnest money deposit in the amount of \$_____, shall be paid to Seller should Seller accept this offer, as set forth in Article 10.9, herein. Said earnest money deposit shall be the Buyers initial escrow deposit.
- (b) The balance of the Purchase Price shall be paid in immediately available funds at the Closing (as defined in Section 8.1).

ARTICLE III.

PRE-CLOSING OBLIGATIONS AND CONDITIONS

3.1. Items to be Delivered by Seller. Within 10 days after the Effective Date, Seller shall provide Purchaser with each of the following at Seller's sole cost and expense:

(a) A preliminary title report from a title company ("Title Company"), including true, correct and legible copies of all instruments referred to in the preliminary title report as conditions or exceptions to title to the Land, plotted easements and other documents of record, including reciprocal easements and covenants, conditions and restrictions (the "Title Report", together with the Underlying Documents, the "Title Documents");

(b) All information of any kind whatsoever in the possession of Seller (including copies of such information or documents) concerning any leases (including oil and gas leases), contracts, permits, litigation, threatened litigation or licenses pertaining to the Property;

(c) All information, contracts, agreements, data, studies and reports in the possession of Seller concerning the Property including all plans for the development of the Property, all traffic studies, engineering studies or environmental reports pertaining to the Property, all information relating to obtaining the approval of local governing bodies for development of the Property, all information regarding present or future zoning of the Property and all information concerning availability of sewers or utilities;

(d) A copy of all tax bills issued for real estate taxes for the two full calendar years prior to the Effective Date; and

(e) Any and all correspondence in the Seller's possession or control regarding or affecting the potential development of the Property.

ARTICLE IV.

SURVEY AND TITLE REVIEW

4.1. Title Review.

(a) Purchaser shall have a period commencing on the Effective Date and ending at 5:00 p.m. on the date that is ____ days thereafter (the "Contingency Period") in which to review the state of Seller's title to the Property. Purchaser, at its expense, may have a survey of the Land prepared by a registered California land surveyor in accordance with ALTA standards for an owner's policy (the "Survey"). The legal description of the Land contained in the Survey, if different from the description contained in Exhibit "A", shall be substituted for the description of the Land contained in Exhibit "A", and this Contract shall be deemed automatically amended by the substitution of the legal description of the Land contained in the Survey, as a new Exhibit "A" hereto.

(b) If the Survey or Title Report reflects or discloses any defect, exception or other

matter affecting the Property that is unacceptable to Purchaser for any reason whatsoever, then, prior to the expiration of the Contingency Period, Purchaser may provide Seller with written notice of its objections (the “Title Defect Notice”). Seller may use its reasonable efforts to remove or cure such objections to Purchaser’s satisfaction; provided, however, Seller shall in all events cause to be released by the Closing Date at its sole expense all mortgages, deeds of trust and other liens affecting the Property. Seller shall notify Purchaser in writing (the “Title Cure Notice”), within ten (10) days after Seller’s receipt of the Title Defect Notice, of those matters that Seller cannot or chooses not to cure. If this Contract is not terminated or is not deemed terminated by Purchaser on or prior to the expiration of the Contingency Period, then any title exceptions which are shown on the Survey, if any, or on Schedule B of the Title Report, as finally amended or endorsed prior to the expiration of the Contingency Period (other than matters that Seller has agreed to cure or has indicated in the Title Cure Notice will be cured) shall be the “Permitted Exceptions.”

ARTICLE V.

