



**12400 Arrow Route
Rancho Cucamonga**

Real Estate Public Auction Big Package

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BID PACKAGE TO PURCHASE REAL PROPERTY

PUBLIC AUCTION DATE: JANUARY 8, 2015

The information contained in this package was obtained from sources deemed reliable, but is **NOT** guaranteed, and is furnished solely as an aid to prospective buyers.

MINIMUM BID - \$21,300,000

BIDDING PROCEDURES:

1. Complete the Bid Package to Purchase Real Property.
2. Enclose the completed form and the required deposit of \$2,130,000 by certified or cashier's check in an envelope using the address and identification at the bottom of this page. **NO CASH DEPOSIT WILL BE ACCEPTED.**
3. Make deposit payable to: **ESCROW**
4. The bidder's name and mailing address should be shown on the upper left-hand corner of the envelope.
5. **ENVELOPES NOT PROPERLY MARKED, OR OPENED PRIOR TO THE SALE MAY BE DISQUALIFIED.**
6. **Send by certified mail, or hand deliver with check and Bid to Purchase Real Property to arrive not later than 5:00 p.m., January 7, 2015 to:**

County of San Bernardino
Real Estate Services Department
Attn: Jennifer Goodell
385 N. Arrowhead Avenue, 3rd Floor
San Bernardino, CA 92415-0180

OR hand deliver to bid opening not later than 10:00 a.m., January 8, 2015 at the auction to be held at:

**County of San Bernardino
Government Center, 1st Floor – Joshua Room
385 N. Arrowhead Avenue
San Bernardino, CA 92415**

7. Bids must be made by a principal desiring to purchase the property or by an agent bearing a notarized authorization or power of attorney, signed by the principal, authorizing the agent to act on the principal's behalf.

8. Minor irregularities in these procedures may be waived at the sole option of the Real Estate Services Department when such irregularities are not in conflict with law.
9. Oral bids will be accepted in accordance with Government Code Section 25531 outlined on the last page of this bid package.

SEALED BID:	County of San Bernardino
To be opened at 10:00 a.m.	Real Estate Services Department (RES D)
Auction Date: January 8, 2015	Attn: Jennifer Goodell, Real Property Agent II
File No.: 5100 3342	385 N. Arrowhead Ave., 3 rd Floor
<u>Location of Auction:</u>	San Bernardino, CA 92415-0180
385 N. Arrowhead Avenue, 1 st Floor	Direct Line: (909) 677-0477
San Bernardino, CA 92415	jgoodell@res.sbcounty.gov

BID TO PURCHASE REAL PROPERTY

PROPERTY APN(s): 0229-021-60

MINIMUM BID: \$21,300,000

REQUIRED DEPOSIT: \$2,130,000 (submit with bid)

TERMS: This sale is subject to the approval of the Governing Board for Omnitrans. Buyer to pay all escrow and title fees and will be required to enter into a Purchase and Sale Agreement upon acceptance of the bid. A copy of the form of the PURCHASE AND SALE AGREEMENT is available for review upon request.

BIDDING PROCEDURE

In accordance with California Government Code Section 25531, "Oral Bids", the following will apply:

"Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least five percent, the highest written proposal which is made by a responsible person, such highest oral bid shall be finally accepted."

PLEASE COMPLETE THE BID INFORMATION BELOW

Name of Bidder: _____

Buyer Vesting on Title: _____

Address: _____

Phone Number: _____

Bid Amount:\$ _____

Bidder Signature: _____

***Please submit with the required \$2,130,000 deposit in the form of a certified or cashier's check**



THE CITY OF RANCHO CUCAMONGA

October 23, 2014

County of San Bernardino
Real Estate Services Department
Attn: Jennifer Goodell
385 N. Arrowhead Avenue, 3rd Floor
San Bernardino, CA 91730

SUBJECT: LAND USE VERIFICATION REPORT DRC2014-00951 – COUNTY OF SAN BERNARDINO - A Land Use Verification Report request for the property located north of and abutting Arrow Route and approximately 1,400 feet east of the I-15 Freeway - APN: 0229-021-60.

Dear Ms. Goodell:

The undersigned, on behalf of the City of Rancho Cucamonga, hereby certifies that, as of the date hereof:

1. The above-referenced site is located within the City of Rancho Cucamonga, County of San Bernardino, State of California.
2. The subject property is located within the General Industrial (GI) Zoning District. The General Plan land use designation for this site is General Industrial.
3. The properties to the east, west and south are also located within the General Industrial (GI) Zoning District. The properties to the north are located within Subarea 4 of the Foothill Boulevard Regional Related Commercial (RRC) Zoning District.
4. There are no known or reported Development Code violations currently on the property. Since a full zoning code analysis of the property is not within the scope of action for this letter, projects are generally considered to be conforming to the development standards that were in effect when the project was approved and constructed. If and when new improvements to the property are proposed, the City will review the project for conformity with the regulations in force at the time of submittal and advise the applicant accordingly. For information regarding possible Code Enforcement cases, please contact the City's Code Enforcement Department at (909) 477-2712.
5. There are no pending applications to change the Zoning District that applies to the subject property, changes to the permitted and conditionally permitted uses that apply to the subject property, nor pending referenda or initiatives which would affect the present uses of the subject property.
6. At the time of development of this site, a road may be required at the east end of the property to provide better circulation and access.

