

<p>Attorney or Party Name, Address, Telephone &amp; FAX Nos., State Bar No. &amp; Email Address</p> <p>Leonard M. Shulman – Bar No. 126349 Lynda T. Bui – Bar No. 201002 Rika M. Kido – Bar No. 273780 SHULMAN HODGES &amp; BASTIAN LLP 100 Spectrum Center Drive, Suite 600 Irvine, California 92618 Telephone: (949) 340-3400 Facsimile: (949) 340-3000 Email: lshulman@shbllp.com; lbui@shbllp.com; rkido@shbllp.com</p> <p><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Helen R. Frazer, Chapter 7 Trustee</p>	<p>FOR COURT USE ONLY</p>
--	---------------------------

**UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE DIVISION**

<p>In re:</p> <p>RODOLFO VARGAS and ALTAGRACIA VARGAS,</p> <p style="text-align: right;">Debtor(s).</p>	<p>CASE NO.: 6:14-bk-25257-MJ CHAPTER: 7</p> <p style="text-align: center;"><b>AMENDED NOTICE OF SALE OF ESTATE PROPERTY</b></p>
---	--

<p><b>Sale Date:</b> 06/23/2015</p>	<p><b>Time:</b> 10:00 am</p>
<p><b>Location:</b> United States Bankruptcy Court, Courtroom 302, 3420 Twelfth Street, Riverside, CA 92501</p>	

**Type of Sale:**  Public  Private **Last date to file objections:** 06/09/2015

**Description of property to be sold:** Real Property located at 16651 Tracy Street, Victorville, California 92395

**Terms and conditions of sale:**

SEE ATTACHED MOTION FOR ORDER: (1) APPROVING THE SALE OF REAL PROPERTY OF THE ESTATE FREE AND CLEAR OF LIENS PURSUANT TO BANKRUPTCY CODE §§ 363(b)(1) AND (f), SUBJECT TO OVERBIDS, COMBINED WITH NOTICE OF BIDDING PROCEDURES AND REQUEST FOR APPROVAL OF THE BIDDING PROCEDURES UTILIZED; (2) APPROVING PAYMENT OF REAL ESTATE COMMISSION AND BROKER'S COSTS; AND GRANTING RELATED RELIEF

**Proposed sale price:** \$ 165,000.00

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

**Overbid procedure (if any):** See Sale Motion attached hereto for All Overbid Procedures

Overbids Due: June 18, 2015

**If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:**

Hearing Date: June 23, 2015  
Hearing Time: 10:00 a.m.  
Courtroom: 301  
Location: United States Bankruptcy Court  
3420 Twelfth Street  
Riverside, CA 92501

**Contact person for potential bidders (include name, address, telephone, fax and/or email address):**

Rika M. Kido, Esq.  
SHulman Hodges & Bastian LLP  
100 Spectrum Center Drive, Suite 600  
Irvine, California 92618  
Telephone: (949) 340-3400  
Email: rkido@shbllp.com

Date: 06/01/2015

# **MOTION**

1 Leonard M. Shulman – State Bar No. 126349  
Lynda T. Bui – Bar No. 201002  
2 Rika M. Kido – Bar No. 273780  
**SHULMAN HODGES & BASTIAN LLP**  
3 100 Spectrum Center Drive, Suite 600  
Irvine, California 92618  
4 Telephone: (949) 340-3400  
Facsimile: (949) 340-3000  
5 Email: lshulman@shbllp.com; lbui@shbllp.com;  
rkido@shbllp.com  
6  
7 Attorneys for Helen R. Frazer,  
Chapter 7 Trustee

8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA, RIVERSIDE DIVISION**

10 In re

11 **RODOLFO VARGAS and**  
12 **ALTAGRACIA VARGAS,**

13 Debtors.

Case No. 6:14-bk-25257-MJ

Chapter 7

**CHAPTER 7 TRUSTEE’S MOTION FOR  
ORDER:**

- 14 **(1) APPROVING THE SALE OF REAL**  
15 **PROPERTY OF THE ESTATE FREE AND**  
16 **CLEAR OF LIENS PURSUANT TO**  
17 **BANKRUPTCY CODE §§ 363(b)(1) AND**  
18 **(f), SUBJECT TO OVERBIDS, COMBINED**  
19 **WITH NOTICE OF BIDDING**  
20 **PROCEDURES AND REQUEST FOR**  
21 **APPROVAL OF THE BIDDING**  
22 **PROCEDURES UTILIZED;**
- 23 **(2) APPROVING PAYMENT OF REAL**  
24 **ESTATE COMMISSION AND BROKER’S**  
25 **COSTS; AND**
- 26 **(3) GRANTING RELATED RELIEF;**

**MEMORANDUM OF POINTS AND  
AUTHORITIES AND DECLARATION OF  
HELEN R. FRAZER IN SUPPORT THEREOF**

[Real Property located at 16651 Tracy Street,  
Victorville, California 92395]

**Hearing Date:**

Date: June 23, 2015

Time: 10:00 a.m.

Place: Courtroom 301

United States Bankruptcy Court  
3420 Twelfth Street  
Riverside, California 92501

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

	<b>Page</b>
I. INTRODUCTION .....	5
II. RELEVANT FACTS .....	5
A. Case Commencement.....	5
B. The Property.....	6
C. Employment of Real Estate Broker, Marketing Efforts and Basis for the Value of the Property .....	7
D. Liens and Encumbrances Against the Property and Their Proposed Treatment Through the Sale.....	7
E. The Purchase Offer and Summary of the Sale Terms.....	9
F. Tax Consequences of Sale .....	11
G. Notice of Bidding Procedures.....	12
III. ARGUMENT .....	13
A. The Property is Property of the Debtors’ Bankruptcy Estate .....	13
B. The Court May Authorize the Sale When There is a Good Faith Purchaser .....	14
1. Sound Business Purpose .....	14
2. The Sale Serves the Best Interests of the Estate and Creditors.....	15
3. Accurate and Reasonable Notice .....	16
4. The Sale is Made in Good Faith .....	16
C. The Proposed Sale Should be Allowed Free and Clear of Liens .....	17
D. The Court has the Authority to Approve the Bidding Procedures.....	17
1. The Overbid Procedures are Untainted by Self-Dealing .....	18
2. The Overbid Procedures Encourage Bidding and are Fair in Amount .....	18
3. The Overbid Procedures are Fair, Reasonable and Serve the Best Interests of the Estate .....	18
E. Request for Payment of Real Estate Commission .....	19
F. The Court has the Authority to Waive the Fourteen-Day Stay of Sale .....	20

1 IV. CONCLUSION..... 21  
2  
3 DECLARATION OF HELEN R. FRAZER..... 23  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF AUTHORITIES**

**Page**

**CASES**

In re Continental Air Lines, Inc.,  
780 F.2d 1223 (5th Cir. 1986) ..... 14

In re Crown Corporation, 679 F.2d 774 (9th Cir. 1982)..... 17

In re Crowthers McCall Pattner, Inc.,  
114 B.R. 877, 885 (Bankr. S.D.N.Y. 1990)..... 14

In re Lionel Corp.,  
722 F.2d 1063 (2d Cir. 1983)..... 14, 15

In re Wilde Horse Enterprises, Inc.,  
136 B.R. 830, 841 (Bankr. C.D. Cal. 1991)..... 14, 16

In re Yonikus,  
996 F.2d 866 (7th Cir. 1993) ..... 13

United States v Rauer,  
963 F.2d 1332 (10th Cir. 1992) ..... 13

**STATUTES**

11 U.S. C. § 363(m) ..... 16

11 U.S.C. § 102(1) ..... 16

11 U.S.C. § 105(a) ..... 17

11 U.S.C. § 328(a) ..... 20

11 U.S.C. § 363(b) ..... 14

11 U.S.C. § 363(f)..... 17, 19

11 U.S.C. § 541(a)(1)..... 13

11 U.S.C. § 105(a) ..... 17

**RULES**

Fed. R. Bankr. P. 2002(c)(1)..... 16

Fed. R. Bankr. P. 6004(h) ..... 20



1 The Debtors' initial 341(a) Meeting of Creditors ("Meeting of Creditors") was held on  
2 January 29, 2015 and concluded on March 5, 2015.

3 The deadline for non-governmental creditors to file proofs of claims is June 5, 2015 and  
4 the deadline for governmental creditors to file proofs of claims is June 22, 2015. As of May 22,  
5 2015, there are three (3) unsecured claims filed in the total amount of \$120,045.54.

6 **B. The Property**

7 The Debtors' Bankruptcy Schedule A lists the Property, which is legally described as  
8 follows:<sup>1</sup>

9 Lot 139 and 140, Highway Addition to Victorville, in the City of Victorville,  
10 County of San Bernardino, State of California as shown by map on file in Book  
23, Page(s) 45 and 46, of Maps, Records of San Bernardino County, California.

11 APN: 0477-051-02-0-000

12 On their Schedule A, the Debtors list a fifty percent (50%) interest in Property, which is a  
13 quadruplex, with each unit containing one (1) bedroom and one (1) bathroom. The Debtors  
14 valued their fifty percent (50%) interest in the Property at \$47,701.50 (total value of the Property  
15 is \$95,403.00). Pursuant to the current mortgage statement, Ocwen Loan Servicing, LLC is  
16 owed \$94,467.81. The Debtors have claimed an exemption under California Code of Civil  
17 Procedure Section 703.140(b)(5) in the amount of \$4,201.50.

18 Contrary to the Debtors' assertion that they own a fractional interest in the Property, title  
19 in the Property is held by the Debtors, husband and wife, as joint tenants, as provided in the  
20 Preliminary Title Report dated May 11, 2015 ("Preliminary Title Report"), a copy of which is  
21 attached as **Exhibit "1"** to the Declaration of Helen R. Frazer ("Frazer Declaration").

22 At their Meeting of Creditors, the Debtors testified under oath that they had paid off a  
23 second deed of trust in favor of The John C. Salvatore Revocable Living Trust.

24 The Trustee's broker investigated the Property and believed that the value of the Property  
25 was substantially higher than the value listed by the Debtors on their Schedules. Specifically, the  
26 Trustee's broker recommended listing the Property for sale at \$160,000.00.

27

28 <sup>1</sup> The legal description for the Property is believed to be accurate but may be corrected or updated by the title  
company in the transfer documents as necessary to complete the proposed sale transaction.

**C. Employment of Real Estate Broker, Marketing Efforts and Basis for the Value of the Property**

On April 9, 2015, the Court entered an Order authorizing the employment of William Friedman of Coldwell Bank and Jean Mustaikas of Shear Realty (“Brokers”) as co-real estate brokers for the Trustee to assist her with effectively listing and marketing the Property for sale, as well as negotiating a sale price to prospective buyers to provide a benefit to the Estate (Docket No. 23) (“Sale Order”).

The Brokers have more than ten (10) years of experience in the sale of real property as well as property valuations and are familiar with valuing real property in today’s economic environment. The Brokers listed the Property on the MLS for a sale price of \$160,000.00.

On or about May 1, 2015, the Trustee received two (2) offers for the Property, including the offer to purchase the Property in the amount of \$165,000.00 from the Buyer. On or about May 5, 2015, the Trustee sent the Buyer a counter-offer, which included bankruptcy specific terms. The Buyer accepted the counter-offer.

The Buyer’s offer that is the subject of this Motion represents the best offer received by the Trustee. As set forth below, the Trustee believes the sale of the Property will benefit the Estate and its creditors.

**D. Liens and Encumbrances Against the Property and Their Proposed Treatment Through the Sale**

The following chart sets forth the liens and encumbrances against the Property as detailed in the Preliminary Title Report, a copy of which is attached as **Exhibit “1”** to the Frazer Declaration and the proposed treatment of the liens and encumbrances through the sale:

<u>Creditor</u>	<u>Description</u>	<u>Estimated Amount Owing</u>	<u>Treatment of Lien Through the Sale</u>
San Bernardino County Treasurer-Tax Collector	Real property taxes	\$0.00	All outstanding real property taxes will be paid through escrow on the sale transaction.
Ocwen Loan Servicing, LLC	Deed of Trust recorded on March 24, 2004 as Instrument No. 2004-0199309.	\$94,467.81 (per mortgage statement dated April 16, 2015)	This lien will be paid through escrow on the sale of the Property. Thus, this lien will be released, discharged and terminated at the close of escrow and the

<u>Creditor</u>	<u>Description</u>	<u>Estimated Amount Owing</u>	<u>Treatment of Lien Through the Sale</u>
	A Substitution of Trustee under said deed of trust which named T.D. Service Company as the substituted trustee on November 6, 2007 as Instrument No. 2007-0046133.		Property will be sold free and clear of this lien and the lien will <b>not</b> attach to the sale proceeds.
The John C. Salvatore, Revocable Living Trust Executed on February 7, 2006	Deed of Trust recorded on January 24, 2007 as Instrument No. 2007-0046133.  A Substitution of Trustee under said deed of trust which named T.D. Service Company as the substituted trustee on February 21, 2008 as Instrument No.2008-0077075.	\$0.00	The Debtors testified under oath at their meeting of creditors that they have paid this lien in full. As such, the Property will be sold free and clear of this lien and this lien will not attach to the proceeds from the sale of the Property.
City of Victorville	Notice of Pendency of Administrative Proceedings recorded on February 4, 2008 as Instrument No. 2008-0051053.	\$923.79	The Trustee's counsel and escrow officer have been informed by a representative of the City of Victorville that the City of Victorville filed this Notice concerning exposed wires and that these amounts are due as a result of this Notice.  Any fines due in relation to this Notice will be paid through escrow on the sale of the Property. Thus, this lien will be released, discharged and terminated at the close of escrow and the Property will be sold free and clear of this lien and the lien will <b>not</b> attach to the sale proceeds.

All costs of sale, including escrow fees and real estate commissions will be paid at closing. In addition, to the extent that there are any outstanding real property taxes, they will be paid through the sale.

///

///

///

1 **E. The Purchase Offer and Summary of the Sale Terms**

2 The Buyer has offered to purchase the Property for \$165,000.00. The purchase price  
3 includes a deposit of \$4,950.00. Attached as **Exhibit “2”** to the Frazer Declaration is a true and  
4 correct copy of the Residential Income Property Purchase Agreement and Joint Escrow  
5 Instructions and Counter Offer (collectively the “Agreement”).

6 A summary of the Agreement’s terms and highlights are discussed below, but the  
7 summary and discussion are not meant to be a complete review of every provision of the  
8 Agreement. The Agreement itself is the legally binding document the Trustee seeks approval of  
9 and, in the event of any inconsistency between the terms, provisions or effect of the Agreement  
10 and the description of it in these pleadings, the Agreement alone shall govern and not these  
11 pleadings or the descriptions herein.

12 In summary, the principal terms of the sale of the Property shall be as follows (the  
13 Trustee is referred to at times as the “Seller” in the following summary):

14 Buyer:	Grant Karavardanyan
15 Purchase Price:	\$165,000.00, subject to the Bidding Procedures set forth below. 16 \$4,950.00 to be paid as a deposit and the remainder to be paid at closing.
17 Title; Title 18 Insurance	19 Within three (3) business days after acceptance of this Counter Offer, Title 365 (the “Title 20 Company”) or title company of Seller’s choice will be instructed to provide a preliminary 21 report of the condition of title to the Property, including copies of underlying documents 22 referred to in Schedule B thereof, for Buyer’s review. Buyer may, not later than the end of 23 the period in Paragraph 2, or until three (3) days after receipt of the preliminary report and 24 underlying documents, whichever occurs later, in which to give Seller written notice (“Notice 25 of Title Disapproval”) that Buyer disapproves the condition of title with respect to a material 26 matter(s) that interfere with the use of the Property for the purpose for which it is currently 27 used or intended to be used. Such notice must refer to the specific exception(s) in Schedule 28 B of the preliminary report and the specific underlying document(s) which are the basis for Buyer’s disapproval. Within five (5) business days after receipt of such notice, Seller may, in Seller’s sole discretion, either (i) cancel this Agreement and the sale, in which event Buyer’s and Seller’s obligations under this Agreement shall be terminated and Buyer shall receive a full refund of Buyer’s deposit, or (ii) elect to correct the item(s) that were disapproved by Buyer, in which event the sale shall proceed. Seller may correct such item by any means that will result in the Title Company either removing the disapproved exception(s) from the preliminary report or providing title insurance coverage by endorsement against such exception(s). At the close of the sale, Seller shall convey and Buyer shall accept title to the Property as shown in Schedule B of the preliminary report, subject to any corrections as in this paragraph above, free and clear of all monetary liens, subject to the terms of the within contract. Seller shall pay the costs of a CLTA Standard Owner’s policy of title insurance.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

<p>Bankruptcy Sale</p>	<p>Buyer acknowledges that Seller is a Trustee appointed to administer the above referenced bankruptcy estate, and is a party to this Agreement solely in that capacity. Seller and Brokers and agents have not and will not determine the condition or fitness for use of the Property for any particular purpose. The sale shall be "as is," "where is," "with all faults," and with no warranty by or recourse whatsoever to Seller or Brokers or agents herein. Transfer of the Property shall be by Quit Claim Deed. All parties acknowledge that Seller is a party to this Agreement solely in the capacity as Trustee of the above referenced bankruptcy estate and that in the event of any default in the performance of any of Seller's obligations under the Offer (as modified hereby) or in the event that any other claim is asserted against the Seller, Trustee or the estate in connection with this transaction, the Trustee shall in no event have any personal liability whatsoever (whether in her individual capacity or otherwise), it being expressly understood and agreed that Buyer's sole recourse, if any, in such event shall be to the assets of such estate.</p>										
<p>Bankruptcy Court Approval; Overbidding</p>	<p>The sale is subject to notice to creditors, approval by the Bankruptcy Court, and higher and better bids received by Seller through and including the Bankruptcy Court hearing to confirm the sale. Payment of any and all real estate brokers' commissions is also subject to notice to creditors and approval by the Bankruptcy Court. Buyer acknowledges and agrees that Seller may not seek to obtain the Bankruptcy Court's approval if Seller has determined that it would be in the best interest of the bankruptcy estate not to do so.</p>										
<p>Real Estate Agent Commission</p>	<p>Through escrow on the sale of the Property, and subject to Court approval, the Trustee shall pay compensation for real estate agent services to the Buyer's agent and the Estate's agents. The agents shall split a commission in the amount of \$9,900.00 (6% of the purchase price) as follows:</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;"><u>Agent</u></th> <th style="text-align: right;"><u>Commission</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: left;">Trustee's Broker Coldwell Banker</td> <td style="text-align: right;">\$2,475.00</td> </tr> <tr> <td style="text-align: left;">Trustee's Broker Shear Realty</td> <td style="text-align: right;">\$2,475.00</td> </tr> <tr> <td style="text-align: left;">Buyer's Broker Shear Realty</td> <td style="text-align: right;">\$4,950.00</td> </tr> <tr> <td style="text-align: left;"><b>Total Commission</b></td> <td style="text-align: right;"><b>\$9,900.00</b></td> </tr> </tbody> </table>	<u>Agent</u>	<u>Commission</u>	Trustee's Broker Coldwell Banker	\$2,475.00	Trustee's Broker Shear Realty	\$2,475.00	Buyer's Broker Shear Realty	\$4,950.00	<b>Total Commission</b>	<b>\$9,900.00</b>
<u>Agent</u>	<u>Commission</u>										
Trustee's Broker Coldwell Banker	\$2,475.00										
Trustee's Broker Shear Realty	\$2,475.00										
Buyer's Broker Shear Realty	\$4,950.00										
<b>Total Commission</b>	<b>\$9,900.00</b>										
<p>Purchase Without Warranties</p>	<p>Buyer acknowledges and agrees that, to the maximum extent permitted by law, the sale contemplated by this Agreement is made "as-is," "where-is," and "with all faults," except as specifically provided in this Agreement. Seller and Brokers and agents herein have not made, do not make, and specifically negate and disclaim any representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, concerning or respecting (i) value of the Property; (ii) income to be derived from the Property; (iii) suitability of the Property, or lack thereof for any activity or use which Buyer may intend to conduct thereon, including any possibilities or limitations for future development; (iv) habitability, merchantability, marketability, profitability, or fitness for a particular purpose, of the Property, or lack thereof; (v) manner, quality, state of repair, or lack of repair of the Property; (vi) nature, quality, or condition of the Property, or any portion, system, or component thereof, including without limitation, water, soil, and geology; (vii) compliance of the Property or its operation, or lack thereof, with any laws, ordinances, regulations, rules, or orders of any applicable governmental authority or body; (viii) manner or quality of engineering, design, construction or materials, if any, incorporated into the Property; (ix) compliance or lack of compliance with any land use, building and safety, or other laws, ordinances,</p>										

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

	<p>regulations, rules, orders, or other requirements imposed or enforced by any governmental or non-governmental body, including without limitation the Americans with Disabilities Act of 1990; (x) the presence or absence at, on, under, or adjacent to the Property, of materials described as “hazardous substances, hazardous materials, or toxic substances” or by similar terms under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S. Code §§9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S. Code §§1801, et seq.), the Resource Conservation and Recovery Act (42 U.S. Code §§6901, et seq.), the Toxic Substance Control Act (15 U.S. Code §2601, et seq.), the Clean Water Act (33 U.S. Code §1251, et seq.), California Health and Safety Code §25117 or 25316), or other statutes and laws, all as amended and including all regulations issued thereunder; (xi) the content, completeness or accuracy of any Due Diligence materials or Preliminary Report regarding Title to the Property; (xii) the conformity or lack of conformity of the improvements to any plans or specifications for the Property, including any plans and specifications that may have been or may be provided to Buyer; (xiii) the conformity or lack of conformity of the Property to past, current, or future applicable zoning or building requirements; (xiv) any deficiency of any undershoring, drainage, or other aspects, systems, or components of or affecting the Property; (xv) the fact, if applicable, that all or a portion of the Property may be located on or near any natural hazard zone as determined by any governmental agency or body; (xvi) the existence of vested land use, zoning, or building entitlements affecting the Property or any other property; or (xvii) any other matter. Without in any manner limiting the foregoing, Buyer hereby acknowledges and agrees that (i) Seller’s Broker, has provided (and will hereafter provide) to Buyer various materials and information relating to the Property, including, without limitation, information and materials relating to the condition of the Property, and (ii) all such materials and information so provided to Buyer by Seller’s Broker shall, for all purposes of this Agreement, be deemed to have been disclosed to Buyer by the Seller, as well.</p>
<p>Trustee’s Liability</p>	<p>No fees shall be paid and no costs shall be reimbursed unless and until ordered by the Bankruptcy Court under 11 U.S.C. Section 330 and/or 331. Any and all such fees and costs shall be the sole and exclusive liability of and claim against the Bankruptcy Estate, and the Trustee, Wesley H. Avery, shall not have any personal liability on any account.</p>
<p>Bankruptcy Court Jurisdiction</p>	<p>The U.S. Bankruptcy Court for the Central District of California shall have sole and exclusive jurisdiction to interpret and enforce the terms of this Agreement and Buyer hereby consents and submits to such exclusive jurisdiction. This Agreement shall be interpreted and enforced pursuant to the laws of the United States of America including the Bankruptcy Code, Title 11, United States Code.</p>

**F. Tax Consequences of Sale**

The Trustee is not aware of any tax consequences to the Estate for the sale of the Property.