REVIEW OF PROPERTY

5.1. Inspections of Property. Purchaser shall have the Contingency Period in which to inspect the Property. During the Contingency Period, Purchaser and its agents, contractors and designees shall have the right to physically inspect, conduct tests on and review the Property to determine the condition of the Property and to determine whether the Property is suitable for Purchaser’s needs (taking into consideration any matters deemed relevant by Purchaser, including environmental impact, soil conditions, engineering characteristics, utilities, access, title, zoning, leasing prospects and Purchaser’s determination whether or not development of the Property is feasible). No examination by Purchaser, its representatives, agents or contractors shall be deemed to constitute a waiver or relinquishment on the part of Purchaser of its right to rely on the covenants, representations, warranties or agreements made by Seller in this Contract. In the event that Purchaser, in its sole and absolute discretion and for any reason whatsoever (or for no reason), determines that the Property is not suitable for its needs, then Purchaser may terminate this Contract at any time prior to expiration of the Contingency Period by giving a written termination notice to Seller. Notwithstanding the above notice of termination provision, it shall be conclusively deemed that Purchaser has determined that the Property is not suitable for its needs and that Purchaser has terminated this Contract pursuant to this Section 6.1 unless, on or prior to the expiration of the Contingency Period, Purchaser delivers to Seller written notice that Purchaser has elected to waive its right to terminate this Contract under this Section 6.1. If Purchaser delivers the termination notice referenced above or if Purchaser is deemed to have terminated this Contract as provided above and if Purchaser has tendered (i) the items delivered by Seller in accordance with Section 4.1 and (ii) all non-confidential written due diligence material pertaining to the Property that was generated by Purchaser’s consultants and contractors during the Contingency Period, then the Title Company shall immediately deliver the Initial Escrow Deposit and any undistributed accrued interest to Purchaser free of any claims by Seller, and neither Seller nor Purchaser thereafter shall have any further right or obligation under this Contract unless expressly provided otherwise in this Contract.

5.2 Environmental Review. Purchaser, at its expense, may conduct a Phase I Environmental review of the Property.

ARTICLE VI.

REPRESENTATIONS, WARRANTIES,

COVENANTS AND AGREEMENTS OF SELLER

6.1. Representations and Warranties. In order to induce Purchaser to enter into this Contract, Seller makes the following warranties and representations, which are true and correct as of the Effective Date:

(a) Seller is a 501 (c) 3 Public Charity, validly existing under the laws of the State of California.

(b) Seller has the legal power, right and authority to enter into this Contract, the instruments and documents referenced herein, and to consummate the transaction contemplated hereby.

(c) All requisite action has been taken by Seller and all requisite consents have been obtained in connection with Seller's entering into this Contract, the instruments and documents referenced herein, and the consummation by Seller of the transactions contemplated hereby.

(d) Seller has and, at the Closing, Seller will have and will convey and assign to Purchaser, good and indefeasible fee simple title to the Property subject only to the Permitted Exceptions;

(e) This Contract, the instruments and the documents required hereby to be executed by Seller are and shall be valid, legally binding obligations of and enforceable against Seller in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization or moratorium laws or similar laws or equitable principles affecting or limiting the rights of contacting parties generally.

(f) Neither the execution of this Contract, nor the consummation of the transaction contemplated hereby, shall result in a material breach of, or constitute a material default under, any agreement, document, instrument or other obligation to which Seller is a party or by which Seller or the Property is bound or affected.

(g) Seller delivered to Purchaser, or made available in Seller's offices for Purchaser's review, all materials as defined in Section 3.1(b) – (e) that Seller, to Seller's actual knowledge, has in its possession or control.

(h) There are presently no pending or threatened condemnation actions or special assessments of any nature with respect to the Property or any part thereof, Seller has received no notice of any condemnation actions or special assessments being contemplated, and Seller does not have any knowledge of any being contemplated. Seller has received no request, written or otherwise, from any governmental entity with regard to dedication of the Property or any part thereof.

(i) Seller has received no notice of, and has no other knowledge or information of, any

pending or contemplated change in any law, judgment, decree, injunction, rule, permit, license, authorization, regulation or private restriction applicable to the Property or any part thereof, of any pending or threatened judicial, administrative or other governmental authority action, of any action pending or threatened by adjacent landowners or other persons or of any natural or artificial condition adversely affecting the Property or any part thereof.

