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REQUEST OF

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1/29/2008
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LARRY WALKER
Auditor/Controller – Recorder

R Regular Mail

WHEN RECORDED, RETURN TO:

CITY CLERK'S OFFICE
CITY OF REDLANDS
PO BOX 3005
REDLANDS CA 92373

Doc#: **2008-0040496**



Titles:	1	Pages:	16
Fees	0.00		
Taxes	0.00		
Other	0.00		
PAID	\$0.00		

DEDICATION AGREEMENT
(Mt. View Grove)

This Dedication Agreement ("Agreement") is made this 18th day of January, 2008 ("Effective Date"), by and between Bixby Land Company, a California corporation ("Bixby") and the City of Redlands, a municipal corporation and general law city organized under the laws of the State of California ("City"). Bixby and City are sometimes individually referred to herein as a "Party" and, together, as the "Parties."

RECITALS

- A. Bixby is the owner of certain real property located in San Bernardino County, California, consisting of approximately fourteen acres and legally described in Exhibit "A" attached hereto (the "Bixby Property").
- B. Bixby has developed and sold property adjacent to, or in the close vicinity of, the Bixby Property. On September 7, 2004, the City approved Bixby's proposal to develop an approximately 683,406 square foot warehouse distribution center on such adjacent property pursuant to City's CRA 781 and a related Concept Plan amendment.
- C. On February 22, 2005, the City's Planning Commission approved the landscape plan for the adjacent property that included Bixby's proposal to plant citrus on the Bixby Property.

D. On June 6, 2006, Bixby offered to donate the Bixby Property to the City and, on that date, the City's City Council accepted Bixby's proposal, subject to certain conditions.

E. The City and Bixby now desire to enter into this Agreement to facilitate and provide more specifically for dedication of the Bixby Property to the City, and the development by the City of a citrus grove on the Bixby Property.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises contained herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bixby and the City agree as follows:

ARTICLE I

Construction of the Citrus Grove

1. Dedication to City. Within twenty (20) days after the Effective Date of this Agreement, Bixby shall convey the Bixby Property to the City by grant deed ("Deed"), for the purposes, and on the terms and conditions set out herein, including the "Reversionary Right", as defined below.

2. Description of Citrus Grove/Irrigation System.

(a) In accordance with the plans of the City, the citrus grove shall consist of Grapefruit trees, fifty percent (50%) of which shall be of the Star Ruby variety, and fifty percent of which shall be of the Rio variety (the "Citrus Trees"). The City shall cause the Citrus Trees to be planted on the Bixby Property, in a manner reasonably consistent with citrus industry standards and practices for the Redlands area, and in accordance with the plan (the "Plan") provided to the City by Larry Jacinto Farming, Inc. ("Jacinto").

(b) In addition to the Citrus Trees, the citrus grove shall be improved with irrigation lines and related facilities providing water from the City's non-potable water system (the "Irrigation System"). The Irrigation System shall be designed and installed by the City and shall provide irrigation sufficient to allow the Citrus Trees to become established and healthy. The approximate location of the Irrigation System shall be as shown on the Plan.

3. Cost Contributions by Bixby. In order to facilitate the development of the citrus grove by the City, and to provide for its maintenance and cultivation by the City, within twenty (20) days after the Effective Date of this Agreement, Bixby shall make the following payments to the City:

(a) \$139,650.00 for the planting of the Citrus Trees, and the planning and installation of the Irrigation System;

(b) \$126,600.00 for cultural care, water, and management expenses for the five (5) year period commencing upon the substantial completion of the planting of the Citrus Trees and the Installation of the Irrigation System (the "Maintenance Period");

(c) \$62,000.00 as a refundable contingency deposit (the "Contingency Deposit"), which shall be deposited into an escrow account in accordance with the agreement executed by the Parties and attached hereto as Exhibit "B," and pursuant to which the City may draw funds for "Approved Purpose", as defined below, and all interest earned on said account shall be the property of, and distributed to, Bixby.

4. Use and Distribution of the Contingency Deposit. The Contingency Deposit shall be used solely for the replacement of Citrus Trees which, notwithstanding that the City has provided cultural care for the citrus grove (including appropriate maintenance and repairs, if needed, of the Irrigation System) in a manner that is consistent with the usual and customary

practices and standards for the citrus industry operating in and around the Redlands area (the "Maintenance Standard"), die during the Maintenance Period (the "Approved Purpose"). Prior to drawing on the Contingency Deposit, the City shall provide, in writing, reasonable evidence to Bixby that the conditions for the release of funds have been met.

Any funds then remaining in the Contingency Deposit account shall be distributed to Bixby on the earlier to occur of (i) reversion of the Bixby Property to Bixby in accordance with the terms hereof, (ii) five (5) years after substantial completion of the installation of the Irrigation System and planting of the trees in the Citrus Grove, or (iii) July 1, 2013.

5. Issuance of Occupancy Permit. Promptly following the delivery to the City of the Deed, and the making of all payments described in Paragraph 3, above, the City shall issue an occupancy permit for the approximately 683,406 square foot building occupied as of the date hereof by Ashley Furniture, and (ii) Bixby shall be deemed to have complied with the approved landscape plan submitted by Bixby showing a citrus grove located under the Edison Easement from San Bernardino Avenue to Almond, and to have satisfied all other conditions related to installation of the citrus grove, and shall have no other obligation of any type with respect to same.

