

REAL ESTATE SALES CONTRACT

This contract to buy and sell real property is between Seller and Buyer as identified below and is effective on the date (“Effective Date”) of the last of the signatures by Seller and Buyer as parties to this contract and by Title Company to acknowledge receipt of the Earnest Money. Buyer must deliver the Earnest Money to Title Company and obtain Title Company’s signature before the Earnest Money Deadline provided in section A.1. for this contract to be effective.

Seller: 111 MLK Development, LLC, a Texas limited liability company

Address: 16925 Whispering Breeze Drive, Austin, Texas 78738

Phone: (210) 394-7070

E-mail: matt@kenyoncompanies.com

Seller’s Broker: Stephen Schneider - Kenyon Companies

Address: 4826 E Cezar Chavez Street, Austin, TX 78702

Phone: (512) 567-3825

E-mail: stephen@kenyoncompanies.com

Buyer: City of San Marcos

Address: 630 East Hopkins Street, San Marcos, TX 78666

Phone: (512) 393-8137

E-mail: clime@sanmarcostx.gov

Buyer’s Broker: N/A

Property: An approximately 1.03-acre tract of land located at 111 East Martin Luther King Drive, San Marcos, Hays County, Texas 78666, as further described in Exhibit A, together with all improvements to the Land (“Improvements”) and any leases associated with the Land and Improvements (“Leases”).

Title Company: Veritas Title Company; Michael Knudsen. 4200 Westheimer Road, Suite 150, Houston, Texas, 77027. (713) 482-2801

Purchase Price: \$4,500,000.00

Earnest Money: \$49,900.00. Notwithstanding anything herein to the contrary, \$25,000.00 of the Earnest Money shall be non-refundable to Buyer upon the earlier of (i) 30 days after the Effective Date or (ii) Buyer’s receipt of a Phase I environmental report suggesting no further action on the Property. Thereafter, any refund of Earnest Money thereafter, shall only include that portion of

the Earnest Money that has not become non-refundable per the preceding sentence. If Seller closes under the terms of this Real Estate Sales Contract, then the Earnest Money will be credited against the purchase price, including said \$25,000.00.

Buyer's Liquidated Damages: \$5,000.00

Seller's Additional Liquidated Damages: \$5,000.00

County for Performance: Hays County, Texas

A. Deadlines and Other Dates

All deadlines in this contract expire at 5:00 P.M. local time where the Property is located. If a deadline falls on a Saturday, Sunday, or national holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, or national holiday. A national holiday is a holiday designated by the federal government. Time is of the essence.

1. Earnest Money Deadline: 15 days after execution of this contract by both parties.
2. Delivery of Title Commitment: 20 days after the Effective Date
3. Delivery of legible copies of instruments referenced in the Title Commitment: 20 days after the Effective Date
4. Delivery of any Survey updates, if applicable: 5 days after Buyer's receipt of Survey, but no later than August 2, 2022
5. Delivery of Title Objections: 20 days after delivery of the Title Commitment and legible copies of the instruments referenced in them
6. Delivery of Seller's Records as specified in Exhibit C: 15 days after the Effective Date
7. End of Inspection Period: August 2, 2022
8. Closing Date: August 16, 2022

B. Closing Documents

1. At closing, Seller will deliver the following items:

Special Warranty Deed

One or more assignments of all of Seller's rights and interests in and to any leases, contracts, licenses and permits, including permits related to the withdrawal of water in connection with water rights conveyed at closing

Tax statements or certificates showing no delinquent taxes on the Property

IRS Nonforeign Person Affidavit

Evidence of Seller's authority to close this transaction

Customary closing items as may be requested by the Title Company

2. At closing, Buyer will deliver the following items:

Evidence of Buyer's authority to consummate this transaction

Customary closing items as may be requested by the Title Company

The documents listed in this section B are collectively known as the "Closing Documents." The deed from Seller, however, shall not include any provisions regarding payment of taxes contrary to the provisions in Section K.2.c. Assignments, if any, shall be prepared by Seller's attorney and will be subject to Buyer's approval.

C. Exhibits

The following are attached to and are a part of this contract:

Exhibit A— Legal Description of the Property

Exhibit B— Representations

Exhibit C— Seller's Records

D. Purchase and Sale of Property

Seller agrees to sell and convey the Property to Buyer, and Buyer agrees to buy and pay Seller for the Property. The promises by Buyer and Seller stated in this contract are the consideration for the formation of this contract.

E. Interest on Earnest Money

Buyer may direct Title Company to invest the Earnest Money in an interest-bearing account in a federally insured financial institution by giving notice to Title Company and satisfying Title Company's requirements for investing the Earnest Money in an interest-bearing account. Any interest earned on the Earnest Money will be paid to the party that becomes entitled to the Earnest Money.