(j) There is no litigation or proceeding pending or threatened against or relating to any portion of the Property.

(k) There will be no debts, liabilities or obligations of Seller with respect to the Property or for services, labor or material furnished to the Property (whether known, unknown, absolute, accrued, contingent, or of any other character) outstanding as of the Closing Date.

(l) There are no attachments, executions, or assignments for the benefit of creditors or voluntary or involuntary proceedings in bankruptcy or under any other debtor relief laws contemplated by a pending or threatened action or suit against Seller or the Property.

(m) Seller is not a "foreign person" as that term is defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and applicable regulations.

(n) As of the Closing, there will be no parties in possession of any portion of the Property as lessees, tenants at sufferance or otherwise.

(o) To the best of Seller's knowledge, information and belief, no part of the Property has been used as a land fill or for the use, generation, processing, storage or disposal of any hazardous or toxic materials, and no part of the Property contains any materials, whether brought to the Property, deposited thereon, used on the Property, generated on the Property as a product or by-product of activities on the Property, or otherwise present: (i) that are or contain polychlorinated biphenyls (PCB's) or asbestos; (ii) that are wastes or other materials that qualify as hazardous wastes or other regulated products under the Resource Conservation and Recovery Act, as amended, and/or the regulations promulgated or adopted thereunder; (iii) that are hazardous substances or other regulated products as defined in the Comprehensive Environmental Response, Compensation and Liability Act, as amended (or regulations promulgated, adopted or incorporated thereunder); or (iv) that are otherwise classified as hazardous or regulated substances or waste under any federal, state or local law or regulation. To the best of Seller's knowledge, information and belief, there are no underground or above ground storage tanks on the Property nor have there ever been any such tanks on the Property. Seller has complied with and the Property is in compliance with all applicable laws, ordinances, regulations, statutes, rules and restrictions relating to the Property.

(p) No person, firm or corporation or other entity has or at the Closing Date shall have any right or option to acquire all or any portion of the Property.

(q) No portion of the Property shall be subject at the Closing to any agreement (written or oral) except the Permitted Exceptions, unless Buyer is a party to such agreement.

(r) There are no unsatisfied mechanics' or materialmen's lien rights concerning the Property.

(s) Seller will promptly notify Purchaser in writing of any material change affecting the Property that becomes known to Seller prior to Closing.

6.2. Covenants and Agreements. Seller and Purchaser covenant and agree as follows:

(a) Seller shall give Purchaser and Purchaser's agents, representatives, contractors and designees full access to the Property in order to make such inspections, surveys, test borings, soil analyses and other tests and surveys thereon as Purchaser, in its sole discretion, shall deem advisable. Seller shall furnish Purchaser such additional information concerning the ownership, management, operation and the condition of the Property as Purchaser may reasonably request. The cost and expenses of Purchaser's investigation shall be borne solely by Purchaser. Purchaser shall indemnify and hold Seller harmless for any property damage or injury caused by Purchaser in connection with such inspections and tests, and this provision shall survive the termination or closing of this Contract;

(b) From and after the date hereof, Seller shall not (i) perform any grading or excavation, construction or removal of any improvement or make any other change or improvement upon or about the Property, except that Seller shall cause to be performed any weed abatement as required by the City of _____, (ii) create or incur, or suffer to exist, any mortgage, lien, pledge or other encumbrance in any way affecting the Property, other than the lien for taxes not yet due and payable and existing liens to be released at the Closing, (iii) commit any waste or nuisance upon the Property, or (iv) impose any easements, covenants, conditions or restrictions on the Property or institute or participate in any annexation, zoning, platting, dedication or other governmental action regarding the Property;

(c) At the Closing, Seller shall deliver to the Title Company and to Purchaser an affidavit in compliance with Section 1445 of the Internal Revenue Code and applicable regulations stating, under penalty of perjury, Seller's United States taxpayer identification number and that Seller is not a "foreign person" as that term is defined in Section 1445;

