

**PURCHASE AND SALE AGREEMENT
MADE UNDER THREAT OF, AND IN LIEU OF, CONDEMNATION
FOR A PORTION OF CONTRA COSTA COUNTY APN NO. 034-090-022
RELATED TO CITY OF OAKLEY CAPITAL IMPROVEMENT PROJECT 280**

This Purchase and Sale Agreement (“Agreement”) is made by and among Frederick J. Del Barba and Shirley Ann Del Barba, as to one half interest of the real property described within; Victoria Louse Mann, Juli Ann Favalora, and Cynthia N. Del Barba, equally as to one half interest of the property described within; all of whom are collectively referred to within as “Sellers”; and the City of Oakley, a California municipal corporation, referred to within as “Buyer.” Sellers and Buyers are collectively referred to within as “Parties,” and each individually is referred to as a “Party.” The effective date of this Agreement is February 28, 2024 (“Effective Date”).

RECITALS

A. Sellers are collectively the owners of the property more particularly described as Contra Costa County Assessor Parcel 034-090-022, located at the intersection of Laurel Road and O’Hara Avenue.

B. For purpose of widening portions of Laurel Road and O’Hara Avenue at and near the intersection of both roadways, the Sellers have agreed to sell, and City has agreed to purchase, portions of the above-referenced property as more particularly described in Section 1.1 below (“Real Property”).

C. The acquisition of the Real Property is necessary to allow the Buyer to obtain right of way to complete the construction of City of Oakley Capital Improvement Project Number 280 and, thus, the acquisition is related to a public project and involves the expenditure of city funds intended to further a public purpose.

D. Buyer’s purchase of the Real Property by sale is made with the Parties’ mutual understanding that Buyer would seek to acquire the Real Property through eminent domain but for the Sellers’ agreement to sell the Buyer the Real Property, and that for the Sellers, the sale of the Real Property is intended to be subject to 26 U.S.C. section 1033 for taxation purposes.

E. In entering into this Agreement, the Parties desire to memorialize the terms and conditions of their agreement for purchase of the Real Property and to provide for the mutual release of any and all claims related to the intended and threatened condemnation associated with acquisition of such property.

F. This Agreement is full consideration for all claims of damage that may have arisen by any eminent domain action or the public project for which the Real Property is to be conveyed.

AGREEMENT

NOW, THEREFORE, in consideration of the above Recitals, which are deemed material terms of this Agreement, the Parties agree as follows:

1. Property Included in Sale. Sellers shall sell and convey to Buyer in fee, and Buyer shall purchase from Sellers, subject to the terms and conditions set forth herein, the following:

1.1 The real property described in Exhibit "A", attached hereto, and depicted in "Exhibit B," attached hereto, consisting of (i) 22,639 square feet, more or less, along O'Hara Avenue, and (ii) 42,552 square feet, more or less, along Laurel Road.

1.2 All of Sellers' right, title and interest in and to (i) all rights, privileges, and easements appurtenant to the Real Property, including without limitation all development rights, permits, entitlements and any rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Real Property (collectively, the "Appurtenances"); (ii) any improvements or fixtures upon the Real Property (collectively, the "Improvements"); (iii) all intangible property and rights, indemnities, claims, demands, actions or awards benefiting the Real Property, including, but not limited to, any causes of action, claims and warranties (collectively, the "Intangible Rights"); less any Excluded Property. The Real Property, Appurtenances, Improvements and Intangible Rights are collectively referred to herein as the "Property."

1.3 Excluded Property: Notwithstanding the foregoing, the sale of Property contemplated by this Agreement expressly reserves and retains all right, title and interest in and to all of the oil, gas, and other minerals and mineral rights in, on or under the Property, if any. Seller expressly waives the right to use the surface of the Property in connection with the exercise of the mineral reservation herein created, Seller reserving the right to extract minerals from the Property only by means of directional drilling from other properties or by pooling or unitization of the Property with others.

2. Purchase Price. The purchase price for the Property shall be the sum of **\$524,946** ("Purchase Price"), of which \$391,146 is deemed to be the value of the Property, and the remaining \$133,800 of which is deemed to be full compensation for the loss of grape vines associated with the Buyer's acquisition of the Property, but given the circumstances of the threat of eminent domain the methodology used for this transaction's price per vine is not to be considered a comparable for future vine acquisitions or negotiations by the Buyer.

3. Opening of Escrow; Deposit.

3.1 Escrow Agent. The Parties shall open an escrow through Old Republic Title, 1000 Burnett Avenue, Concord, California 94520 ("Agent").