///  
///

1 **G. Notice of Bidding Procedures**

2 The Trustee has determined that it would benefit the Estate to permit all interested parties  
3 to receive information and bid for the Property instead of selling the Property to the Buyer on an  
4 exclusive basis. Accordingly, in order to obtain the highest and best offer for the benefit of the  
5 creditors of this Estate, the Trustee also seeks Court approval of the following bidding  
6 procedures (“Bidding Procedures”):

7 1. Potential overbidder(s) must bid an initial amount of at least \$3,000.00 over the  
8 Purchase Price, or \$168,000.00. Minimum bid increments thereafter shall be \$1,000.00. The  
9 Trustee shall have sole discretion in determining which overbid is the best for the Estate and will  
10 seek approval from the Court of the same.

11 2. Overbids must be in writing and be received by the Trustee and the Trustee’s  
12 counsel, Shulman Hodges & Bastian LLP to the attention of Rika M. Kido on or before **three (3)**  
13 **business days prior to the hearing on this Motion.**

14 3. Overbids must be accompanied by certified funds in an amount equal to three  
15 percent (3%) of the overbid purchase price.

16 4. The overbidder must also provide evidence of having sufficient specifically  
17 committed funds to complete the transaction, or a lending commitment for the bid amount and  
18 such other documentation relevant to the bidder’s ability to qualify as the purchaser of the  
19 Property and ability to close the sale and immediately and unconditionally pay the winning bid  
20 purchase price at closing.

21 5. The overbidder must seek to acquire the Property on terms and conditions not less  
22 favorable to the Estate than the terms and conditions to which the Buyer has agreed to purchase  
23 the Property as set forth in the Agreement attached as **Exhibit “2”** to the Frazer Declaration  
24 including closing on the sale of the Property in the same time parameters as the Buyer.

25 6. All competing bids must acknowledge that the Property is being sold on an “AS  
26 IS” basis without warranties of any kind, expressed or implied, being given by the Trustee,  
27 concerning the condition of the Property or the quality of the title thereto, or any other matters  
28 relating to the Property. The competing bid buyer must represent and warrant that he/she is  
purchasing the Property as a result of their own investigations and are not buying the Property  
pursuant to any representation made by any broker, agent, accountant, attorney or employee  
acting at the direction, or on the behalf of the Trustee. The competing bidder must acknowledge  
that he/she has inspected the Property, and upon closing of Escrow governed by the Agreement,  
the competing buyer forever waives, for himself/herself, their heirs, successors and assigns, all  
claims against the Debtors, their attorneys, agents and employees, the Debtors’ Estate, Helen R.  
Frazer as Trustee and individually, and her attorneys, agents and employees, arising or which  
might otherwise arise in the future concerning the Property.

7. If overbids are received, the final bidding round for the Property shall be held at  
the hearing on the Motion in order to allow all potential bidders the opportunity to overbid and  
purchase the Property. At the final bidding round, the Trustee or his counsel will, in the exercise  
of their business judgment and subject to Court approval, accept the bidder who has made the  
highest and best offer to purchase the Property, consistent with the Bidding Procedures  
 (“Successful Bidder”).

1 8. At the hearing on the Motion, the Trustee will seek entry of an order, *inter alia*,  
2 authorizing and approving the sale of the Property to the Successful Bidder. The hearing on the  
3 Motion may be adjourned or rescheduled without notice other than by an announcement of the  
4 adjourned date at the hearing on the Motion.

5 9. In the event the Successful Bidder fails to close on the sale of the Property within  
6 the time parameters approved by the Court, the Trustee shall retain the Successful Bidder's  
7 Deposit and will be released from his obligation to sell the Property to the Successful Bidder and  
8 the Trustee may then sell the Property to the first back-up bidder approved by the Court at the  
9 hearing on the Motion ("First Back-Up Bidder").

10 10. In the event First Back-Up Bidder fails to close on the sale of the Property within  
11 the time parameters approved by the Court, the Trustee shall retain the First Back-Up Bidder's  
12 Deposit and will be released from his obligation to sell the Property to the First Back-Up Bidder  
13 and the Trustee may then sell the Property to the second back-up bidder approved by the Court at  
14 the hearing on the Motion ("Second Back-Up Bidder").

### 15 III. ARGUMENT

#### 16 A. The Property is Property of the Debtors' Bankruptcy Estate

17 Bankruptcy Code Section 541 provides in part as follows:

18 (a) The commencement of a case under section 301, 302 or 303 of this title  
19 creates an estate. Such estate is comprised of all the following property, wherever  
20 located and by whomever held:

21 (1) Except as provided in subsection s (b) and (c)(2) of this section,  
22 all legal or equitable interests of the debtor in property as of the  
23 commencement of the case.

24 *See* 11 U.S.C. § 541(a)(1). Bankruptcy Code section 541 is broadly construed to include all  
25 property interests, whether reachable by state-law creditors or not, and whether vested or  
26 contingent. *United States v Rauer*, 963 F.2d 1332 (10th Cir. 1992); *In re Yonikus*, 996 F.2d 866  
27 (7th Cir. 1993) (virtually all property of debtor becomes property of estate; in fact, every  
28 conceivable interest of debtor, including future, non-possessory, contingent, speculative, and  
derivative, is within the scope of Section 541). Section 541(a)(1) is intended to include in the  
estate any property made available to the estate by other provisions of the Bankruptcy Code.

In this case, contrary to the Debtors' assertion on their Schedule A that they own a  
fractional interest in the Victorville Property, title in the Victorville Property is held by the  
Debtors, husband and wife, as joint tenants, as provided in the Preliminary Title Report, a copy  
of which is attached as **Exhibit "1"** to the Frazer Declaration. Since the Debtors hold a one  
hundred percent (100%) interest in the Property, the Property is property of the Estate.

1 Accordingly, the Estate is entitled to one hundred percent (100%) of the net proceeds from the  
2 sale of the Property.

3 **B. The Court May Authorize the Sale When There is a Good Faith Purchaser**

4 The Trustee, after notice and hearing, may sell property of the estate. 11 U.S.C. § 363(b).  
5 The standards to establish are: (1) that there is a sound business purpose for the sale, (2) that the  
6 sale is in the best interests of the estate, i.e., the sale is for a fair and reasonable price, (3) that  
7 there is accurate and reasonable notice to creditors and (4) that the sale is made in good faith. *In*  
8 *re Wilde Horse Enterprises, Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991); *In re Lionel Corp.*,  
9 722 F.2d 1063, 1069 (2d Cir. 1983). Business justification would include the need to close a sale  
10 to one of very few serious bidders where an asset has been shopped and a delay could jeopardize  
11 the transaction. *See, e.g., In re Crowthers McCall Pattner, Inc.*, 114 B.R. 877, 885 (Bankr.  
12 S.D.N.Y. 1990) (extreme difficulty finding a buyer justified merger when buyer found). The  
13 Trustee's proposed sale of the Property meets the foregoing criteria.

14 **1. Sound Business Purpose**

15 The Ninth Circuit has adopted a flexible, case-by-case test to determine whether the  
16 business purpose for a proposed sale justifies disposition of property of the estate under Section  
17 363(b). *In re Walter*, 83 B.R. 14 (B.A.P. 9th Cir. 1988). In *Walter*, the Ninth Circuit, adopting  
18 the reasoning of the Fifth Circuit in *In re Continental Air Lines, Inc.*, 780 F.2d 1223 (5th Cir.  
19 1986), and the Second Circuit in *In re Lionel Corp.*, 722 F.2d 1063 (2d Cir. 1983), set forth the  
20 following standard to be applied under Bankruptcy Code Section 363(b):

21 Whether the proffered business justification is sufficient depends on the case. As  
22 the Second Circuit held in *Lionel*, the bankruptcy judge should consider all salient  
23 factors pertaining to the proceeding and, accordingly, act to further the diverse  
24 interests of the debtor, creditors and equity holders, alike. He might, for example,  
25 look to such relevant factors as the proportionate value of the assets to the estate  
26 as a whole, the amount of lapsed time since the filing, the likelihood that a plan of  
27 reorganization will be proposed and confirmed in the near future, the effect of the  
28 proposed disposition on future plans of reorganization, the proceeds to be  
obtained from the disposition vis-a-vis any appraisals of the property, which of  
the alternatives of use, sale or lease the proposal envisions and, most importantly  
perhaps, whether the asset is increasingly or decreasing in value. This list is not  
intended to be exclusive, but merely to provide guidance to the bankruptcy judge.

*Walter*, 83 B.R. at 19-20 (quoting *Continental*, 780 F.2d at 1226).

1 Here, the facts surrounding the sale of the Property support the Trustee's business  
2 decision that the proposed sale is in the best interests of the Estate and its creditors. Through the  
3 sale, the Trustee expects to generate net proceeds of approximately \$52,206.90 as follows  
4 (amounts are estimated):

Sale Price	\$165,000.00
Less real estate commission and costs of sale (8.0%)	(\$13,200.00)
Less amount due to Wells Fargo on the First Deed of Trust (per mortgage statement dated April 16, 2015)	(\$94,467.81)
Less fines due to City of Victorville	(\$923.79)
Less Debtors' claimed exemption	(\$4,201.50)
<b>Estimated Net Sale Proceeds for the benefit of the Estate</b>	<b>\$52,206.90</b>

5  
6  
7  
8  
9  
10  
11 The estimated net proceeds will substantially benefit the Estate by providing funds for a  
12 distribution to unsecured creditors. If the Motion is not approved, then there will be a substantial  
13 loss to the Estate. In such event, the Estate will not receive any benefit from the Property.

14 Furthermore, the Trustee believes that the proposed sale, subject to overbids, will be at  
15 fair market value because it is the best offer the Estate has received thus far for the Property, and  
16 is the result of negotiations between the Trustee and the Buyer for the best and highest offer.  
17 Given that the sale is subject to overbids, it is anticipated the Trustee will receive the best and  
18 highest value for the Property and therefore the proposed sale price of the Property is fair and  
19 reasonable. Therefore, the Trustee respectfully submits that, if this Court applies the good  
20 business reason standard suggested by the Second Circuit in *Lionel*, the sale should be approved.

21 [2. The Sale Serves the Best Interests of the Estate and Creditors](#)

22 The Trustee believes that it would be in the best interest of the Estate and its creditors to  
23 sell the Property. The benefits to the Estate, as set forth above, are significant as the proposed  
24 sale will yield an estimated \$52,206.90 to the Estate. If the Motion is not approved, the Estate  
25 will not receive the sale proceeds and will likely lose the Buyer. The Trustee does not want to  
26 lose this beneficial business opportunity. Thus, the Trustee has made a business decision that it  
27 is in the best interest of the creditors of the Estate that this Motion be approved.

28 ///

1           3.       Accurate and Reasonable Notice

2           It is expected that notice of this Motion will satisfy the requirements for accurate and  
3 reasonable notice.

4           The notice requirements for sales are set forth in Federal Rules of Bankruptcy Procedure  
5 (“FRBP”) 6004 and 2002. The notice must include the time and place of any public sale and/or  
6 the terms and conditions of any private sale, the time fixed for filing on objections and a general  
7 description of the property. Fed. R. Bankr. P. 2002(c)(1).

8           In compliance with FRBP 2002 and Bankruptcy Code Section 102(1), the Trustee shall  
9 provide notice of the proposed sale of the Property to creditors and parties in interest. The  
10 Notice of Motion will include a summary of the terms and conditions of the proposed private  
11 sale, the time fixed for filing objections, and a general description of the Property. The Trustee  
12 submits that the notice requirements will have been satisfied, thereby allowing creditors and  
13 parties in interest an opportunity to object to the sale. Hence, no further notice should be  
14 necessary.

15           4.       The Sale is Made in Good Faith

16           The proposed sale has been brought in good faith and has been negotiated on an “arms  
17 length” basis. The court, in *Wilde Horse Enterprises*, set forth the factors in considering whether  
18 a transaction is in good faith. The court stated:

19           “Good faith” encompasses fair value, and further speaks to the integrity of the  
20 transaction. Typical ‘bad faith’ or misconduct, would include collusion between  
21 the seller and buyer, or any attempt to take unfair advantage of other potential  
22 purchasers. . . . And, with respect to making such determinations, the court and  
creditors must be provided with sufficient information to allow them to take a  
position on the proposed sale.

23           *Id.* at 842 (citations omitted).

24           In the present case, the negotiation of the proposed sale was an arms-length transaction.  
25 The negotiations with the Buyer resulted in a sale price for the Property that will have substantial  
26 benefit to the Estate. As set forth in the Notice of the Motion, the creditors will have been  
27 provided with sufficient notice of the sale. Accordingly, the sale is in good faith and should be  
28 approved. The Trustee shall request such a finding pursuant to Bankruptcy Code Section 363(m)  
at the hearing on this Motion.

1 **C. The Proposed Sale Should be Allowed Free and Clear of Liens**

2 Bankruptcy Code Section 363(f) allows a trustee to sell property of the bankruptcy estate  
3 “free and clear of any interest in such property of an entity,” if any one of the following five  
4 conditions is met:

- 5 (1) applicable non-bankruptcy law permits a sale of such property free  
6 and clear of such interest;
- 7 (2) such entity consents;
- 8 (3) such interest is a lien and the price at which such property is to be  
9 sold is greater than the aggregate value of all liens on such property;
- 10 (4) such interest is in bona fide dispute; or
- 11 (5) such entity could be compelled, in a legal or equitable proceeding,  
12 to accept money satisfaction of such interest.

13 11 U.S.C. § 363(f).

14 Here, the sales price is greater than the aggregate amount of all liens against the Property  
15 as shown above. As such, the Property can be sold free and clear of all liens pursuant to Section  
16 363(f)(3).

17 **D. The Court has the Authority to Approve the Bidding Procedures**

18 Implementation of the Bidding Procedures is an action outside of the ordinary course of  
19 the business. Bankruptcy Code Section 363(b)(1) provides that a trustee “after notice and  
20 hearing, may use, sell or lease, other than in the ordinary course of business, property of the  
21 estate.” 11 U.S.C. § 363(b)(1). Furthermore, under Bankruptcy Code Section 105(a), “[t]he  
22 court may issue any order, process, or judgment that is necessary or appropriate to carry out the  
23 provisions of this title.” 11 U.S.C. § 105(a). Thus, pursuant to Bankruptcy Code Sections  
24 363(b)(1) and 105(a), this Court may authorize the implementation of overbidding procedures.

25 The Ninth Circuit, in a case under the Bankruptcy Act, recognized the power of a  
26 bankruptcy court to issue orders determining the terms and conditions for overbids with respect  
27 to a sale of estate assets. *In re Crown Corporation*, 679 F.2d 774 (9th Cir. 1982). The *Crown*  
28 *Corporation* court entered an order specifying the minimum consideration required for an  
overbid as well as the particular contractual terms required to be offered by overbidders. *Id.* at

1 777. The *Crown Corporation* decision also approves an order requiring and setting the amount  
2 of potential overbidder's deposits and authorized courts to determine the disposition of such  
3 deposits. *Id.* While the discussion is not extensive, the *Crown Corporation* decision recognizes  
4 the authority of bankruptcy courts to order the implementation of bidding procedures such as  
5 those proposed in the present case.

6 **1. The Overbid Procedures are Untainted by Self-Dealing**

7 The Bidding Procedures have been proposed in good faith and have been negotiated on  
8 an "arms-length" basis. Therefore, there is no prospective taint in dealings between Trustee and  
9 any potential bidders.

10 **2. The Overbid Procedures Encourage Bidding and are Fair in Amount**

11 The Bidding Procedures are designed to encourage, not hamper bidding and are  
12 reasonable under the circumstances. The Bidding Procedures are intended to provide potential  
13 overbidders with adequate information to make an informed decision as to the amount of their  
14 bid and the validity of their bid.

15 **3. The Overbid Procedures are Fair, Reasonable and Serve the Best Interests of**  
16 **the Estate**

17 The proposed Bidding Procedures serve the Estate in several ways. First, the Bidding  
18 Procedures themselves are fair, reasonable and productive; they will permit the Trustee to  
19 conduct an orderly sale and obtain the best possible price on the best possible terms for the  
20 Property.

21 The Bidding Procedures will ensure that all bids will be comparable. The Trustee will  
22 determine which bid is the highest and best for the Estate. The comparability requirement of the  
23 Bidding Procedures will make it possible to accomplish this task.

24 The Bidding Procedures will help the Trustee to obtain the highest and best possible price  
25 for the Property. The Bidding Procedures institute minimum overbid increments which the  
26 Trustee believes are reasonable. Thus, the Trustee will be able to obtain substantial benefit for  
27 this Estate from the sale of the Property from competing bids.

28 ///

1 The Bidding Procedures require that potential bidders demonstrate their capacity to  
2 complete the transaction. It would be a serious loss to the Estate if it surrendered its opportunity  
3 to sell the Property to one buyer in favor of a competing bidder only to discover the successful  
4 bidder incapable of consummating the transaction. Thus, requiring bidders to qualify as  
5 qualified bidders will protect the Estate from such a loss.

6 Finally, the most important benefit of the Bidding Procedures to the Estate is that their  
7 implementation will enable the consummation of the proposed sale. The proposed sale will be  
8 the best way to obtain the maximum and most expedient recovery for creditors of this Estate.  
9 Implementation of the Bidding Procedures is an essential component of consummating the sale  
10 of the Property and maximizing the value of the Property for the Estate and creditors.

11 The Bidding Procedures proposed by the Trustee are fair and provide for a “level playing  
12 field” for all prospective bidders with respect to the Property. The proposed Bidding Procedures  
13 establish a reasonable but expeditious timeline for allowing the Trustee to give notice of the  
14 proposed sale and qualified bidders to conduct reasonable due diligence and submit competing  
15 offers for the Property, thereby potentially generating additional value for the Property.  
16 Furthermore, the notice that the Trustee proposes to provide to creditors and parties in interest in  
17 connection with the Bidding Procedures and Motion is designed to attract the most interest in the  
18 acquisition of the Property and is sufficient under the circumstances of this case. Thus, approval  
19 of the Bidding Procedures will serve the best interests of the Estate and its creditors.

20 **E. Request for Payment of Real Estate Commission**

21 Bankruptcy Code Section 327 allows, with court approval, for the trustee to employ  
22 professional persons, “that do not hold or represent an interest adverse to the estate, and that are  
23 disinterested persons.” 11 U.S.C. § 327(a). By the Sale Order entered on April 9, 2015, the  
24 Trustee was authorized to employ the Brokers to assist the Trustee in the marketing and sale of  
25 the Property.