6. Installation and Maintenance. The City shall undertake and complete the installation of the Irrigation System and the planting of the Citrus Trees promptly following the execution and delivery of this Agreement by all Parties, and the execution and delivery of the Deed, and the payment of all funds described in Paragraph 3, above, provided that the planting of the trees may be delayed by the City until the first "Planting Season" for citrus trees, following the Effective Date of this Agreement, commences. As used herein, "Planting Season" shall mean the seasonal period during which, consistent with the usual and customary practices and

standards for the citrus industry operating in and around the Redlands area, citrus trees may be safely (i.e., without unreasonable expectation of frost or other weather damage) planted. Upon commencement of the work described herein, the City shall proceed with due diligence to complete same, in a good and workmanlike manner. The City shall provide written notice to Bixby of the date that it contends that substantial completion of the installation of the Irrigation System and the planting of the Citrus Trees has occurred.

7. Right of Reverter. Upon acceptance by the City of the Bixby, the City shall be wholly responsible for the cultivation and maintenance of the Citrus Trees in a manner consistent with the Maintenance Standard. In that regard, the City will use reasonable efforts to keep and maintain the Bixby Property as a citrus grove. In the event the City fails to keep and maintain the Bixby Property as a citrus grove in a manner consistent with the terms of this Agreement, the title to the Bixby Property shall, without any cost or expense to Bixby, revert to, and this right of reverter shall be set forth in the Deed.

ARTICLE II

General Provisions

8. Effective Date. This Agreement shall not be effective until it has been fully executed and acknowledged by the Parties.

9. Assignment. The rights, duties and obligations of Bixby hereunder may be delegated or assigned by Bixby only with the prior written consent of the City. The rights, duties and obligations of the City may not be delegated or assigned to any private party, but may be assigned by the City to any agency or commission of the City, for the general good of the City and its residents.

10. Running of Benefits and Burdens. All provisions of this Agreement, including its benefits and burdens, run with the land and are binding upon and shall inure to the benefit of and burden the respective successors and assigns of the Parties in whose favor or against who said benefits and burdens are said by this Agreement to run.

11. Successors and Assigns. Subject to the limitations set forth in Section 2 of this Article II, this Agreement shall be binding on and inure to the benefit of the Parties' respective successors and assigns.

12. Single Point of Contact. The City appoints its Municipal Utilities Director to serve as the single point of contact with regard to all matters set forth in this Agreement, and Bixby the hereby initially appoints Mark Bixby to serve as the single point of contact with regard to all matters set forth in this Agreement. Either Party may appoint a replacement single point of contact at any time by giving notice to the other Party in the manner provided for giving notices under this Agreement.

13. Notices. Any and all notices required or permitted hereunder shall be given in writing and sent by personal delivery, recognized overnight courier (e.g., UPS, FedEx, Overnight Express) or registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

To City of Redlands: Municipal Utilities Department
City of Redlands
35 Cajon Street, Suite 15A
Redlands, CA 92373
Attn: Chris Diggs
Telephone No.: (909) 798-7698

To Bixby Land: Bixby Land Company
2211 Michelson, Suite 500
Irvine, CA 92612
Attn: Mark Bixby
Telephone No. (949) 336-7000

With a copy to: Western Realco
500 Newport Center Drive, Suite 630
Newport Beach, CA 92660
Attn: Vance C. Mape
Telephone No. (949) 720-3787

or at any other address or facsimile number designated by a Party in a written notice sent pursuant to this Paragraph 13, and any such notice shall be deemed to have been given as of the date of receipt, if sent by overnight courier, as of the date of delivery, if hand delivered, or as of two (2) business days after the date of mailing.

14. Further Assurances. Each Party shall execute, acknowledge and deliver to the other such other documents, and shall take such other actions, as the other may reasonably request in order to carry out the intent and purposes of this Agreement.

15. Headings. The headings in this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

16. Time of Essence. Time is of the essence of this Agreement. The foregoing to the contrary notwithstanding, if this Agreement requires any act to be done or action to be taken on a date that falls on a Saturday, Sunday or legal holiday, such act or action shall be deemed to have been timely done or taken if done or taken on the next succeeding day that is not a Saturday, Sunday or legal holiday.

17. Waiver. The waiver by any Party of any right granted under this Agreement shall not be deemed a waiver of any other right granted hereunder, nor shall the same be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived. All waivers, consents and approvals must be in writing and signed by the Party giving the same.

18. Entire Agreement. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof.

19. Amendment. This Agreement may not be altered or amended except pursuant to an instrument in writing signed by the Parties.

20. Construction. This Agreement is the result of negotiations between the Parties. Accordingly, the terms and provisions of this Agreement shall be construed in accordance with their usual and customary meanings, and the Parties hereby waive the application of any rule or law that otherwise might require the construction of this Agreement against the Party who (or whose attorney) prepared the executed Agreement.

21. Attorneys' Fees. In the event of litigation to enforce or interpret any provisions of this Agreement or rights arising hereunder, the prevailing Party, in addition to any costs and other relief, shall be entitled to recover its reasonable attorneys' fees (including fees for the use of in-house counsel by a Party) and costs, including those on appeal.

22. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflict of laws rules applicable in the State of California.

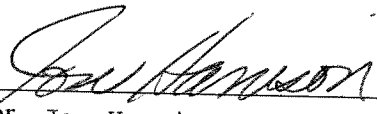
23. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one in the same instrument, which instrument shall be deemed fully executed when one or more counterparts have been executed by the Parties.