3.2 Deposit. Within five calendar days of the opening of escrow, Buyer will deposit the sum of \$10,000.00 into escrow as the deposit for this transaction ("Deposit"). The Deposit shall be credited against the Purchase Price at the Closing (as hereinafter defined). Escrow Agent shall hold the Deposit in an interest bearing account with interest accruing for the benefit of Buyer. The Deposit and all interest accrued thereon, if any, less the Independent Consideration (as hereinafter defined), while in Escrow shall be refundable to Buyer if this Agreement is terminated by Buyer (i) on or before the expiration of the Due Diligence Period for (as hereinafter defined) for any reason; (ii) due to a default by Sellers; (iii) due to a failure of any of the Conditions Precedent (as hereinafter defined); or (iv) as otherwise provided in this Agreement.

3.3 Independent Consideration. One Hundred Dollars (\$100.00) of the Deposit shall be released immediately from Escrow and paid to Sellers as independent consideration for

the rights extended to Buyer hereunder, including, without limitation, the right and option to terminate this Agreement as provided herein (the “Independent Consideration”). In all instances under this Agreement in which Buyer elects to terminate or is deemed to have terminated this Agreement and the Deposit is returned to Buyer, Sellers shall retain the Independent Consideration when the Deposit is returned to Buyer. The Parties hereto intend and agree that the amount of the Independent Consideration is sufficient consideration for the rights and options extended to Buyer hereunder and that it satisfies the threshold for sufficient consideration for such rights and options.

4. Title to the Property. At the closing of the purchase and sale contemplated hereunder (the “Closing”), Sellers shall convey to Buyer insurable title to the Property by a duly executed and acknowledged Grant Deed in Title Company’s standard form (the “Grant Deed”). At Closing, Title Company shall issue to Buyer a California Land Title Association Owner’s Policy of Title Insurance (“Title Policy”) in the amount of the Purchase Price insuring fee simple title to the Property in Buyer. The cost of the Title Policy shall be paid by the Buyers. If Buyer desires to obtain an ALTA extended coverage owner’s policy of title insurance for the Title Policy, then Buyer shall be responsible, at Buyer’s cost and expense, for satisfying any additional requirements that Escrow Holder’s underwriter may require in connection with the issuance of such ALTA extended coverage.

5. Conditions to Closing. The following conditions are conditions precedent to Buyer’s obligation to purchase the Property (the “Conditions Precedent”):

5.1 Buyer’s Review and Approval of Title to the Property. Sellers shall use reasonable efforts to cause Title Company to deliver to Buyer a preliminary title report on the Property within twenty (10) days after the Effective Date, which preliminary title report shall be issued by Title Company and accompanied by copies of all documents referred to in the report (collectively, the “Preliminary Report”). Buyer shall advise Sellers, within thirty (10) days after the Effective Date, what exceptions to title, if any, will be accepted by Buyer. Sellers shall have ten (5) days after receipt of Buyer’s objections to give Buyer: (i) notice that such exceptions will be removed on or before the Closing Date; or (ii) notice that Sellers elects not to cause such exceptions to be removed. If Sellers gives Buyer notice under clause (ii), Buyer shall notify Sellers within ten (5) days after Buyer’s receipt of Sellers’s notice whether Buyer elects to proceed with the purchase or terminate this Agreement. If Buyer shall fail to give Sellers notice of its election within such ten-day period, Buyer shall be deemed to have elected to terminate this Agreement. In the event this Agreement is cancelled pursuant to this 5.1, the Deposit, together with all interest earned thereon, and all other monies delivered to Escrow Holder by Buyer shall immediately be returned to Buyer, and except for any provisions that expressly survive the termination of this Agreement, the Parties hereto shall have no further obligations hereunder. Notwithstanding the foregoing provisions, Sellers, at its sole cost, on or prior to the Closing, shall cause to be eliminated all liens evidencing monetary encumbrances (other than liens for non-delinquent real estate taxes and assessments, and supplemental taxes and assessments). Failure of Buyer to object to such monetary encumbrances shall in no event be deemed a waiver of Buyer’s right to require Sellers to eliminate such monetary encumbrances at Closing.

5.2 Due Diligence Investigations. During that period which shall commence on the Effective Date and terminate at 5:00 p.m., Pacific Time, on the date that is ten (10) days thereafter (the “Due Diligence Period”), Buyer, through its employees, agents and consultants, shall be entitled to enter the Real Property to conduct, at Buyer’s sole cost and expense, a full

inspection of the Property, including, without limitation, a physical inspection of the condition of the Real Property, an inspection and examination of the soils and the environmental condition of the Real Property, including, without limitation, a Phase I and Phase II (if required) Environmental Site Assessment of the Real Property, and an inspection of the condition of title to the Property. Buyer shall promptly repair any damage caused to the Real Property as a result of Buyer's entry on the Real Property and shall restore the Real Property after any such entry to the same material condition at the time immediately preceding such entry by Buyer. Buyer shall indemnify, defend and hold harmless Sellers from and against any and all obligations, liabilities, claims, damages, costs, expenses and fees (including reasonable attorneys' and experts' fees and costs) arising from any entry, examinations, inspections, tests or restoration conducted by Buyer on the Real Property. Notwithstanding the foregoing, Buyer shall not be obligated to defend or indemnify Sellers or to repair any damage caused in whole or part by any one or more of the following: (a) the discovery of hazardous materials; (b) a pre-existing condition in, on or about the Property; (c) the spread of hazardous materials already present on the Property despite the use of reasonable care; or (d) the negligence or willful misconduct of Sellers or its agents.