26 ///

27 ///

28 ///

1 Bankruptcy Code Section 328 allows employment of a professional person under section  
2 327 “on any reasonable terms and conditions of employment, including on a retainer, on an  
3 hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis.” 11 U.S.C. § 328(a)  
4 (emphasis added). Through this Motion, as provided in the Agreement, the Trustee seeks  
5 authorization to pay a real estate broker commission in the amount of six percent (6%) of the  
6 purchase price. Through escrow on the sale of the Property, and subject to Bankruptcy Court  
7 approval, the Trustee shall pay a real estate broker’s commission as follows:

<u>Agent</u>	<u>Commission</u>
Trustee’s Broker William Friedman, Coldwell Banker	\$2,475.00
Trustee’s Broker Jean Mustaikas, Shear Realty	\$2,475.00
Buyer’s Broker Jean Mustaikas, Shear Realty	\$4,950.00
Total Commission	\$9,900.00

8  
9  
10  
11  
12  
13 Additionally, the Trustee seeks authorization to reimburse the Broker in the amount  
14 \$130.00 for a payment made by the Broker for plumbing repair over the Memorial Day weekend  
15 to Unit A. Attached as **Exhibit “3”** to the Frazer Declaration is a true and correct copy of the  
16 invoice for the plumbing repair.

17 **F. The Court has the Authority to Waive the Fourteen-Day Stay of Sale**

18 Federal Rule of Bankruptcy Procedure 6004(h) provides that “[a]n order authorizing the  
19 use, sale or lease of property other than cash collateral is stayed until the expiration of 14 days  
20 after entry of the order, unless the Court orders otherwise.” Fed. Rule Bankr. P. 6004(h).

21 The Trustee desires to close the sale of the Property as soon as practicable after entry of  
22 an order approving the sale. Accordingly, the Trustee requests that the Court, in the discretion  
23 provided it under Federal Rule of Bankruptcy Procedure 6004(h), waive the fourteen-day stay  
24 requirement.

25 ///

26 ///

27 ///

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IV. CONCLUSION**

**WHEREFORE**, based upon the foregoing, the Trustee respectfully submits that good cause exists for granting the Motion and requests that the Court enter an order as follows:

1. Finding that the Property, in its entirety, is property of the Estate.
2. Approving the Bidding Procedures set forth above for the sale of the Property.
3. Authorizing the Trustee to sell the Property on an as-is, where-is basis, without any warranties or representations, to the Buyer (or Successful Bidder) pursuant to the terms and conditions as set forth in the Agreement attached as **Exhibit “2”** to the Frazer Declaration.
4. Authorizing the sale of the Property free and clear of liens with liens not satisfied through the sale to attach to the sale proceeds in the same validity and priority as prior to the closing of the sale.
5. Authorizing the Trustee to pay from the proceeds of the sale of the Property through escrow all amounts owing in relation to all secured liens and encumbrances on the Property.
6. Authorizing the Trustee to pay from the proceeds of the sale of the Property all ordinary and customary costs of sale, including escrow fees.
7. Authorizing the Trustee to sign any and all documents convenient and necessary in pursuit of the sale as set forth above, including but not limited to any and all conveyances contemplated by the Agreement attached as **Exhibit “2”** to the Frazer Declaration.
8. A determination by the Court that the Buyer is in good faith pursuant to Bankruptcy Code Section 363(m).
9. Approving the payment of the real estate commission in the total amount not to exceed six percent (6%) of the purchase price.
10. Approving the payment of \$130.00 to the Broker as reimbursement for advance costs on the invoice attached as **Exhibit “3”**.

///  
///  
///

1 11. Waiving the fourteen day stay of the order approving the sale of the Property  
2 under Federal Rules of Bankruptcy Procedure 6004(h).

3 12. For such other and further relief as the Court deems just and proper under the  
4 circumstances of this case.

5 Respectfully submitted,

6 **SHULMAN HODGES & BASTIAN LLP**

7 Dated: June 1, 2015

/s/ Rika M. Kido

Leonard M. Shulman

Lynda T. Bui

Rika M. Kido

Attorneys for Helen R. Frazer, Chapter 7 Trustee  
for the bankruptcy state of Rodolfo Vargas and Altagracia  
Vargas

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **DECLARATION**

**DECLARATION OF HELEN R. FRAZER**

I, Helen R. Frazer, declare:

1. I am the duly appointed, qualified and acting Chapter 7 Trustee for the bankruptcy estate of Rodolfo Vargas and Altagracia Vargas (“Debtors”). I have personal knowledge of the facts set forth herein, and if called and sworn as a witness, I could and would competently testify thereto, except where matters are stated on information and belief, in which case I am informed and believe that the facts so stated are true and correct.

2. I make this Declaration in support of my Motion for Order: (1) Approving the Sale of Real Property of the Estate Free and Clear of Certain Liens Pursuant to Bankruptcy Code §§ 363(b)(1) and (f), Subject to Overbids, Combined With Notice of Bidding Procedures and Request for Approval of the Bidding Procedures Utilized; (2) Approving Payment of Real Estate Commission and Broker’s Costs; and (3) Granting Related Relief (“Motion”). All capitalized terms not otherwise defined herein shall have the meaning set forth in the Motion.

3. I have read and I am aware of the contents of the Motion and the accompanying Memorandum of Points and Authorities. The facts stated in the Motion and the Memorandum of Points and Authorities are true to the best of my knowledge.

4. An asset of the Estate is the Debtors’ interest in the Property located in San Bernardino County at 16651 Tracy Street, Victorville, California 92395 (“Property”). The Property is legally described as stated in the Preliminary Title Report dated May 11, 2015 (“Preliminary Title Report”), a true and correct copy of which is attached hereto as **Exhibit “1”**.

5. On their Schedule A, the Debtors list a fifty (50%) percent interest in Property, which is a quadruplex unit, with each apartment containing one (1) bedroom and one (1) bathroom apiece. The Debtors valued their fifty percent (50%) interest in the Property at \$47,701.50 (total value of the Property is \$95,403.00). Pursuant to the current mortgage statement, Ocwen Loan Servicing, LLC is owed \$94,467.81. The Debtors have claimed an exemption under C.C.P. Section 703.140(b)(5) in the amount of \$4,201.50.

///

///

1           6.       Contrary to the Debtors' assertion that they own a fractional interest in the  
2 Property, title in the Property is held by the Debtors, husband and wife, as joint tenants, as  
3 provided in the Preliminary Title Report, a copy of which is attached hereto as **Exhibit "1"**.  
4 Since the Debtors own a one hundred percent (100%) interest in the Property, the Estate is  
5 entitled to one hundred percent (100%) of the net proceeds from the sale of the Property.

6           7.       At their Meeting of Creditors, the Debtors testified under oath that they had paid  
7 off a second deed of trust in favor of The John C. Salvatore Revocable Living Trust.

8           8.       My brokers investigated the Property and believed that the value of the Property  
9 was substantially higher than the value listed by the Debtors on their Schedules. Specifically,  
10 my brokers recommended listing the Property for sale at \$160,000.00.

11           9.       On April 9, 2015, the Court entered an Order authorizing the employment of  
12 William Friedman of Coldwell Bank and Jean Mustaikas of Shear Realty ("Brokers") as co-real  
13 estate brokers to assist me with effectively listing and marketing the Property for sale, as well as  
14 negotiating a sale price to prospective buyers to provide a benefit to the Estate (Docket No. 23).

15           10.      On or about May 1, 2015, I received two (2) offers for the Property, including the  
16 offer to purchase the Property in the amount of \$165,000.00 from the Buyer. On or about May 5,  
17 2015, I sent the Buyer a counter-offer, which included bankruptcy specific terms. The Buyer  
18 accepted the counter-offer. Attached hereto as **Exhibit "2"** is a true and correct copy of the  
19 Residential Income Property Purchase Agreement and Joint Escrow Instructions and Counter  
20 Offers (collectively, the "Agreement") for which I am seeking Court approval.

21           11.      I am seeking to sell the Estate's interest in the Property free and clear of all liens,  
22 claims, and encumbrances as discussed in the Motion.

23           12.      The Buyer's offer presented in the Motion is the best material offer that I have  
24 received. I believe that it would benefit the Estate to permit all interested parties to receive  
25 information and bid for the Property instead of selling the Property to the Buyer on an exclusive  
26 basis. Accordingly, in order to obtain the highest and best offer for the benefit of the creditors of  
27 this Estate, I also seek Court approval of the Bidding Procedures described in the Motion.

28 ///

1 13. I am not aware of any tax consequences to the Estate for the sale of the Property.

2 14. Additionally, I seek authorization to reimburse the Broker in the amount \$130.00  
3 for a payment made by the Broker for plumbing repair over the Memorial Day weekend to Unit  
4 A. Attached hereto as **Exhibit "3"** is a true and correct copy of the invoice for the plumbing  
5 repair.

6 15. Through the sale, I expect to generate proceeds of \$52,206.90, which will benefit  
7 the Estate by providing funds for a distribution to the holders of unsecured claims.

8 16. For the reasons set forth in the Motion and this Declaration, I respectfully request  
9 that the Court grant the Motion so that I do not lose this favorable business opportunity to net a  
10 substantial amount of money for the Estate.

11 I declare under penalty of perjury under the laws of the United States of America that the  
12 foregoing is true and correct.

13 Executed on June 1st, 2015, at Newport Beach, California.

14

  
\_\_\_\_\_  
Helen R. Crazer

15

16

17

18

19

20

21

22

23

24

25

26

27

28

# **EXHIBIT 1**

# TITLE SNAPSHOT GRADE

4195 East Thousand Oaks Boulevard, Suite 107, Westlake Village, CA 91362  
Toll Free: (877)365-9365 | Direct:

# C

## What does this grade mean?

**A** = No title curative issues

**B** = Issues to pay or clear

**C** = Liens to clear

**D** = Title curative issues

## REO transactions only:

**E** = REO curative issues

**R** = IRS curative issues

## Prepared On

May 11, 2015

## Order Number

610-1501291-60

## Loan Number

## Property Address

16651 Tracy Street  
Victorville, CA 92395

## Questions

For questions regarding this  
Title Snapshot, please contact:  
Mindy Beckham Steve Lopez

[mindy.beckham@title365.com](mailto:mindy.beckham@title365.com)

## Title is Vested in

- n Rodolfo Vargas and Altagracia Vargas, husband and wife, as joint tenants, subject to Item No. 13 of Schedule B, subject to proceedings pending in the bankruptcy court where a petition for relief was filed:

Name of Debtor: Rodolfo Vargas and Altagracia Vargas

Date of Filing: December 23, 2014

U.S. District Court: Central District Of California (Riverside)

Case No: -bk-25257-MJ

Disclosed by: Chapter 7

## Issues to Pay or Clear at Closing

Issue	Description
n <b>Assessments</b>	Outstanding supplemental assessments.
n <b>Junior Secured Lien(s)</b>	The record reflects one or more unreleased Security Instruments. Payoff or Subordination may be necessary.

## Liens to Clear/Potential Failure of Title

Issue	Description
n <b>Bankruptcy</b>	The record reflects an open or recent Bankruptcy. Additional documentation may be required.

The Title Snapshot is intended for informational purposes only. It is not intended as a guaranty, affirmation, indemnification, or certification of any fact, insurance coverage or conclusion of law to any insured or party to a transaction. No liability for reliance thereon is inferred, implied or expressed.

# TITLE 365

4195 East Thousand Oaks Boulevard, Suite 107, Westlake Village, CA 91362  
Toll Free: (877)365-9365 | Direct:

## PRELIMINARY REPORT

A & A Escrow Services, Inc.  
415 N. Crescent Drive, Suite 320  
Beverly Hills, CA 90210  
Attn: Antonia Delgado

Our Order: 610-1501291-60  
Escrow Ref: 103475-AA  
Listing Agent Ref: 16651 Tracy  
**When Replying Please Contact:**  
Title365 Company  
4195 East Thousand Oaks Boulevard, Suite 107  
Westlake Village, CA 91362  
Attn: Mindy Beckham Steve Lopez

Today's Date: May 11, 2015

### Property Address: 16651 Tracy Street, Victorville, CA 92395

In response to the application for a Policy of Title Insurance, Title365 Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein and/or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

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

**Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Exhibit B of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the Policy or Policies of Title Insurance and should be carefully considered.**

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

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a Policy or Policies of Title Insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a Policy or Policies of Title Insurance, a Binder or Commitment should be requested.

**Dated as of April 29, 2015, at 07:30AM.**

Mindy Beckham Steve Lopez  
Title Officer Team  
mindy.beckham@title365.com

### **The form of policy of title insurance contemplated by this report is:**

ALTA Homeowner's Policy (1/1/08) ALTA Loan Policy 2006 with ALTA Endorsement-Form 1 Coverage Underwritten by:  
First American Title Insurance Company

## SCHEDULE A

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

A Fee

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

Rodolfo Vargas and Altagracia Vargas, husband and wife, as joint tenants, subject to Item No. 13 of Schedule B, subject to proceedings pending in the bankruptcy court where a petition for relief was filed:

Name of Debtor: Rodolfo Vargas and Altagracia Vargas  
Date of Filing: December 23, 2014  
U.S. District Court: Central District Of California (Riverside)  
Case No: -bk-25257-MJ  
Disclosed by: Chapter 7

The land hereinafter referred to is situated in the City of Victorville, County of San Bernardino, State of CA, and is described as follows:

Lot 139 and 140, Highway Addition to Victorville, in the City of Victorville, County of San Bernardino, State of California as shown by map on file in Book 23, Page(s) 45 and 46, of Maps, Records of San Bernardino County, California.

APN: 0477-051-02-0-000

## SCHEDULE B

At the date hereof, Exceptions to coverage, in addition to the printed Exception and Exclusions contained in said policy form would be as follows:

1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes, to be levied for the fiscal year 2015 - 2016 which are a lien not yet payable.

2. Property taxes for the fiscal year shown below are paid. For proration purposes the amounts are:

Fiscal year:	2014-2015
1st Installment:	\$775.90
2nd Installment:	\$775.88
Exemption:	\$0.00
Land:	\$42,860.00
Improvements:	\$72,862.00
Personal Property:	\$0.00
Code Area:	012-201
Assessment No:	0477-051-02-0-000

3. Assessments, if any, for community facility districts affecting said land which may exist by virtue of assessment maps or notices filed by said districts. Said assessments are collected with the County Taxes.

4. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the revenue and taxation code of the State of California.

5. Rights of the public in and to any portion of said land, lying within any lawful established streets, roads, or highways.

6. An easement for the purpose shown below and rights incidental thereto as granted in a document:

Conveyed to: Interstate Telegraph Company, a Corporation  
Purpose: Aerial and/or underground electric or communication structures  
Recorded: February 21, 1913 in Book 527 and Page 4, of Deeds.  
Affects: Said easement cannot be located by the records.

7. Covenants, conditions, and restrictions as set forth in instrument recorded July 29, 1943 in Book 1614 and Page 178, of Official Records, but omitting any covenant, condition or restriction, if any, based on race, color, religion, sex, handicap, familial status, or national origin unless and only to the extent that the covenant, condition or restriction (a) is exempt under Title 42 of the United States Code, or (b) relates to handicap, but does not discriminate against handicapped persons.

Said covenants, conditions, and restrictions provide that a violation thereof shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value.

An Easement for Public utilities and incidental purposes as set forth in the above document.

Affects: Said land

Note: Said easement cannot be located by the records.

8. The effect of an instrument declaring said land to be within the City of Victorville, Redevelopment Plan for the Old Town/Midtown Redevelopment Project, recorded December 21, 1998 as Instrument No. 19980542062 of Official Records.

Reference is hereby made to said document for further and other particulars.

9. Deed of Trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby:  
Amount: \$112,000.00  
Dated: March 10, 2004  
Trustor: Adalberto Morales, a single man  
Trustee: Marin Conveyancing Corp.  
Beneficiary: Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for GreenPoint Mortgage Funding, Inc.  
Recorded: March 24, 2004 as Instrument Number 2004-0199309 of Official Records.
- a. A Substitution of Trustee under said deed of trust which names as the substituted trustee, the following  
Trustee: T.D. Service Company  
Recorded: November 6, 2007 as Instrument Number 2007-0616529, of official records.
10. Deed of Trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby:  
Amount: \$29,900.00  
Dated: January 8, 2007  
Trustor: Adalberto Morales  
Trustee: Fidelity Title Company, a California Corporation  
Beneficiary: The John C. Salvatore, Revocable Living Trust Executed on February 07, 2006  
Recorded: January 24, 2007 as Instrument Number 2007-0046133 of Official Records.
- a. A Substitution of Trustee under said deed of trust which names as the substituted trustee, the following  
Trustee: T.D. Service Company  
Recorded: February 21, 2008 as Instrument Number 2008-0077074, of official records.
- b. A Notice of Default under the terms of said deed of trust  
Executed by: John C. Salvatore, Revocable Living Trust Executed on February 07, 2006  
Recorded: February 21, 2008 as Instrument Number 2008-0077075 of Official Records.
- c. A Notice of Trustee's Sale recorded May 29, 2008 as Instrument Number 2008-0242883 of Official Records executed pursuant to the Deed of Trust recorded January 24, 2007 as Instrument Number 2007-0046133 of Official Records.
- d. To avoid delays at the time of closing, please submit the original note, deed of trust and request for reconveyance to this office, at least one week prior to the close of escrow.
- e. This Company will require a Trust Certification pursuant to California Probate Code Section 18100.5 from the Trustee of the Trust shown above as beneficiary of said deed of trust if an act of said Trustee is to be insured or if said deed of trust is to be reconveyed.  
The company reserves the right to add additional items or make further requirements after the receipt of the Trust Certification.
11. A Notice of Pendency of Administrative Proceedings as disclosed by a document  
Recorded: February 4, 2008  
Instrument No.: 2008-0051053, of official records.  
Reference is hereby made to said document for full particulars.
12. An assessment by the improvement district shown below:  
District: City-Wide Street Lighting Assessment District  
For: Notice of Street Lighting Assessment  
Recorded: September 25, 2013 as Instrument Number 2013-0420245, of Official Records  
Said assessment is collected with the county/city property taxes.

13. The effect of a deed  
Dated: June 18, 2008  
Grantor: Adalberto Morales, a single man  
Grantee: Rodolfo Vargas and Altagracia Vargas, husband and wife, as joint tenants  
Recorded: June 20, 2008 as Instrument Number 2008-0282873, of official records.

The Company is not willing to divest the interest of Adalberto Morales. An inquiry of the parties shall be required prior to the issuance of any policy of title insurance.

In order to complete this report, the company **requires** a signed and notarized Affidavit from the above stated Grantor. The blank Affidavit form is attached to this report for you convenience.

- a. In order to complete this report, this Company requires a Statement of Information to be completed by the following party(ies),

Party(ies): Adalberto Morales

The Company reserves the right to add additional items or make further requirements after review of the requested Statement(s) of Information.

14. In order to complete this report, this Company requires a Statement of Information to be completed by the following party(ies),

Party(ies): All Parties

The Company reserves the right to add additional items or make further requirements after review of the requested Statement(s) of Information.

**END OF SCHEDULE B**



4195 East Thousand Oaks Boulevard, Suite 107, Westlake Village, CA 91362  
Toll Free: (877)365-9365 | Direct:

Attn:

**Borrower: Grant Karavardanyan**

**Lenders Supplemental Report**

The above numbered report (including any supplements or amendments thereto) is hereby modified and/or supplemented in order to reflect the following additional items relating to the issuance of an American Land Title Association loan policy form as follows:

- A. This report is preparatory to this issuance of an American Land Title Association loan policy of title insurance . This report discloses nothing, which would preclude the issuance of said American Land Title Association loan policy of title insurance with endorsement No. 100 attached thereto.
- B. The improvements on said land are designated as:  
  
Multiple Family Residence (*Residential*)  
16651 Tracy Street, in the City of Victorville, County of San Bernardino, State of California.
- C. Pursuant to information provided to Title365 Company as of the date hereinabove, the proposed insured loan amount is \$0.00 with the proposed insured lender being .
- D. The only conveyance(s) affecting said land recorded with 24 months of the date of this report are as follows:  
  
NONE

# TITLE 365

4195 East Thousand Oaks Boulevard, Suite 107, Westlake Village, CA 91362  
Toll Free: (877)365-9365 | Direct:

## Notes and Requirements Section

Note 1: On July 1, 1985, Assembly Bill 3132 became effective. Assembly Bill 3132 adds and repeals portions of Sections 480.3 and 480.4 of the Revenue and Taxation Code of the State of California.

The act requires the County Assessor and/or Recorder to make available a statutorily prescribed form entitled "Preliminary Change of Ownership Report". Said report must be completed by the buyer and filed concurrently with the recordation of the documents evidencing the change of ownership. Failure to present the Change of Ownership Report at the time of recordation will cause the County Recorder to charge an additional \$20.00 penalty recording fee. The fee cannot be charged if the transfer document is accompanied by the affidavit stating that the buyer/transferee is not a resident of the State of California. This report is for official use only and is not open to public inspection.