24. Third Party Beneficiaries. There are no third party beneficiaries to this Agreement or to any conveyances hereunder. Further, each Party to this Agreement may enforce

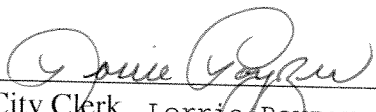
only those burdens and benefits under this Agreement or the conveyances hereunder which are granted by this Agreement to said Party.

IN WITNESS WHEREOF, the Parties have executed this instrument as of the date first written above.

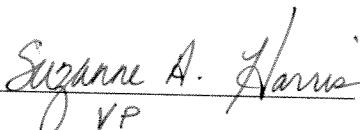
CITY: CITY OF REDLANDS, a California municipal corporation and general law city.

By: 
Mayor, Jon Harrison

ATTEST


City Clerk, Lorrie Poyzer

BIXBY: Bixby Land Company, a California corporation

By: 
Its: VP
Suzanne A. Harris

By: 
Its: VIC PRESIDENT
Mark L. Bixby

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) SS
CITY OF REDLANDS)

By the authority granted under Chapter 4, Article 3, Section 1181, of the California Civil Code, and Chapter 2, Division 3, Section 40814, of the California Government Code, on January 18, 2008, before me, Teresa Ballinger, Assistant City Clerk, on behalf of Lorrie Poyzer, City Clerk of the City of Redlands, California, personally appeared Jon Harrison, Mayor and Lorrie Poyzer, City Clerk who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

LORRIE POYZER, CITY CLERK



By: Teresa Ballinger
Teresa Ballinger, Assistant City Clerk
(909)798-7531

CAPACITY CLAIMED BY SIGNER(S)

- ☐ ☐ **Individual(s) signing for oneself/themselves**
☐ ☐ **Corporate Officer(s)**
Title(s) _____
Company _____
☐ ☐ **Partner(s)**
Partnership _____
☐ ☐ **Attorney-In-Fact**
Principal(s) _____
☐ ☐ **Trustee(s)**
Trust _____
☒ ☐ **Other**
Title(s): Mayor and City Clerk
Entity Represented: City of Redlands, a municipal corporation

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW:

Title or Type of Document: Dedication Agreement (Mt. View Grove)

Date of Document: January 18, 2008

Signer(s) Other Than Named Above: Bixby Land Company, by: Suzanne A. Harris and Mark L. Bixby,
Vice-Presidents

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Orange

On

Jan 2, 2008

before me,

Brie Biertz

Here Insert Name and Title of the Officer

personally appeared

Mark L. Bixby

Name(s) of Signer(s)

Suzanne Harris



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Brie Biertz

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Document Date:

Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:

- ☐ Individual
- ☐ Corporate Officer — Title(s):
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer's Name:

- ☐ Individual
- ☐ Corporate Officer — Title(s):
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Exhibit "A"

LEGAL DESCRIPTION OF BIXBY PROPERTY

Parcels Nos. 5 and 12 of Parcel Map 15911, in the City of Redlands, County of San Bernardino, State of California, as shown by Map on file in Book 200, Pages 85 through 92, inclusive, in the Office of the County Recorder of said County.

Exhibit "A"

Exhibit "B"

ESCROW AGREEMENT

**ESCROW AGREEMENT FOR
CONTINGENCY DEPOSIT**

This Escrow Agreement ("Agreement") is made and entered into by and between the City of Redlands, a municipal corporation ("City") whose address is 35 Cajon Street, Redlands, California 92373 and Bixby Land Company, a California corporation ("Bixby") whose address is 2211 Michelson, Suite 500, Irvine, California 92612 and _____ ("Escrow Agent") whose address is _____ hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, City, Bixby and Escrow Agent agree as follows:

ARTICLE 1

Deposit of Funds

1.1 Within Five (5) days of the effective date of the "Contract", as defined below, Bixby shall deposit into a separate escrow account (the "Escrow Account") the sum of Sixty Two Thousand Dollars (\$62,000.00) in cash, certified funds, or by wire transfer (the "Funds") with Escrow Agent. The Funds are the refundable "contingency deposit" to be drawn upon by City for the "approved purpose" as those terms are defined in, and are to be held, and if necessary used, pursuant to the terms of the contract entitled "Dedication Agreement" entered into between City and Bixby dated January 18, 2008 (hereinafter referred to as the "Contract").

1.2 When Bixby deposits the Funds, Escrow Agent shall notify City within ten (10) days of the deposit. The Funds shall be held by the Escrow Agent solely for the purposes set forth in the Contract, and shall be and remain the property of Bixby until they are rightfully withdrawn from the Escrow Account by the City, in accordance with the terms of the Contract and this Agreement.

1.3 All interest accrued on the Funds shall be the property of Bixby, and may be withdrawn by Bixby at anytime, without the need for any further instructions or consent by, or notice to, City.

1.4 Bixby shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account, and the parties shall otherwise pay their own expenses in connection with the Escrow and this Agreement.

1.5 Bixby shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from City to Escrow Agent that City consents to the withdrawal of the amount sought to be withdrawn by Bixby.

