

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

*Original
taken to Co.
Escrow
by Mike
Huffstutler*

THIS AGREEMENT FOR PURCHASE AND SALE AND ESCROW INSTRUCTIONS ("Agreement"), dated June 11, 1999 ("Effective Date") is made and entered into by and between the City of Redlands, a municipal corporation organized and existing under the laws of the State of California, (hereinafter referred to as "Buyer"), and J. Stanley Mullin and his successors, as trustees of the J. Stanley Mullin Family Trust established under Declaration of Trust dated August 1, 1996, as to an undivided 62.5% interest (herein J.S.M. Trustee), and John F. Mullin, known as John Frederick Mullin, as his separate property, as to an undivided 37.5% (herein J.F.M. Separate Property), (hereinafter together referred to as "Sellers"). Buyer and Sellers are sometimes herein collectively referred to as the "Parties."

RECITALS

A. Whereas, Sellers own certain real property consisting of approximately twenty (20) gross acres of land located at the northeast corner of Lugonia Avenue and Judson Street in the City of Redlands (the "City"), San Bernardino County, California, which is improved with a mature grove of naval and valencia oranges and is designated as Assessor's Parcel Numbers 168-161-07 and 168-161-08, and is more particularly described in Exhibit "A" which is attached hereto and incorporated herein by this reference (the "Property"); and

B. Whereas, Sellers own sixty (60) shares of the capital stock of the Lugonia Water Company which Sellers have used to provide Sellers with a resource of non-potable water to irrigate the Property; and

C. Whereas, Sellers agree to sell to Buyer and Buyer agrees to buy from Sellers the Property and take title to sixty (60) shares of the capital stock of Lugonia Water Company (the "Water Company Stock") herein described, on and subject to the terms and conditions contained herein;

NOW THEREFORE, in consideration of the mutual promises contained herein, the Parties hereby agree as follows:

AGREEMENT

1. PURCHASE PRICE

The total price for the Property and the Water Company Stock to be paid at Close of Escrow shall be Seven Hundred Thousand Dollars (\$700,000) (the "Purchase Price") to be paid to Sellers by cashier's checks or wire transfer, to Seller J.S.M., Trustee, 62.5% of \$700,000, to wit: \$437,500, and to Seller J.F.M., as his Separate Property, 37.5% of \$700,000, to wit: \$262,500.

2. TITLE TO PROPERTY

Sellers shall, at Close of Escrow, by grant deed convey to Buyer good and marketable fee title to the Property as evidenced by a standard form A.L.T.A. Joint Protection Policy of Title Insurance in an amount equal to the Purchase Price of the Property issued by Chicago Title Company (the "Title Company") showing title vested in the City of Redlands, subject to those exceptions to title approved by Buyer pursuant to Section 4.1 below. Buyer shall be responsible for the premium for the standard policy of title insurance, and any additional endorsements or policy coverage requested by Buyer shall be at Buyer's sole cost and expense.

3. DELIVERY OF WATER COMPANY STOCK

Sellers shall, at Close of Escrow, by certificate, convey to buyer sixty (60) shares of the capital stock of Lugonia Water Company.

4. CONDITIONS OF PURCHASE

Buyer's obligation to perform this Agreement and purchase the Property shall be subject to the satisfaction of the following conditions, which are for Buyer's benefit only. In the event any of the following contingencies are not satisfied within the specified time limit(s), Buyer may, at its sole option, either waive such conditions or terminate this Agreement without liability to Buyer.

4.1 Approval of Title. Promptly after execution of this Agreement by Sellers and Buyer, Escrow Holder shall deliver to Buyer a current preliminary title report ("PTR"), including documents referred to therein, covering the Property from the Title Company. Buyer shall have five (5) days after the date of Title Company's provision of the PTR to Buyer to approve or disapprove the status of title to the Property as disclosed in the PTR and related documents. Any disapproval of status of title shall be within the reasonable discretion of Buyer and shall be limited to monetary encumbrances and covenants, conditions, restrictions and easements of record which adversely affect Buyer's intended use of the Property. Any exception not disapproved in writing within the five (5) day period shall be deemed approved by Buyer, and shall constitute a permitted exception hereunder. Any objection to a title exception shall be in writing, and Sellers shall thereafter have ten (10) days within which to use reasonable efforts to cure or to provide assurance of the cure of the title defect and cause such item to be removed from the title policy to be issued at Close of Escrow. The term "reasonable efforts," as used in this Paragraph 4.1, shall not include any obligation of Sellers to expend any money or commence any legal action to correct any exceptions within the ten (10) day period.