(d) At the Closing, if Seller is a "non-resident" of California within the meaning of California Revenue and Tax Code Section 18662 or successor statutes, Seller shall deliver to Title Company and to Purchaser an affidavit that Seller is a "non-resident" as that term is defined in Section 18662 of the California Tax Code;

(e) Notwithstanding any other provisions contained herein, Seller, from the Purchase Price proceeds or otherwise, shall pay and discharge all liens against the Property other than the lien for current taxes which are not yet due and payable such that title to the Property will be conveyed to Purchaser free and clear of all liens other than the lien for current taxes which are not yet due and payable;

(f) Seller shall not, without the prior written consent of Purchaser, enter into, transfer, encumber, amend, extend, modify or in any way alter any lease, contract or agreement which affects the Property (provided, however, Seller shall terminate all leases, if any, on or before Closing);

(g) Provided this Contract has not been terminated, Seller shall promptly furnish Purchaser with any and all notices concerning the Property that Seller receives from any and all

appraisal districts, taxing authorities or any other governmental entities or of any litigation, arbitration or administrative hearing concerning the Property and any other material changes prior to Closing in any of the facts reflected in any statements, certificates, schedules, or other documents or any representation or warranties made or furnished by Seller in connection with this transaction. This covenant shall survive the Closing; and

ARTICLE VII.

CONDITIONS PRECEDENT TO CLOSING/CONDEMNATION

7.1. Conditions Precedent to Purchaser's Performance. The obligation of Purchaser to close the transaction described in this Contract, unless waived in writing by Purchaser, shall be subject to the following conditions precedent:

- (a) All the representations and warranties of Seller set forth in this Contract shall be true and correct as of the date hereof and on the Closing Date;
- (b) Seller shall not have, on or prior to the Closing Date, failed to meet, comply with or perform any covenants or agreements of Seller required by the terms of this Contract;
- (c) There shall be no change in the matters reflected on the Title Report or Survey, if any, from those matters appearing therein on the date of the expiration of the Contingency Period (except those changes requested by Purchaser in its Title Defect Notice);
- (d) The physical and environmental condition of the Property on the Closing Date shall not be materially different from the physical and environmental condition existing as of the date of the expiration of the Contingency Period; and
- (e) There shall be no litigation or threatened litigation affecting the Property.

In the event that any of the above conditions are not satisfied or waived in writing by Purchaser prior to the Closing, Purchaser may terminate this Contract by delivery of a written termination notice to Seller on or before the Closing Date, in which event of termination, the Initial Escrow Deposit, less any charges for escrow and/or title cancellation, shall be returned to Purchaser free of any claim by Seller, and neither party thereafter shall have any further rights or obligations to each other under this Contract .

7.2. Condemnation. If prior to the Closing, condemnation proceedings are threatened or commenced with respect to any portion of the Property, Purchaser may terminate this Contract by delivering a written termination notice to Seller prior to the Closing Date.

ARTICLE VIII.

CLOSING

8.1. Time and Place. The sale and purchase of the Property shall be consummated at a closing

(the “Closing”) to be held at the offices of the Title Company. The Closing shall occur on the date (the “Closing Date”) that is _____ days after the expiration of the Contingency Period or on such earlier date designated by Purchaser (provided that Purchaser gives Seller at least three days advance written notice of such earlier designated date).