ARTICLE 2

Investment of Funds

2.1 Escrow Agent shall invest the funds as Bixby may direct from time to time, provided, however, there shall at all times be not less than Ten Thousand Dollars (\$10,000.00) invested in such a manner as will allow access to said amount within not more than thirty (30) days. All such investments shall be in governmental instruments (e.g., Treasury Notes or Treasury Bills), or in accounts or certificates of deposit which are Federally insured, have terms no longer than six (6) months, and shall be of such a nature that there is no risk of loss of the principal so invested. Bixby shall execute such documents and instruments as may be required from time to time to facilitate the investment of the Funds, or the termination, if required, of an investment in which a portion of the Funds are made.

2.2 Escrow Agent shall, upon request of City made at reasonable times and reasonable intervals, receive a summary of the then current investments, and such written evidence concerning same as the City may reasonably request.

ARTICLE 3

Use and Withdrawal of Funds

3.1 City shall have a right to draw upon the Funds solely for the replacement of citrus trees during the "Maintenance Period" as defined in, and in accordance with the terms of, the Contract. As and if City from time to time finds it necessary to replace citrus trees, upon not less than seven (7) business days' written notice to Escrow Agent and Bixby (which notice shall set forth with particularity the reason for the requested withdrawal), the City may request the release to the City of all or a specific portion of the funds, for the replacement of citrus trees consistent with the terms of the Contract. Unless Bixby objects in a writing addressed to both Escrow Agent and City prior to the expiration of said seven (7) business day period, Escrow Agent shall immediately disburse the requested amount to City, following which Escrow shall have no responsibility for such funds. Bixby shall have the right to object only if (i) the withdrawal request does not set forth with particularity the reason for the request, (ii) the withdrawal request does not set forth a reason with is consistent with the terms of the Contract and this Agreement, or (iii) Bixby reasonably believes, based on its review of the condition of the citrus grove and the trees in question, that such trees do not need replacement. Any objection by Bixby must be made in good faith, and be based on their reasonable business judgment. In the event of such an objection, the parties shall promptly meet and confer, in person or telephonically, to attempt to reach an agreement concerning the requested disbursement. If they are unable to do so, they shall submit the matter for resolution to Larry Jacinto and Jacinto Farming, who shall determine if the replacement(s) are necessary, and his determination shall be final. A written copy of his determination shall be submitted to the parties and to Escrow Agent, and if the determination is that the withdrawal would be for a proper purpose, i.e., the replace of dead, diseased, or otherwise non-viable trees, the Escrow Agent is authorized to promptly distribute the funds to the City for the stated purpose.

ARTICLE 4

Termination of Escrow

4.1 Upon the earlier to occur of (i) the distribution of all of the funds in accordance with the terms hereof, (ii) receipt of written notification from city certifying that the "maintenance period," as defined in the contract, has expired, (ii) the presentation by bixby to the escrow agent of the certification from city required under the contract that the substantial completion of the installation of the irrigation system and planting of the trees in the citrus grove, which certification sets forth a date a substantial completion which is not less than five (5) years prior to the then current date, (iii) the reversion of the property to bixby in accordance with the terms of the contract, or (iv) July 1, 2013, the escrow shall be terminated. Termination shall be accomplished by the payment of all fees of Escrow Agent, following which the Escrow Agent shall release to Bixby any then existing balance of Funds and accrued interest in the Escrow Account.

4.2 The parties shall execute and deliver such documents and instruments as either of them or Escrow Agent may reasonably require in order to effectuate the termination of the Escrow and the release of Escrow agent from any further duty or obligations.

ARTICLE 5

Miscellaneous

5.1 Escrow Agent shall rely on the written notifications from City and Bixby, and City and Bixby shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the Funds and interest as set forth above.

5.2 The names of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Bixby in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of City:

City Manager
Title

N. Enrique Martinez
Name

Signature

On behalf of Bixby:

Title

Name

Signature

City of Redlands
P.O. Box 3005
Redlands, CA 92373

Bixby Land Company
2211 Michelson, Suite 500
Irvine, CA 92612

Address

Address

On behalf of Escrow Agent:

Title

Name

Signature

Address

5.3 At the time the Escrow Account is opened, City and Bixby shall deliver to Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their proper officers on the date first set forth above.

Owner

Contractor

Title

Title

Name

Name

Signature

Signature

- Higar Air, Brian J. Bearie, NBI General Contractors, William Smith, Leonard Ingalls, William F. Dohr and Inland Aviation
- Under negotiation: Lease terms and price
- b. Property: An approximately 1.37 acre parcel that is generally located west of Texas Street and bound by an adjoining, not a part parcel, on the east, AT & SF railroad right-of-way on the north; Redlands Boulevard on the south, and Stuart Avenue on the west; APN 0171-022-13
- Negotiating Parties: N. Enrique Martinez, Steve Dukett and Ken Patterson and Coldwell Banker Commercial-Kivett Teeters
- Under negotiation: Terms and price for possible sale
- c. Property: An approximately 1.37 acre parcel that is generally located west of Texas Street and bound by an adjoining, not a part parcel, on the east, AT & SF railroad right-of-way on the north; Redlands Boulevard on the south, and Stuart Avenue on the west; APN 0171-022-13
- Negotiating Parties: N. Enrique Martinez, Steve Dukett and Gardner Construction & Development, Inc.
- Under negotiation: Terms and price
- d. Property: APN 0292-166-08
- Negotiating parties: N. Enrique Martinez, Ronald C. Mutter and Golden State Management LLC
- Under negotiation: Price and terms for possible lease of land
- e. Property: APN 0167-511-12 and 11
- Negotiating parties: N. Enrique Martinez, Gary Phelps and Mark Bixby
- Under negotiation: Terms and price
- f. Property: APNs 0292-044-08, 09, 10, 11 and 12; APNs 0292-071-10, 15, 18, 29, 35, 40 and 43
- Negotiating parties: N. Enrique Martinez, Gary Van Dorst and Prologis
- Under negotiation: Terms and prices for possible property exchange

LATE BREAKING ITEM

Noting the need to take action was immediate, Councilmember Gilbreath moved to add the following item to the agenda under "Closed Session" which arose subsequent to the agenda being posted: "Conference with legal counsel - Existing litigation - Government Code §54956.9(a): One case - Vincent Bunn v. City of Redlands, San Bernardino Superior Court Case No. SCVSS 140612." Motion seconded by Councilmember Gil and carried unanimously.