For further information, contact the Change of Ownership Section in the Assessor's Office located in the County of said property or the County Recorder's Office located in the County of said property.

Note 2: Attached are Privacy Policy Notices in compliance with the Gramm-Leach-Bliley Act (GLBA) effective July 1, 2001. Please review said Notices regarding personal information.

Note 3: The map attached hereto may or may not be a survey of the land depicted thereon. You should not rely upon it for any purpose other than orientation to the general location of the parcel or parcels depicted. This company expressly disclaims any liability for alleged loss or damage which may result from reliance upon this map.

Note 4: The RESPA Rule to simplify and improve of obtaining mortgages and reduce consumer settlement cost includes a provision for average charges, allowing settlement service providers to establish an average recording fee. The average recording charge for all residential refinance transactions is \$93.00 and the average recording charge for all residential resale transactions with financing is \$89.00. The average charge is applied regardless of the number of documents recorded in the transaction, the number of pages in each document or the actual recording charges. If your transaction is not a residential loan or sale with a new loan, please contact your title provider for actual recording charges. These average recording charges are subject to change in the future without notice.

Note 5: Part of the RESPA Rule to simply and improve the process of obtaining mortgages and reduce consumer settlement costs requires the settlement agent to disclose the agent and underwriter split of title premiums, including endorsements as follows:

Line 1107 is used to record the amount of the total title insurance premium, including endorsements, that is retained by the title agent. Title365 Company retains 87% of the total premium and endorsements.

Line 1108 is used to record the amount of the total title insurance premium, including endorsements, that is retained by the title underwriter. First American Title Insurance Company retains 13% of the total premium and endorsements.

# TITLE 365

4195 East Thousand Oaks Boulevard, Suite 107, Westlake Village, CA 91362  
Toll Free: (877)365-9365 | Direct:

## Notice Regarding Your Deposit of Funds

California Insurance Code Sections 12413 *et. Seq.* Regulates the disbursement of escrow and sub-escrow funds by title companies. The law requires that funds be deposited in the title company escrow and sub-escrow accounts and be available for withdrawal prior to disbursement. Funds deposited with the Company by wire transfer may be disbursed upon receipt. Funds deposited with the Company via cashier's checks drawn on a California based bank may be disbursed the next business day after the day of deposit. If funds are deposited with by other methods, recording or disbursement may be delayed. All escrow and sub-escrow funds received by the Company will be deposited with other funds in one or more non-interest bearing escrow accounts of the Company in a financial institution selected by the Company. The Company and/or its parent company may receive certain direct or indirect benefits from the financial institution by reason of the deposit of such funds or the maintenance of such accounts with the financial institution, and the Company shall have no obligation to account to the depositing party in any manner for the value of, or to pay such party, any benefit received by the Company and/or its parent Company. Those benefits may include, without limitation, credits allowed by such financial institution on loans to the Company and/or its parent company and earnings on investments made on the proceeds of such loans, accounting, reporting and other services and products of such financial institution. Such benefits shall be deemed additional compensation of the Company for its services in connection with the escrow or sub-escrow. If funds are to be deposited with **Title365 Company** by wire transfer, they should be wired to the following bank/account:

### Wiring Instructions for this Office

**Wire To:** City National Bank  
1801 West Olympic Blvd.  
Los Angeles, CA 90006-\_\_\_\_  
Attn: Wire Department

**ABA/Routing No.:** 122016066

**Bank Account:** 013638675

**Amount:** \$ \_\_\_\_\_

**Reference Order No.:** 610-1501291-60

**Attention:** Mindy Beckham Steve Lopez

# TITLE 365

4195 East Thousand Oaks Boulevard, Suite 107, Westlake Village, CA 91362  
Toll Free: (877)365-9365 | Direct:

## WIRE INSTRUCTIONS

For incoming wire transfers please use the following information for the transfer of funds to **Title365 Company - Ventura County Sub-Escrow Trust- VC**:

**Wire To:** City National Bank  
1801 West Olympic Blvd.  
Los Angeles, CA 90006-\_\_\_\_\_  
Attn: Wire Department

**ABA/Routing No.:** 122016066

**Bank Account:** 013638675

**Amount:** \$ \_\_\_\_\_

**Reference Order No.:** 610-1501291-60

**Attention:** Mindy Beckham Steve Lopez

**PLEASE NOTE: OUR OFFICE DOES NOT ACCEPT ACH TRANSFERS, THESE INSTRUCTIONS ARE FOR THE PURPOSE OF SENDING WIRE TRANSFERS ONLY.**

**ALL INCOMING WIRE TRANSFERS MUST CONTAIN OUR ORDER NUMBER, PROPERTY ADDRESS OR PRINCIPAL'S NAME FOR IDENTIFICATION PURPOSES.**

Do not hesitate to contact the undersigned should you or your financial institution have any questions with regards to the information provided above.

Sincerely,  
Title365 Company

Mindy Beckham Steve Lopez  
Title Officer Team  
mindy.beckham@title365.com

## PRIVACY POLICY NOTICE

We are committed to safeguarding customer information;

When we request information from you or about you, it is for our own legitimate business purposes and not for the benefit of any unaffiliated party;

We use personal consumer information only for legitimate business purposes in a manner consistent with title insurance and escrow practices in compliance with applicable laws and regulations;

We will obey the laws governing the collection, use, and dissemination of personal data; and

We will endeavor to educate our employees on the responsible collection and use of personal information.

## PURPOSE OF THIS NOTICE

Title V of the Gramm-Leach-Bliley Act ("GLBA") generally requires a financial institution (which term includes title insurers, underwritten title companies and those providing real estate settlement services) to disclose to all its customers the privacy policies and practices with respect to information sharing of consumer nonpublic personal information with both affiliates and non-affiliated third parties. In compliance with GLBA, we are providing you with this document, which notifies you of the privacy policies and practices of Title365 Company. This disclosure does not apply to business, commercial or agricultural transactions.

We may collect nonpublic personal information about you from the following sources:

- Information we receive from you, such as on applications or other forms.
- Information about your transactions we secure from our files, or from our affiliates or others.
- Information we receive from a consumer-reporting agency.
- Information we receive from others involved in your transaction, such as the real estate agent, lender, surveyor or appraiser.

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional nonpublic personal information will be collected about you.

We may disclose any of the above information that we collect about our customers or former customers to our affiliates or to non-affiliated third parties as permitted by law. This includes, but is not limited to, financial service providers (e.g., banks, consumer finance lenders, securities and insurance companies, etc.), non-financial companies (e.g., settlement or fulfillment service providers, or title plant operated by a third party vendor).

WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.

**EXHIBIT A**  
Legal Description

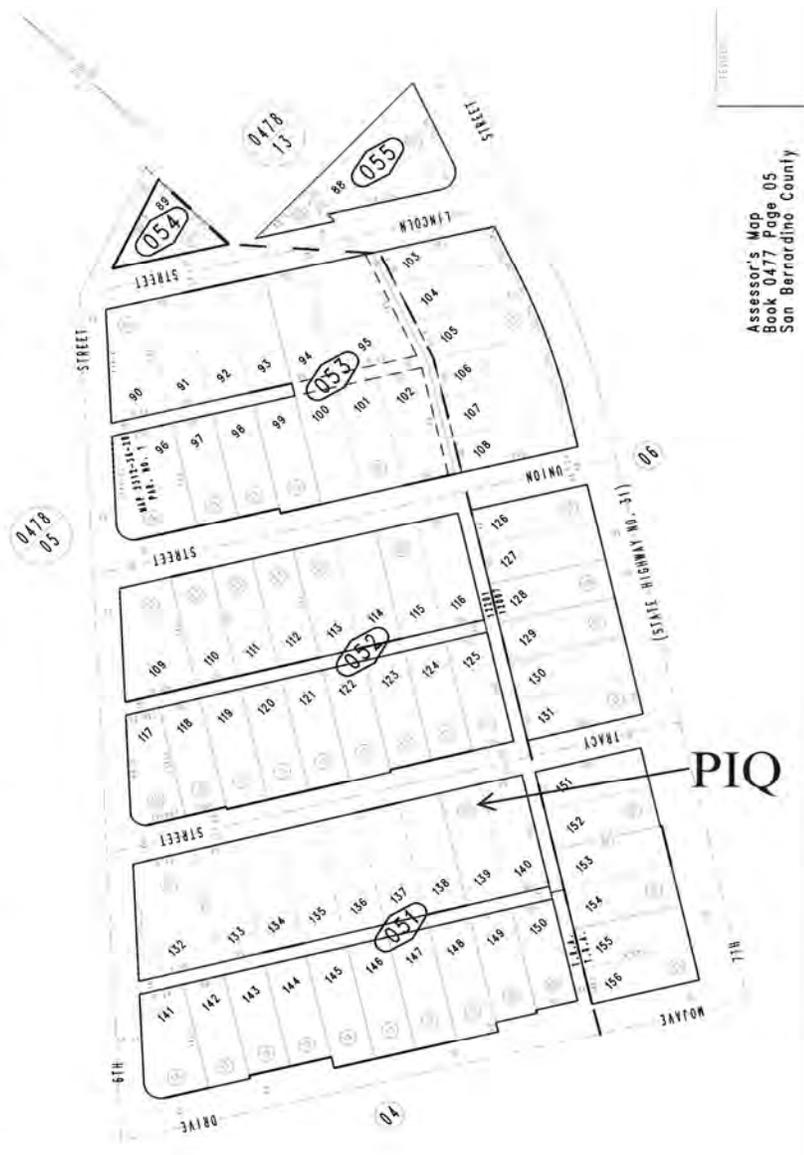
The land hereinafter referred to is situated in the City of Victorville, County of San Bernardino, State of CA, and is described as follows:

Lot 139 and 140, Highway Addition to Victorville, in the City of Victorville, County of San Bernardino, State of California as shown by map on file in Book 23, Page(s) 45 and 46, of Maps, Records of San Bernardino County, California.

APN: 0477-051-02-0-000

City of Victorville  
Tax Rate Area  
12007,12201 0477-05

Ptn. Highway Addition to Victorville  
M.B. 23/45-46



Assessor's Map  
Book 0477 Page 05  
San Bernardino County

June 2004

This map is for your aid in locating the subject property with reference to streets and other parcels. While this map is believed to be correct, Title365 Company. and subsequent insurance companies, assume no liability for any loss occurred by reason of reliance thereon.

**CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990 EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

- (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy. (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
- Defects, liens, encumbrances, adverse claims or other matters: (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant; (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy; (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy; or (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
- Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
- Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
- Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

**EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

- (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
- Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
- Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
- (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
- Any lien or right to a lien for services, labor or material not shown by the public records.

**CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (10/22/03) ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

- Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning: a. building, b. zoning, c. Land use d. improvements on the Land, e. Land division, f. environmental protection. This Exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date. This Exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.
- The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
- The right to take the Land by condemning it, unless: a. a notice of exercising the right appears in the Public Records at the Policy Date; or b. the taking happened before the Policy Date and is binding on You if You bought the Land without Knowing of the taking.
- Risks: a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records; b. that are Known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date; c. that result in no loss to You; or d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8, d, 22, 23, 24 or 25.
- Failure to pay value for Your Title.
- Lack of a right: a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and b. in streets, alleys, or waterways that touch the Land. This Exclusion does not limit the coverage described in Covered Risk 11 or 18.

**LIMITATIONS ON COVERED RISKS**

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 14, 15, 16 and 18, Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.
- The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
<b>Covered Risk 14:</b>	<b>1% of Policy Amount or \$2,500 (whichever is less)</b>	<b>\$10,000</b>
<b>Covered Risk 15:</b>	<b>1% of Policy Amount or \$5,000 (whichever is less)</b>	<b>\$25,000</b>
<b>Covered Risk 16:</b>	<b>1% of Policy Amount or \$5,000 (whichever is less)</b>	<b>\$25,000</b>
<b>Covered Risk 18:</b>	<b>1% of Policy Amount or \$2,500 (whichever is less)</b>	<b>\$5,000</b>

**AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL TITLE INSURANCE POLICY (6-1-87) EXCLUSIONS**

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

- Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning: \* land use \* improvements on the land \* land division \* environmental protection. This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date. This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.
- The right to take the land by condemning it, unless: \*a notice of exercising the right appears in the public records \*on the Policy Date \*the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking
- Title Risks: \*that are created, allowed, or agreed to by you \*that are known to you, but not to us, on the Policy Date -- unless they appeared in the public records \*that result in no loss to you \*that first affect your title after the Policy Date -- this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
- Failure to pay value for your title.
- Lack of a right: \*to any land outside the area specifically described and referred to in Item 3 of Schedule A OR \*in streets, alleys, or waterways that touch your land. This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

**ALTA LOAN POLICY (10-17-92) WITH ALTA ENDORSEMENT-FORM 1 COVERAGE EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

- (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy. (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
- Defects, liens, encumbrances, adverse claims or other matters:(a)created, suffered, assumed or agreed to by the insured claimant;(b)not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;(c) resulting in no loss or damage to the insured claimant;(d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy);or(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage.
- Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
- Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
- Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
- Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on: (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer; or(ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine or equitable subordination; or(iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:(a)to timely record the instrument of transfer; or(b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor. The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

- (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
- Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
- Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
- Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
- (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
- Any lien or right to a lien for services, labor or material not shown by the public records.

**2006 ALTA LOAN POLICY (06-17-06) EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

- (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to: (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions, or location of any improvement erected on the Land; (iii) the subdivision of land; or (IV) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5. (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
- Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
- Defects, liens, encumbrances, adverse claims, or other matters: (a) created, suffered, assumed, or agreed to by the Insured Claimant; (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;(c) resulting in no loss or damage to the Insured Claimant; (d) attaching or create

subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.

4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
  5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
  6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is: (a) a fraudulent conveyance or fraudulent transfer, or (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
  7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records.
- This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b). The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

#### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

#### ALTA OWNER'S POLICY (10-17-92) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy. (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters: (a) created, suffered, assumed or agreed to by the insured claimant; (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy; (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy; or (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on: (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer; or (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure: (a) to timely record the instrument of transfer; or (b) of such recordation to impart notice to a purchaser for value or a judgement or lien creditor. The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage Policy will also include the following Exceptions from Coverage:

#### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

#### 2006 ALTA OWNER'S POLICY (06-17-06) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions, or location of any improvement erected on the Land; (iii) the subdivision of land; or (iv) environmental protection; or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5. (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed, or agreed to by the Insured Claimant; (b) not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy; (c) resulting in no loss or damage to the Insured Claimant; (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is (a) a fraudulent conveyance or fraudulent transfer; or (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A. The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

#### EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

#### ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01) EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or areas of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy. (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters: (a) created, suffered, assumed or agreed to by the Insured Claimant; (b) not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy; (c) resulting in no loss or damage to the Insured Claimant; (d) attaching or created subsequent to Date of Policy (this paragraph does not limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26); or (e) resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
5. Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, except as provided in Covered Risk 27, or any consumer credit protection or truth in lending law.
6. Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8(e) and 26.
7. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Covered Risk 8.
8. Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting the title, the existence of which are known to the Insured at: (a) The time of the advance; or (b) The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification. This exclusion does not limit the coverage provided in Covered Risk 8.
9. The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

For large print please view at [www.title365.com](http://www.title365.com) under menu option Resources.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
09/16/2014

Main Document Page 16 of 74

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER, THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Barney & Barney LLC CA Insurance Lic: 0C03950 101 Enterprise, Suite 330 Aliso Viejo, CA 92656 949-900-1780	CONTACT NAME: Silvia Vela	
	PHONE (A/C, No, Ext): (949) 544-8481 FAX (A/C, No): (858) 909-9768 E-MAIL ADDRESS: silvia.v@barneyandbarney.com	
INSURED Experience1, Inc., Title365 Company  5000 Birch St. Ste 300 Newport Beach, CA 92660  Client #	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Starr Surplus Lines Insurance Company	13604
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES CERTIFICATE NUMBER: MST NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURER	SUBROGATION	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS  <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below						<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Title Agent/Escrow Agent-Claims-Made Professional Liability/Errors & Omissions			SLSLPRO26233514	10/03/2014	10/03/2015	\$3M Per Claim/\$3M Aggregate \$250K Retention All States except FL /\$10K Retention FL

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Re: General Service Agreement- Professional Liability/Errors & Omissions for Title Company. See attached for Title Company insured locations  
 \*\*\*NOTE\*\*This is not evidence of insurance for the Borrower's property or HOA, this certificate evidences Title Company's E&O coverage as described above.

CERTIFICATE HOLDER  Title365 Company 5000 Birch St. Ste 300 Newport Beach CA 92660	CANCELLATION  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  <i>Silvia Vela</i>

Insured: Experience1, Inc.

Master # 29640

Cert #

Attachment Page

---

NAMED INSURED:

Experience 1  
Title365 Company  
Title365, Inc.  
Advantage Title, Inc. DBA Advantage Title Agency  
Advantage Title, Inc.  
XI Exchange, Inc.  
XI Labs  
X1 Analytics, Inc.  
Title365 Company; DBA: Title365  
Title365 Company; DBA: Title365 Agency  
Trusted Signing, Inc.

LOCATIONS:

5000 Birch St., Ste. 300 & 330, Newport, CA 92660  
5000 Birch St., Ste. 150, Newport, CA 92660  
2111 Palomar Airport Rd., Ste.130, Carlsbad, CA 92011  
801 N. Brand Blvd., #320, Glendale, CA 91203  
801 N. Brand Blvd., #240, Glendale, CA 91203  
78100 Main St., #209, La Quinta, CA 92253  
7095 Indiana Ave., Ste. 120, Riverside, CA 92506  
Rio Vista Tower, 8880 Rio San Diego Dr., #102, San Diego, CA 92108  
Rio Vista Tower, 8880 Rio San Diego Dr., #950, San Diego, CA 92108  
29995 Technology Drive, Ste. 305, Murrieta, CA 92590  
4195 E. Thousand Oaks Blvd., #107, Westlake Village, CA 91362  
850 Trafalgar Court, Ste. 105, Maitland, FL 32751  
2901 N. Dallas Parkway, Ste. 130, Plano, TX 75093  
115 Wild Basin Road, Austin, TX 78746  
181 Sierra Manor Road, #4, Mammoth Lakes, CA 93546  
5343 N 16th Street, #100, Phoenix, AZ 85016  
4500 S. Lakeshore Dr., #650, Tempe, AZ 85282  
3303 E. Baseline Road, Ste. 106, Gilbert, AZ 85234  
375 E. Main Street, Ventura, CA 93001  
5101 Broadway, San Antonio, TX 78209  
7121 W. Bell Rd, Ste. 100, Glendale, AZ 85308  
7200 N. Mopac, Ste. 170, Austin, TX 78731  
400 Rouser Rd, Coraopolis, PA 15108  
8800 E Chaparral Rd., Ste. 100, Scottsdale, AZ 85250  
8812 Coleman Blvd., Frisco, TX 75034  
24361 El Toro Rd., Ste. 275, Laguna Woods, CA 92637  
1900 16<sup>th</sup> Street, Ste. 950, Denver, CO 80202  
1000 Town Center Drive, Ste. 300, Oxnard, CA 93036

Main Document Page 48 of 74
Statement of Information (Confidential)

Note: This form is needed in order to eliminate judgments and liens against people with similar names

The street address of the property in this transaction is: (if none, leave blank)

Address City

Occupied by: Owner Tenants Lessee Single Residence Multiple Residence Commercial Vacant Land

Any construction/improvements in last 6 months? Yes No Is any portion of new loan to be used for improvements? Yes No

If yes, state nature of work done or contemplated

Party 1

Party 2

First Middle Last

First Middle Last

Former last name(s), if any

Former last name(s), if any

Birthplace Birth Date

Birthplace Birth Date

Social Security No. Driver's License No.

Social Security No. Driver's License No.

I am single am married Have a domestic partner

I am single am married Have a domestic partner

Name of current spouse or domestic partner (if other than Party 2)

Name of current spouse or domestic partner (if other than Party 1)

Name of former spouse/domestic partner (if none, write "none")

Name of former spouse/domestic partner (if none, write "none")

Marriage or Domestic Partnership Between Parties 1 and 2

Are Parties 1 & 2: Married? Domestic Partners? Date of Marriage/Domestic Partnership:

Party 1 - Occupations for Last 10 Years

Present Occupation Firm Name Address No. of Years

Prior Occupation Firm Name Address No. of Years

Party 1 - Residences for Last 10 Years

Number and Street City and State From To

Party 2 - Occupations for Last 10 Years

Present Occupation Firm Name Address No. of Years

Prior Occupation Firm Name Address No. of Years

Party 2 - Residences for Last 10 Years

Number and Street City and State From To

Have any of the above parties owned or operated a business? Yes No If so, please list names

I have never been adjudged, bankrupt nor are there any unsatisfied judgments or other matters pending against me which might affect my title to this property, except as follows:

The undersigned declare under penalty of perjury that the above information is true and correct. (all parties must sign)

Date Signature

Signature

Home Phone Work Phone

Home Phone Work Phone

Email Address

Email Address

**NOTE: Must be notarized by a notary who is an EMPLOYEE of the title or escrow company**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_ of legal age, being first duly sworn, deposes and says that the following information and answers are true:

15. I am the person who executed and delivered the deed dated \_\_\_\_\_ to \_\_\_\_\_, grantee, recorded on \_\_\_\_\_ as Instrument No. \_\_\_\_\_, Official Records of \_\_\_\_\_ County, \_\_\_\_\_, conveying title to the following described real property (the "Property"):

2. Who is currently occupying the Property? \_\_\_\_\_.

3. What is the approximate value of the Property? \$ \_\_\_\_\_.

4. I received the following consideration for the deed: \$ \_\_\_\_\_ and/or other Property described as follows: \_\_\_\_\_.