F. Title and Survey

1. *Title Commitment; Title Policy.* “Title Commitment” means a Commitment for Issuance of an Owner Policy of Title Insurance by Title Company stating the condition of title to the Property. The “effective date” stated in the Title Commitment must be after the Effective Date of this contract. “Title Policy” means an Owner Policy of Title Insurance issued by Title Company in conformity with the last Title Commitment delivered to and approved by Buyer.

2. *Survey.* “Survey” means an on-the-ground, staked plat of survey and metes-and-bounds description of the Property, prepared by Cardinal Surveying and Mapping, TBPLS FIRM No. 10194074, dated March 2017, or any update to said survey, at Buyer’s expense, and certified to comply with the current standards and specifications as published by the Texas Society of Professional Surveyors for Survey Category 1A.

3. *Delivery of Title Commitment, Survey and Legible Copies.* Seller must deliver the Title Commitment to Buyer by the deadline stated in paragraph A; and legible copies of the instruments referenced in the Title Commitment by the deadline stated in paragraph A. Buyer will obtain and deliver a copy of the Survey to Seller and Title Company by the deadline stated in paragraph A.4.

4. *Title Objections.* Buyer has until the deadline stated in section A (“Title Objection Deadline”) to review the Survey, Title Commitment, and legible copies of the title instruments referenced in them and notify Seller of Buyer’s objections to any of them (“Title Objections”). Buyer will be deemed to have approved all matters reflected by the Survey and Title Commitment to which Buyer has made no Title Objection by the Title Objection Deadline. The matters that Buyer either approves or is deemed to have approved are “Permitted Exceptions.” If Buyer notifies Seller of any Title Objections, Seller has five days from receipt of Buyer’s notice to notify Buyer whether Seller agrees to cure, without any obligation to do same, the Title Objections before closing (“Cure Notice”). If Seller does not timely give its Cure Notice or timely gives its Cure Notice but does not agree to cure all the Title Objections before closing, Buyer may, within five days after the deadline for the giving of Seller’s Cure Notice, notify Seller that either this contract is terminated or Buyer will proceed to close, subject to Seller’s obligations to resolve the items listed in Schedule C of the Title Commitment, remove the liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date, and cure only the Title Objections that Seller has agreed to cure in the Cure Notice. At or before closing, Seller must resolve the items that are listed on Schedule C of the Title Commitment, remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this contract, and cure the Title Objections that Seller has agreed to cure.

G. Inspection Period

1. *Review of Seller’s Records.* Seller will deliver to Buyer copies of Seller’s Records specified in Exhibit C, or otherwise make those records available for Buyer’s review, by the deadline stated in section A.

2. *Entry onto the Property.* Buyer may enter the Property before closing to inspect it, subject to the following:

a. Buyer may not interfere in any material manner with existing operations or

occupants of the Property;

- b. Buyer must notify Seller, at least 48 hours in advance of Buyer's plans to conduct tests so that Seller may be present during the tests;
- c. if the Property is altered because of Buyer's inspections, Buyer must, to the extent reasonably practicable, return the Property to its preinspection condition promptly after the alteration occurs, this provision survives termination of the contract;
- d. Buyer must deliver to Seller copies of all inspection reports that Buyer prepares or receives from third-party consultants or contractors within 15 days after their preparation or receipt; and
- e. Buyer must abide by any other reasonable entry rules imposed by Seller, including providing proof of general liability insurance coverage in an amount acceptable to Seller.

3. *Buyer's Right to Terminate.* Buyer may terminate this contract for any reason by notifying Seller before the end of the Inspection Period. If Buyer does not notify Seller of Buyer's termination of the contract before the end of the Inspection Period, Buyer waives the right to terminate this contract pursuant to this provision.

H. Representations

The representations stated in Exhibit B are true and correct as of the Effective Date and must be true and correct on the Closing Date.

I. Condition of the Property until Closing; Cooperation; No Recording of Contract

1. *Maintenance and Operation.* Until closing, Seller will (a) maintain the Property as it existed on the Effective Date, except for reasonable wear and tear and casualty damage; (b) operate the Property in the same manner as it was operated on the Effective Date; and (c) comply with all contracts and governmental regulations affecting the Property. Until the end of the Inspection Period, Seller will not enter into, amend, or terminate any contract that affects the Property other than in the ordinary course of operating the Property and will promptly give notice to Buyer of each new, amended, or terminated contract, including a copy of the contract, in sufficient time so that Buyer may consider the new information before the end of the Inspection Period. If Seller's notice is given within three days before the end of the Inspection Period, the Inspection Period will be extended for three days. After the end of the Inspection Period, Buyer may terminate this contract if Seller enters into, amends, or terminates any contract that affects the Property without first obtaining Buyer's written consent. No demolition or other development permits for the Property, if any, shall be transferred to any third party.