5.3 Buyer's Approval of Condition of the Property; Right to Terminate. On or before the expiration of the Due Diligence Period, Buyer shall deliver notice to Sellers specifying Buyer's approval or disapproval, in Buyer's sole and absolute discretion, based on its investigation of the Property, the Due Diligence Materials and the Preliminary Report. In the event that any of the conditions of the Property are unacceptable to Buyer for any reason, Buyer may deliver a written notice of disapproval electing to terminate this Agreement and, except as otherwise provided herein, the Parties hereto shall have no further rights or obligations under this Agreement, and the Deposit, together with all interest earned thereon, less the Independent Consideration, shall be immediately returned to Buyer. Notwithstanding the foregoing, if at any time before the expiration of the Due Diligence Period, or after Buyer's approval of its due diligence investigations in accordance with this Section 5.3 (but prior to Closing), the Escrow Agent shall deliver to Buyer an amended Title Report, Buyer shall have until the later of (i) ten (10) business days from its receipt of such amended Title Report (and copies of any additional documents referred to therein as additional exceptions) or (ii) the expiration of the Due Diligence Period, to approve any additional matters referred to therein, and Buyer's disapproval of the same shall have the same effect as a written notice of disapproval delivered on or before the expiration of the Due Diligence Period.

6. Additional Terms

The Parties agree to the following additional terms, which shall survive and continue to be binding on the parties following the Closing.

6.1. Indemnification by City. The City hereby agrees to indemnify, defend and hold Sellers and their respective directors, officers, partners, members, managers, agents and employees harmless from and against any and all liabilities, losses, claims (including third party claims), demands, damages, injuries, expenses, causes of action, costs, penalties, fines, taxes and assessments, judgments, attorneys' fees and costs, consultants' fees and costs and experts' fees and costs (collectively, "Claims") caused by or as a result of any entry onto the Property by Buyer or any Buyer-affiliated person or party and provide appropriate liability insurance upon the signed agreement and prior to entering the property. If other sections of this Agreement are inconsistent, then this Section shall control.

6.2. Utilities. All utilities included but not limited to gas, electric, sewer, and water shall be brought to the frontage of the Subject Property with the understanding to size any lines for current commercial use and of sufficient capacity which would be accommodate the current commercial zoning or a mixed zoning of commercial and residential zoning.

6.3. Ingress and Egress. Proper ingress and egress shall be provided, including two (2) curb cuts along the frontage of Laurel and one (1) curb cut along the frontage of O'Hara at three locations to which the Sellers and Buyer have agreed. Future development of the subject site will not be limited to these curb cuts, if proposed additional curb cuts meet City of Oakley Standards. Sellers shall at all times maintain access for ingress and egress prior to public dedication and improvements of the above mentioned curb cut road improvements for all commercial purposes, which as a condition of this Agreement, shall be memorialized at a future date during the escrow period in the form of a License Agreement. Such License Agreement shall maintain Sellers access for ingress and egress for all commercial purposes including continued crop cultivation, as well as access for any agents licensees or invitees, for brokers, potential future buyers, landlords, tenants, future developers or their employees, contractors and the Sellers themselves.

6.4. Notice. Sellers are to be provided forty-eight (48) hours in writing prior to any work being performed on the Property.

6.5. Undergrounding. Buyer accepts full responsibility for the improvement, relocation, and or undergrounding of utility, Western Area Power Administration, or other poles or improvements along Laurel Road's frontage.

6.6. Abandonment. If the Property becomes no longer needed for public use, Buyer shall abandon the Property in accordance with California Streets & Highways Code section 8300 et seq. and other applicable law, and Buyer shall, at its expense, thereafter take such actions as are necessary to reconvey Property to Sellers or their then respective successors or transferees such that the Property shall remerge with the real property described above in Section 1.1, as may then be constituted or legally described.

7. Closing and Escrow.

7.1 Execution of Agreement. The Parties hereto shall deposit executed counterparts of this Agreement with the Title Company and this Agreement shall serve as instructions to the escrow holder for consummation of the donation, purchase, and sales contemplated hereby. Sellers and Buyer agree to execute such additional escrow instructions as may be appropriate to enable the escrow holder to comply with the terms of this Agreement; provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall control.