Agreement - Mountain View Grove - On motion of Councilmember Gilbreath, seconded by Councilmember Gallagher, the City Council unanimously approved a dedication and maintenance agreement with Bixby Land Company for the Mountain View Grove and authorized the Mayor to execute, and the City Clerk to attest to, the document on behalf of the City.

CDBG - Home Investment Partnerships Programs - Mayor Harrison asked staff how they would administer the Community Development Block Grant Program and if additional staff would be needed. Interim Redevelopment Agency Director Dukett explained the City of Redlands currently receives its Community Development Block Grant funds through a cooperative agreement with San Bernardino County and 41 percent of our allocation is retained by the County to administer the program on the City's behalf and to fund County-wide programs. City Manager Martinez noted that we may add staff but more importantly may transfer duties from the General Fund to the Community Development Block Grant Fund. Councilmember Harrison moved to authorize the City Manager to initiate the procedures necessary to obtain participating jurisdiction status pursuant to the Federal Community Development Block Grant Program and to participate under the State's Home Investment Partnerships Program. Motion seconded by Councilmember Gilbreath and carried unanimously.

Resolution No. 6671 - Terminate Local Emergency - On motion of Councilmember Gilbreath, seconded by Councilmember Gallagher, the City Council unanimously adopted Resolution No. 6671, a resolution of the City Council of the City of Redlands terminating the local emergency at the Civic Center.

COMMUNICATIONS

Meeting Attendance - In accordance with Government Code Sections 53232.2 and 53232.3, Mayor Harrison and Councilmember Aguilar reported on their attendance at a League of California Cities Inland Empire Division meeting held on January 10, 2008, at City expense.

Performance Measures - Chief Information Officer Smith reported that efforts to improve the efficiency and effectiveness of City operations and the provision of services have been underway since April, 2007. The process began with budget goals and implementing strategies to achieve them at the department level. Level of service evaluation and target areas for improving efficiency and effectiveness were the next step and have been the subject of several progress reports to the City Council. In August 2007, the City Manager directed the Interim Chief Information Officer and the Finance Director to coordinate the development of a comprehensive set of performance measures at the department level to be delivered for use in the mid-year budget review and the planning



306 EAST CITRUS AVENUE - P.O. BOX 6
REDLANDS, CALIFORNIA 92373

PHONE: (909) 793-2939
FAX: (909) 793-9718

Dated: January 21, 2011

TO: REDLANDS ESCROW, INC.

Escrow No.: 20943-DS

Property Address: Unknown

ESCROW INSTRUCTIONS

In consideration of your acting as escrow holder herein, it is agreed that you shall in no case or event be liable for the failure of any of the conditions of this escrow or damage caused by the exercise of your discretion in any particular manner, or for any other reason except gross negligence or willful misconduct with reference to the said escrow, and you shall not be liable or responsible for your failure to ascertain the terms or conditions or to comply with any of the provisions of, any agreement, contract or other document filed herewith or referred to herein nor shall you be liable or responsible for forgeries or false presentation.

It is further agreed that if any controversy arises, between the parties hereto or with any third person with respect to the subject matter of this escrow, its terms or conditions, you shall not be required to determine the same or take any action in the premises, but you may await the settlement of any such controversy by final appropriate legal proceeding or otherwise as you may require, notwithstanding anything in the following instructions to the contrary, and in such event you shall not be liable for interest or damage.

It is understood that the fee agreed upon for your services hereunder shall be considered compensation for your ordinary services as contemplated by these instructions, and in the event that the conditions of this escrow are not promptly fulfilled or that you render any service hereunder not provided for in the following instructions, or that there is any assignment of any interest in the subject matter of this escrow or modification hereof, or that any controversy arises hereunder or that you are made a party to, or intervene in, any litigation pertaining to this escrow or the subject matter thereof, you shall be reasonably compensated for such extra ordinary services and reimbursed for all costs and expenses occasioned by such default, delay, controversy or litigation and you shall have the right to retain all documents and/or other thing of value at any time held by you hereunder until such compensation fees, costs and expenses shall be paid, the undersigned jointly and severally promises to pay such sum upon demand.

ESCROW AGREEMENT FOR CONTINGENCY DEPOSIT referencing the "CONTRACT" dated January 18, 2008 entitled "DEDICATION AGREEMENT," which is attached hereto and incorporated as a part of these escrow instructions.