2. *Casualty Damage.* Seller will notify Buyer promptly after discovery of any casualty damage to the Property. Seller will have no obligation to repair or replace the Property if it is

damaged by casualty before closing. Buyer may terminate this contract if the casualty damage that occurs before closing would materially affect Buyer's intended use of the Property, by giving notice to Seller within fifteen days after receipt of Seller's notice of the casualty (or before closing if Seller's notice of the casualty is received less than fifteen days before closing).

3. *Condemnation.* Seller will notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken by a governmental or quasi-governmental authority. Unless caused by Buyer, Buyer may terminate this contract if the condemnation would materially affect Buyer's intended use of the Property by giving notice to Seller within fifteen days after receipt of Seller's notice to Buyer (or before closing if Seller's notice is received less than fifteen days before closing).

4. *Claims; Hearings.* Seller will notify Buyer promptly of any claim or administrative hearing that is threatened, filed, or initiated before closing that affects the Property.

5. *Cooperation.* Seller will cooperate with Buyer (a) before and after closing, to transfer the applications, leases, permits, and licenses held by Seller and used in the operation of the Property and to obtain any consents necessary for Buyer to operate the Property after closing and (b) before closing, with any reasonable evaluation, inspection, audit, or study of the Property prepared by, for, or at the request of Buyer and at Buyer's expense.

6. *No Recording.* Buyer may not file this contract or any memorandum or notice of this contract in the real property records of any county. If, however, Buyer records this contract or a memorandum or notice, Seller may terminate this contract and record a notice of termination.

J. Termination

1. *Disposition of Earnest Money after Termination*

- a. *To Buyer.* If Buyer terminates this contract in accordance with any of Buyer's rights to terminate, Seller will, within five days after receipt of Buyer's termination notice, authorize Title Company to deliver the Earnest Money to Buyer, provided \$1,000.00 (the "Inspection Period Fee") will be paid to Seller as consideration for the right granted by Seller to Buyer to terminate this contract under Section G.3. If, however, Buyer terminates this contract after the end of the Inspection Period for any reason other than as permitted under this contract, the Earnest Money shall be paid to Seller.
- b. *To Seller.* If Seller terminates this contract in accordance with any of Seller's rights to terminate, Buyer will, within five days after receipt of Seller's termination notice, authorize Title Company to pay and deliver the non-refundable \$25,000.00 portion of the Earnest Money to Seller.

2. *Duties after Termination.* If this contract is terminated, Buyer will promptly return to Seller all documents relating to the Property that Seller has delivered to Buyer and all copies that Buyer has made of the documents. After return of the documents and copies, neither party will

have further duties or obligations to the other under this contract, except for those obligations that cannot be or were not performed before termination of this contract and those obligations that survive termination under the express terms of this contract.

K. Closing

1. *Closing.* This transaction will close at Title Company's offices at the Closing Date and Closing Time. At closing, the following will occur:

- a. *Closing Documents.* The parties will execute and deliver the Closing Documents.
- b. *Payment of Purchase Price.* Buyer will deliver the Purchase Price and other amounts that Buyer is obligated to pay under this contract to Title Company in funds acceptable to Title Company. The Earnest Money will be applied to the Purchase Price.
- c. *Disbursement of Funds; Recording; Copies.* Title Company will be instructed to disburse the Purchase Price and other funds in accordance with this contract, record the deed and the other Closing Documents directed to be recorded, and distribute documents and copies in accordance with the parties' written instructions.
- d. *Delivery of Originals.* Seller will deliver to Buyer the originals of Seller's Records.
- e. *Possession.* Seller will deliver possession of the Property to Buyer, subject to the Permitted Exceptions existing at closing.

2. *Transaction Costs*

- a. *Seller's Costs.* Seller will pay the basic charge for the Title Policy; one-half of the escrow fee charged by the Title Company; the costs to obtain, deliver, and record releases of all liens to be released at closing; the costs to record all documents to cure Title Objections agreed to be cured by Seller; certificates or reports of ad valorem taxes and Seller's expenses and attorney's fees.
- b. *Buyer's Costs.* Buyer will pay one-half of the escrow fee charged by Title Company; the costs to obtain, deliver, and record all documents other than those to be recorded at Seller's expense; Title Company's inspection fee to delete from the Title Policy the customary exception for parties in possession; the costs of the Survey; the costs to deliver copies of the instruments described in section A; the additional premium for the "survey/area and boundary deletion" in the Title Policy, if the deletion is requested by Buyer; the costs of work required by Buyer to have the Survey

reflect matters other than those required under this contract; the costs to obtain financing of the Purchase Price, including the incremental premium costs of mortgagee's title policies and endorsements and deletions required by Buyer's lender; and Buyer's expenses and attorney's fees.