7.2 Closing Date. Escrow shall close within 30 days of the opening of Escrow (the date of closing being hereinafter referred to as the "Closing Date").

7.3 Delivery of Documents. At or before the Closing Date (except to the extent otherwise specifically provided below), Sellers shall deliver to Buyer the following:

(i) The grant deed for the Property, duly executed and acknowledged by Sellers; and

(ii) Such other documents or records as may be required under applicable law or as specified by the Title Company to ensure completion of all transactions described hereby.

7.4 Apportionment. The following are to be apportioned as of the Closing Date, as follows:

(i) Real Estate Taxes and Assessments. To the extent applicable, real property taxes and assessments on the Real Property shall be prorated as of the Closing Date (on the basis of actual days elapsed and a 360-day year) based upon the latest available bills. Buyer shall assume responsibility for all real estate taxes and assessments on the Property from the Closing Date forward. If any of the prorations or adjustments required under this Section 6.4(i) cannot be definitively calculated on the Closing Date, then they shall be estimated at the Closing and definitively calculated as soon as practicable after the Closing Date. As soon as the necessary information is available, Sellers and Buyer shall conduct a post-Closing review to determine the accuracy of all prorations and adjustments. Within thirty (30) days after the completion of such determination, either party owing the other party a sum of money based on such subsequent prorations, adjustments or post-Closing review shall pay said sum to the other party. The obligations of Sellers and Buyer under this Section shall survive the Closing for one (1) year.

(ii) Closing Costs. Buyer shall pay the recording fees, any County of Contra Costa transfer tax and the premium for the Title Policy and escrow fees and such other costs and charges of the escrow for the sale not otherwise provided for in this Section or elsewhere in this Agreement.

8. Party Representations; Default.

8.1 Sellers Representations and Warranties. Sellers hereby represents and warrants to Buyer as of the Effective Date and as of the Closing as follows:

(i) Sellers have full power and authority and has taken all action necessary to execute this Agreement and to fulfill all obligations hereunder and that this Agreement has been duly executed and delivered by Sellers and constitutes the legal, valid, and binding obligations of Sellers in accordance with its terms.

(ii) Sellers represent that, to Sellers' actual knowledge, the Property is free of contamination and hazardous materials in all material respects. To Sellers' knowledge, the Property is not in any material violation of any federal, state or local law, ordinance or regulation relating to hazardous substances, industrial hygiene or the environmental conditions on, under or about the Property including, but not limited to, soil and ground water condition.

(iii) To Sellers' knowledge, there are no material violations of any applicable law, ordinance, rule, regulation, or requirement of any governmental agency, body, or subdivision affecting or relating to the Property.

(iv) To Sellers' knowledge, there is no suit, action, arbitration, legal, administrative or other proceeding or inquiry, pending or threatened against or relating to Sellers that would affect Sellers' ability to perform their obligations under this Agreement.

(v) To Sellers' knowledge, there are no material encumbrances or liens against the Property, including, but not limited to, actual or impending mechanics' liens against the Property, unexpired leases, options, mortgages or deeds of trust, other than those set forth in the Title Report.

(vi) No third party is entitled to occupancy of any portion of the Property.

(vii) Except as expressly provided herein, there is no agreement materially affecting or restricting the Property, including its usage and development, and Sellers have not granted to any person or entity any ground lease, site control lease, or similar agreement regarding the Property or any option to purchase or lease all or any portion of the Property or any right of first refusal or right of first offer to purchase or lease all or any portion of the Property, and no third Parties have any such options or rights.

(viii) Aside from Buyer's threat of eminent domain proceedings, there are no pending or, to Sellers' knowledge, threatened requests, applications or proceedings to alter or restrict the zoning or other use restrictions or any taking, condemnation or eminent domain proceedings applicable to the Property. The Property is a legal conforming use and the current and anticipated use of the Property complies with the zoning requirements for the Property.

(ix) Sellers have disclosed to Buyer any and all known conditions with respect to the Property which are reasonably likely to have a material adverse effect on the Property or may adversely affect the health or safety of any occupant of the Property. Specifically, Buyer acknowledges that the Property has been used for commercial crop cultivation as a vineyard.

8.2 Buyer Representations and Warranties. Buyer hereby represents and warrants to Sellers as of the Effective Date and as of the Closing as follows:

(i) Buyer has full power and authority and has taken all action necessary to execute this Agreement and to fulfill all its obligations hereunder and this Agreement has been duly executed and delivered by Buyer and constitutes the legal, valid and binding obligations of Buyer in accordance with its terms.