Escrow Agent's sole concern is to be the "HOLDER" of the \$62,000.00, which funds are the refundable funds outlined in the "Escrow Agreement For Contingency Deposit" said funds shall be drawn upon by City of Redlands for the "approved purpose". Escrow Holder is not to be concerned with the terms and fulfillment of the information contained in the other parts of this agreement only the Escrow Agreement for Contingency Deposit. Other documents referred to in "Escrow Agreement For Contingency Deposit" are not held in the office of Redlands Escrow, Inc.. All parties shall deliver written instructions for monies to be withdrawn from the "Contingency Deposit" in accordance with the attached instructions incorporated herein.

Escrow Agent is to follow the attached Escrow Agreement for Contingency Deposit EXCEPT:

Article No. 2 Paragraph 2.1 Funds delivered to Escrow Agent shall be invested in such a manner as will allow access to said amount within not more than thirty (30) days such as deposited in a Certificate of Deposit with a Federally insured Bank to incur interest during the "Maintenance Period".

Bixby herein agrees to pay an escrow holding fee of \$500.00, at escrow closing for "Holding Escrow Fee".

Escrow Agent is not to be concerned and/or responsible for recording a Grant Deed or any other documents through this escrow.

CITY OF REDLANDS

BY: 

Pete Aguilar, Mayor

BY: _____

BIXBY LAND COMPANY

BY: _____

BY: _____

SIGN AND RETURN

ESCROW AGREEMENT FOR CONTINGENCY DEPOSIT

This Escrow Agreement ("Agreement") is made and entered into by and between the **City of Redlands**, a municipal corporation ("City") whose address is 35 Cajon Street, Redlands, California 92373 and **Bixby Land Company**, a California corporation ("Bixby") whose address is 2211 Michelson Drive, Suite 500, Irvine, California and **Redlands Escrow** ("Escrow Agent") whose address is 306 E. Citrus Ave., Redlands, CA 92373 hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, City, Bixby and Escrow Agent agree as follows:

ARTICLE 1

Deposit of Funds

1.1 Within Five (5) days of the effective date of the "Contract", as defined below, Bixby shall deposit into a separate escrow account (the "Escrow Account") the sum of Sixty Two Thousand Dollars (\$62,000.00) in cash, certified funds, or by wire transfer (the "Funds") with Escrow Agent. The Funds are the refundable "contingency deposit" to be drawn upon by City for the "approved purpose" as those terms are defined in, and are to be held, and if necessary used, pursuant to the terms of the contract entitled "Dedication Agreement" entered into between City and Bixby dated January 18, 2008 (hereinafter referred to as the "Contract").

1.2 When Bixby deposits the Funds, Escrow Agent shall notify City within ten (10) days of the deposit. The Funds shall be held by the Escrow Agent solely for the purposes set forth in the Contract, and shall be and remain the property of Bixby until they are rightfully withdrawn from the Escrow Account by the City, in accordance with the terms of the Contract and this Agreement.

1.3 All interest accrued on the Funds shall be the property of Bixby, and may be withdrawn by Bixby at anytime, without the need for any further instructions or consent by, or notice to, City.

1.4 Bixby shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account, and the parties shall otherwise pay their own expenses in connection with the Escrow and this Agreement.

1.5 Bixby shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from City to Escrow Agent that City consents to the withdrawal of the amount sought to be withdrawn by Bixby.



ARTICLE 2

Investment of Funds

2.1 Escrow Agent shall invest the funds as Bixby may direct from time to time, provided, however, there shall at all times be not less than Ten Thousand Dollars (\$10,000.00) invested in such a manner as will allow access to said amount within not more than thirty (30) days. All such investments shall be in governmental instruments (e.g., Treasury Notes or Treasury Bills), or in accounts or certificates of deposit which are Federally insured, have terms no longer than six (6) months, and shall be of such a nature that there is no risk of loss of the principal so invested. Bixby shall execute such documents and instruments as may be required from time to time to facilitate the investment of the Funds, or the termination, if required, of an investment in which a portion of the Funds are made.

2.2 Escrow Agent shall, upon request of City made at reasonable times and reasonable intervals, receive a summary of the then current investments, and such written evidence concerning same as the City may reasonably request.

ARTICLE 3

Use and Withdrawal of Funds

3.1 City shall have a right to draw upon the Funds solely for the replacement of citrus trees during the "Maintenance Period" as defined in, and in accordance with the terms of, the Contract. As and if City from time to time finds it necessary to replace citrus trees, upon not less than seven (7) business days' written notice to Escrow Agent and Bixby (which notice shall set forth with particularity the reason for the requested withdrawal), the City may request the release to the City of all or a specific portion of the funds, for the replacement of citrus trees consistent with the terms of the Contract. Unless Bixby objects in a writing addressed to both Escrow Agent and City prior to the expiration of said seven (7) business day period, Escrow Agent shall immediately disburse the requested amount to City, following which Escrow shall have no responsibility for such funds. Bixby shall have the right to object only if (i) the withdrawal request does not set forth with particularity the reason for the request, (ii) the withdrawal request does not set forth a reason with is consistent with the terms of the Contract and this Agreement, or (iii) Bixby reasonably believes, based on its review of the condition of the citrus grove and the trees in question, that such trees do not need replacement. Any objection by Bixby must be made in good faith, and be based on their reasonable business judgment. In the event of such an objection, the parties shall promptly meet and confer, in person or telephonically, to attempt to reach an agreement concerning the requested disbursement. If they are unable to do so, they shall submit the matter for resolution to Larry Jacinto and Jacinto Farming, who shall determine if the replacement(s) are necessary, and his determination shall be final. A written copy of his determination shall be submitted to the parties and to Escrow Agent, and if the determination is that the withdrawal would be for a proper purpose, i.e., the replace of dead, diseased, or otherwise non-viable trees, the Escrow Agent is authorized to promptly distribute the funds to the City for the stated purpose.