LAND USE VERIFICATION LETTER
DRC2014-00951 – APN: 0229-021-60
October 23, 2014
Page 2

7. The property is not located in any historic preservation or conservation district and is not designated as a historic landmark.
8. To determine if there are any ongoing or future plans for public street improvements in the vicinity of the subject property and/or easements that affect the subject property, all inquiries should be directed to the City's Engineering Services Department.
9. Specific development standards that will apply to the subject site are contained in Title 17 of the City's Municipal Code including, but not limited to, the following:
 - Permitted Uses, Conditional Uses – Rancho Cucamonga Development Code – Table 17.30.030
 - FAR – Rancho Cucamonga Development Code - Section 17.36 (Table 17.36.040-1)
 - Setbacks – Rancho Cucamonga Development Code - Section 17.36 (Table 17.36.040-1 and 17.36.040-2)
 - Building Heights – Rancho Cucamonga Development Code - Section 17.36 (Table 17.36.040-1)
 - Landscaping – Rancho Cucamonga Development Code - Section 17.56
 - Parking – Rancho Cucamonga Development Code - Section 17.64

The Development Code is available on-line at <http://www.cityofrc.us> > home page > A-Z index > Municipal Code > Development Code. Copies of development applications are available by filling out and submitting a Records Request Form. These forms are available on the City's website and can be submitted electronically to the City Clerk. Should you have any questions or comments, or if we can be of any assistance, please do not hesitate to contact Dominick Perez at (909) 477-2750, ext. 4315, Monday through Thursday between the hours of 7:00 a.m. and 6:00 p.m.

Sincerely,

PLANNING DEPARTMENT

DONALD GRANGER

Donald Granger
Senior Planner

DG:DP/ge



Norm Burdick
Title Officer

Stewart Title of California, Inc.
7065 Indiana Avenue Ste. 100
Riverside, CA 92506
Phone (951) 276-2700
Fax
nburdick@stewart.com

PRELIMINARY REPORT

Order No. : 01180-128124
Title Unit No. : 7436
Your File No. :
Buyer/Borrower Name :
Seller Name : Omnitrans

Property Address: 12400 Arrow Route, Rancho Cucamonga, CA

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

The printed Exceptions and Exclusions from the coverage and Limitations on covered Risks of said policy or policies are set forth in Exhibit A attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limits of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

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

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

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

Dated as of October 03, 2014 at 7:30 a.m.

Norm Burdick, Title Officer

When replying, please contact: Norm Burdick, Title Officer

PRELIMINARY REPORT

The form of Policy of Title Insurance contemplated by this report is:

- CLTA Standard Coverage Policy
- CLTA/ALTA Homeowners Policy
- 2006 ALTA Owner's Policy
- 2006 ALTA Loan Policy
- ALTA Short Form Residential Loan Policy
-

SCHEDULE A

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

Fee

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

Omnitrans, a Joint Powers Authority

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of San Bernardino and described as follows:

That certain real property located in the City of Rancho Cucamonga, County of San Bernardino, State of California, more particularly described as follows:

That portion of the Northwest quarter of Section 8, Township 1 South, Range 6 West, San Bernardino Base and Meridian, according to the Official Plat of said land, described as follows:

Commencing at the Southeast corner of the Northwest quarter of said Section 8;

Thence North 30 chains;

Thence West 20 chains;

Thence South 30 chains;

Thence East 20 chains to the point of beginning;

Excepting therefrom all that portion lying Northwesterly of the Southeasterly line of the State Highway as established in that certain Final Order of Condemnation, a certified copy of which was recorded February 13, 1975 in Book 8615 page 992 of Official Records;

Also Excepting therefrom all that portion conveyed to Southern Surplus Realty Co., a California corporation, by deed recorded October 2, 1973 in Book 8279 page 59 of Official Records;

Also Excepting therefrom a triangular shaped parcel, being a portion of the Northwest quarter of Section 8, Township 1 South, Range 6 West, San Bernardino Base and Meridian, bounded on the East by the East line of the Northwest quarter of said Section 8, bounded on the Northwest by the Southeasterly line of the State Highway (Devore Freeway) as established by Final Order of Condemnation, a certified copy of which was recorded February 13, 1975 in Book 8615 page 992 of Official Records, and bounded on the South by a line running Easterly from the intersection of Southeasterly line of the State Highway, with the Easterly line of that portion conveyed to Southern Surplus Realty Company, a California corporation, by deed recorded October 2, 1973 in Book 8279 page 59 of Official Records, to the southwest corner of the South half of the South half of the Northwest quarter of the Northeast Quarter of said Section 8.

APN: 0229-021-60

APN: 0229-021-60
(End of Legal Description)

SCHEDULE B

At the date hereof, exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy or policies would be as follows:

Taxes:

- A. General and special city and/or county taxes, bonds or assessments which may become due on said land, if and when title to said land is no longer vested in a government or quasi-governmental agency. Tax parcel(s) for said land are currently shown as 0229-021-60.
- B. An Assessment by the Park and Recreation Improvement District 85-PD and 85-PD-R (Refunding), notice recorded May 31, 1985 as Instrument No. 85.130714 and April 27, 1993 as Instrument No. 93-179130, both of Official Records.
- C. A Notice of Special Tax Authorization affecting said property, subject to all terms, provisions and conditions therein, was recorded March 30, 1992 as Instrument No. 92.133649 of Official Records.
- D. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the revenue and taxation code of the State of California.
- E. Assessments, if any, for Community Facility Districts affecting said land which may exist by virtue of assessment maps or notices filed by said districts. Said assessments are collected with the County Taxes.