(ii) To Buyer's knowledge, there is no suit, action, arbitration, legal, administrative or other proceeding or inquiry, pending or threatened against or relating to Buyer that would affect Buyer's ability to perform its obligations under this Agreement.

8.3 DEFAULT BY BUYER; LIQUIDATED DAMAGES. If the Closing and

the consummation of the transaction contemplated by this Agreement do not occur solely as a result of a default by Buyer, then Sellers, as its full and complete liquidated damages and its sole and exclusive remedy for Buyer's default, shall be entitled to retain the Deposit. Sellers agrees to waive all other remedies against Buyer, which Sellers might otherwise have in law or at equity by reason of such default by Buyer; provided, however, the foregoing shall not limit those obligations of Buyer which expressly survive the termination of this Agreement as expressly provided hereunder. **THE PARTIES HAVE AGREED THAT SELLERS'S ACTUAL DAMAGES, IN THE EVENT ESCROW FAILS TO CLOSE SOLELY DUE TO A DEFAULT BY BUYER, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE AMOUNT OF THE DEPOSIT HAS BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF SELLERS'S DAMAGES AND AS SELLERS'S EXCLUSIVE REMEDY AGAINST BUYER, AND THAT PAYMENT OF SUCH AMOUNT TO SELLERS AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTION 3275 OR 3369, BUT INSTEAD, IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLERS PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE.**

Sellers's Initials

Buyer's Initials

8.4 Default by Sellers. If the transaction is not consummated as a result of a default (including a breach of any representation or warranty) by Sellers, then Buyer may either (i) terminate this Agreement by delivery of notice of termination to Sellers, whereupon the Deposit, together with all interest earned thereon, less the Independent Consideration, and all other monies delivered to Escrow Holder by Buyer shall be immediately returned to Buyer, Sellers shall pay any title and/or escrow fees charged by the Escrow Holder in connection with canceling the Escrow, and, except for any indemnity or other provisions in this Agreement that specifically survive the Closing or the earlier termination of this Agreement, neither party shall have any further rights or obligations hereunder; or (ii) continue this Agreement and bring an action against Sellers for specific performance of this Agreement, which action may include claims for damages.

8.5 Limitations on Sellers' Representations and Warranties. Notwithstanding anything in this Section 8 to the contrary, in the event of any material breach by Sellers of any of representations or warranties discovered after Closing, Sellers shall be liable only for any direct or actual damages suffered by Buyer on account of Sellers' breach, and all of the restrictions set herein. Notwithstanding the foregoing, Sellers shall have no liability based on matters disclosed to Buyer in any of the materials provided to Buyer in accordance with this Agreement. In no event shall Sellers be liable for any indirect, consequential, special or punitive damages on account of Sellers' breach of any representation or warranty contained in this Agreement. Additionally, notwithstanding the foregoing, if Buyer becomes aware prior to the Closing that any representation or warranty hereunder is untrue, or any covenant or condition to Closing hereunder has not been fulfilled or satisfied (if not otherwise waived by Buyer), Buyer shall

advise Sellers thereof in writing, and provide an opportunity to cure of twenty (20) calendar days to the satisfaction of Buyer. If Buyer nonetheless proceeds to close its purchase of the Property, then Buyer shall be deemed to have irrevocably and absolutely waived, relinquished and released all rights and claims against Sellers for any damage or other loss arising out of or resulting from such untrue representation or warranty or such unfulfilled or unsatisfied covenant or condition.

9. As-Is Acquisition. Buyer represents and warrants that as of the Close of Escrow, Buyer will have satisfied itself as to the physical, environmental, legal and economic condition and all other aspects of the Property and its suitability for the purposes intended by Buyer. Buyer acknowledges and agrees that Buyer is acquiring the Property subject to all existing laws, ordinances, rules and regulations, and that, except as expressly set forth in this Agreement, neither Sellers nor any of Sellers's agents, representatives and attorneys (collectively, "Sellers's Agents") have made any warranties, representations or statements regarding the availability of any approvals, or the laws, ordinances, rules or regulations of any governmental or quasi-governmental body, entity, district or agency having authority with respect to the ownership, possession, development, occupancy, condition and/or use of the Property except as expressly provided herein. Buyer, moreover, acknowledges that Buyer has entered into this Agreement with the intention of relying upon its own investigation of the physical, environmental, economic and legal condition of the Property, including, without limitation, the compliance of the Property with laws and governmental regulations and the operation of the Property, and that, except for the representations and warranties of Sellers expressly set forth herein and subject to the limitations of section 8.5, Buyer is not relying on any representations and warranties made by Sellers or anyone acting or claiming to act on Sellers's behalf concerning the Property except as expressly provided herein subject to the limitations of section 8.5. Buyer further acknowledges that it has not received from Sellers any accounting, tax, legal, architectural, engineering, property management or other advice with respect to this transaction and is relying upon the advice of its own accounting, tax, legal, architectural, engineering, property management and other advisors. Subject to the representations and warranties of Sellers set forth herein, Buyer shall purchase the Property in its "As-Is" condition on the Closing Date and assumes the risk that adverse physical, environmental, economic or legal conditions may not have been revealed by its investigations and Sellers shall have no liability for any subsequently discovered defects, whether latent or patent.