ARTICLE 4

Termination of Escrow

4.1 Upon the earlier to occur of (i) the distribution of all of the funds in accordance with the terms hereof, (ii) receipt of written notification from city certifying that the "maintenance period," as defined in the contract, has expired, (ii) the presentation by bixby to the escrow agent of the certification from city required under the contract that the substantial completion of the installation of the irrigation system and planting of the trees in the citrus grove, which certification sets forth a date a substantial completion which is not less than five (5) years prior to the then current date, (iii) the reversion of the property to bixby in accordance with the terms of the contract, or (iv) july 1, 2013, the escrow shall be terminated. Termination shall be accomplished by the payment of all fees of Escrow Agent, following which the Escrow Agent shall release to Bixby any then existing balance of Funds and accrued interest in the Escrow Account.

4.2 The parties shall execute and deliver such documents and instruments as either of them or Escrow Agent may reasonably require in order to effectuate the termination of the Escrow and the release of Escrow agent from any further duty or obligations.

ARTICLE 5

Miscellaneous

5.1 Escrow Agent shall rely on the written notifications from City and Bixby, and City and Bixby shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the Funds and interest as set forth above.

5.2 The names of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Bixby in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of City:

On behalf of Bixby:

City Manager

Title

Chief Financial Officer

Title

Vice President

Title

N. Enrique Martinez

Name

James Wolford

Name

Michael F. Severson

Name

Signature

Signature

Signature

City of Redlands
P.O. Box 3005
Redlands, CA 92373

Bixby Land Company
2211 Michelson Drive, Suite 500
Irvine, CA 92612

CONTINUED ON NEXT PAGE



On behalf of Escrow Agent:

Manager
Title
Dorothy Skelton
Name
Dorothy D. Skelton 1-21-11
Signature
306 East Citrus Avenue
Address Redlands, CA 92373

5.3 At the time the Escrow Account is opened, City and Bixby shall deliver to Escrow Agent a fly executed counterpart of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their proper officers on the date first set forth above.

On behalf of City:

City Manager
Title
N. Enrique Martinez
Name
N. Enrique Martinez
Signature

City of Redlands
P.O. Box 3005
Redlands, CA 92373

On behalf of Bixby:

Chief Financial Officer
Title
James Wolford
Name
James Wolford
Signature

Bixby Land Company
1200 Newport Center Drive, Suite 120
Newport Beach, CA 92660

Vice President
Title
Michael F. Severson
Name
Michael F. Severson
Signature

On behalf of Escrow Agent:

Manager
Title
Dorothy Skelton
Name
Dorothy D. Skelton 1-21-11
Signature
306 East Citrus Avenue
Address Redlands, CA 92373



Escrow # 20943-DS
January 21, 2011

To. Redlands Escrow, Inc.

AUTHORIZATION AND INSTRUCTION FOR DEPOSIT OF FUNDS INTO AN INTEREST -BEARING ACCOUNT.

Redlands Escrow, Inc. is hereby authorized and instructed to open an interest-bearing account for funds in the amount of \$ 62,000.00, deposited by:

(x) Buyer () Broker, for buyers credit () Seller

Said account shall be in the name of Redlands Escrow, Inc., as Trustee for

BIXBY LAND COMPANY, buyers, and

CITY OF REDLANDS, sellers, in

Escrow No.: 20943-DS

Type of Account Certificate of Deposit

To be opened at: COMMUNITY BANK
(name of bank or savings & loan association)

200 EAST CITRUS AVENUE, REDLANDS, CA 92373
(address)

(X) You are authorized and instructed to withdraw said funds, together with accrued interest, and deposit same into your escrow trust account, at such time as you deem necessary to effect the close of this escrow. All parties are aware that there may be substantial penalties for early withdrawal of said funds and do hereby release escrow holder from any liability in connection therewith.

Accrued Interest to be credited as follows:

At the close of escrow to: (or when requested) (x) Buyer () Seller ()
At cancellation to: () Buyer () Seller ()

CITY OF REDLANDS

BIXBY LAND COMPANY

Signature BY: Dete Aguilar, Mayor

Signature BY: _____

Signature Pete Aguilar

Signature _____

Address P. O. Box 3005, Redlands, CA
92373 (city)

Address 1200 Newport Center Drive, Ste. 12
Newport Beach, CA 92660 (city)

PHONE _____

PHONE _____

SIGN AND RETURN

GENERAL INSTRUCTIONS

If the conditions of this escrow have not been complied with prior to the date set out in paragraph 3, or any extension thereof, you are nevertheless to complete the escrow as soon as the conditions, except as to time, have been complied with, unless written demand shall have been made upon you not to complete it.

Unless otherwise provided, make all adjustments on basis of 30-day month based on the latest available figures in case of taxes, assessments or bonds, principal, and interest on encumbrances of record based on statements by mortgages, beneficiaries or holder of notes for collection, interest on new encumbrances by endorsement on Notes, and rents on basis of statement presented into escrow by Seller and approved by Buyer, and assume Seller will collect all rents due prior to close of escrow. Assume that insurance premiums are paid and transfer on behalf of parties hereto any fire insurance policies handed you. Forward such policies, upon close of escrow to agent with the request that insurer consent to such transfer or attach Loss Payable or Mortgagee's Clause or other additions or corrections, and that Agent thereafter forward such policies to parties entitled thereto.