8.2. Items to be Delivered by Seller at the Closing. At the Closing, Seller shall deliver or cause to be delivered to Title Company for delivery to Purchaser, at Seller’s sole cost and expense, each of the following items:

(a) A grant deed duly executed and acknowledged by Seller, conveying to Purchaser the Land, free and clear of any liens, encumbrances, easements or other matters affecting title to the Property except the Permitted Exceptions;

(b) Any and all deeds and assignments, duly executed and acknowledged, deemed necessary by Purchaser to cause any and all mineral interests, water rights, well rights, warranties, contract rights and any and all other rights, title and interests constituting a part of the Property, to be conveyed and assigned to Purchaser, free and clear of all liens, encumbrances, easements and other matters other than the Permitted Exceptions, containing such general warranties of title as Purchaser may reasonably require;

(c) An ALTA owner’s extended coverage form policy of title insurance (the “Title Policy”) issued by the Title Company on the standard form in use in the State of California, insuring good and indefeasible fee simple title to the Land in the Purchaser and Seller in a face amount equal to the Purchase Price and containing no exceptions except the Permitted Exceptions and the standard printed exceptions therein, except:

(i) the taxes exception shall show the year of the Closing, and the taxes exception shall be endorsed “not yet due and payable” (provided, however, if taxes are due and payable at the time of Closing, Seller shall pay such taxes at or prior to Closing, and the blank in the Title Policy shall show the year after Closing), and the tax exception shall be additionally subject to taxes for subsequent years, subsequent assessments for prior years due to change in land usage or ownership and any standby fees applicable to the Property;

(ii) any liens imposed on the Property as the result of any financing incurred by Purchaser to purchase the Property; and

(d) An affidavit that there are no parties in possession of the Property in form acceptable to Purchaser and any other affidavit reasonably required by the Title Company to close this Contract and issue the Title Policy;

(e) Such evidence or other documents that may be reasonably required by Purchaser or the Title Company evidencing the status and capacity of Seller and the authority of the person or persons who are executing the various documents on behalf of the Seller in connection with the sale of the Property;

(f) Seller’s affidavit as required by Section 6.2(c) hereof; and

(g) If applicable, Seller's affidavit as required by Section 6.2(d) hereof.

8.3. Items to be Delivered by Purchaser at the Closing. At the Closing, Purchaser, at Purchaser's expense, shall deliver to the Title Company to be delivered by the Title Company to Seller the Purchase Price in immediately available funds as set forth in Section 2.1. Purchaser shall also deposit in Escrow those funds necessary to pay Purchaser's pro rata portion of property taxes for the Property for the year in which the Closing occurs and Purchaser's charges for escrow fees.

8.4. Adjustments and Prorations. At Closing, the following items shall be adjusted or prorated between Seller and Purchaser:

(a) Property taxes for the Property for the tax year in which the Closing occurs shall be prorated as of the Closing Date.

(b) Utility charges, including, without limitation, telephone, water, electricity, and gas, on the basis of the most recently issued bills therefor, subject to adjustment after the Closing when the next bills are received, or if current meter readings are available, on the basis of such readings.

(c) Seller shall pay one-half (1/2) of any escrow fees and all other customary escrow charges of Seller and Purchaser shall one-half (1/2) of any escrow fees and all other customary escrow charges of Purchaser; and,

(e) The agreements as to prorations, payment of taxes, adjustments and indemnifications in this Section 9.4 shall survive the Closing. In the event, subsequent to Closing, that any adjustments made at the Closing pursuant to this Section 8.4, are found to be erroneous, then either party hereto who is entitled to additional monies shall invoice the other party for such additional amounts as may be owing, and such amounts shall be paid within ten days from receipt of the invoice. Any amounts due and owing which are not paid within 15 days after receipt of the invoice therefor shall bear interest at the maximum lawful rate from such 15th date until paid.

8.5. Right to Possession. Purchaser shall have full and unrestricted right to possession of the Property at Closing, and Seller will do such acts, execute such instruments and take such action as may be appropriate or required to assure to Purchaser uninterrupted and full possession of the Property immediately following the Closing

ARTICLE IX.