10. Miscellaneous.

10.1 Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, or (ii) three (3) days after being deposited in the U.S. Mail, and addressed as follows

If to Sellers:

Cindy Del Barba
2026 Sequoia Drive
Martinez, CA 94553
925-349-8400
Cindyditalian@gmail.com

Victoria L. Mann
PO Box 829

Knightsen, CA 94548
925-260-8649
925-625-6171
vmann49@aol.com

Juli Del Barba Favalora
300 Brownstone Rd
Oakley, CA 94561

Fred & Shirly Del Barba
4631 Rose Avenue
Oakley, CA 94561

With a copy to:

Vincent A. Moita, Esq.
Attorney at Law
PO Box 880
Seal Beach, CA 90740
Email: vm@moitalaw.com

If to Buyer:

Joshua McMurray, City Manager
City of Oakley
3231 Main Street
Oakley, California 94561
McMurray@ci.oakley.ca.us

Sellers and Buyer shall each have the right from time to time to change the place notice is to be given under this section by written notice thereof to the other party.

10.2 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors, heirs, administrators and assigns. This Agreement shall be freely assignable by Buyer to an entity that Buyer owns or controls, that Buyer is controlled by, or that is under common control with Buyer This Agreement shall be freely assignable by Sellers to an entity that Sellers own or control, that Sellers are controlled by, or that is under common control with Sellers.

10.3 Amendments. Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by Sellers and Buyer.

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

10.5 Merger of Prior Agreements. This Agreement and the exhibits hereto constitute the entire agreement between the Parties and supersede all prior agreements and understandings between the Parties relating to the subject matter hereof.

10.6 Mutual Releases of Claims. Except as to such rights or claims as may be created by this Agreement, each Party hereby releases, remises, and forever discharges each other from any and all claims, demands, cause or causes of action, obligations, rights or liabilities of any kind, whether known or unknown, express or implied, existing between the Parties, arising from or in connection to acquisition of the Property under the threat of condemnation. This Agreement shall be effective as a full and final accord and satisfaction, and as a bar to all actions, causes of action, and obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities, and demands of whatsoever nature, character, or kind, known or unknown, suspected or unsuspected, which could have been brought, arising out of and in connection to any threatened condemnation proceedings.

In making the foregoing mutual releases, each Party specifically waives the benefit of the provisions of Section 1542 of the Civil Code of the State of California, which states:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

The Parties intend that the waiver identified in this Section extend to all known and unknown, express and implied causes of action and claims of any kind, whether at law or in equity. The Parties acknowledge that this release has been negotiated and agreed upon in anticipation of such a comprehensive release, and the Parties intend and hereby do release, acquit, and forever discharge each other from any and all demands, cause or causes of action in connection with or arising out of the threatened condemnation proceedings, whether known, unknown, unsuspected, or unforeseen, except as expressly reserved in conjunction with the performance of this Agreement.

10.7 Enforcement. If either Party hereto commences legal proceedings to enforce or interpret the terms of this Agreement, the prevailing party in such proceedings shall be entitled to recover from the other Party its attorneys' fees and court costs incurred therein.

10.8 Time of the Essence. Sellers and Buyer agree that time is of the essence of this Agreement. If either party fails to perform an obligation contained herein by the date such performance is required, it shall not be deemed to be unreasonable for the other party to pursue its remedies hereunder, including termination of this Agreement.

10.9 Severability. If any provision of this Agreement or the application thereof to any person, place or circumstance shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.

10.10 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 and

the same document. Any signature page hereto delivered electronically or by facsimile (including without limitation transmission by .pdf or other fixed image form) shall be binding to the same extent as an original signature page.

10.11 Risk of Loss; Condemnation. All risk of loss shall remain with Sellers until Closing at which time it shall pass to Buyer. In the event that the Property, or any material portion thereof, is substantially destroyed or substantially damaged prior to the Closing, or in the event of the taking of all or any material portion of the Property by eminent domain proceedings, other than eminent domain proceedings initiated by Buyer, or the commencement of such proceedings prior to Closing, Buyer shall have the right, at Buyer's option, to terminate this Agreement by delivering notice to Sellers within five (5) business days after Buyer's discovery of such damage or condemnation action, in which case the Deposit, together with all interest earned thereon, and all other monies delivered to Escrow Holder by Buyer shall be immediately returned to Buyer and, except as otherwise provided herein, the Parties shall have no further rights or obligations under this Agreement. If Buyer does not so terminate this Agreement, then Buyer shall proceed to close with no reduction in the Purchase Price, in which event upon the Closing, Sellers shall assign to Buyer any insurance proceeds, compensation, awards, or other payments or relief resulting from such casualty or condemnation proceedings to the extent applicable or allocable to the Property. Sellers shall deliver notice to Buyer of any material damage and/or condemnation proceedings affecting the Property within two (2) business days after Sellers's discovery of such matter.