5. If the deed was a gift or I otherwise received no consideration for it, the reason I gave the Property away is: \_\_\_\_\_.

6. Do you have an option to repurchase the Property? \_\_\_\_\_. If so, please attach a copy of the agreement or documentation that gives you the right to repurchase.

7. This Affidavit is made for the protection and benefit of the grantee, the grantee's successors and assigns, and for all other parties hereafter dealing with or who may acquire an interest in the Property, and for the purpose of inducing \_\_\_\_\_ ("Title Company") to insure title to the Property. I know that Title Company will rely on this Affidavit and would not insure title without this Affidavit.

Dated: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subscribed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature \_\_\_\_\_

(This area for notary stamp)

BOE-502-A (P1) REV. 12 (05-13)

**PRELIMINARY CHANGE OF OWNERSHIP REPORT**

To be completed by the transferee (buyer) prior to a transfer of subject property, in accordance with section 480.3 of the Revenue and Taxation Code. A Preliminary Change of Ownership Report must be filed with each conveyance in the County Recorder's office for the county where the property is located.

NAME AND MAILING ADDRESS OF BUYER/TRANSFeree  
(Make necessary corrections to the printed name and mailing address)

Grant Karavardanyan  
16651 Tracy Street  
Victorville, CA 92395

ASSESSOR'S PARCEL NUMBER

, 0477-051-02-0-000

SELLER/TRANSFEROR

Rodolfo Vargas and Altagracia Vargas

BUYER'S DAYTIME TELEPHONE NUMBER

( )

BUYER'S EMAIL ADDRESS

STREET ADDRESS OR PHYSICAL LOCATION OF REAL PROPERTY

16651 Tracy Street, Victorville, CA 92395

MAIL PROPERTY TAX INFORMATION TO (NAME)

Grant Karavardanyan

ADDRESS

16651 Tracy Street

CITY

Victorville

STATE

CA

ZIP CODE

92395

.. YES .. NO This property is intended as my principal residence. If YES, please indicate the date of occupancy or intended occupancy.

MO

DAY

YEAR

**PART 1. TRANSFER INFORMATION**

Please complete all statements.

This section contains possible exclusions from reassessment for certain types of transfers.

YES NO

- .. .. A. This transfer is solely between spouses (addition or removal of a spouse, death of a spouse, divorce settlement, etc.).
- .. .. B. This transfer is solely between domestic partners currently registered with the California Secretary of State (addition or removal of a partner, death of a partner, termination settlement, etc.).
- .. .. \*C. This is a transfer: .. between parent(s) and child(ren) .. from grandparent(s) to grandchild(ren).
- .. .. \*D. This transfer is the result of a cotenant's death. Date of death \_\_\_\_\_
- .. .. \*E. This transaction is to replace a principal residence by a person 55 years of age or older.  
Within the same county? .. YES .. NO
- .. .. \*F. This transaction is to replace a principal residence by a person who is severely disabled as defined by Revenue and Taxation Code section 69.5. Within the same county? .. YES .. NO
- .. .. G. This transaction is only a correction of the name(s) of the person(s) holding title to the property (e.g., a name change upon marriage).  
If YES, please explain: \_\_\_\_\_
- .. .. H. The recorded document creates, terminates, or reconveys a lender's interest in the property.
- .. .. I. This transaction is recorded only as a requirement for financing purposes or to create, terminate, or reconvey a security interest (e.g., cosigner). If YES, please explain: \_\_\_\_\_
- .. .. J. The recorded document substitutes a trustee of a trust, mortgage, or other similar document.
- .. .. K. This is a transfer of property:
  - 1. to/from a revocable trust that may be revoked by the transferor and is for the benefit of .. the transferor, and/or .. the transferor's spouse .. registered domestic partner.
  - 2. to/from a trust that may be revoked by the creator/grantor/trustor who is also a joint tenant, and which names the other joint tenant(s) as beneficiaries when the creator/grantor/trustor dies.
  - 3. to/from an irrevocable trust for the benefit of the .. creator/grantor/trustor and/or .. grantor's/trustor's spouse .. grantor's/trustor's registered domestic partner.
- .. .. L. This property is subject to a lease with a remaining lease term of 35 years or more including written options.
- .. .. M. This is a transfer between parties in which proportional interests of the transferor(s) and transferee(s) in each and every parcel being transferred remain exactly the same after the transfer.
- .. .. N. This is a transfer subject to subsidized low-income housing requirements with governmentally imposed restrictions.
- .. .. \*O. This transfer is to the first purchaser of a new building containing an active solar energy system.

\* Please refer to the instructions for Part 1.

Please provide any other information that will help the Assessor understand the nature of the transfer.

THIS DOCUMENT IS NOT SUBJECT TO PUBLIC INSPECTION

BOE-502-A (P2) REV. 12 (05-13)

**PART 2. OTHER TRANSFER INFORMATION**

*Check and complete as applicable.*

- A. Date of transfer, if other than recording date: \_\_\_\_\_
- B. Type of transfer:  
 Purchase     Foreclosure     Gift     Trade or exchange     Merger, stock, or partnership acquisition (Form BOE-100-B)  
 Contract of sale. Date of contract: \_\_\_\_\_     Inheritance. Date of death: \_\_\_\_\_  
 Sale/leaseback     Creation of a lease     Assignment of a lease     Termination of a lease. Date lease began: \_\_\_\_\_  
 Original term in years (including written options): \_\_\_\_\_ Remaining term in years (including written options): \_\_\_\_\_  
 Other. Please explain: \_\_\_\_\_
- C. Only a partial interest in the property was transferred.     YES     NO    If YES, indicate the percentage transferred: \_\_\_\_\_ %

**PART 3. PURCHASE PRICE AND TERMS OF SALE**

*Check and complete as applicable.*

- A. Total purchase price. \$ \_\_\_\_\_
- B. Cash down payment or value of trade or exchange excluding closing costs    Amount \$ \_\_\_\_\_
- C. First deed of trust @ \_\_\_\_\_ % interest for \_\_\_\_\_ years. Monthly payment \$ \_\_\_\_\_    Amount \$ \_\_\_\_\_  
 FHA (\_\_\_\_ Discount Points)     Cal-Vet     VA (\_\_\_\_ Discount Points)     Fixed rate     Variable rate  
 Bank/Savings & Loan/Credit Union     Loan carried by seller  
 Balloon payment \$ \_\_\_\_\_    Due date: \_\_\_\_\_
- D. Second deed of trust @ \_\_\_\_\_ % interest for \_\_\_\_\_ years. Monthly payment \$ \_\_\_\_\_    Amount \$ \_\_\_\_\_  
 Fixed rate     Variable rate     Bank/Savings & Loan/Credit Union     Loan carried by seller  
 Balloon payment \$ \_\_\_\_\_    Due date: \_\_\_\_\_
- E. Was an Improvement Bond or other public financing assumed by the buyer?     YES     NO    Outstanding balance \$ \_\_\_\_\_
- F. Amount, if any, of real estate commission fees paid by the buyer which are not included in the purchase price    \$ \_\_\_\_\_
- G. The property was purchased:     Through real estate broker. Broker name: \_\_\_\_\_ Phone number: (\_\_\_\_) \_\_\_\_\_  
 Direct from seller     From a family member-Relationship \_\_\_\_\_  
 Other. Please explain: \_\_\_\_\_
- H. Please explain any special terms, seller concessions, broker/agent fees waived, financing, and any other information (e.g., buyer assumed the existing loan balance) that would assist the Assessor in the valuation of your property.  
 \_\_\_\_\_

**PART 4. PROPERTY INFORMATION**

*Check and complete as applicable.*

- A. Type of property transferred  
 Single-family residence     Co-op/Own-your-own     Manufactured home  
 Multiple-family residence. Number of units: \_\_\_\_\_     Condominium     Unimproved lot  
 Other. Description: (i.e., timber, mineral, water rights, etc.)     Timeshare     Commercial/Industrial  
 \_\_\_\_\_
- B.  YES     NO Personal/business property, or incentives, provided by seller to buyer are included in the purchase price. Examples of personal property are furniture, farm equipment, machinery, etc. Examples of incentives are club memberships, etc. Attach list if available.  
 If YES, enter the value of the personal/business property:    \$ \_\_\_\_\_    Incentives \$ \_\_\_\_\_
- C.  YES     NO A manufactured home is included in the purchase price.  
 If YES, enter the value attributed to the manufactured home:    \$ \_\_\_\_\_  
 YES     NO The manufactured home is subject to local property tax. If NO, enter decal number: \_\_\_\_\_
- D.  YES     NO The property produces rental or other income.  
 If YES, the income is from:     Lease/rent     Contract     Mineral rights     Other: \_\_\_\_\_
- E. The condition of the property at the time of sale was:     Good     Average     Fair     Poor  
 Please describe: \_\_\_\_\_

**CERTIFICATION**

*I certify (or declare) that the foregoing and all information hereon, including any accompanying statements or documents, is true and correct to the best of my knowledge and belief.*

SIGNATURE OF BUYER/TRANSFeree OR CORPORATE OFFICER ▶	DATE	TELEPHONE (    )
NAME OF BUYER/TRANSFeree/LEGAL REPRESENTATIVE/CORPORATE OFFICER (PLEASE PRINT)	TITLE	E-MAIL ADDRESS

The Assessor's office may contact you for additional information regarding this transaction.

# **EXHIBIT 2**



RESIDENTIAL INCOME PROPERTY PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

(C.A.R. Form RIPA, Revised 11/14)

Date Prepared: May 1, 2015

1. OFFER:

- A. THIS IS AN OFFER FROM Grant Karavardanyan ("Buyer").
B. THE REAL PROPERTY to be acquired is 16651 Tracy, situated in Victorville (City), San Bernardino (County), California, 92392 (Zip Code), Assessor's Parcel No. 0477-051-02 ("Property").
C. THE PURCHASE PRICE offered is One Hundred Sixty-Five Thousand Dollars \$ 165,000.00
D. CLOSE OF ESCROW shall occur on 10 days of court confirmation (date)(or Days After Acceptance).
E. Buyer and Seller are referred to herein as the "Parties." Brokers are not Parties to this Agreement.

2. AGENCY:

- A. DISCLOSURE: The Parties each acknowledge receipt of a "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD).
B. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction: Listing Agent Shear Realty/Coldwell Banker (Print Firm Name) is the agent of (check one): the Seller exclusively; or both the Buyer and Seller.
C. POTENTIALLY COMPETING BUYERS AND SELLERS: The Parties each acknowledge receipt of a "Potential Representation of More than One Buyer or Seller - Disclosure and Consent" (C.A.R. Form PRBS).

3. FINANCE TERMS: Buyer represents that funds will be good when deposited with Escrow Holder.

- A. INITIAL DEPOSIT: Deposit shall be in the amount of \$ 3,000.00
(1) Buyer Direct Deposit: Buyer shall deliver deposit directly to Escrow Holder by electronic funds transfer, cashier's check, personal check, other within 3 business days after Acceptance (or )
OR (2) Buyer Deposit with Agent: Buyer has given the deposit by personal check (or ) to the agent submitting the offer (or to ), made payable to . The deposit shall be held uncashed until Acceptance and then deposited with Escrow Holder within 3 business days after Acceptance (or ).
Deposit checks given to agent shall be an original signed check and not a copy.
(Note: Initial and increased deposits checks received by agent shall be recorded in Broker's trust fund log.)

- B. INCREASED DEPOSIT: Buyer shall deposit with Escrow Holder an increased deposit in the amount of \$ within Days After Acceptance (or ).
If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount in a separate liquidated damages clause (C.A.R. Form RID) at the time the increased deposit is delivered to Escrow Holder.

- C. ALL CASH OFFER: No loan is needed to purchase the Property. This offer is NOT contingent on Buyer obtaining a loan. Written verification of sufficient funds to close this transaction IS ATTACHED to this offer or Buyer shall, within 3 (or ) Days After Acceptance, Deliver to Seller such verification.

- D. LOAN(S):
(1) FIRST LOAN: in the amount of \$ 123,750.00
This loan will be conventional financing or FHA, VA, Seller financing (C.A.R. Form SFA), assumed financing (C.A.R. Form AFA), subject to financing, Other conv. This loan shall be at a fixed rate not to exceed % or, an adjustable rate loan with initial rate not to exceed %. Regardless of the type of loan, Buyer shall pay points not to exceed % of the loan amount.
(2) SECOND LOAN in the amount of \$
This loan will be conventional financing or Seller financing (C.A.R. Form SFA), assumed financing (C.A.R. Form AFA), subject to financing, Other. This loan shall be at a fixed rate not to exceed % or, an adjustable rate loan with initial rate not to exceed %. Regardless of the type of loan, Buyer shall pay points not to exceed % of the loan amount.
(3) FHA/VA: For any FHA or VA loan specified in 3D(1), Buyer has 17 (or ) Days After Acceptance to Deliver to Seller written notice (C.A.R. Form FVA) of any lender-required repairs or costs that Buyer requests Seller to pay for or otherwise correct. Seller has no obligation to pay or satisfy lender requirements unless agreed in writing. A FHA/VA amendatory clause (C.A.R. Form FVAC) shall be a part of this transaction.

E. ADDITIONAL FINANCING TERMS:

- F. BALANCE OF DOWN PAYMENT OR PURCHASE PRICE in the amount of \$ 38,250.00 to be deposited with Escrow Holder pursuant to Escrow Holder instructions.

- G. PURCHASE PRICE (TOTAL): \$ 165,000.00

Buyer's Initials ( )( ) Seller's Initials (X )( )

© 2014, California Association of REALTORS®, Inc. RIPA REVISED 11/14 (PAGE 1 OF 11)

RESIDENTIAL INCOME PROPERTY PURCHASE AGREEMENT (RIPA PAGE 1 OF 11)

- H. **VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Buyer (or Buyer's lender or loan broker pursuant to paragraph 3J(1)) shall, within 3 (or \_\_\_ ) Days After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. ( Verification attached.)
- I. **APPRAISAL CONTINGENCY AND REMOVAL:** This Agreement is (or  is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the purchase price. Buyer shall, as specified in paragraph 19B(3), in writing, remove the appraisal contingency or cancel this Agreement within 17 (or \_\_\_ ) Days After Acceptance.
- J. **LOAN TERMS:**
  - (1) **LOAN APPLICATIONS:** Within 3 (or \_\_\_ ) Days After Acceptance, Buyer shall Deliver to Seller a letter from Buyer's lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in paragraph 3D. If any loan specified in paragraph 3D is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate. ( Letter attached.)
  - (2) **LOAN CONTINGENCY:** Buyer shall act diligently and in good faith to obtain the designated loan(s). Buyer's qualification for the loan(s) specified above is a contingency of this Agreement unless otherwise agreed in writing. If there is no appraisal contingency or the appraisal contingency has been waived or removed, then failure of the Property to appraise at the purchase price does not entitle Buyer to exercise the cancellation right pursuant to the loan contingency if Buyer is otherwise qualified for the specified loan. Buyer's contractual obligations regarding deposit, balance of down payment and closing costs are not contingencies of this Agreement.
  - (3) **LOAN CONTINGENCY REMOVAL:** Within 21 (or \_\_\_ ) Days After Acceptance, Buyer shall, as specified in paragraph 19, in writing, remove the loan contingency or cancel this Agreement. If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.
  - (4)  **NO LOAN CONTINGENCY:** Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result Buyer does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.
  - (5) **LENDER LIMITS ON BUYER CREDITS:** Any credit to Buyer, from any source, for closing or other costs that is agreed to by the Parties ("Contractual Credit") shall be disclosed to Buyer's lender. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit shall be reduced to the Lender Allowable Credit, and (ii) in the absence of a separate written agreement between the Parties, there shall be no automatic adjustment to the purchase price to make up for the difference between the Contractual Credit and the Lender Allowable Credit.
  - (6) **ASSUMED OR SUBJECT TO FINANCING:** Seller represents that Seller is not delinquent on any payments due on any loans. If the Property is acquired subject to an existing loan, Buyer and Seller are advised to consult with legal council regarding the ability of an existing lender to call the loan due, and the consequences thereof.
- K. **BUYER STATED FINANCING:** Seller is relying on Buyer's representation of the type of financing specified (including but not limited to, as applicable, all cash, amount of down payment, or contingent or non-contingent loan). Seller has agreed to a specific closing date, purchase price and to sell to Buyer in reliance on Buyer's covenant concerning financing. Buyer shall pursue the financing specified in this Agreement. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in the Agreement and the availability of any such alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

4. **SALE OF BUYER'S PROPERTY:**

- A. This Agreement and Buyer's ability to obtain financing are NOT contingent upon the sale of any property owned by Buyer.
- OR B.  This Agreement and Buyer's ability to obtain financing are contingent upon the sale of property owned by Buyer as specified in the attached addendum (C.A.R. Form COP).

5. **ADDENDA AND ADVISORIES:**

- A. **ADDENDA:**

<input type="checkbox"/> Addendum # _____ (C.A.R. Form ADM)	<input type="checkbox"/> Addendum # _____ (C.A.R. Form ADM)
<input type="checkbox"/> Back Up Offer Addendum (C.A.R. Form BUO)	<input type="checkbox"/> Court Confirmation Addendum (C.A.R. Form CCA)
<input type="checkbox"/> Septic, Well and Property Monument Addendum (C.A.R. Form SWPI)	<input type="checkbox"/> _____
<input type="checkbox"/> Short Sale Addendum (C.A.R. Form SSA)	<input type="checkbox"/> Other _____
- B. **BUYER AND SELLER ADVISORIES:**

<input checked="" type="checkbox"/> Buyer's Inspection Advisory (C.A.R. Form BIA)	<input type="checkbox"/> _____
<input type="checkbox"/> Probate Advisory (C.A.R. Form PAK)	<input type="checkbox"/> Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
<input type="checkbox"/> Trust Advisory (C.A.R. Form TA)	<input type="checkbox"/> REO Advisory (C.A.R. Form REO)
<input type="checkbox"/> Short Sale Information and Advisory (C.A.R. Form SSIA)	<input type="checkbox"/> Other _____

6. **OTHER TERMS:** Buyer aware COE contingent on BK court approval and is subject to overbid; and that escrow needs to close within 10 days of court confirmation. Buyer to verify condition, utilities, etc.

7. **ALLOCATION OF COSTS**

- A. **INSPECTIONS, REPORTS AND CERTIFICATES:** Unless otherwise agreed, in writing, this paragraph only determines who is to pay for the inspection, test, certificate or service ("Report") mentioned; it does not determine who is to pay for any work recommended or identified in the Report.
  - (1)  Buyer  Seller shall pay for a natural hazard zone disclosure report, including tax  environmental  Other: \_\_\_\_\_ prepared by seller choice
  - (2)  Buyer  Seller shall pay for the following Report \_\_\_\_\_ prepared by \_\_\_\_\_
  - (3)  Buyer  Seller shall pay for the following Report \_\_\_\_\_ prepared by \_\_\_\_\_

Buyer's Initials ( \_\_\_\_\_ )( \_\_\_\_\_ )

Seller's Initials (X \_\_\_\_\_ )( \_\_\_\_\_ )



**B. GOVERNMENT REQUIREMENTS AND RETROFIT:**

- (1)  Buyer  Seller shall pay for smoke alarm and carbon monoxide device installation and water heater bracing, if required by Law. Prior to Close Of Escrow ("COE"), Seller shall provide Buyer written statement(s) of compliance in accordance with state and local Law, unless Seller is exempt.
- (2)  Buyer  Seller shall pay the cost of compliance with any other minimum mandatory government inspections and reports if required as a condition of closing escrow under any Law.
  - (ii)  Buyer  Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards required as a condition of closing escrow under any Law, whether the work is required to be completed before or after COE.
  - (iii) Buyer shall be provided, within the time specified in paragraph 19A, a copy of any required government conducted or point-of-sale inspection report prepared pursuant to this Agreement or in anticipation of this sale of the Property.
- (3)  Buyer  Seller shall pay for installation of approved fire extinguisher(s), sprinkler(s), and hose(s), if required by Law, which shall be installed prior to Close Of Escrow. Prior to Close Of Escrow, Seller shall provide Buyer a written statement of compliance, if required by Law.
- (4)  Buyer  Seller shall pay for installation of drain cover and anti-entrapment device or system for any pool or spa meeting the minimum requirements permitted by the U.S. Consumer Products and Safety Commission.