REMEDIES UPON DEFAULT

9.1. Default by Seller. In the event that Seller fails to comply with any condition, covenant or

obligation it has hereunder, such failure shall be an event of default, and Purchaser shall have the right either: (i) to terminate this Contract by giving written notice thereof to Seller, whereupon neither party shall have any further rights or obligations under this Contract unless expressly provided otherwise in this Contract and the Title Company immediately shall deliver all deposits therein made by Purchaser, and any undistributed accrued interest to Purchaser, free of any claims by Seller; (ii) to enforce specific performance of Seller's obligations under this Contract; or (iii) to exercise any other right or remedy Purchaser may have at law or in equity by reason of Seller's default including the recovery of attorneys' fees incurred by Purchaser in connection therewith. This provision shall survive the Closing or any termination of this Contract.

9.2. Default by Purchaser. IN THE EVENT ALL CONDITIONS OF THIS CONTRACT ARE SATISFIED AND ALL COVENANTS AND AGREEMENTS TO BE PERFORMED BY SELLER PRIOR TO CLOSING ARE FULLY PERFORMED, AND IN THE EVENT THAT PERFORMANCE OF THIS CONTRACT IS FULLY TENDERED BY SELLER AND THE SALE IS NOT CONSUMMATED THROUGH DEFAULT BY PURCHASER, AND SUCH DEFAULT CONTINUES FOR A PERIOD OF FIVE BUSINESS DAYS AFTER WRITTEN NOTICE TO PURCHASER, THEN SELLER'S SOLE AND EXCLUSIVE REMEDY SHALL BE TO TERMINATE THIS CONTRACT BY GIVING WRITTEN NOTICE THEREOF TO PURCHASER, WHEREUPON NEITHER PARTY HERETO SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS UNDER THIS CONTRACT, AND THE TITLE COMPANY SHALL DELIVER THE INITIAL ESCROW DEPOSIT TO SELLER, FREE OF ANY CLAIMS BY PURCHASER, AS LIQUIDATED DAMAGES. THE INITIAL ESCROW DEPOSIT IS A GOOD FAITH ESTIMATE OF ACTUAL DAMAGES THAT SELLER WOULD SUFFER AND SHALL BE LIQUIDATED DAMAGES FOR DEFAULT OF PURCHASER IN FAILING TO CONSUMMATE THIS CONTRACT BECAUSE OF THE DIFFICULTY, INCONVENIENCE AND UNCERTAINTY OF ASCERTAINING SELLER'S ACTUAL DAMAGES FOR PURCHASER'S DEFAULT.

Seller Initials _____

Purchaser Initials_____

ARTICLE X.

MISCELLANEOUS

10.1. Notices. All notices, demands or other communications given in connection with or required under this Contract must be in writing and delivered to the person to whom it is directed; notices, demands or other communications not given in the manner set forth in this Section 10.1. shall be void and of no effect.

Notices, demands or other communications may be given by hand delivery, delivery service or by telecopy. Any notice, demand or other communication given by certified mail, return receipt requested, shall be deemed to have been given and received five calendar days after deposit thereof (with proper postage affixed and addressed to the party to be notified as provided herein) with a post office or other depository under the care or custody of the United States Postal Service. Any notice, demand or other communication given by means other than certified mail, return receipt requested, shall be deemed to have been given and received when actually delivered to the below stated address of the party to whom it is addressed. All notices, demands and other communications shall be given to the parties hereto at the following addresses:

Purchaser:

Seller:
Basin Wide Foundation
56711 Twenty Nine Palms Highway
Yucca Valley, California 92284

Attention: _____

Any party entitled to receive notices hereunder may change the address for notice specified above by giving the other parties entitled to receive notices hereunder ten days' advance written notice of such change of address.

10.2. Contract to Survive. Any and all representations, warranties, covenants and agreements contained herein shall not be deemed to be merged into or waived by the instruments of the Closing but shall expressly survive the Closing.