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

SELLERS:

Frederick J. Del Barba

Shirley Ann Del Barba

Victoria Louse Mann

Juli Ann Favalora

Cynthia N. Del Barba

BUYER:

CITY OF OAKLEY

Joshua McMurray
City Manager

APPROVED AS TO FORM:

By: _____
Derek P. Cole, City Attorney

EXHIBIT A

Legal Description

[APPEARS ON FOLLOWING PAGE]



EXHIBIT "A"
Legal Description

STREET DEDICATION

Laurel Road and O'Hara Avenue, Oakley CA

Real property in the City of Oakley, County of Contra Costa, State of California, described as follows:

Being a portion of the lands of Del Barba, as said lands are shown in that certain Record of Survey map recorded on August 17th, 1983 in Book 73 of L.S.M. Page 8, Official Records of Contra Costa County, more particularly described as follows:

STREET DEDICATION No. 1

Beginning at the northeasterly corner of said lands of Del Barba, being on the centerline of Laurel Road, as shown on said map, also being on the northerly line of the northwest 1/4 of Section 36, Township 2 North, Range 2 East, Mount Diablo Base & Meridian, as shown on said map and thence running along the easterly line of said lands of Del Barba, South 00°12'43" West, 22.50 foot to the **TRUE POINT OF BEGINNING** of this description;

Thence continuing along said easterly line, South 00°12'43" West, 53.00 feet to a line parallel with and 75.5' feet southerly of the centerline of Laurel Road;

Thence along said parallel line, South 89°57'00" West, 1095.32 feet to a point on the southerly line of the Street Widening as shown in that certain Grant Deed, recorded May 6, 2005 as Document 2005-0163286, Official Records of Contra Costa County;

Thence along said southerly line the following three (3) courses:

- North 86°11'08" East, 22.84 feet;
- North 80°37'18" East, 89.35 feet;
- North 86°11'08" East, 563.82 feet to a point on the southerly right of way line of Laurel Road, 45 feet wide, as said road is shown on said map;

Thence leaving said southerly line and along said southerly right of way line, South 89°57'00" East, 422.00 feet to the **TRUE POINT OF BEGINNING** of this description.

Containing an area of 42,552 square feet, more or less.

STREET DEDICATION No. 2

Beginning at the southwesterly corner of said lands of Del Barba, being on the monument line of O'Hara Avenue, also being on the westerly line of the northwest 1/4 of Section 36, Township 2 North, Range 2 East, Mount Diablo Base & Meridian, as shown on said map and thence along the southerly line of said lands of Del Barba, South 89°37'16" East, 22.50 feet to the **TRUE POINT OF BEGINNING** of this description, being on the easterly line of O'Hara Avenue;

Thence running along said easterly line, North 00°23'04" East, 548.19 feet to a point on the general southerly line of the Street Widening as shown in that certain Grant Deed, recorded May 6, 2005 as Document 2005-0163286, Official Records of Contra Costa County;

Thence along said general southerly line the following four (4) courses:

- North 22°32'38" East, 46.41 feet;
- North 00°23'20" East, 32.49 feet;
- North 45°42'32" East, 25.46 feet;
- North 86°11'08" East, 1.91 feet to a line parallel with and 60 feet easterly of the monument line of O'Hara Avenue;

Thence along said parallel line, South 00°23'04" West, 641.70 feet to the southerly line of the lands of Del Barba as shown on said map;

Thence along said southerly line North 89°37'16" West, 37.50 feet to the **TRUE POINT OF BEGINNING** of this description.

Containing an area of 23,639 square feet, more or less.

As shown on plat attached hereto and made a part hereof as Exhibit "B"

This legal description was prepared by me, or under my direction, in conformance with the requirements of the Professional Land Surveyors Act.

By: David Darling
David Darling
P.L.S. No. 7625



Dated: 06/23/2023

EXHIBIT B

PLAT

[APPEARS ON FOLLOWING PAGE]

SAFeway INC.