Exceptions:

- 1. Water rights, claims or title to water in or under said land, whether or not shown by the public records.
- 2. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B. The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.
- 3. Title to, and easements in, any portion of the land lying within any highways, roads, streets, or other ways.
- 4. An easement for road purposes and rights incidental thereto over that portion of said land lying within the lines of Foothill Boulevard and Arrow Route as the same now exists.
- 5. An easement for highway and road and rights incidental thereto in favor of the County of San Bernardino, a body corporate and politic of the State of California as set forth in a document recorded November 6, 1924 in Book 870 page 369 of Deeds, affects as shown therein.
- 6. The fact that the ownership of said land does not include rights of access to or from the street or highway abutting said land, such rights having been severed from said land by the document recorded February 13, 1975 in Book 8615 page 992 of Official Records, affecting the Northwestern and Southeasterly lines of said land abutting the State Highway.
- 7. The fact that said land is included within a project area of the City of Rancho Cucamonga Redevelopment Agency, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption

of the redevelopment plan) as disclosed by a document recorded June 25, 1987 as Instrument No. 87.217710 of Official Records.

8. An easement for drainage facilities for the transmission of drainage water and sewage together with rights of access (drainage facilities meaning pipelines, drains, channels, sewer systems, and any and all components thereof and appurtenances thereto) and rights incidental thereto in favor of Foothill Marketplace Partners, a California general partnership as set forth in a document recorded March 29, 1993 as Instrument No. 93.135671 of Official Records, affects as shown therein.
9. The matters contained in an instrument entitled "Agreement Regarding Easement and Grant of License", by and between Daniel L. and Anita I. Plies, Foothill Marketplace Partners and the City of Rancho Cucamonga upon the terms therein provided recorded January 26, 1994 as Instrument No. 94.32908 of Official Records.
10. An easement for pipeline, emergency discharge conduit and public uses stated in Complaint of Action RCV056018 and rights incidental thereto in favor of the Metropolitan Water District of Southern California as set forth in a document recorded April 29, 1994 as Instrument No. 94-199021 and October 26, 1994 as Instrument No. 94.436472 of Official Records, affects as shown therein.
11. The fact that said land is included within a project area of the Rancho Cucamonga Redevelopment Agency, and that proceedings for the redevelopment of said project have been instituted under the Redevelopment Law (such redevelopment to proceed only after the adoption of the redevelopment plan) as disclosed by a document recorded December 14, 2007 as Instrument No. 07.695659 of Official Records.
12. Rights or claims of parties in possession and easements or claims of easements not shown by the public records, boundary line disputes overlaps, encroachments, and any matters not of record, which would be disclosed by an accurate survey, and inspection of the land.

(End of Exceptions)

NOTES AND REQUIREMENTS

A. None

CALIFORNIA "GOOD FUNDS" LAW

California Insurance Code Section 12413.1 regulates the disbursement of escrow and sub-escrow funds by title companies. The law requires that funds be deposited in the title company escrow account and available for withdrawal prior to disbursement. Funds received by Stewart Title of California, Inc. via wire transfer may be disbursed upon receipt. Funds received via cashier's checks or teller checks drawn on a California Bank may be disbursed on the next business day after the day of deposit. If funds are received by any other means, recording and/or disbursement may be delayed, and you should contact your title or escrow officer. All escrow and sub-escrow funds received will be deposited with other escrow funds in one or more non-interest bearing escrow accounts in a financial institution selected by Stewart Title of California, Inc.. Stewart Title of California, Inc. may receive certain direct or indirect benefits from the financial institution by reason of the deposit of such funds or the maintenance of such accounts with the financial institution, and Stewart Title of California, Inc. shall have no obligation to account to the depositing party in any manner for the value of, or to pay to such party, any benefit received by Stewart Title of California, Inc.. Such benefits shall be deemed additional compensation to Stewart Title of California, Inc. for its services in connection with the escrow or sub-escrow.

If any check submitted is dishonored upon presentation for payment, you are authorized to notify all principals and/or their respective agents of such nonpayment.

WIRE INSTRUCTIONS

We hereby request that our funds are wire transferred directly to our account. If you have any questions, regarding this matter, please call the number as referenced above.

We do not accept ACH Transfers, these funds will be returned and may cause a delay in closing.

Bank Name: **Union Bank**

Bank Address: **1980 Saturn Street, Monterey Park, CA 91755**

ABA#: **122000496**

Account Name: **Stewart Title of California, Inc.**

Account Number: **0010426456**

REFERENCE OUR FILE NUMBER: **01180-128124**

REFERENCE OUR BUYER/BORROWER NAME:

REFERENCE OUR SELLER NAME: **Omnitrans**

EXHIBIT "A"
LEGAL DESCRIPTION

Order No.: 01180-128124
Escrow No.: 01180-128124

The land referred to herein is situated in the State of California, County of San Bernardino, and described as follows:

That certain real property located in the City of Rancho Cucamonga, County of San Bernardino, State of California, more particularly described as follows:

That portion of the Northwest quarter of Section 8, Township 1 South, Range 6 West, San Bernardino Base and Meridian, according to the Official Plat of said land, described as follows:

Commencing at the Southeast corner of the Northwest quarter of said Section 8;

Thence North 30 chains;

Thence West 20 chains;

Thence South 30 chains;

Thence East 20 chains to the point of beginning;