Sellers shall notify Buyer, in writing, of any disapproved title exceptions which Sellers are unable to cause to be removed prior to or at Close of Escrow. Buyer shall, within three (3) business days thereafter, elect by giving written notice to Sellers and Escrow Holder (i) to terminate this Agreement, or (ii) to waive its disapproval of such exceptions, in which case such exceptions shall then be deemed to be permitted exceptions. Buyer's failure to give such notice shall be deemed an election to terminate this Agreement. In the event Buyer elects to terminate this Agreement, the Parties shall be relieved from any further liabilities and/or obligations under this Agreement.

4.2 Inspections. With the prior written consent of Sellers, which consent shall not be unreasonably withheld, Buyer shall have the right to physically inspect and perform tests (hereinafter collectively "Inspections"), on the Property as Buyer deems necessary for the Buyer's use as a mature citrus grove. All Inspections shall be done at Buyer's sole cost and expense. Upon completion of any such Inspections, the Property shall be returned to its original condition. Buyer shall have the right, in the exercise of its good faith discretion, to approve or disapprove of the condition of the Property for use as citrus grove as disclosed in such Inspections within twenty (20) days from the opening of escrow. Any disapproval of the condition of the Property shall be in writing and given to Sellers within such twenty (20) day period. In the event Buyer does not disapprove the condition of the Property within the twenty (20) day period, this condition shall be deemed waived. In the event Buyer disapproves the condition of the Property within the twenty (20) day period, this Agreement shall terminate and the Parties shall be relieved from any further liabilities and/or obligations under this Agreement.

5. "SECTION 1031" EXCHANGE

The Parties agree to cooperate if one or the other elects to consummate the transaction described in this Agreement as a "like-kind exchange" within the purview of Section 1031 of the Internal Revenue Code, including, without limitation, executing documents reasonably requested by the other to effectuate such a "Section 1031" exchange. However, the purchase and sale of the Property shall not be delayed or conditioned upon the consummation of the "Section 1031" exchange, the non-exchanging party shall not be required to take title to any Property which it is not ultimately acquired, and the non-exchanging party shall have no liability, nor suffer any risk or expense with respect to the exchange.

6. ESCROW

6.1 Opening. The purchase and sale of the Property shall be completed through an escrow ("Escrow") to be opened at Guardian Escrow (the "Escrow Holder"). Within three (3) days after the mutual execution of this Agreement, Sellers shall deposit with the Escrow Holder one fully executed counterpart of this Agreement, which shall constitute the Escrow Instructions along with any additional escrow instructions executed by the Parties pursuant to Section 6.5 of this Agreement. The date of delivery to Escrow Holder of such fully executed counterpart shall be deemed the opening of escrow ("Opening of Escrow") and Escrow Holder shall notify Buyer and Sellers in writing of the Opening of Escrow date, the date set for Close of Escrow, and its acceptance of the escrow instructions.

6.2 Closing. Escrow shall close, if at all, on or before the date which is thirty (30) days from the date of Opening of Escrow.

6.3 **Costs.** Buyer shall pay all closing costs, escrow and title costs and other similar charges (other than prorated real property taxes, bonds and assessments, rents and security deposits, if any) arising out of this Agreement.

6.4 **Prorations.** Current real property taxes, bonds and assessments shall be prorated at the date of recordation of the grant deed, on the basis of a thirty (30) day month. Sellers have paid the water company assessment for 1999 (no proration).

6.5 **Additional Documents.** Buyer and Sellers shall execute such additional Escrow instructions as Escrow Holder may reasonably require to act as Escrow Holder, but in no event shall said additional Escrow instruction increase the rights of one party against the other party hereto or modify the terms and conditions of this Agreement.