**C. ESCROW AND TITLE:**

- (1) (a)  Buyer  Seller shall pay escrow fee 50/50
  - (b) Escrow Holder shall be seller choice
  - (c) The Parties shall, within 5 (or     ) Days After receipt, sign and return Escrow Holder's general provisions.
  - (2) (a)  Buyer  Seller shall pay for owner's title insurance policy specified in paragraph 18E
  - (b) Owner's title policy to be issued by seller choice
- (Buyer shall pay for any title insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)

**D. OTHER COSTS:**

- (1)  Buyer  Seller shall pay County transfer tax or fee \_\_\_\_\_
- (2)  Buyer  Seller shall pay City transfer tax or fee \_\_\_\_\_
- (3)  Buyer  Seller shall pay Homeowners' Association ("HOA") transfer fee \_\_\_\_\_
- (4) Seller shall pay HOA fees for preparing documents required to be delivered by Civil Code §4525.
- (5)  Buyer  Seller shall pay HOA fees for preparing all documents other than those required by Civil Code §4525.
- (6) Buyer to pay for any HOA certification fee.
- (7)  Buyer  Seller shall pay for any private transfer fee \_\_\_\_\_
- (8)  Buyer  Seller shall pay for \_\_\_\_\_
- (9)  Buyer  Seller shall pay for \_\_\_\_\_
- (10)  Buyer  Seller shall pay for the cost, not to exceed \$ \_\_\_\_\_, of a  standard  upgraded one-year home warranty plan, issued by \_\_\_\_\_, with the following optional coverages:  Air Conditioner  Pool/Spa  Other: \_\_\_\_\_

Buyer is informed that home warranty plans have many optional coverages in addition to those listed above. Buyer is advised to investigate these coverages to determine those that may be suitable for Buyer.

OR  Buyer waives the purchase of a home warranty policy. Nothing in this paragraph precludes Buyer's purchasing a home warranty policy during the term of the Agreement.

**8. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:**

**A. NOTE TO BUYER AND SELLER:** Items listed as included or excluded in the MLS, flyers or marketing materials are not included in the purchase price or excluded from the sale unless specified in paragraph 8B, C or D.

**B. ITEMS INCLUDED IN SALE:**

- (1) All EXISTING fixtures and fittings that are attached to the Property;
- (2) EXISTING electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar power systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water features and fountains, water softeners, water purifiers and security systems/alarms.
- (3) Seller represents that all items included in the purchase price, unless otherwise specified, are owned by Seller, except (i) \_\_\_\_\_ and (ii) the items and systems identified pursuant to 8B(4).
- (4) **LEASED OR LIENED ITEMS AND SYSTEMS:** Seller shall, within the time specified in paragraph 19A, (i) disclose to Buyer if any item or system specified in paragraph 8B or otherwise included in the sale is leased, or not owned by Seller, or specifically subject to a lien or other encumbrance, and (ii) Deliver to Buyer all written materials (such as lease, warranty, etc.) concerning any such item. Buyer's ability to assume any such lease, or willingness to accept the Property subject to any such lien or encumbrance, is a contingency in favor of Buyer and Seller as specified in paragraph 19B and C.
- (5) Except as otherwise specified or disclosed, all items included shall be transferred free and clear of liens and encumbrances and without Seller warranty regardless of value.
- (6) A complete inventory of all personal property of Seller currently used in the operation of the Property and included in the purchase price shall be delivered to Buyer within the time specified in paragraph 19.
- (7) Seller shall deliver title to the personal property by Bill of Sale, free of all liens and encumbrances, and without warranty of condition.
- (8) As additional security for any note in favor of Seller for any part of the purchase price, Buyer shall execute a UCC-1 Financing Statement to be filed with the Secretary of State, covering the personal property included in the purchase, replacement thereof, and insurance proceeds.

**C. ITEMS EXCLUDED FROM SALE:** \_\_\_\_\_

**D. OTHER ITEMS:** Existing integrated phone and home automation systems, including necessary components such as intranet and Internet-connected hardware or devices, control units (other than non-dedicated mobile devices, electronics and computers) and applicable software, permissions, passwords, codes and access information, are ( are NOT) included in the sale.

Buyer's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )  
RIPA REVISED 11/14 (PAGE 3 OF 11)

Seller's Initials (X \_\_\_\_\_ ) ( \_\_\_\_\_ )

**RESIDENTIAL INCOME PROPERTY PURCHASE AGREEMENT (RIPA PAGE 3 OF 11)**



9. SECURITY DEPOSITS: Security deposits, if any, to the extent they have not been applied by Seller in accordance with any rental agreement and current Law, shall be transferred to Buyer on Close Of Escrow. Seller shall notify each tenant, in compliance with the California Civil Code.

10. CLOSING AND POSSESSION:

- A. Buyer intends (or [X] does not intend) to occupy any unit in the Property as Buyer's primary residence.
B. Seller-occupied or vacant property: Possession shall be delivered to Buyer: (i) at 6 PM or ( [ ] AM/ [ ] PM) on the date of Close Of Escrow; (ii) [ ] no later than [ ] calendar days After Close Of Escrow; or (iii) [ ] at [ ] AM/ [ ] PM on [ ].
C. Seller Remaining In Possession After Close Of Escrow: If Seller has the right to remain in possession after Close Of Escrow, (i) the Parties are advised to sign a separate occupancy agreement such as [ ] C.A.R. Form SIP, for Seller continued occupancy of less than 30 days, [ ] C.A.R. Form RLAS for Seller continued occupancy of 30 days or more; and (ii) the Parties are advised to consult with their insurance and legal advisors for information about liability and damage or injury to persons and personal and real property; and (iii) Buyer is advised to consult with Buyer's lender about the impact of Seller's occupancy on Buyer's loan.
D. Tenant occupied units: Possession and occupancy, subject to the rights of tenants under existing leases, shall be delivered to Buyer on Close Of Escrow.
E. At Close Of Escrow: (I) Seller assigns to Buyer any assignable warranty rights for items included in the sale; and (II) Seller shall Deliver to Buyer available Copies of any such warranties. Brokers cannot and will not determine the assignability of any warranties.
F. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys, passwords, codes and/or means to operate all locks, mailboxes, security systems, alarms, home automation systems and intranet and Internet-connected devices included in the purchase price, and garage door openers. If the Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Homeowners' Association ("HOA") to obtain keys to accessible HOA facilities.

11. STATUTORY AND OTHER DISCLOSURES (INCLUDING LEAD-BASED PAINT HAZARD DISCLOSURES) AND CANCELLATION RIGHTS:

A. LEAD-BASED PAINT HAZARD DISCLOSURES:

- (1) Seller shall, within the time specified in paragraph 19, deliver to Buyer, if required by Law, Federal Lead-Based Paint Disclosures and pamphlet ("Lead Disclosures"). If the Lead Disclosures are delivered to Buyer after the offer is Signed, Buyer shall have the right to cancel this Agreement within 3 Days After Delivery in person, or 5 Days After delivery by deposit in the mail, by giving written notice of cancellation to Seller or Seller's agent. (Lead Disclosures sent by mail must be sent certified mail or better.)
(2) Buyer shall, within the time specified in paragraph 19, return a Signed Copy of the Lead Disclosure to Seller.

B. NATURAL AND ENVIRONMENTAL HAZARDS: Within the time specified in paragraph 19, Seller shall, if required by Law: (i) deliver to Buyer earthquake guides (and questionnaire) and environmental hazards booklet; and (ii) even if exempt from the obligation to provide a NHD, disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.

C. WITHHOLDING TAXES: Within the time specified in paragraph 19A, to avoid required withholding, Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law (C.A.R. Form AS or QS).

D. MEGAN'S LAW DATABASE DISCLOSURE: Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Seller nor Brokers are required to check this website. If Buyer wants further information, Broker recommends that Buyer obtain information from this website during Buyer's inspection contingency period. Brokers do not have expertise in this area.)

E. NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES: This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at http://www.npms.phmsa.dot.gov/. To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.

F. CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:

- (1) SELLER HAS: 7 (or [ ]) Days After Acceptance to disclose to Buyer whether the Property is a condominium, or is located in a planned development or other common interest subdivision (C.A.R. Form SPQ or SSD).
(2) If the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has 3 (or [ ]) Days After Acceptance to request from the HOA (C.A.R. Form HOA1): (i) Copies of any documents required by Law; (ii) disclosure of any pending or anticipated claim or litigation by or against the HOA; (iii) a statement containing the location and number of designated parking and storage spaces; (iv) Copies of the most recent 12 months of HOA minutes for regular and special meetings; and (v) the names and contact information of all HOAs governing the Property (collectively, "CI Disclosures"). Seller shall itemize and Deliver to Buyer all CI Disclosures received from the HOA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 19B(3). The Party specified in paragraph 7, as directed by escrow, shall deposit funds into escrow or direct to HOA or management company to pay for any of the above.

12. RESIDENTIAL 1-4 PROPERTIES:

A. Seller shall, within the time specified in paragraph 19A, Deliver to Buyer: (i) if required by Law, a fully completed: Federal Lead-Based Paint Disclosures (C.A.R. Form FLD) and pamphlet ("Lead Disclosures"); and (ii) unless exempt, fully completed disclosures or notices required by sections 1102 et. seq. and 1103 et. seq. of the Civil Code ("Statutory Disclosures"). Statutory Disclosures include, but are not limited to, a Real Estate Transfer Disclosure Statement ("TDS"), Natural Hazard Disclosure Statement ("NHD"), notice or actual knowledge of release of illegal controlled substance, notice of special tax and/or assessments (or, if allowed, substantially equivalent notice regarding the Mello-Roos Community Facilities Act of 1982 and Improvement Bond Act of 1915) and, if Seller has actual knowledge, of industrial use and military ordnance location (C.A.R. Form SPQ or SSD).

Buyer's Initials ( [ ] )( [ ] )

Seller's Initials (X [ ] )( [ ] )



- B. Any Statutory Disclosure required by this paragraph is considered fully completed if Seller has answered all questions and completed and signed the Seller section(s) and the Listing Agent, if any, has completed and signed the Listing Broker section(s), or, if applicable, an Agent Visual Inspection Disclosure (C.A.R. Form AVID). Nothing stated herein relieves a Buyer's Broker, if any, from the obligation to (i) conduct a reasonably competent and diligent visual inspection of the accessible areas of the Property and disclose, on Section IV of the TDS, or an AVID, material facts affecting the value or desirability of the Property that were or should have been revealed by such an inspection or (ii) complete any sections on all disclosures required to be completed by Buyer's Broker.
  - C. **Note to Buyer and Seller:** Waiver of Statutory and Lead Disclosures is prohibited by Law.
  - D. Within the time specified in paragraph 19A, (I) Seller, unless exempt from the obligation to provide a TDS, shall, within the time specified in paragraph 19A, complete and provide Buyer with a Seller Property Questionnaire (C.A.R. Form SPQ) (II) if Seller is not required to provide a TDS, Seller shall complete and provide Buyer with a Supplemental Contractual and Statutory Disclosure (C.A.R. Form SSD).
  - E. Buyer shall, within the time specified in paragraph 19B(1), return Signed Copies of the Statutory, Lead and other disclosures to Seller.
  - F. In the event Seller or Listing Broker, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer, Seller shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items. **However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies of which Buyer is otherwise aware, or which are disclosed in reports provided to or obtained by Buyer or ordered and paid for by Buyer.**
  - G. If any disclosure or notice specified in paragraph 12A, or subsequent or amended disclosure or notice is Delivered to Buyer after the offer is Signed, Buyer shall have the right to cancel this Agreement within 3 Days After Delivery in person, or 5 Days After Delivery by deposit in the mail, by giving written notice of cancellation to Seller or Seller's agent.
- 13. SELLER DOCUMENTATION AND ADDITIONAL DISCLOSURE: Within the time specified in paragraph 19, Seller shall disclose, make available or Deliver, as applicable, to Buyer the following information.**
- A. **RENTAL/SERVICE AGREEMENTS:** Seller shall make available to Buyer for inspection and review: (i) all current leases, rental agreements, service contracts, and other agreements pertaining to the operation of the Property; (ii) a rental statement including names of tenants, rental rates, period of rental, date of last rent increase, security deposits, rental concessions, rebates or other benefits, if any, and a list of delinquent rents and their duration. Seller represents that no tenant is entitled to any rebate, concession, or other benefit, except as set forth in these documents. Seller represents that the documents to be furnished are those maintained in the ordinary and normal course of business.
  - B. **INCOME AND EXPENSE STATEMENTS:** Seller shall make available to Buyer the books and records for the Property, including a statement of income and expense for the 12 months preceding Acceptance. Seller represents that the books and records are those maintained in the ordinary and normal course of business, and used by Seller in the computation of federal and state income tax returns.
  - C.  **TENANT ESTOPPEL CERTIFICATES:** (If checked) Seller shall Deliver to Buyer tenant estoppel certificates (C.A.R. Form TEC) completed by Seller or Seller's agent, and signed by tenants, acknowledging: (I) that tenants' rental or lease agreements are unmodified and in full force and effect (or if modified, stating all such modifications); (II) that no lessor defaults exist; and (III) stating the amount of any prepaid rent or security deposit.
  - D. **SURVEY, PLANS, AND ENGINEERING DOCUMENTS:** Seller shall, at no cost to Buyer, Deliver to Buyer Copies of surveys, plans, specifications, and engineering documents, if any, prepared on Seller's behalf or in Seller's possession.
  - E. **PERMITS:** If in Seller's possession, Seller shall Deliver to Buyer Copies of all permits and approvals concerning the Property, obtained from any governmental entity, including, but not limited to, certificates of occupancy, conditional use permits, development plans, and licenses and permits pertaining to the operation of the Property.
  - F. **STRUCTURAL MODIFICATIONS:** Seller shall disclose to Buyer in writing any known structural additions or alterations to, or the installation, alteration, repair or replacement of, significant components of the structure(s) upon the Property.
  - G. **SELLER REPRESENTATION:** Seller represents that Seller has no actual knowledge: (i) of any current pending lawsuit(s), investigation(s), inquiry(ies), action(s), or other proceeding(s) affecting the Property or the right to use and occupy it; (ii) of any unsatisfied mechanic's or materialman lien(s) affecting the Property; and (iii) that any tenant of the Property is the subject of a bankruptcy. If Seller receives any such notice prior to Close Of Escrow, Seller shall immediately notify Buyer.
  - H. **GOVERNMENTAL COMPLIANCE:**
    - (1) Seller shall disclose to Buyer any improvements, additions, alterations, or repairs to the Property made by Seller, or known to Seller to have been made, without required governmental permits, final inspections, and approvals.
    - (2) Seller shall disclose to Buyer if Seller has actual knowledge of any notice of violations of Law filed or issued against the Property.
- 14. SUBSEQUENT DISCLOSURES:** In the event Seller, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer, Seller shall promptly Deliver a subsequent or amended disclosure or notice, in writing, covering those items. **However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies of which Buyer is otherwise aware, or which are disclosed in reports provided to or obtained by Buyer or ordered and paid for by Buyer.**
- 15. CHANGES DURING ESCROW:**
- A. Prior to Close Of Escrow, Seller may engage in the following acts ("Proposed Changes"), subject to Buyer's rights in paragraph 19B: (I) rent or lease any vacant unit or other part of the premises; (ii) alter, modify or extend any existing rental or lease agreement; (III) enter into, alter, modify or extend any service contract(s); or (iv) change the status of the condition of the Property.
  - B. At least 7 (or \_\_\_\_\_) Days Prior to any Proposed Changes, Seller shall Deliver written notice to Buyer of such Proposed Changes.
- 16. CONDITION OF PROPERTY:** Unless otherwise agreed in writing: (i) the Property is sold (a) "AS-IS" in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's Investigation rights; (ii) the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and (iii) all debris and personal property not included in the sale shall be removed by Close Of Escrow.
- A. Seller shall, within the time specified in paragraph 19A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.
  - B. Buyer has the right to conduct Buyer Investigations of the property and, as specified in paragraph 19B, based upon information discovered in those investigations: (i) cancel this Agreement; or (ii) request that Seller make Repairs or take other action.
  - C. **Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.**

Buyer's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )  
RIPA REVISED 11/14 (PAGE 5 OF 11)

Seller's Initials ( X \_\_\_\_\_ ) ( \_\_\_\_\_ )



**17. BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:**

- A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 19B. Within the time specified in paragraph 19B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to, the right to: (i) inspect for lead-based paint and other lead-based paint hazards; (ii) inspect for wood destroying pests and organisms. Any inspection for wood destroying pests and organisms shall be prepared by a registered Structural Pest Control company; shall cover the main building and attached structures; may cover detached structures; shall NOT include water tests of shower pans on upper level units unless the owners of property below the shower consent; shall NOT include roof coverings; and, if the Property is a unit in a condominium or other common interest subdivision, the inspection shall include only the separate interest and any exclusive-use areas being transferred, and shall NOT include common areas; and shall include a report ("Pest Control Report") showing the findings of the company which shall be separated into sections for evident infestation or infections (Section 1) and for conditions likely to lead to infestation or infection (Section 2); (iii) review the registered sex offender database; (iv) confirm the insurability of Buyer and the Property including the availability and cost of flood and fire insurance; (v) review and seek approval of leases that may need to be assumed by Buyer; and (vi) satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA). Without Seller's prior written consent, Buyer shall neither make nor cause to be made: (i) invasive or destructive Buyer Investigations except for minimally invasive testing required to prepare a Pest Control Report; or (ii) inspections by any governmental building or zoning inspector or government employee, unless required by Law.
- B. Seller shall make the Property available for all Buyer Investigations. Buyer shall (i) as specified in paragraph 19B, complete Buyer Investigations and either remove the contingency or cancel this Agreement, and (ii) give Seller, at no cost, complete Copies of all such Investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.
- C. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.
- D. **Buyer indemnity and seller protection for entry upon property:** Buyer shall: (i) keep the Property free and clear of liens; (ii) repair all damage arising from Buyer Investigations; and (iii) indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.

**18. TITLE AND VESTING:**

- A. Within the time specified in paragraph 19, Buyer shall be provided a current preliminary title report ("Preliminary Report"). The Preliminary Report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the Preliminary Report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 19B. The company providing the Preliminary Report shall, prior to issuing a Preliminary Report, conduct a search of the General Index for all Sellers except banks or other institutional lenders selling properties they acquired through foreclosure (REOs), corporations, and government entities. Seller shall within 7 Days After Acceptance, give Escrow Holder a completed Statement of Information.
- B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except for: (i) monetary liens of record (which Seller is obligated to pay off) unless Buyer is assuming those obligations or taking the Property subject to those obligations; and (ii) those matters which Seller has agreed to remove in writing.
- C. Within the time specified in paragraph 19A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.
- D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. **THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.**
- E. Buyer shall receive a Standard Coverage Owner's CLTA policy of title insurance. An ALTA policy or the addition of endorsements may provide greater coverage for Buyer. A title company, at Buyer's request, can provide information about the availability, desirability, coverage, and cost of various title insurance coverages and endorsements. If Buyer desires title coverage other than that required by this paragraph, Buyer shall instruct Escrow Holder in writing and shall pay any increase in cost.

**19. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).**

- A. **SELLER HAS: 7 (or \_\_\_ ) Days After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 5A, 6, 7, 8B(4), 11A, B, C, and F, 12A and D, 13, 16A, and 18A. Buyer after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP) may cancel this Agreement if Seller has not Delivered the items within the time specified.**
- B. **(1) BUYER HAS: 17 (or \_\_\_ ) Days After Acceptance, unless otherwise agreed in writing, to:**
  - (i) complete all Buyer Investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to paragraph 8B(4) and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property; and (ii) Deliver to Seller Signed Copies of Statutory and Lead Disclosures and other disclosures Delivered by Seller in accordance with paragraph 12A.
- (2) Within the time specified in paragraph 19B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to (C.A.R. Form RRRR) Buyer's requests.
- (3) By the end of the time specified in paragraph 19B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller a removal of the applicable contingency or cancellation (C.A.R. Form CR or CC) of this Agreement. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in paragraph 19A, then Buyer has 5 (or \_\_\_ ) Days After Delivery of any such items, or the time specified in paragraph 19B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.

Buyer's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )

Seller's Initials ( X \_\_\_\_\_ ) ( \_\_\_\_\_ )



(4) **Continuation of Contingency:** Even after the end of the time specified in paragraph 19B(1) and before Seller cancels, if at all, pursuant to paragraph 19C, Buyer retains the right, in writing, to either (i) remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is delivered to Seller, Seller may not cancel this Agreement pursuant to paragraph 19C(1).