Excepting therefrom all that portion lying Northwesterly of the Southeasterly line of the State Highway as established in that certain Final Order of Condemnation, a certified copy of which was recorded February 13, 1975 in Book 8615 page 992 of Official Records;

Also Excepting therefrom all that portion conveyed to Southern Surplus Realty Co., a California corporation, by deed recorded October 2, 1973 in Book 8279 page 59 of Official Records;

Also Excepting therefrom a triangular shaped parcel, being a portion of the Northwest quarter of Section 8, Township 1 South, Range 6 West, San Bernardino Base and Meridian, bounded on the East by the East line of the Northwest quarter of said Section 8, bounded on the Northwest by the Southeasterly line of the State Highway (Devore Freeway) as established by Final Order of Condemnation, a certified copy of which was recorded February 13, 1975 in Book 8615 page 992 of Official Records, and bounded on the South by a line running Easterly from the intersection of Southeasterly line of the State Highway, with the Easterly line of that portion conveyed to Southern Surplus Realty Company, a California corporation, by deed recorded October 2, 1973 in Book 8279 page 59 of Official Records, to the southwest corner of the South half of the South half of the Northwest quarter of the Northeast Quarter of said Section 8.

APN: 0229-021-60

APN: 0229-021-60

(End of Legal Description)

AFFILIATED BUSINESS ARRANGEMENT DISCLOSURE STATEMENT

Date: October 14, 2014

Escrow No.: 01180-128124

Property: 12400 Arrow Route, Rancho Cucamonga, CA

From:

This is to give you notice that ("Stewart Title") has a business relationship with Stewart Solutions, LLC, DBA – Stewart Specialty Insurance Services, LLC ("Stewart Insurance"). Stewart Information Services Corporation owns 100% of Stewart Insurance and Stewart Title of California. Because of this relationship, this referral may provide Stewart Title a financial or other benefit.

Set forth below is the estimated charge or range of charges for the settlement services listed. You are NOT required to use the listed provider(s) as a condition for purchase, sale, or refinance of the subject Property. THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES.

<i>Stewart Insurance Settlement Service</i>	<i>Charge or range of charges</i>
Hazard Insurance	\$400.00 to \$6,500.00
Home Warranty	\$255.00 to \$ 780.00
Natural Hazard Disclosure Report	\$ 42.50 to \$ 149.50

**PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS
FOR AUCTION SALES**

This PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (the "Agreement") is dated as of _____ 2015 and is entered into by and between Omnitrans, a joint powers authority ("OMNITRANS") and _____ ("BUYER")

RECITALS

A. OMNITRANS is the owner of the fee simple interest in that certain real property (APN 0229-021-60) located at 12400 Arrow Route in the City of Rancho Cucamonga consisting of approximately 28.73 acres of vacant land as shown on Exhibit "A" Legal Description and referenced as (the "Property").

B. BUYER, the highest bidder, in accordance with California Government Code Section 25531, "Oral Bids", is able to acquire from OMNITRANS, the property located at 12400 Arrow Route in the City of Rancho Cucamonga (APN 0229-021-60) for the highest bid price of \$_____.

C. OMNITRANS has determined that the Property is surplus to its needs, and is authorized to sell all or a portion of the property to BUYER for the highest bid in accordance with California Government Code Sections 37350 et seq, 54220 et seq and San Bernardino City Municipal Code Section 2.65.010 et seq.

D. OMNITRANS and BUYER agree that the value set by the highest bid on the Property is \$_____ and BUYER agrees the purchase of the property is **AS-IS**.

NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions of this Agreement, OMNITRANS and BUYER hereby agree as follows:

Section 1. Recitals. The recitals set forth above are true and correct and incorporated herein by this reference.

Section 2. Purchase and Sale of Property.

Subject to all of the terms, conditions and provisions of this Agreement and for the consideration set forth below, OMNITRANS hereby agrees to sell, convey and transfer to BUYER and BUYER hereby agrees to acquire all of the right, title and interest of OMNITRANS in and to the Property (the "Transaction").

The Property will be conveyed to BUYER when the Purchase Price is paid in full in accordance with this Agreement.

Section 3. Consideration.

As a condition to OMNITRANS's performance hereunder, BUYER shall pay to OMNITRANS total consideration in the amount of \$_____.00 ("Purchase Price") for the Property. As part of the auction for the Property, BUYER has deposited \$_____ (the "Deposit") with OMNITRANS. From and after the effective date of this Agreement, in the event the Transaction contemplated hereby is consummated, the Deposit shall be credited against BUYER's payment obligations hereunder. The Deposit shall be subject

to refund to BUYER, or retention by OMNITRANS, on the terms and conditions of this Agreement.

Section 4. BUYER's Option of Opening of Escrow.

(a) All expenses incurred in the transfer of title, including but not limited to escrow, Title Policy (as defined in Section 8, below), documentary stamps and recording fees are to be paid by BUYER.

(b) The transfer and sale of the Property shall take place through escrow (the "Escrow"), and such Escrow shall be administered by Orange Coast Title Company, 3536 Concoors, Suite 120, Ontario, CA 91764, Attn: Irene Genders (Phone: 909-987-5433) ("Escrow Holder"). The Escrow for the Property shall be deemed open ("Opening of Escrow") upon the receipt by the Escrow Holder of a copy of this Agreement executed by OMNITRANS and BUYER. OMNITRANS and BUYER shall each execute this Agreement and open escrow within seven (7) days after approval of this Agreement by the OMNITRANS's Board of Directors. The date of Opening of Escrow shall be memorialized by Escrow Holder in writing delivered to the parties.