6.6 **Delivery of Documents.** Sellers shall deliver the Water Company Stock to Escrow Holder, and Escrow Holder shall prepare the Grant Deed at least one (1) business day prior to the Close of Escrow. Escrow Holder shall have no responsibility for acceptance or delivery of the Purchase Price. Immediately upon the Buyer's and Sellers' informing the Escrow Holder that all conditions precedent to this Agreement have been satisfied, and prior to the Close of Escrow, the Buyer shall immediately deliver the following funds to the respective Sellers: A cashier's check in good funds made payable to J. Stanley Mullin, Trustee, in the sum of \$437,500 (or, alternatively, a wire transfer to such account as specified to the Buyer by J. Stanley Mullin) and a cashier's check in good funds made payable to John F. Mullin in the sum of \$262,500 (or, alternatively, a wire transfer to such account as specified to the Buyer by John F. Mullin). The parties agree that delivery of the Purchase Price from Buyer to Sellers shall occur outside of Escrow, and prior to close of escrow upon Buyer and Sellers being informed by Escrow Holder that all conditions of this Agreement have been satisfied.

6.7 **Vesting**. Title shall vest at Close of Escrow in the name of the City of Redlands, a municipal corporation.

7. **SELLERS' REPRESENTATIONS, WARRANTIES AND ACKNOWLEDGMENTS**

Sellers hereby make the following representations, warranties and acknowledgments and agree that such representations, warranties and acknowledgments shall survive the Close of Escrow.

7.1 Sellers have full right, power, and authority to execute this Agreement and to convey fee simple title to the Property to Buyer as provided herein.

7.2 Sellers are not foreign persons under Section 1445 Internal Revenue Code and will execute a Certificate of Non-Foreign status and deposit the same into the Escrow prior to Close of Escrow.

7.3 Sellers have full right, power and authority to execute this Agreement and to convey free and clear title to the Water Company Stock to Buyer as provided herein.

7.4 This Agreement has been duly approved and executed by Sellers and constitutes the valid and binding Agreement of Sellers, enforceable against Sellers in accordance with its terms.

8. BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer hereby makes the following representations, warranties and acknowledgments and agrees that such representations, warranties and acknowledgments shall survive Close of Escrow.

8.1 Buyer hereby represents and warrants that the person executing this Agreement has the full authority and power to enter into this Agreement on behalf of Buyer to purchase the Property from Sellers, and to take all actions required of it by the terms of this Agreement.

8.2 All the documents executed by Buyer which are to be delivered to Sellers at Close of Escrow shall be duly authorized, executed, and delivered by Buyer and shall be legal, valid and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms, and shall not violate any agreement to which Buyer is a party or to which it is subject.

8.3 That (i) prior to Close of Escrow, Buyer will have had the opportunity to investigate all physical, land use and economic aspects of the Property and to make all inspections and investigations of the Property which Buyer deems necessary or desirable to protect its interest in acquiring the Property, including, without limitation, toxic reports, surveys, investigation of land use and development rights, development restrictions and conditions that are or may be imposed by governmental agencies, soils and geological reports, governmental agreements and approvals, and (ii) except as otherwise expressly set forth in this Agreement, neither Sellers, nor anyone acting for or on behalf of Sellers, has made any representation, warranty, promise or statement, express or implied, to Buyer, or to anyone acting for or on behalf of Buyer, concerning the Property or the use thereof. Buyer further represents and warrants that with respect to any representations, warranty, promise or statement, express or implied, of Sellers, or anyone

acting for or on behalf of Sellers, other than as expressly set forth in this Agreement, that all matters concerning the Property have been or shall be independently verified by Buyer prior to Close of Escrow, and that Buyer shall purchase the Property on Buyer's own prior investigations and examination of the Property (or Buyer's election not to do so).

9. NOTICE

Unless otherwise provided herein, any notice, tender, or delivery to be given hereunder by either party to the other may be effected by personal delivery in writing or by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed communicated upon delivery or as of mailing. Mailed notices shall be addressed as set forth below, but each party may change its address by written notice in accordance with this Section.