**C. SELLER RIGHT TO CANCEL:**

(1) **Seller right to Cancel; Buyer Contingencies:** If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement, then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

(2) **Seller right to Cancel; Buyer Contract Obligations:** Seller, after first delivering to the Buyer a NBP, may cancel this Agreement if, by the time specified in this Agreement, Buyer does not take the following action(s): (i) Deposit funds as required by paragraph 3A or 3B or if the funds deposited pursuant to paragraph 3A or 3B are not good when deposited; (ii) Deliver a notice of FHA or VA costs or terms as required by paragraph 3D(3) (C.A.R. Form FVA); (iii) Deliver a letter as required by paragraph 3J(1); (iv) Deliver verification as required by paragraph 3C or 3H or if Seller reasonably disapproves of the verification provided by paragraph 3C or 3H; (v) In writing assume or accept leases or liens specified in 8B4; (vi) Return Statutory and Lead Disclosures as required by paragraph 11A(2) and 12E; or (vii) Sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 30B; or (viii) Provide evidence of authority to sign in a representative capacity as specified in paragraph 28. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.

**D. NOTICE TO BUYER OR SELLER TO PERFORM:** The NBP or NSP shall: (i) be in writing; (ii) be signed by the applicable Buyer or Seller; and (iii) give the other Party at least 2 (or \_\_\_\_ ) Days After Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP or NSP may not be Delivered any earlier than 2 Days Prior to the expiration of the applicable time for the other Party to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 19.

**E. EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES:** If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in writing, Buyer shall conclusively be deemed to have: (i) completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; (ii) elected to proceed with the transaction; and (iii) assumed all liability, responsibility and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.

**F. CLOSE OF ESCROW:** Before Buyer or Seller may cancel this Agreement for failure of the other Party to close escrow pursuant to this Agreement, Buyer or Seller must first Deliver to the other Party a demand to close escrow (C.A.R. Form DCE). The DCE shall: (i) be signed by the applicable Buyer or Seller; and (ii) give the other Party at least 3 (or \_\_\_\_ ) Days After Delivery to close escrow. A DCE may not be Delivered any earlier than 3 Days Prior to the scheduled close of escrow.

**G. EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, the Parties agree to Sign mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Except as specified below, release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award. If either Party fails to execute mutual instructions to cancel escrow, one Party may make a written demand to Escrow Holder for the deposit (C.A.R. Form BDRD or SDRD). Escrow Holder, upon receipt, shall promptly deliver notice of the demand to the other Party. If, within 10 Days After Escrow Holder's notice, the other Party does not object to the demand, Escrow Holder shall disburse the deposit to the Party making the demand. If Escrow Holder complies with the preceding process, each Party shall be deemed to have released Escrow Holder from any and all claims or liability related to the disbursement of the deposit. Escrow Holder, at its discretion, may nonetheless require mutual cancellation instructions. A Party may be subject to a civil penalty of up to \$1,000 for refusal to sign cancellation instructions if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1057.3).

**20. REPAIRS:** Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: (i) obtain invoices and paid receipts for Repairs performed by others; (ii) prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and (iii) provide Copies of invoices and paid receipts and statements to Buyer prior to final verification of condition.

**21. ENVIRONMENTAL HAZARD CONSULTATION:** Buyer and Seller acknowledge: (i) Federal, state, and local legislation impose liability upon existing and former owners and users of real property, in applicable situations, for certain legislatively defined, environmentally hazardous substances; (ii) Broker(s) has/have made no representation concerning the applicability of any such Law to this transaction or to Buyer or to Seller, except as otherwise indicated in this Agreement; (iii) Broker(s) has/have made no representation concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property; and (iv) Buyer and Seller are each advised to consult with technical and legal experts concerning the existence, testing, discovery, location and evaluation of/for, and risks posed by, environmentally hazardous substances, if any, located on or potentially affecting the Property.

**22. AMERICANS WITH DISABILITIES ACT:** The Americans With Disabilities Act ("ADA") prohibits discrimination against individuals with disabilities. The ADA affects almost all commercial facilities and public accommodations. Residential properties are not typically covered by the ADA, but may be governed by its provisions if used for certain purposes. The ADA can require, among other things, that buildings be made readily accessible to the disabled. Different requirements apply to new construction, alterations to existing buildings, and removal of barriers in existing buildings. Compliance with the ADA may require significant costs. Monetary and injunctive remedies may be incurred if the Property is not in compliance. A real estate broker does not have the technical expertise to determine whether a building is in compliance with ADA requirements, or to advise a principal on those requirements. Buyer and Seller are advised to contact an attorney, contractor, architect, engineer or other qualified professional of Buyer or Seller's own choosing to determine to what degree, if any, the ADA impacts that principal or this transaction.

Buyer's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )

Seller's Initials ( X \_\_\_\_\_ ) ( \_\_\_\_\_ )

RIPA REVISED 11/14 (PAGE 7 OF 11)

RESIDENTIAL INCOME PROPERTY PURCHASE AGREEMENT (RIPA PAGE 7 OF 11)

Produced with zipForm® by zipLogix 18070 Fifteen Mile Road, Fraser, Michigan 48026 [www.ziplogix.com](http://www.ziplogix.com)

EXHIBIT "A2"



- 23. **FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final verification of the Property within 5 (or \_\_\_\_\_) Days Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (i) the Property is maintained pursuant to paragraph 16; (ii) Repairs have been completed as agreed; and (iii) Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).
- 24. **PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: (i) for periods after Close Of Escrow, by Buyer; and (ii) for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.
- 25. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon, and inure to the benefit of, Buyer and Seller and their respective successors and assigns, except as otherwise provided herein.
- 26. **COPIES:** Seller and Buyer each represent that Copies of all reports, documents, certificates, approvals and other documents that are furnished to the other are true, correct and unaltered Copies of the original documents, if the originals are in the possession of the furnishing party.
- 27. **BROKERS:**
  - A. **COMPENSATION:** Seller or Buyer, or both, as applicable, agrees to pay compensation to Broker as specified in a separate written agreement between Broker and that Seller or Buyer. Compensation is payable upon Close Of Escrow, or if escrow does not close, as otherwise specified in the agreement between Broker and that Seller or Buyer.
  - B. **SCOPE OF DUTY:** Buyer and Seller acknowledge and agree that Broker: (i) Does not decide what price Buyer should pay or Seller should accept; (ii) Does not guarantee the condition of the Property; (iii) Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; (iv) Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; (v) Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Broker; (vi) Shall not be responsible for inspecting public records or permits concerning the title or use of Property; (vii) Shall not be responsible for identifying the location of boundary lines or other items affecting title; (viii) Shall not be responsible for verifying square footage, representations of others or information contained in Investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; (ix) Shall not be responsible for determining the fair market value of the Property or any personal property included in the sale; (x) Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and (xi) Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.
  - C. **BROKERAGE:** Neither Buyer nor Seller has utilized the services of, or for any other reason owes compensation to, a licensed real estate broker (individual or corporate), agent, finder, or other entity, other than as specified in this Agreement, in connection with any act relating to the Property, including, but not limited to, inquiries, introductions, consultations and negotiations leading to this Agreement. Buyer and Seller each agree to indemnify and hold the other, the Brokers specified herein and their agents, harmless from and against any costs, expenses or liability for compensation claimed inconsistent with the warranty and representation in this paragraph.
- 28. **REPRESENTATIVE CAPACITY:** If one or more Parties is signing the Agreement in a representative capacity and not for him/herself as an individual then that Party shall so indicate in paragraph 40 or 41 and attach a Representative Capacity Signature Disclosure (C.A.R. Form RCSD). Wherever the signature or initials of the representative identified in the RCSD appear on the Agreement or any related documents, it shall be deemed to be in a representative capacity for the entity described and not in an individual capacity, unless otherwise indicated. The Party acting in a representative capacity (i) represents that the entity for which that party is acting already exists and (ii) shall Deliver to the other Party and Escrow Holder, within 3 Days After Acceptance, evidence of authority to act in that capacity (such as but not limited to: applicable portion of the trust or Certification Of Trust (Probate Code § 18100.5), letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).
- 29. **JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:**
  - A. The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder, which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: paragraphs 1, 3, 4B, 5A, 6, 7, 9, 11C, 18, 19G, 24, 27A, 28, 29, 35, 38, 39, 40, 41 and paragraph D of the section titled Real Estate Brokers on page 11. If a Copy of the separate compensation agreement(s) provided for in paragraph 27A, or paragraph D of the section titled Real Estate Brokers on page 11 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder and will execute such provisions within the time specified in paragraph 7C(1)(c). To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow and, as directed by Escrow Holder, shall pay to Escrow Holder or HOA or HOA management company or others any fee required by paragraphs 7, 11 or elsewhere in the Agreement.
  - B. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within 3 Days After Acceptance (or \_\_\_\_\_). Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement. Escrow Holder shall provide Seller's Statement of Information to Title company when received from Seller. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 11C, Escrow Holder shall deliver to Buyer a Qualified Substitute statement that complies with federal Law.
  - C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 27A and paragraph D of the section titled Real Estate Brokers on page 11. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 27A, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any

Buyer's Initials ( \_\_\_\_\_ ) ( \_\_\_\_\_ )  
RIPA REVISED 11/14 (PAGE 8 OF 11)

Seller's Initials ( X \_\_\_\_\_ ) ( \_\_\_\_\_ )



other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement.

- D. Upon receipt, Escrow Holder shall provide Seller and Seller's Broker verification of Buyer's deposit of funds pursuant to paragraph 3A and 3B. Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify all Brokers: (i) if Buyer's initial or any additional deposit or down payment is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or (ii) if Buyer and Seller instruct Escrow Holder to cancel escrow.
- E. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within 3 Days after mutual execution of the amendment.

30. REMEDIES FOR BUYER'S BREACH OF CONTRACT:

- A. Any clause added by the Parties specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase in violation of this Agreement shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.
- B. LIQUIDATED DAMAGES: If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. If the Property is a dwelling with no more than four units, one of which Buyer intends to occupy, then the amount retained shall be no more than 3% of the purchase price. Any excess shall be returned to Buyer. Release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award. AT TIME OF ANY INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION INCORPORATING THE INCREASED DEPOSIT AS LIQUIDATED DAMAGES (C.A.R. FORM RID).

Buyer's Initials \_\_\_\_\_ / \_\_\_\_\_

Seller's Initials \_\_\_\_\_ / \_\_\_\_\_

31. DISPUTE RESOLUTION:

A. MEDIATION: The Parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action through the C.A.R. Consumer Mediation Center (www.consumermediation.org) or through any other mediation provider or service mutually agreed to by the Parties. The Parties also agree to mediate any disputes or claims with Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. Mediation fees, if any, shall be divided equally among the Parties involved. If, for any dispute or claim to which this paragraph applies, any Party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that Party shall not be entitled to recover attorney fees, even if they would otherwise be available to that Party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED. Exclusions from this mediation agreement are specified in paragraph 31C.

B. ARBITRATION OF DISPUTES: The Parties agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. The Parties also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of residential real estate Law experience, unless the parties mutually agree to a different arbitrator. The Parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 31C.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials \_\_\_\_\_ / \_\_\_\_\_

Seller's Initials \_\_\_\_\_ / \_\_\_\_\_

C. ADDITIONAL MEDIATION AND ARBITRATION TERMS:

- (1) EXCLUSIONS: The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; and (iii) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court.
- (2) PRESERVATION OF ACTIONS: The following shall not constitute a waiver nor violation of the mediation and arbitration provisions: (i) the filing of a court action to preserve a statute of limitations; (ii) the filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies; or (iii) the filing of a mechanic's lien.
- (3) BROKERS: Brokers shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Broker(s) participating in mediation or arbitration shall not be deemed a party to the Agreement.

Buyer's Initials ( \_\_\_\_\_ )( \_\_\_\_\_ )  
RIPA REVISED 11/14 (PAGE 9 OF 11)

Seller's Initials (X \_\_\_\_\_ )( \_\_\_\_\_ )

RESIDENTIAL INCOME PROPERTY PURCHASE AGREEMENT (RIPA PAGE 9 OF 11)



- 32. **SELECTION OF SERVICE PROVIDERS:** Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.
- 33. **MULTIPLE LISTING SERVICE ("MLS"):** Brokers are authorized to report to the MLS a pending sale and, upon Close Of Escrow, the sales price and other terms of this transaction shall be provided to the MLS to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS.
- 34. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorneys fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 31A.
- 35. **ASSIGNMENT:** Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the written consent of Seller. Such consent shall not be unreasonably withheld unless otherwise agreed in writing. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless otherwise agreed in writing by Seller (C.A.R. Form AOOA).
- 36. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.
- 37. **TERMS AND CONDITIONS OF OFFER:**

This is an offer to purchase the Property on the above terms and conditions. The liquidated damages paragraph or the arbitration of disputes paragraph is incorporated in this Agreement if initialed by all Parties or if incorporated by mutual agreement in a counter offer or addendum. If at least one but not all Parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. Buyer has read and acknowledges receipt of a Copy of the offer and agrees to the confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.

- 38. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the Parties are incorporated in this Agreement. Its terms are intended by the Parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as otherwise specified, this Agreement shall be interpreted and disputes shall be resolved in accordance with the Laws of the State of California. **Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.**
- 39. **DEFINITIONS:** As used in this Agreement:
  - A. "Acceptance" means the time the offer or final counter offer is accepted in writing by a Party and is delivered to and personally received by the other Party or that Party's authorized agent in accordance with the terms of this offer or a final counter offer.
  - B. "Agreement" means this document and any counter offers and any incorporated addenda, collectively forming the binding agreement between the Parties. Addenda are incorporated only when Signed by all Parties.
  - C. "C.A.R. Form" means the most current version of the specific form referenced or another comparable form agreed to by the parties.
  - D. "Close Of Escrow" or "COE" means the date the grant deed, or other evidence of transfer of title, is recorded.
  - E. "Copy" means copy by any means including photocopy, NCR, facsimile and electronic.
  - F. "Days" means calendar days. However, after Acceptance, the last Day for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.
  - G. "Days After" means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59 PM on the final day.
  - H. "Days Prior" means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
  - I. "Deliver", "Delivered" or "Delivery", unless otherwise specified in writing, means and shall be effective upon: personal receipt by Buyer or Seller or the individual Real Estate Licensee for that principal as specified in the section titled Real Estate Brokers on page 11, regardless of the method used (i.e., messenger, mail, email, fax, other).
  - J. "Electronic Copy" or "Electronic Signature" means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either Party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other Party.
  - K. "Law" means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
  - L. "Repairs" means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
  - M. "Signed" means either a handwritten or electronic signature on an original document, Copy or any counterpart.
- 40. **EXPIRATION OF OFFER:** This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless the offer is Signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by \_\_\_\_\_, who is authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or by \_\_\_\_\_  AM/  PM, on \_\_\_\_\_ (date)).

One or more Buyers is signing the Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD) for additional terms.

Date \_\_\_\_\_ BUYER \_\_\_\_\_  
 (Print name) Grant Karavardanyan  
 Date \_\_\_\_\_ BUYER \_\_\_\_\_  
 (Print name) \_\_\_\_\_

Additional Signature Addendum attached (C.A.R. Form ASA).

Seller's Initials (X \_\_\_\_\_)( \_\_\_\_\_)



41. ACCEPTANCE OF OFFER: Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer and agrees to sell the Property on the above terms and conditions, and agrees to the above confirmation of agency relationships. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to Deliver a Signed Copy to Buyer.

(If checked) SELLER'S ACCEPTANCE IS SUBJECT TO ATTACHED COUNTER OFFER (C.A.R. Form SCO or SMCO) DATED:

One or more Sellers is signing the Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD) for additional terms.

Date SELLERX (Print name) Helen Ryan Frazier Chpt 7 Bankruptcy Trustee

Date SELLER (Print name)

Additional Signature Addendum attached (C.A.R. Form ASA). (Do not initial if making a counter offer.) CONFIRMATION OF ACCEPTANCE: A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) at AM/PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.

REAL ESTATE BROKERS:

- A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.
B. Agency relationships are confirmed as stated in paragraph 2.
C. If specified in paragraph 3A(2), Agent who submitted the offer for Buyer acknowledges receipt of deposit.
D. COOPERATING BROKER COMPENSATION: Listing Broker agrees to pay Cooperating Broker (Selling Firm) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow, the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS. If Listing Broker and Cooperating Broker are not both Participants of the MLS, or a reciprocal MLS, in which the Property is offered for sale, then compensation must be specified in a separate written agreement (C.A.R. Form CBC). Declaration of License and Tax (C.A.R. Form DLT) may be used to document that tax reporting will be required or that an exemption exists.

Real Estate Broker (Selling Firm) Shear Realty CalBRE Lic. #00660706
By Jean Mustaikis CalBRE Lic. # 01078276 Date
Address 4634 Phelan Rd City Phelan State CA Zip 92371
Telephone (760)964-0161 Fax (760)841-0996 E-mail jeansells@yahoo.com
Real Estate Broker (Listing Firm) Shear Realty/Coldwell Banker CalBRE Lic. #00660706
By Jean Mustaikis/Bill Friedman CalBRE Lic. # 01078276 Date
Address City State Zip
Telephone Fax E-mail

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, a deposit in the amount of \$ ), counter offer numbers Seller's Statement of Information and supplemental escrow instructions and the terms of Escrow Holder's general provisions. Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is Escrow Holder By Escrow # Address Date Phone/Fax/E-mail Escrow Holder has the following license number # Department of Business Oversight, Department of Insurance, Bureau of Real Estate.

PRESENTATION OF OFFER: Listing Broker presented this offer to Seller on (date). Broker or Designee Initials

REJECTION OF OFFER: No counter offer is being made. This offer was rejected by Seller on (date). Seller's Initials

©2014, California Association of REALTORS®, Inc. United States copyright law (Title 17 U.S. Code) forbids the unauthorized distribution, display and reproduction of this form, or any portion thereof, by photocopy machine or any other means, including facsimile or computerized formats. THIS FORM HAS BEEN APPROVED BY THE CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.). NO REPRESENTATION IS MADE AS TO THE LEGAL VALIDITY OR ACCURACY OF ANY PROVISION IN ANY SPECIFIC TRANSACTION. A REAL ESTATE BROKER IS THE PERSON QUALIFIED TO ADVISE ON REAL ESTATE TRANSACTIONS. IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.

Published and Distributed by: REAL ESTATE BUSINESS SERVICES, INC. a subsidiary of the CALIFORNIA ASSOCIATION OF REALTORS® 525 South Virgil Avenue, Los Angeles, California 90020 RIPA REVISED 11/14 (PAGE 11 OF 11)

Buyer's Acknowledge that page 10 is part of this Agreement ( ) ( )

Reviewed by Broker or Designee



RESIDENTIAL INCOME PROPERTY PURCHASE AGREEMENT (RIPA PAGE 11 OF 11)

## COUNTER-OFFER

This agreement ("Agreement" or "Counter-Offer") is intended to set forth the terms and conditions of a contract for the purchase by and sale to Grant Karavardanyan (the "Buyer") from Helen Ryan Frazer, solely in her capacity as Chapter 7 Trustee for Rodolfo Vargas and Altagracia Vargas (the "Seller"), the real property commonly known as 16651 Tracy, Victorville, California (the "Property"). When executed below, this Agreement will constitute conclusive evidence and the exclusive terms and conditions of the contract for such purchase and sale (the "Sale") of the Property and will supersede and replace in its entirety, Residential Purchase Agreement and Joint Escrow Instructions dated May 1, 2015, (the "Offer"), and any oral or written negotiations since then.

**PURCHASE PRICE; DEPOSIT; ESCROW.** The purchase price for the Property shall be \$165,000 ("Purchase Price"). Buyer shall make an initial deposit of \$4,950 (the "Initial Deposit") in the form of cashier's check or wire transfer made payable and delivered to escrow company of seller's choice within two (2) business days of acceptance of this Counter-Offer by Buyer, Seller's execution of the Affirmation Agreement in the form attached hereto as Exhibit "A", and Buyer's receipt of a copy of the fully executed Counter-Offer and the Affirmation Agreement. Buyer shall deliver to the Trustee, within two (2) days of mutual agreement upon this Counter-Offer, proof of committed funds available to Buyer sufficient to enable Buyer to consummate the acquisition contemplated herein, which proof shall be in the form of a letter of credit; loan commitment or other form acceptable to the Trustee in the Trustee's sole discretion. In the event that either (i) Buyer fails timely to provide any such proof, or (ii) the Trustee determines, in the Trustee's sole discretion, that any proof of funds provided to Trustee by Buyer is unacceptable, the Trustee shall have the right, at the Trustee's option, to provide written notice to Buyer that this Counter-Offer is terminated. In the event that the Trustee exercises such termination right, this Counter-Offer shall terminate effective as of the date of Trustee's written notice to Buyer, whereupon the Initial Deposit (if theretofore deposited with the Escrow Holder) shall be returned to Buyer and Buyer and Trustee shall each be relieved of any further obligation hereunder.