(c) While held by OMNITRANS, the Deposit shall be held in a non-interest bearing account. Within three (3) business days of the Opening of Escrow, OMNITRANS shall deliver the Deposit to the Escrow Holder for deposit in an interest-bearing account and interest accruing thereon shall be added to and will become a part of the Deposit, for the account of BUYER. A portion of the Deposit, in the amount of One Hundred Dollars (\$100.00), will be referred to herein as the "Independent Contract Consideration" and notwithstanding anything to the contrary contained herein, will not be refundable to the BUYER. From and after the effective date of this Agreement, in the event the Transaction contemplated hereby is consummated, the Deposit shall be credited against BUYER's payment obligations hereunder. The Deposit shall be subject to refund to BUYER, or retention by OMNITRANS, on the terms and conditions of this Agreement.

(d) If this Agreement is terminated or Escrow is cancelled as a result of a default by OMNITRANS, then OMNITRANS shall be solely responsible to the Escrow Holder for payment of all customary and reasonable escrow cancellation charges to the Escrow Holder without further or separate instruction to the Escrow Holder. If this Agreement is terminated or Escrow is cancelled for any reason other than OMNITRANS' default, then BUYER shall be solely responsible for the payment of all customary and reasonable escrow cancellation charges to the Escrow Holder without further or separate instruction to the Escrow Holder.

Section 5. Due Diligence Period

As used in this Agreement, the term "Due Diligence Period" shall refer to a period of time to expire at 5:00 p.m., Pacific Time, on the date which is sixty (60) days from the Opening of Escrow to allow the BUYER the opportunity to investigate the condition and suitability of the Property for BUYER's intended use. In the event BUYER finds the Property unsatisfactory for any reason, at its sole discretion, BUYER shall notify OMNITRANS and Escrow Holder in writing prior to the expiration of the Due Diligence Period and, thereafter, OMNITRANS and BUYER shall have no further obligation to each other, Escrow shall be cancelled and this Agreement shall automatically terminate on the date of such election and the parties shall each be relieved and discharged from all further responsibility or liability under this Agreement; provided however that the Deposit (including interest accrued thereon) shall be promptly returned to BUYER, less the Independent Contract Consideration, and BUYER shall pay Escrow cancellation

charges. BUYER's failure to give written notice of termination to OMNITRANS on or before the expiration of the Due Diligence Period shall constitute an election by BUYER to waive the termination right contemplated under this Section 5 and proceed with this Agreement, subject to all the other terms and conditions of this Agreement.

Section 6. Close of Escrow.

As used herein, "Close of Escrow" means and refers to the close of Escrow for the Property and the transfer of fee title to the Property by OMNITRANS to the BUYER pursuant to grant deed in the form of Exhibit "B" attached hereto (the "Deed"). The Close of Escrow shall take place on the Closing Date. The "Closing Date" shall mean the date on which the conditions set forth in this Agreement for the Close of Escrow for the transfer of the Property have been satisfied, and the Deed is recorded by the Escrow Holder. The Property shall be transferred to BUYER at the Close of Escrow, provided that within the periods of time set forth in this Agreement: (i) BUYER has not terminated this Agreement, (ii) BUYER has accepted the Deed, and (iii) all other conditions of the Close of Escrow set forth in this Agreement have been met and BUYER has paid, or caused to be paid to the Escrow Holder all applicable Escrow costs relating to such closing. The Close of Escrow shall occur on a date designated by BUYER (on advance notice to OMNITRANS) no later than ninety (90) days after the Opening of Escrow unless otherwise extended by both parties.

Section 7. Escrow Instructions.

OMNITRANS and BUYER each agree to execute and deliver to the Escrow Holder the customary supplemental written escrow instructions (consistent with the terms of this Agreement) of the Escrow Holder. In the event of a conflict between the additional terms of such customary supplemental escrow instructions of the Escrow Holder and the provisions of this Agreement, this Agreement shall supersede and be controlling.

Section 8. Conveyance of Title.

On or before the Close of Escrow, OMNITRANS shall deliver to the Escrow Holder the Grant Deed, duly executed and acknowledge by OMNITRANS. The Escrow Holder shall be instructed to record the Deed in the Official Records of San Bernardino County, California, if and when the Escrow Holder holds the funds for OMNITRANS as set forth herein and can obtain for BUYER an ALTA owner's extended coverage policy of title insurance ("Title Policy") issued by _____ Title Company or a title company of BUYER's choice (the "Title Company") with liability in an amount equal to the Purchase Price together with such endorsements to the policy as may be reasonable requested by BUYER, insuring that fee title to the Property is vested in BUYER, free and clear of options, rights of first refusal or other purchase rights, leases or other possessory interests, lis pendens and monetary liens and/or encumbrances and subject only to:

- (1) non-delinquent real property taxes;
- (2) dedication of streets abutting the Property;
- (3) zoning ordinances;
- (4) utility easements ; and

(5) such other title exceptions, if any, resulting from documents being recorded or delivered through Escrow in accordance with the provisions of this Agreement.

Section 9. Inspections and Review.