Buyer:

City of Redlands
PO Box 3005
Redlands, CA 92373
Attention: City Clerk

Sellers:

J. Stanley Mullin
c/o Sheppard, Mullin, Richter & Hampton
333 S. Hope Street, Floor 48
Los Angeles, California 90071-1448

John F. Mullin
Mullin Lumber Co.
1950 West Slauson Avenue
Los Angeles, California 90047

With a copy to:
Daniel N. Belin, Esquire
Belin Rawlings & Badal LLP
11601 Wilshire Boulevard, Suite 2200
Los Angeles, California 90025-1758

10. GENERAL PROVISIONS

10.1 Entire Agreement. This Agreement supersedes any and all prior oral or written agreements between the parties hereto relating to the Property and contains the entire Agreement of the Parties as to the matters contained herein. No other agreement, statement or promise made by any party or to any official, employee, officer or agent of any party to this Agreement shall be binding, except a subsequent amendment to this Agreement, in writing, executed by the Parties. All obligations of Buyer, Sellers under this Agreement and the Escrow shall be joint and several.

10.2 Time is of the Essence. Time is of the essence of this Agreement and the Escrow referred to herein.

10.3 Captions and Construction. The captions appearing at the commencement of the sections hereof are descriptive only and for convenience and reference. Should there be any conflict between any such caption and the section at the head of which it appears, the section shall control and govern in the construction of this Agreement. This Agreement shall be construed as a whole and in accordance with its fair meaning. Organization is for convenience and shall not be used in construing meaning.

10.4 Buyer's Performance. Close of Escrow and performance of any duty imposed on Buyer by this Agreement is conditioned on Sellers' full performance of all duties imposed on Sellers in this Agreement.

10.5 Sellers' Performance. Close of Escrow and performance of any duty imposed on Sellers by this Agreement is conditioned on Buyer's full performance of all duties imposed on Buyer in this Agreement.

10.6 Counterparts. This Agreement may be executed in any number of counterparts each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

10.7 Successors and Assigns. Each covenant and condition contained in this Agreement shall inure to the benefit of and be binding on the Parties to this Agreement, their respective heirs, personal representatives, assigns and other successors in interest; however, no such assignment shall release or relieve Buyer from any obligations or liabilities under this Agreement.

10.8 Attorney's Fees. In the event any action is commenced to enforce or interpret the terms or conditions of this Agreement the prevailing party shall, in addition to any costs or other relief, be entitled to recover its reasonable attorneys' fees.

10.9 Amendment. Any amendment to this Agreement shall be in writing and executed by the Parties.

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

11. BROKERS' AND FINDERS

Buyer warrants that the execution of this Agreement was not induced or procured through any person, firm, or corporation acting as a broker or finder. Buyer and Sellers agree to defend, indemnify and hold each other harmless from and against any damage, liability or cost, including without limitation, reasonable attorney's fees, arising from or in connection with any claim by any other person, firm, or corporation based upon

its having acted as broker or finder for or in connection with this transaction on behalf of Buyer and Sellers.

IN WITNESS WHEREOF, the parties hereto executed this Agreement on the dates set forth opposite their respective signatures hereto.

SELLERS:

J. STANLEY MULLIN, TRUSTEE

By: J. Stanley Mullin Executed this 10 day of JUNE, 1999
TRUSTEE at Los Angeles, California

JOHN F. MULLIN

By: John F. Mullin Executed this 11th day of JUNE, 1999
at Los Angeles, California

BUYER:

THE CITY OF REDLANDS

By: [Signature] Executed this 15th day of June, 1999
at ~~Los Angeles~~, California
Redlands

ATTEST:

By: [Signature]
Lorrie Poyzer, City Clerk

EXHIBIT "A"

3. The land referred to in this report is situated in the State of California, County of SAN BERNARDINO and is described as follows:

PARCEL 1:

THE WEST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 1 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF REDLANDS, ACCORDING TO GOVERNMENT SURVEY.

EXCEPT PORTIONS OF JUDSON STREET AND E. LUGONIA STREET CONVEYED TO THE CITY OF REDLANDS BY DEED RECORDED MAY 24, 1988 AS INSTRUMENT NO. 163128, 163129, 163130, 163131.

PARCEL 2:

THE EAST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 1 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF REDLANDS, ACCORDING TO GOVERNMENT SURVEY.

EXCEPT THE SOUTH 50 FEET CONVEYED TO THE CITY OF REDLANDS BY DEED RECORDED MAY 24, 1988 AS INSTRUMENT NO. 163128, 163129, 163130, 163131.