Escrow instructions corresponding to the terms of this Agreement shall be provided by the Escrow Holder and signed by the parties within five (5) business days of the date of Buyer's and Seller's receipt of said escrow instructions. Buyer and Seller shall deposit such documents and instruments with the Escrow Holder as and when reasonably required to complete the sale. Buyer shall be free to assign this Agreement to another person or entity ("Assignee") subject to Seller's prior review and written approval (which approval Seller may grant or withhold in its sole discretion), but Buyer shall remain liable hereunder, together with such Assignee, in the event that such Assignee fails to perform any of Buyer's obligations hereunder.

1. **BUYER'S DUE DILIGENCE AND FINANCING; CANCELLATION RIGHT.** Buyer shall have seventeen (17) calendar days from the date of execution hereof to perform, complete, and satisfy all contingencies, inspections, investigations, tests and reviews of reports, and to complete all due diligence which the Buyer desires for this Sale of the Property, including, but not limited to and performing and completing any geological, soil, structural, environmental, or other tests, inspections, and investigations desire by Buyer. Buyer may, not later than the end of that period, give Seller written notice of Buyer's election to withdraw from this Agreement because of Buyer's inability to complete or

dissatisfaction with the results of any of those matters ("Notice of Cancellation"), in which event Buyer's and Seller's obligations under this Agreement shall be terminated and Buyer shall receive a full refund of Buyer's deposit. If Buyer fails to give such Notice of Cancellation as within such period, all such contingencies shall be automatically removed and Buyer's obligation to proceed shall be non-contingent except as provided herein for, (i) Buyer's review of a preliminary report and underlying documents respecting the title to the Property (as set forth in Paragraph 2), and (ii) Bankruptcy Court approval of this Agreement and the Sale (including as set forth in Paragraph 6).

2. **TITLE; TITLE INSURANCE.** Within three (3) business days after acceptance of this Counter Offer, Title 365 (the "Title Company") or title company of Seller's choice will be instructed to provide a preliminary report of the condition of title to the Property, including copies of underlying documents referred to in Schedule B thereof, for Buyer's review. Buyer may, not later than the end of the period in Paragraph 2, or until three (3) days after receipt of the preliminary report and underlying documents, whichever occurs later, in which to give Seller written notice ("Notice of Title Disapproval") that Buyer disapproves the condition of title with respect to a material matter(s) that interfere with the use of the Property for the purpose for which it is currently used or intended to be used. Such notice must refer to the specific exception(s) in Schedule B of the preliminary report and the specific underlying document(s) which are the basis for Buyer's disapproval. Within five (5) business days after receipt of such notice, Seller may, in Seller's sole discretion, either (i) cancel this Agreement and the sale, in which event Buyer's and Seller's obligations under this Agreement shall be terminated and Buyer shall receive a full refund of Buyer's deposit, or (ii) elect to correct the item(s) that were disapproved by Buyer, in which event the sale shall proceed. Seller may correct such item by any means that will result in the Title Company either removing the disapproved exception(s) from the preliminary report or providing title insurance coverage by endorsement against such exception(s). At the close of the sale, Seller shall convey and Buyer shall accept title to the Property as shown in Schedule B of the preliminary report, subject to any corrections as in this paragraph above, free and clear of all monetary liens, subject to the terms of the within contract. Seller shall pay the costs of a CLTA Standard Owner's policy of title insurance.

3. **REMOVAL OF CONTINGENCIES; COURT CONFIRMATION; CLOSING; DELIVERY OF POSSESSION.** If Buyer does not give Seller written Notice of Cancellation as and when provided in Paragraph 1, or Notice of Title Disapproval as and when provided in Paragraph 2, Buyer's silence shall be deemed acceptance and Buyer shall be deemed to have satisfied and removed all of Buyer's contingencies and to proceed with the Sale. Seller shall then file a motion with the Bankruptcy Court to confirm this sale. Upon such removal of contingencies, Buyer shall be unconditionally obligated to proceed with the sale, subject only to Bankruptcy Court confirmation as set forth below. If the Bankruptcy Court confirms the sale to Buyer, the closing shall take place as soon as practicable after entry of the order approving the sale, but no later than the first business day after fourteen (14) calendar days following the entry of court order approving sale. The closing shall occur on the date the deed transferring the Property to Buyer is recorded with the County Recorder where the Property is located. Occupancy shall be delivered to Buyer upon Escrow Holder's confirmation of recording.

4. **BANKRUPTCY SALE.** Buyer acknowledges that Seller is a Trustee appointed to administer the above referenced bankruptcy estate, and is a party to this Agreement solely in that capacity. Seller and Brokers and agents have not and will not determine the condition or fitness for use of the Property for any particular purpose. The sale shall be "as is," "where is," "with all faults," and with no warranty by or recourse whatsoever to Seller or Brokers or agents herein. Transfer of the

Property shall be by Quit Claim Deed. All parties acknowledge that Seller is a party to this Agreement solely in the capacity as Trustee of the above referenced bankruptcy estate and that in the event of any default in the performance of any of Seller's obligations under the Offer (as modified hereby) or in the event that any other claim is asserted against the Seller, Trustee or the estate in connection with this transaction, the Trustee shall in no event have any personal liability whatsoever (whether in her individual capacity or otherwise), it being expressly understood and agreed that Buyer's sole recourse, if any, in such event shall be to the assets of such estate.

5. TAXES; PRORATIONS; COSTS OF SALE. All real property taxes and assessments for the current tax year shown in the current County Tax Bill shall be prorated between Seller and Buyer and charged as of the closing date to the applicable accounts of Seller and Buyer. The sale shall be free and clear of any homeowner's association assessments and all real property taxes (other than those prorated as provided above) enforceable against the Property through the closing date of the sale. Escrow fees shall be split between Buyer and Seller in the manner customary in the County where the Property is located. Seller shall pay any real property transfer tax. Seller shall pay the cost of a Natural Hazard Disclosure Report, from a vendor selected by Seller, to be furnished to Buyer through escrow. Buyer shall pay and have sole responsibility for compliance with any requirements imposed on the Property or this sale by any governmental agency(ies), including compliance with any applicable governmental retrofit requirements. Buyer shall pay the cost of recording the deed. Buyer and Seller shall each pay their own expenses of every other type except as specifically provided in this Agreement.

6. BANKRUPTCY COURT APPROVAL; OVERBIDDING. The sale is subject to notice to creditors, approval by the Bankruptcy Court, and higher and better bids received by Seller through and including the Bankruptcy Court hearing to confirm the sale. Payment of any and all real estate brokers' commissions is also subject to notice to creditors and approval by the Bankruptcy Court. Buyer acknowledges and agrees that Seller may not seek to obtain the Bankruptcy Court's approval if Seller has determined that it would be in the best interest of the bankruptcy estate not to do so.

7. BROKERS. Seller is represented by Coldwell Banker and Shear Realty. Buyer is represented by Shear Realty. Subject to Bankruptcy Court approval, Seller will pay a real estate broker's commission aggregating 6% of net sales price of the Property to the Brokers as follows: 1.5% to Coldwell Banker, and 1.5% to Shear Realty and 3% to Shear Realty in connection with the closing of this sale. All such Brokers and agents are collectively referred to herein as the "Brokers." No commission or compensation shall be due or payable to Brokers in connection with this Agreement or sale except from the cash proceeds of an actual Sale of the Property that closes to Buyer. Buyer hereby represents and warrants that, other than the Brokers, Buyer has not dealt with any broker, finder or other person entitled to any fee, commission or other compensation in connection with the Sale and Buyer shall indemnify, defend and protect and hold Seller and the related bankruptcy estate harmless of, from and against any claims, demands, actions, causes of action, losses, liabilities and costs and expenses (including, without limitation, all court costs and reasonable attorneys' fees) as Seller may suffer or incur in the event that any claims for any such fees, commissions or other compensation of any kind are hereafter asserted.

8. MATERIAL CHANGE OF CONDITION. In the event of any material change in the

condition of the Property after the date of acceptance of this Counter-Offer, if Buyer demands repair of any resulting actual damage to the Property, Seller may, at Seller's sole option: (a) elect to terminate this Agreement, in which event Buyer's and Seller's obligations to buy or sell shall terminate and the full Deposit shall be refunded to Buyer; or (b) make required repairs at the bankruptcy estate's expense; or (c) assign any insurance proceeds for the damage to the Property to Buyer as of the close of the sale; or (d) credit the cost of such repairs to Buyer through escrow, it being agreed that in the event that Seller elects and complies with subpart 9(b), (c) or (d), Buyer's obligation to proceed with the Sale shall be unaffected by any such material change in the condition of the Property.

9. REMEDY FOR BUYER'S OR SELLER'S FAILURE TO CLOSE. Buyer's sole remedy in the event that the sale fails to close as a result of Seller's inability or failure to close for any reason, including but not limited to the reason of failure to obtain approval of the sale by the Bankruptcy Court, shall be the mutual release of Buyer's and Seller's obligations to buy or sell and a full refund of the Deposit (plus any increase thereof by Buyer). In the event Buyer fails to close the sale for any reason other than Seller's default, after Buyer's contingencies have been removed as under Paragraphs 2 and 3, Buyer's Deposit (plus any increase, thereof by Buyer) shall be paid over to Seller and retained by Seller as liquidated damages without further legal action. If the Property is a dwelling with no more than four units, one of which Buyer intends to occupy, then the amount retained shall be no more than three percent of the Purchase Price. This provision shall apply equally to the Deposit (and any increase, thereof by Buyer).

GK  
[Buyer's Initials]

10. BANKRUPTCY COURT JURISDICTION. The U.S. Bankruptcy Court for the Central District of California shall have sole and exclusive jurisdiction to interpret and enforce the terms of this Agreement and Buyer hereby consents and submits to such exclusive jurisdiction. This Agreement shall be interpreted and enforced pursuant to the laws of the United States of America including the Bankruptcy Code, Title 11, United States Code.

11. "AS-IS," "WHERE-IS" CONDITION; NO WARRANTIES. Buyer acknowledges and agrees that, to the maximum extent permitted by law, the sale contemplated by this Agreement is made "as-is," "where-is," and "with all faults," except as specifically provided in this Agreement. Seller and Brokers and agents herein have not made, do not make, and specifically negate and disclaim any representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, concerning or respecting (i) value of the Property; (ii) income to be derived from the Property; (iii) suitability of the Property, or lack thereof for any activity or use which Buyer may intend to conduct thereon, including any possibilities or limitations for future development; (iv) habitability, merchantability, marketability, profitability, or fitness for a particular purpose, of the Property, or lack thereof; (v) manner, quality, state of repair, or lack of repair of the Property; (vi) nature, quality, or condition of the Property, or any portion, system, or component thereof, including without limitation, water, soil, and geology; (vii) compliance of the Property or its operation, or lack thereof, with any laws, ordinances, regulations, rules, or orders of any applicable governmental authority or body; (viii) manner or quality of engineering, design, construction or materials, if any, incorporated into the Property; (ix) compliance or lack of

compliance with any land use, building and safety, or other laws, ordinances, regulations, rules, orders, or other requirements imposed or enforced by any governmental or non-governmental body, including without limitation the Americans with Disabilities Act of 1990; (x) the presence or absence at, on, under, or adjacent to the Property, of materials described as "hazardous substances, hazardous materials, or toxic substances" or by similar terms under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S. Code §§9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S. Code §§1801, et seq.), the Resource Conservation and Recovery Act (42 U.S. Code §§6901, et seq.), the Toxic Substance Control Act (15 U.S. Code §2601, et seq.), the Clean Water Act (33 U.S. Code §1251, et seq.), California Health and Safety Code §25117 or 25316), or other statutes and laws, all as amended and including all regulations issued thereunder; (xi) the content, completeness or accuracy of any Due Diligence materials or Preliminary Report regarding Title to the Property; (xii) the conformity or lack of conformity of the improvements to any plans or specifications for the Property, including any plans and specifications that may have been or may be provided to Buyer; (xiii) the conformity or lack of conformity of the Property to past, current, or future applicable zoning or building requirements; (xiv) any deficiency of any undershoring, drainage, or other aspects, systems, or components of or affecting the Property; (xv) the fact, if applicable, that all or a portion of the Property may be located on or near any natural hazard zone as determined by any governmental agency or body; (xvi) the existence of vested land use, zoning, or building entitlements affecting the Property or any other property; or (xvii) any other matter. Without in any manner limiting the foregoing, Buyer hereby acknowledges and agrees that (i) Seller's Broker, has provided (and will hereafter provide) to Buyer various materials and information relating to the Property, including, without limitation, information and materials relating to the condition of the Property, and (ii) all such materials and information so provided to Buyer by Seller's Broker shall, for all purposes of this Agreement, be deemed to have been disclosed to Buyer by the Seller, as well.

12. **BROKERS.** Brokers and agents herein have not and will not perform any inspections, investigations, or due diligence on behalf of Buyer unless otherwise specified herein. Buyer is informed that Buyer must arrange for any inspections and investigations desired by Buyer utilizing suitable third party professionals selected and compensated by Buyer. In no event shall Seller have any liability or responsibility for any representation, warranty, statement made, or information furnished by Brokers or agents herein, or any other person or entity, concerning the Property, this Agreement, or any other matter, unless expressly set forth in writing and signed personally by Seller.

13. **OPPORTUNITY TO INSPECT; BUYER'S SOLE RELIANCE.** Buyer represents, warrants, acknowledges, and agrees that Buyer has been given the opportunity to inspect and investigate the Property and all other facts and circumstances deemed by Buyer relevant and significant, and to review information and documentation affecting the Property. In deciding to proceed with the sale, Buyer is relying solely on Buyer's own inspections and investigation of the Property (including by any outside professionals whom Buyer has elected to engage for such services) and review of such information and documentation, and not on any information provided or to be provided by Seller. Buyer further acknowledges and agrees that any information made available to Buyer or provided or to be provided by or on behalf of Seller

with respect to the Property was obtained from a variety of sources and that neither Seller nor the Brokers and agents herein nor any other person has made or makes any representations as to the accuracy or completeness of such information. Buyer hereby fully and irrevocably releases all such sources and preparers of information and documentation affecting the Property which were retained or engaged by Seller or Brokers or agents from any and all claims that Buyer may now or hereafter have against such sources and preparers of information, for any costs, expenses, losses, liabilities, damages, demands, actions, or causes of action arising from any such information or documentation. NEITHER SELLER NOR BROKERS HAVE PROVIDED OR WILL PROVIDE ANY LEGAL OR TAX ADVICE TO BUYER. Buyer is informed that Buyer must obtain any such advice, if desired by Buyer, from independent professionals selected and engaged by Buyer.

14. PHYSICAL, GEOLOGICAL, PEST CONTROL, AND ENVIRONMENTAL INSPECTIONS AND INVESTIGATIONS.

A. BUYER SHALL CONDUCT THOROUGH PHYSICAL, GEOLOGICAL, PEST CONTROL, AND ENVIRONMENTAL INSPECTIONS AND INVESTIGATIONS OF THE PROPERTY AS MAY BE DETERMINED BY BUYER, THROUGH QUALIFIED PROFESSIONALS SELECTED BY BUYER. Seller and Brokers and agents herein strongly recommend that Buyer fully exercise and not waive such inspections and investigations.

B. Buyer shall select and employ, at Buyer's expense, a licensed engineer(s), architect(s), contractor(s), geologist(s), pest control license(s), environmental consultant(s), or other qualified professional(s) to make inspection(s) and investigations of the Property, including, but not limited to, (i) its general structure, plumbing, heating, air conditioning (if any), electrical system, built-in appliances, cesspool/sewer/septic system, well, roof, soils, foundation, mechanical systems, pool, spa, related equipment and filters, sprinklers, and those other matters affecting the desirability of the Property (all if and only to the extent any such structures, systems, and components are presently a part of the Property); (ii) any actual or potential wood destroying pests or other conditions damaging to the Property or any portion thereof; (iii) environmental hazards, substances, products, or conditions, including without limitation, asbestos, formaldehyde, lead, lead-based paint, contaminated soil or water, fuel, chemical storage tanks, hazardous waste, electromagnetic fields, and radon gas, any of which may constitute a health risk; (iv) the presence or absence of any required governmental permits, inspections, applications, approvals, and certificates of occupancy, and compliance or lack of compliance with building codes and laws applicable to the Property; (v) plans and specifications for the Property; (vi) all applicable zoning, municipal, county, state, and federal, including those affecting the past, current, or any future use of the Property; (vii) deed restrictions and other matters of public record which may govern, restrict, condition, or prohibit the use, alteration, or development of the Property; and (viii) generally, without limitation, any and all other items and matters of whatsoever nature, character, or description, which Buyer deems material to Buyer's interests, in, on, or affecting the Property; and to approve or disapprove said inspection within the period and in the manner set forth in this agreement.

15. **COMPLETE AGREEMENT; NO OTHER REPRESENTATIONS OR WARRANTIES.** Seller shall not be liable or bound in any manner by any oral or written statements, representations, or information pertaining to the Property or the operation thereof, furnished by any real estate broker, agent, employee, contractor, or other person. Buyer further acknowledges and agrees Seller has no obligations to make repairs, replacements or improvements except as may otherwise be expressly stated herein. Without limiting any other provision hereof, Buyer represents, warrants and covenants to Seller that, except for Seller's express representations and warranties specified in this Agreement, Buyer is relying solely upon Buyer's own investigation of the Property.

16. **WRITTEN AFFIRMATION OF SELLER REQUIRED.** Buyer understands that Seller may continue to receive and respond to other offers on the Property and may be making several Counter-Offer concurrently containing the same or different terms. This Counter-Offer shall not be binding until accepted by Buyer and executed by Buyer and Seller on the signature page below; and then approved by Seller, in Seller's sole discretion, in the form of the Seller's Affirmation of Agreement attached hereto as Exhibit "A" which, if so executed by Seller, will constitute Seller's agreement that Seller will sell the Property to Buyer, subject to Bankruptcy Court approval, the rights of any overbidding parties, and the terms and conditions of this Agreement. Buyer further acknowledges that it would be imprudent and unrealistic to rely upon the expectation of entering into a binding agreement regarding the subject matter of this Counter-Offer prior to receipt of Seller's Affirmation of Agreement, and further represents to Seller that any efforts to complete due diligence, to negotiate or obtain financing, or to perform any of the obligations provided herein shall not be considered as evidence of binding intent without Seller's Affirmation of Agreement, and understands that BUYER'S ACCEPTANCE HEREOF SHALL HAVE NO FORCE OR EFFECT PRIOR TO BUYER'S RECEIPT OF SUCH AFFIRMATION OF AGREEMENT SIGNED BY SELLER.

17. **ATTORNEYS' FEES.** In the event that either party hereto brings an action or other proceeding to enforce or interpret the terms and provisions of this Agreement, the prevailing party in that action or proceeding shall be entitled to have and recover from the non-prevailing party all such fees, costs and expenses (including, without limitation, all court costs and reasonable attorneys' fees) as the prevailing party may suffer or incur in the pursuit or defense of such action or proceeding.

18. Buyer is purchasing property subject to existing tenancies.

19. Seller shall make her best efforts to obtain signed Estoppel Certificates and Rental Agreements from tenants, however, buyer agrees to close escrow whether or not said Certificates and Agreements are obtained. Two tenants do not have any signed rental agreements.

20. Only rents that are collected by the Trustee shall be prorated at close of escrow.

21. Seller is not in possession of any security deposits and shall not credit buyer for same.

EXPIRATION OF COUNTER-OFFER. This Counter-Offer shall expire if not accepted by Buyer by delivering a copy hereof, fully signed and initialed by Buyer, to Seller on or before close of business May 8, 2015. Such acceptance shall nevertheless be subject to Paragraph 16.

AGREED AND ACCEPTED:

"BUYER"

Dated: 5-5-15

By:

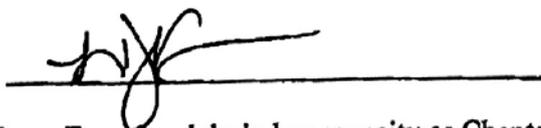


Grant Karavardanyan

"SELLER" (subject to Paragraph 16)

Dated: 5/5/15

By:



Helen Ryan Frazer, solely in her capacity as Chapter 7 Trustee for Rodolfo Vargas and Altagracia Vargas

EXHIBIT "A"

SELLER'S AFFIRMATION OF AGREEMENT

Seller hereby acknowledges Buyer's acceptance of the foregoing Counter-Offer and affirmatively agrees to sell the Property to Buyer on the terms and conditions of the foregoing Agreement, but subject to Bankruptcy Court approval and rights any of overbidders. Seller shall revoke any other outstanding Counter-Offers made to other prospective buyers or make the same subject and subordinate to this agreement.

"SELLER"

Dated:

5/7/15

By:



Helen Ryan Frazer, solely in her capacity as Chapter 7 Trustee for Rodolfo Vargas and Altagracia Vargas

# **EXHIBIT 3**