(a) BUYER shall accept the delivery of possession of the Property (including but not limited to, subterranean structures and soil conditions), in an **"AS IS," "WHERE IS" and "SUBJECT TO ALL FAULTS" condition.** BUYER hereby acknowledges that it has relied solely upon its own investigation of the Property and its own review of such information and documentation as it deems appropriate. BUYER is not relying on any statement or representation by OMNITRANS, any employee, official or consultant of OMNITRANS relating to the condition of the Property. OMNITRANS makes no representations or warranties as to whether the Property presently complies with environmental laws or whether the Property contains any hazardous substance. Furthermore, to the extent that OMNITRANS has provided BUYER with information relating to the condition of the Property, OMNITRANS makes no representation or warranty with respect to the accuracy, completeness or methodology or content of such reports or information

(b) From and after the Close of Escrow, BUYER, on behalf of itself and its successors, waives and releases OMNITRANS and its successors and assigns from any and all costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, arising from or relating to any of the following matters and conditions relating to the Property which exist as of the date of the Close of Escrow: (i) the physical condition of the Property or any above ground or underground improvements thereon, (ii) the condition of the soils, (iii) the suitability of the soils for the improvement of any proposed project, or (iv) any law or regulation applicable thereto.

(c) BUYER expressly waives any rights or benefits available to it with respect to the foregoing release under any provision of applicable law which generally provides that a general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time the release is agreed to, which, if known to such creditor, would materially affect a settlement. By execution of this Agreement, BUYER acknowledges that it fully understands the foregoing, and with this understanding, nonetheless elects to and does assume all risk for claims known or unknown, described in this Section 9 without limiting the generality of the foregoing:

The undersigned acknowledges that it has been advised by legal counsel and is familiar with the provisions of California Civil Code Section 1542, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY, AFFECTED HIS OF HER SETTLEMENT WITH THE DEBTOR."

The undersigned, being aware of this Code section, hereby expressly waives any rights it may have thereunder, as Well as under any other statutes or Common law principles of similar effect.

Initials of BUYER: _____

(d) The provisions of this Section 9 shall survive the Close of Escrow, and shall be binding upon BUYER.

(e) OMNITRANS shall assist and cooperate with BUYER in endeavoring to remove title exceptions unacceptable to BUYER, but OMNITRANS shall have no obligation to cause such objections to be removed or to expend any sums in such endeavor, except that OMNITRANS shall remove all monetary liens and encumbrances created by or as a result of OMNITRANS' activities.

(f) OMNITRANS covenants not to further encumber and not to place any further liens or encumbrances on the Property, including, but not limited to, covenants, conditions, restrictions, easements, liens, options to purchase, rights of first offer options to lease, leases, tenancies, or other possessory interests.

(g) OMNITRANS also covenants not to authorize or permit others to take any action that adversely affects the physical condition of the Property or its soils.

Section 10. Closing Costs, Prorations, Possession.

(a) BUYER shall pay the premium for the ALTA extended coverage Title Policy, cost of procuring a survey and all requested ALTA survey policy endorsements, the cost of recording the Deed and any documentary or other transfer taxes payable on account of the conveyance of the Property to BUYER.

(b) BUYER shall pay 100% of the Escrow Holder's charges and fees which may be charged by the Escrow Holder in connection with the Close of Escrow.

(c) BUYER shall be entitled to exclusive possession of the Property immediately upon the Close of Escrow.

(d) All prorations shall be made in accordance with customary practice in San Bernardino County, except as otherwise expressly provided in this Agreement. All prorations shall be on an "actual day" basis and a three hundred sixty-five (365) day year.

Section 11. Representations and Warranties.

(a) OMNITRANS hereby makes the following representations, covenants and warranties:

(1) Power and Authority. OMNITRANS has the legal power, right and authority to enter into this Agreement and to execute the instruments and documents referenced herein, and to consummate the Transaction contemplated hereby.

(2) Requisite Action. OMNITRANS has taken all requisite action and obtained all requisite consents in connection with entering into this Agreement and the instruments and documents referenced herein and the consummation of the Transaction contemplated hereby, and no consent of any other party is required.

(3) Enforceability of Agreement. The persons executing this Agreement and any instrument or document referenced herein for or on behalf of OMNITRANS have been duly authorized to so act on behalf of OMNITRANS and this

Agreement and any such instrument or document is valid and legally binding on OMNITRANS and enforceable against OMNITRANS in accordance with their respective terms.

(4) No Litigation. There is no pending or, to the best of OMNITRANS's knowledge, threatened claims, action, allegations or lawsuit of any kind, whether for personal injury, property damage, property taxes, or otherwise, that could affect the Property.

(5) No Violation. Neither the execution of this Agreement or the other instruments and documents referenced herein nor the performance by OMNITRANS of its obligations hereunder and thereunder shall result in a breach or constitute a default under any agreement, document, instrument or other obligation to which OMNITRANS is a party or by which OMNITRANS may be bound or a breach or violation under law, statute, ordinance, rule, governmental regulation, state constitution, or any writ, injunction, order or decree of any court or governmental body applicable to OMNITRANS, the Property or the Transaction contemplated hereby.

(6) Operation and Condition Pending Closing. Between the date of this Agreement and the Close of Escrow hereunder, OMNITRANS will continue to manage, operate and maintain the Property in the same manner as existed prior to the execution of this Agreement.

(7) Contracts. There are no contracts or agreements to which OMNITRANS is a party relating to the operation, maintenance, development, improvement or ownership of the Property which will survive the Close of Escrow.

All representations and warranties contained in this Section 11(a) are true and correct on the date hereof and on the Closing Date and shall survive the Close of Escrow.