The expression "close of escrow", if written in these instructions, shall mean the date first instrument is filed of record. You shall in no event be liable for forgeries or false impersonations in connection with these instructions, instruments of record, or those handled in this escrow.

You need to make payment to or for or deliver documents to any party only if in your exclusive judgement such may be made without you incurring any liability. If any controversy arises between the parties hereto, or with any third person, you shall not be required to determine the same or take any action but you may await the settlement of any such controversy by final appropriate legal proceedings or otherwise as you may require and/or file a suite in interpleader and obtain an order from the court requiring the parties to interplead and litigate in court their several claims and rights among themselves, notwithstanding anything in these printed or typed instructions to the contrary. In the event such interpleader suite is brought, you shall ipso facto be fully released and discharged from all obligations to further perform any and all duties or obligations imposed upon you in this escrow and the parties jointly and severally agree to pay you all costs, expenses and attorney's fees expended or incurred by you, the amount thereof to be fixed and a judgement thereof to be rendered by the court in such suite. In either event, you shall not be liable for interest or damage.

Whenever provision is made herein for the payment of any sums, the delivery of any instrument or the performance of any act "outside escrow" the escrow holder shall have no responsibility therefor and shall not be concerned therewith.

You are to cause no examination or report to be made on state, county or city taxes, either real or personal, or state corporation taxes for the year stated on page one prior the date first installment payments are due and payable, and you are to order no special tax report except as herein otherwise specifically instructed. You are to cause no examination of the title to personal property described herein unless specifically instructed herein.

All monies received in this escrow by you shall be deposited in a bank in an "Escrow Funds" account with other escrow funds, and all such monies received in this and other escrows and deposited into the same "Escrow Funds" account shall constitute one General Escrow Fund. All disbursements shall be made to parties in interest, by your check, and checks and instruments will be mailed to one of the parties entitled thereto, if more than one, to address given. Instruct County Recorder to mail instruments in the same manner.

In the event it may be necessary or proper to comply with the conditions and instructions of this escrow, you are authorized to cause to be deposited, during the pendency of this escrow, any funds or documents with any bank, savings and loan association, title company or another escrow agency licensed under the Escrow Act, to be credited to your account upon recordation of the instruments required to be recorded to complete this escrow; said funds and documents shall be received by you, prior to recording.

If the property involved in this escrow is included in escrow instructions with a bank, savings and loan association, title company or another escrow agency licensed under the Escrow Act, then you are authorized to make such arrangements with such bank, savings and loan association, title company, or licensed escrow agency, as to delivery to it of cash or instruments as will enable you to comply with the instructions in this escrow.

Recordation of any instruments delivered through this escrow, if necessary or proper in the issuance of policies of title called for, is authorized, and in connection therewith, funds or instruments received in this escrow may be delivered to or deposited into another escrow being handled by you or deposited with any title company, or other escrow agency licensed under the Escrow Act, for the purpose of complying with the terms and conditions of these escrow instructions.

The parties to these escrow instructions authorize you to destroy these instructions and all other instruments and records in this escrow at any time after 5 years from the date of these instructions.

Order search of title. Deliver title policy to parties entitled thereto. Prepare documents for my signature.

I, as buyer and/or borrower, will pay on demand, regardless of the consummation of this escrow, all charges and costs incurred by you for me as buyer and/or borrower, including but not limited to fee for preparing instruments I shall execute, or have executed, fee for recording documents, insurance endorsements, your escrow fee and all other expenses and costs as in this escrow provided.

I, as seller and/or lender, will pay on demand, regardless of the consummation of this escrow, all charges incurred by you for me as seller, including but not limited to title change, fee for preparing instruments I should execute, your escrow fee, fee for obtaining beneficiaries' statements and demands, and insurance endorsements and all other expenses and costs as in this escrow provided.

Each person signing these instruments authorizes you to deduct all their expenses from funds due them.

The signing parties hereto jointly and severally agree to pay demand all attorney's fees, costs and damages suffered or incurred by you in case of any controversy or litigation, including but not limited to, a suit in interpleader brought by you, in connection with or arising out of this escrow, plus reasonable compensation for time and expense in preparing for and/or attending court and you are hereby given a lien upon all rights, titles and interest of each of the undersigned in all escrowed papers and other property or moneys deposited in this escrow, to protect your rights and to indemnify and reimburse you hereunder.

Whenever the context so requires, the masculine gender includes the feminine and neuter, the singular number includes the plural, and the plural number includes the singular.

All parties agree that as far as your rights and liabilities are involved, this transaction is an escrow and not any other legal relation and you are an escrow holder only on the within expressed terms, and you shall have no responsibility of notifying any of the parties to this escrow of any sale, resale, loan, exchange, or other transaction involving any property herein described or of any profit realized by any person, firm or corporation (broker, agent and parties to this and/or any other escrow included) in connection therewith, regardless of the fact that such transaction(s) may be handled by you in this escrow or in another escrow.

These instructions may be executed in counterparts, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original and said counterparts together shall constitute one and the same instrument. Any amended supplemental or additional instructions given shall be subject to the forgoing conditions and instructions.

SELLER(S) INITIALS: *JA*

BUYER(S) INITIALS: _____

SIGN AND RETURN