APN 035-220-028

AARON THIGPEN

APN 035-220-027

CITY OF OAKLEY

APN 035-220-026

NW COR. SEC. 36
T2N, R2E, MDB&M
828.44'

P.O.B. 1
T.P.O.B. 1

LAUREL ROAD

N86°11'08"E 563.82'

N89°57'00"E 422.00'

S89°57'00"W 1095.32'

STREET WIDENING
DOC. 2005-0163286

**STREET DEDICATION
NO. 1**
42,552 SQ.FT.±

**STREET DEDICATION
NO. 2**
22,639 SQ.FT.±

JULI ANN DEL BARBA - FAVALORA, ET AL. TRUST
73 L.S.M. 8
DOC. 2022-0007147

APN 034-90-022

ANNA MARIE LAMOTHE
DOC. 2021-0135824

APN 034-90-003

LINE TABLE

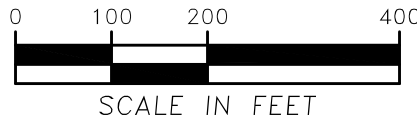
NO.	BEARING	LENGTH
L1	S00°12'43"W	53.00'
L2	N86°11'08"E	22.84'
L3	N80°37'18"E	89.35'
L4	S00°12'43"W	22.50'
L5	N22°31'38"E	46.41'
L6	N00°23'20"E	32.49'
L7	N45°42'32"E	25.46'
L8	N86°11'08"E	1.91'
L9	N89°37'16"W	37.50'
L10	S89°37'16"E	22.50'

O'HARA AVENUE

N00°23'04"E 548.19'

S00°23'04"W 641.70'

154.02'
L5 L6 L7
22.5'
L9
L10
P.O.B. 2
T.P.O.B. 2



LEGEND

APN ASSESSOR'S PARCEL NUMBER PER ROLL YEAR 2022-23
 P.O.B. POINT OF BEGINNING
 L.S.M. LAND SURVEYORS MAP
 T.P.O.B. TRUE POINT OF BEGINNING

\\BKF-SJ\VOL4\2022\220520_LAUREL_ROAD_CIP_280\SUR\MAPPING\PLAT\STREET_DEDICATION.DWG

EXHIBIT "B"
PLAT TO ACCOMPANY
LEGAL DESCRIPTION



1730 N. FIRST STREET
 SUITE 600
 SAN JOSE, CA 95112
 408-467-9100
 www.bkf.com

Subject STREET DEDICATION
LAUREL ROAD
 Job No. 20220520 OAKLEY, CA
 By PAN Date 06-23-2023 Chkd. DRD
 SHEET 1 OF 1

Closure Calculations

Street Dedication
Juli Ann Dell Barba Trust
Oakley, CA

Project: Laurel Road
Parcel Map Check

June 6, 2023
Company No. 20220520

Parcel Name: **Street Dedication No. 1**

	North: 12,856.49'	East: 9,904.04'
Line	Course: S0° 12' 43"W	Length: 53.00'
	North: 12,803.49'	East: 9,903.84'
Line	Course: S89° 57' 00"W	Length: 1,095.32'
	North: 12,802.53'	East: 8,808.52'
Line	Course: N86° 11' 08"E	Length: 22.84'
	North: 12,804.05'	East: 8,831.31'
Line	Course: N80° 37' 18"E	Length: 89.35'
	North: 12,818.61'	East: 8,919.47'
Line	Course: N86° 11' 08"E	Length: 563.82'
	North: 12,856.12'	East: 9,482.04'
Line	Course: N89° 57' 00"E	Length: 422.00'
	North: 12,856.49'	East: 9,904.04'

Perimeter: 2,246.33'	Area: 42,552 Sq Ft 0.977 Ac.
Error Closure: 0.00'	Course: N0° 00' 00"E
Error North: 0.00'	East: 0.00'
Precision 1: 2,246,330,000.00'	

Parcel Name: **Street Dedication No. 2**

	North: 14,929.11'	East: 5,791.44'
Line	Course: N0° 23' 04"E	Length: 548.19'
	North: 15,477.29'	East: 5,795.12'
Line	Course: N22° 31' 38"E	Length: 46.41'
	North: 15,520.16'	East: 5,812.90'
Line	Course: N0° 23' 20"E	Length: 32.49'
	North: 15,552.65'	East: 5,813.12'

Line	Course: N45° 42' 32"E	Length: 25.46'
	North: 15,570.43'	East: 5,831.34'
Line	Course: N86° 11' 08"E	Length: 1.91'
	North: 15,570.56'	East: 5,833.25'
Line	Course: S0° 23' 04"W	Length: 641.70'
	North: 14,928.87'	East: 5,828.94'
Line	Course: N89° 37' 16"W	Length: 37.50'
	North: 14,929.12'	East: 5,791.44'

Perimeter: 1,333.66'	Area: 22,639 Sq Ft 0.52 Ac.
Error Closure: 0.01'	Course: N0° 00' 00"E
Error North: 0.01'	East: 0.00'
Precision 1: 133,366.00'	