(b) Warranties and Representations by BUYER. BUYER hereby makes the following representations, covenants and warranties and acknowledges that the execution of this Agreement by OMNITRANS has been made in material reliance by OMNITRANS on such covenants, representations and warranties:

(1) BUYER has the legal right, power and authority to enter into this Agreement and the instruments and documents referenced herein and to consummate the Transaction contemplated hereby. The persons executing this Agreement and such other instruments as may be referenced herein on behalf of BUYER hereby represent and warrant that such persons have the power, right and authority to bind BUYER.

(2) BUYER has taken all requisite action and obtained all requisite consents in connection with entering into this Agreement and the instruments and documents referenced herein and the consummation of the Transaction contemplated hereby, and no consent of any other party is required.

(3) This Agreement is, and all instruments and documents to be executed by BUYER pursuant to this Agreement shall be, duly executed by and are or shall be valid and legally binding upon BUYER and enforceable in accordance with their respective terms.

(4) Neither the execution of this Agreement nor the consummation of the Transaction contemplated hereby shall result in a breach of or

constitute a default under any other agreement, document, instrument or other obligation to which BUYER is a party or by which BUYER may be bound, or a breach or violation under law, statute, ordinance, rule governmental regulation or any writ, injunction, order or decree of any court or governmental body applicable to BUYER.

All representations and warranties contained in this Section 11(b) are true and correct on the date hereof and on the Closing Date and shall survive the Close of Escrow.

Section 12. Conflict of Interest.

No member, official or employee of either party having any conflict of interest, direct or indirect, related to this Agreement and the use and development of the Property shall participate in any decision relating to the Agreement. The parties represent and warrant that they do not have knowledge of any such conflict of interest.

Section 13. Nonliability of Officials and Employees.

No officer, official or employee of OMNITRANS shall be personally liable to BUYER, or any successor in interest of such other party, in the event of any default or breach or for any amount which may become due hereunder, or on any obligations under the terms of this Agreement.

Section 14. Indemnification.

BUYER agrees to indemnify and hold OMNITRANS and its officers, employees and agents harmless from and against all damages, judgments, costs, expenses and attorney's fees arising from or related to any act or omission of BUYER in performing its obligations hereunder, including such that arise as the result of BUYER's investigations of the Property. OMNITRANS shall give BUYER written notice of the occurrence of a claim, litigation or other matters for which OMNITRANS seeks indemnity under this Section as promptly as practicable following OMNITRANS knowledge of the occurrence of such matter and OMNITRANS shall reasonably cooperate with BUYER in the defense of any such claim or matter and shall not take any action that would adversely affect BUYER's defense of such matter.

Section 15. Default.

(a) Default by BUYER; Limitation on Liability; Liquidated Damages.
IF BUYER REFUSES OR FAILS TO CONSUMMATE THE CLOSE OF ESCROW UNDER THIS AGREEMENT FOR ANY REASON OTHER THAN: (I) THE FAILURE OF AN EXPRESS CONDITION PRECEDENT TO BUYER'S OBLIGATION TO CLOSE, OR (II) ANY OTHER EXPRESS RIGHT OF BUYER SET FORTH IN THIS AGREEMENT TO TERMINATE THIS AGREEMENT, AND IF BUYER FAILS TO CURE ANY SUCH FAILURE TO COMPLETE THE CLOSE OF ESCROW WITHIN TEN (10) DAYS FOLLOWING RECEIPT OF A WRITTEN NOTICE FROM OMNITRANS INDICATING THE NATURE OF ANY DEFAULT ON THE PART OF BUYER, OMNITRANS SHALL THEN RETAIN THE DEPOSIT PLUS ANY INTEREST ACCRUED THEREON AS OMNITRANS' SOLE REMEDY FOR BUYER'S FAILURE TO CLOSE OR FOR ANY DEFAULT ON THE PART OF BUYER UNDER THIS AGREEMENT, AND IN SUCH A CASE, BOTH PARTIES SHALL BE RELIEVED OF AND RELEASED FROM ANY FURTHER LIABILITY HEREUNDER. THE PARTIES HAVE AGREED THAT SELLER'S ACTUAL DAMAGES, IN THE EVENT OF A DEFAULT BY BUYER, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE.

SELLER AND BUYER AGREE THAT THE DEPOSIT IS A FAIR AND REASONABLE AMOUNT TO BE RETAINED BY SELLER AS AGREED AS LIQUIDATED DAMAGES IN LIGHT OF SELLER'S REMOVAL OF THE PROPERTY FROM THE MARKET AND THE COSTS INCURRED BY SELLER, AND SHALL NOT CONSTITUTE A PENALTY OR A FORFEITURE.