10.3. Binding Contract. This Contract shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns. Purchaser shall not assign this Contract to any person, firm, corporation, or other entity without Seller's approval; provided, however, that Purchaser shall be permitted to assign this Contract to any affiliate of Purchaser without Seller's consent. If Purchaser so assigns its rights to this Contract, such assignment shall release Purchaser from all liability hereunder accruing after the date of such assignment without the necessity of further documentation.

10.4. Interpretation and Applicable Law. This Contract shall be construed and interpreted in accordance with the laws of the State of California. Where required for proper interpretation, words in the singular shall include the plural, and the masculine gender shall include the neuter and the feminine, and vice versa. The descriptive headings of the several articles, sections and paragraphs contained in this Contract are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof. The term "including," and compounds of the word "include," when preceding a list shall be deemed to mean "including but not limited to."

10.5. Amendment. Except as provided above with respect to the automatically substituted Exhibit "A" Land description, this Contract may not be modified or amended, except by an agreement in writing signed by the Seller and the Purchaser. The parties may waive any of the conditions contained herein or any

of the obligations of the other party hereunder, but any such waiver shall be effective only if in writing and signed by the party waiving such conditions or obligations.

10.6. Attorneys' Fees. In the event either party files a lawsuit in connection with this Contract or any provisions contained herein, then the party that prevails in such action shall be entitled to recover from the nonprevailing party, in addition to all other remedies or damages as limited herein, reasonable attorneys' fees and costs of court incurred in such lawsuit. This provision shall survive the termination or Closing of this Contract.

10.7. Entire Agreement. This Contract (as may be amended) constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith.

10.9. Acceptance. Seller shall have until 5:00 o'clock p.m., on _____, California time, to execute this Contract and return it to Purchaser; otherwise the offer set forth in this Contract shall be automatically revoked. Prior to that time, Purchaser shall have the right to terminate the offer upon written notice to Seller.

10.10. Time of the Essence. Time is of the essence with respect every provision of this Contract in which time is an element.

10.11. Miscellaneous. This Contract may be executed by facsimile in two or more separate counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Signatures on counterparts of this Contract that are transmitted by fax shall be deemed effective for all purposes. If, pursuant to this Contract, any date indicated herein falls on a holiday or a Saturday or Sunday, the date so indicated shall mean the next business day following such date. The term "holiday" shall mean any day on which state or national banks are not open for business in the State of California. The "Effective Date" of this Contract shall be the date on which it is fully executed by the Seller. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by Seller, Seller hereby agrees to perform, execute and/or deliver or cause to be performed, executed and/or delivered at the Closing or after the Closing, any and all further acts, deeds and assurances as Purchaser may reasonably require (i) to evidence and vest in Purchaser the ownership of, and title to, all of the Property, and (ii) to consummate the transaction contemplated hereunder. The covenant in the immediately preceding sentence shall survive the Closing. Seller shall not, without the prior written consent of Purchaser, disclose to any person or party (except those persons or parties incidentally involved herein) the economic terms of this Contract or the identity of Purchaser, except as required by law. This covenant shall survive the Closing or termination of this Contract.

10.12. Purchaser and Seller shall reasonably cooperate to enable Purchaser or Seller to consummate this transaction as part of a tax free exchange under Section 1031 of the Internal Revenue Code and related regulations (as amended); provided, however, the accommodating party shall not be obligated to take title to any replacement property or to incur any cost, expense or liability as part of such cooperation. Seller acknowledges that it is relying exclusively on its own tax advisors (and not Purchaser or its advisors) to

determine the tax consequences of any 1031 exchange involving the Property.

11.13 This Contract may be executed by facsimile in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are signatories to the original or the same counterpart.

IN WITNESS WHEREOF, the parties hereto have executed this Contract effective as of the Effective Date.

SIGNATURE PAGE TO FOLLOW

SIGNATURE PAGE

PURCHASER:

By: _____

Name: _____

Title: _____

Date: _____

SELLER:

Basin Wide Foundation

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

LEGAL DESCRIPTION