

## TRANSFER AGREEMENT

This Transfer Agreement (hereinafter referred to as the "Agreement") is made between the County of Monterey, a political subdivision of the State of California (Seller), and \_\_\_\_\_ (Buyer). Seller and Buyer are collectively referred to hereinafter as the "Parties."

The Parties hereby agree as follows:

### 1. TRANSFER

- a. Seller agrees to transfer and Buyer agrees to accept pursuant to the terms and conditions set forth in this Agreement, the real property improvements consisting of two wood frame structures located at 54692 Teresa Street, San Lucas, County of Monterey, State of California, described in **Exhibit A**, hereinafter referred to as the "Property Improvements."
- b. Buyer agrees that it will be acquiring the Property Improvements by way of Quitclaim Deed, in a form attached hereto as **Exhibit B**.
- c. Seller agrees to record the Quitclaim Deed;
- d. Buyer agrees to reimburse County for all fees for recordation of Quitclaim Deed, and documentary transfer tax, within five (5) days of recordation. Said cost to not exceed \$500.
- e. Buyer agrees they will be acquiring Property Improvements in an "as-is" condition with all faults and conditions then existing, including any hazardous substances or hazardous wastes, whether known or unknown, and Buyer assumes all responsibility for such faults and conditions.
- f. Buyer agrees within sixty (60) calendar days of the Board of Supervisors' confirmation of the sale, to be responsible for the abatement of existing Property Improvements; securing all required permits; addressing any utility line interferences and preventing damage to existing trees on-site; securing of building moving services; removal of buildings to an alternate receiving site; and capping of existing utilities in accordance with all applicable Federal, State, and Local laws and regulations.
- g. Buyer agrees to submit to Seller a work plan, to the reasonable satisfaction of County's Public Works Director, designed to ensure that all the tasks to be performed by Buyer under this Agreement will be lawfully performed by licensed (specialty) contractors (as may be required) with scheduled dates of completion five (5) business days before commencing any work or changes at the property.

### 2. COUNTY REPRESENTATIONS AND WARRANTIES

Seller represents and warrants to Buyer that on the date this Agreement is fully executed the following conditions apply:

- a. Seller has the full right, power, and authority to enter into this Agreement and to perform the transactions contained in it.
- b. The RMA-Public Works made available to Buyer various consultant reports as background information for required environmental tests, reports, and permits including, for example, Pre-demolition asbestos and lead testing report of the main library facility, (house only), Phase 1 Environmental Report, geotechnical investigation for underground utility detection, and topographic survey and site map of the property. The County makes no warranty concerning these reports. These reports are made available as a convenience to Buyer and as notice of the presence of lead, mold and asbestos in the improvements.

### 3. INSURANCE, DEFENSE AND INDEMNITY

**a. INDEMNIFICATION.** Buyer shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the Buyer's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "Buyer's performance" includes Buyer's action or inaction and the action or inaction of Buyer's officers, employees, agents and subcontractors.

**b. INSURANCE.**

Evidence of Coverage:

Prior to commencement of this Agreement, the Buyer shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition the Buyer upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's, Contracts/Purchasing Department, unless otherwise directed. The Buyer shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such, insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Buyer.

Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

Insurance Coverage Requirements: Without limiting Buyer's duty to indemnify, Buyer shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Workers' Compensation Insurance, if Buyer employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the Buyer shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

#### Other Insurance Requirements:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date Buyer completes its performance of services under this Agreement.

**Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.**

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the Buyer's work, and shall further provide that such insurance is primary insurance to any insurance or self-insurance and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Buyer insurance.

Prior to the execution of this Agreement by the County, Buyer shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the Buyer has in effect the insurance required by this Agreement. The Buyer shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

Buyer shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify Buyer and Buyer shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by Buyer to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

**4. LIQUIDATED DAMAGES**

Once Buyer comes upon Seller's property located at 54692 Teresa Street, San Lucas, California and undertakes preparation for or removal of the subject two buildings, liquidated damages in the amount of \$50,000 are due and owing, should the Buyer fail or refuse to entirely and permanently remove the subject buildings.

**5. NOTICES**

All notices and demands shall be given in writing either by personal service or by registered or certified mail, postage prepaid, and return-receipt requested.

Notices shall be addressed as shown below for each party, except that if any party gives notice of a change of name and address, notices to that party shall thereafter be given as shown in that notice.

To:	To:
COUNTY OF MONTEREY	BUYER
DEPARTMENT OF PUBLIC WORKS REAL PROPERTY	
855 E LAUREL DR BLDG C	
SALINAS CA 93905-1300	
<i>COPY TO:</i>	
DEPARTMENT OF PUBLIC WORKS	
ARCHITECTURAL SERVICES	
168 W ALISAL ST FL2	
SALINAS CA 93901-2438	

**6. BINDING ON SUCCESSORS**

This Agreement shall be binding on the parties, their heirs, personal representatives, assigns, and other successors in interest.

**7. ADDITIONAL DOCUMENTS**

The parties agree to execute any additional documents reasonable and necessary to carry out the provisions of the Agreement. The Seller's Contracts/Purchasing Officer shall be authorized to execute any documents needed to complete the transaction, including, but not limited to, amendments to the Agreement, notices or related documents.

**8. SEVERABILITY**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect without being impaired.

## 9. CAPTIONS

The captions heading the various paragraphs of this agreement are for convenience and shall not be considered to limit, expand or define the contents of the respective paragraphs.

## 10. GOVERNING LAW

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

## 11. ENTIRE AGREEMENT

This Agreement embodies the entire agreement and understanding between the Parties relating to the subject matter hereof and may not be amended, waived, or discharged except by an instrument in writing executed by the party against which enforcement of such amendment, waiver, or discharge is sought. This Agreement supersedes all prior discussions, negotiations, agreements, and memoranda whether oral or written.

## 12. AUTHORITY AND EXECUTION

This Agreement, which is valid only when executed by both Parties, constitutes the complete understanding and mutual agreement of the parties hereto and no oral representation in any manner vary the terms hereof or be binding. The individuals executing this Agreement and any other related written documentation certify that they have authority to bind their respective entities.

## 13. COUNTERPARTS

This Agreement may be executed in counterparts, which shall be considered an original and which together shall constitute one document.

The Parties have executed this Agreement as shown below by their duly authorized representatives:

### COUNTY OF MONTEREY

By: \_\_\_\_\_

Name: Michael R. Derr

Title: Contracts/Purchasing Officer

Date: \_\_\_\_\_, 2012

### APPROVED AS TO FORM

CHARLES J. MCKEE, County Counsel

By: \_\_\_\_\_

### BUYER:

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_, 2012

### APPROVED AS TO FORM

By: \_\_\_\_\_

Name: Jesse J. Avila

Title: Deputy County Counsel

Date: \_\_\_\_\_, 2012

Name:

Title:

Date: \_\_\_\_\_, 2012