BY PLACING ITS INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

INITIALS: Seller: _____ Buyer: _____

(b) Default By Seller; Other Failure To Consummate Agreement. IN THE EVENT OF ANY DEFAULT ON THE PART OF OMNITRANS UNDER THIS AGREEMENT, WHICH OMNITRANS FAILS TO CURE WITHIN TEN (10) DAYS FOLLOWING RECEIPT OF A WRITTEN NOTICE FROM BUYER INDICATING THE NATURE OF ANY DEFAULT ON THE PART OF OMNITRANS, BUYER SHALL HAVE THE RIGHT, IN BUYER'S SOLE DISCRETION AND AS ITS SOLE AND ONLY REMEDIES HEREUNDER TO THE EXCLUSION OF ALL OTHER POTENTIAL REMEDIES, TO EITHER (I) TERMINATE THIS AGREEMENT AND RECEIVE THE DEPOSIT PLUS ANY INTEREST ACCRUED THEREON IN WHICH EVENT THIS AGREEMENT SHALL AUTOMATICALLY TERMINATE AND BE OF NO FURTHER FORCE OR EFFECT AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, OTHER THAN PURSUANT TO ANY PROVISION HEREOF WHICH EXPRESSLY SURVIVES THE TERMINATION OF THIS AGREEMENT; or (II) BRING AN ACTION FOR SPECIFIC PERFORMANCE, PROVIDED, HOWEVER, THAT ANY SUCH ACTION FOR SPECIFIC PERFORMANCE SHALL BE FILED AND SERVED BY BUYER WITHIN THIRTY (30) DAYS OF THE DATE OF THE ALLEGED SELLER'S DEFAULT, IT BEING THE INTENT OF THE PARTIES HERETO THAT ANY FAILURE OF BUYER TO MEET THE TIME DEADLINE SET FOR FILING SHALL BE DEEMED TO BE BUYER'S ELECTION TO WAIVE AND RELINQUISH ANY RIGHTS TO ENFORCE SPECIFIC PERFORMANCE OF THIS AGREEMENT.

INITIALS: Seller: _____ Buyer: _____

Section 16. Miscellaneous.

(a) This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and together shall constitute one and the same agreement, with one counterpart being delivered to each party hereto.

(b) All periods of time referred to in this Agreement shall include all Saturdays, Sundays and state or national holidays, provided that if the date or last date to perform any act or give any notice with respect to this Agreement shall fall on a Saturday, Sunday or state or national holiday, such act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

(c) The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions hereof unenforceable, invalid or illegal.

Section 17. Additional Agreements; Further Assurances.

Each of the parties hereto shall execute and deliver such documents as the other party shall reasonably request in order to consummate and make effective the Transaction, provided, however the execution and delivery of such documents shall not result in any additional liability or cost to the executing party.

Section 18. Entire Agreement.

(a) This Agreement and the exhibits attached hereto constitute the entire understanding and Agreement of the parties.

(b) This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto with respect to the Property.

(c) The headings to the sections and paragraphs of this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not in any way affect its interpretation.

(d) Unless otherwise indicated, references in this Agreement to Sections, paragraphs, clauses and exhibits are to the same contained in or attached to this Agreement and all attachments referenced in this Agreement are incorporated in this Agreement by this reference as though fully set forth in this Section.

Section 19. Approval.

(a) Board of Directors. This agreement is subject to, and will have no force or effect until and unless first approved by the OMNITRANS Board of Directors.

(b) Administrative Approvals. Following its approval by the Board of Directors, this Agreement shall be administered by the CEO/General Manager of OMNITRANS ("CEO") or his or her designee. Except where the terms of this Agreement expressly require the approval of a matter or the taking of any action by the Board of Directors, any matter to be approved by the OMNITRANS shall be deemed approved, and any action to be taken by the OMNITRANS shall be deemed taken, upon the written approval by the CEO (or designee). The CEO or designee shall have the authority to issue interpretations with respect to this Agreement and to determine whether any action requires the approval of the Board of Directors.

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IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement
As of the dates set forth below

BUYER : _____

By: _____

Date: _____

Its _____

By: _____

Date: _____

Its _____

SELLER:

OMNITRANS, a joint powers authority

By: _____

Date: _____

Alan D. Wapner, Chair
Omnitrans Board of Directors

By: _____

Date: _____

P. Scott Graham, CEO/General Manager
Secretary, Omnitrans Board of Directors

Approved as to Legal Form:

By: _____

Date: _____

Carol Greene
Legal Counsel for Omnitrans

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EXHIBIT "A"

LEGAL DESCRIPTION

That certain real property located in the city of Rancho Cucamonga, County of San Bernardino, State of California, more particularly described as follows:

That portion of the northwest $\frac{1}{4}$ of section 8, township 1 south, range 6 west, San Bernardino base and meridian, according to the official plat of said land, described as follows:

Commencing at the southeast corner of the northwest $\frac{1}{4}$ of said section 8; thence north 30 chains, thence west 20 chains, thence south 30 chains, thence east 20 chains to the point of beginning.

Excepting therefrom all that portion lying northwesterly of the southeasterly line of the state highway as established in that certain final order of condemnation, a certified copy of which was recorded February 13, 1975 in Book 8615, page 992, official records.

Also excepting therefrom all that portion conveyed to Southern Surplus Realty Co., a California corporation, by deed recorded October 2, 1973 in Book 8279, page 59, official records.

Also excepting therefrom a triangular shaped parcel, being a portion of the northwest $\frac{1}{4}$ of section 8, township 1 south, range 6 west, San Bernardino base and meridian, bounded on the east by the east line of the northwest $\frac{1}{4}$ of said section 8, bounded on the northwest by the southeasterly line of the state highway (Devore Freeway) as established by final order of condemnation, a certified copy of which was recorded February 13, 1975 in book 8615, page 992, official records of San Bernardino County, and bounded on the south by a line running easterly from the intersection of southeasterly line of the state highway, with the easterly line of that portion conveyed to Southern Surplus Realty Company, a California corporation, by deed recorded October 2, 1973 in book 8279, page 59, official records of San Bernardino County, to the southwest corner of the south $\frac{1}{2}$ of the south $\frac{1}{2}$ of the northwest $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of said section 8.

EXHIBIT "B"

GRANT DEED

DRAFT