- c. *Ad Valorem Taxes.* Buyer is a tax-exempt governmental entity and assumes no responsibility for taxes associated with Seller's ownership of the Property through the Closing Date. Ad valorem taxes for the Property for the calendar year of closing will be prorated between Buyer and Seller as of the Closing Date. Seller's portion of the prorated taxes will be paid to Buyer at closing as an adjustment to the Purchase Price. If the assessment for the calendar year of closing is not known at the Closing Date, the proration will be based on taxes for the previous tax year, and Buyer and Seller will adjust the prorations in cash within thirty days of when the actual assessment and taxes are known. All taxes due as of closing will be paid at closing and the Title Company will pay such taxes directly to the Hays County Tax Assessor-Collector pursuant to Section 26.11 of the Texas Tax Code. Nonetheless, after closing, Buyer may forward any tax bills attributable to Seller's ownership of the Property directly to Seller and Seller shall promptly pay such bill. If Buyer pays such bill, it may forward an invoice to Seller for reimbursement and Seller shall promptly pay such invoice. Buyer may pursue any remedies available at law or in equity to enforce the Seller's obligations under this paragraph. Seller's obligations under this paragraph shall survive closing.
- d. *Postclosing Adjustments.* If errors in the prorations made at closing are identified within ninety days after closing, Seller and Buyer will make postclosing adjustments to correct the errors within fifteen days of receipt of notice of the errors.
- e. *Broker's Commissions.* Seller shall be solely responsible for and agrees to pay Seller's Broker a fee as may be agreed to in writing between Seller and Seller's Broker. Buyer will not be responsible for payment of any Broker's Commissions and Seller agrees to indemnify, defend and hold Buyer harmless from any loss, attorney's fees, court costs and other costs arising out of a claim by any person or entity claiming a fee or commission arising from this transaction.

3. *Issuance of Title Policy.* Title Company shall issue the Title Policy to Buyer as soon as practicable after closing.

L. Default and Remedies

1. *Seller's Default.* If Seller fails to perform any of its obligations under this contract or if any of Seller's representations is not true and correct as of the Effective Date or on the Closing Date ("Seller's Default"), Buyer may elect either of the following as its sole and exclusive remedy:

- a. *Termination; Liquidated Damages.* Buyer may terminate this contract by giving notice to Seller on or before the Closing Date and Closing Time and have the Earnest Money returned to Buyer, provided Seller will retain the \$1,000.00 Inspection Period Fee. Unless Seller's Default relates to the untruth or incorrectness of Seller's representations for reasons not reasonably within Seller's control, if Seller's Default occurs after Buyer has incurred costs to investigate the Property after the Effective Date and Buyer terminates this contract in accordance with the previous sentence, Seller will also pay to Buyer as liquidated damages the lesser of Buyer's actual out-of-pocket expenses incurred to investigate the Property after the Effective Date or the amount of Buyer's Liquidated Damages, within ten days after Seller's receipt of an invoice from Buyer stating the amount of Buyer's expenses.
- b. *Specific Performance.* Unless Seller's Default relates to the untruth or incorrectness of Seller's representations for reasons not reasonably within Seller's control, Buyer may enforce specific performance of Seller's obligations under this contract, but any such action must be initiated, if at all, within 60 days after the breach or alleged breach of this contract. If title to the Property is awarded to Buyer, the conveyance will be subject to the matters stated in the Title Commitment.

2. *Buyer's Default.* If Buyer fails to perform any of its obligations under this contract ("Buyer's Default"), Seller may elect either of the following as its sole and exclusive remedy:

- a. *Termination; Liquidated Damages.* Seller may terminate this contract by giving notice to Buyer on or before the Closing Date and Closing Time and have the Earnest Money paid to Seller. If Buyer's Default occurs after Seller has incurred costs to perform its obligations under this contract and Seller terminates this contract in accordance with the previous sentence, Buyer will also reimburse Seller for the lesser of Seller's actual out-of-pocket expenses incurred to perform its obligations under this contract or the amount of Seller's Additional Liquidated Damages, within ten days of Buyer's receipt of an invoice from Seller stating the amount of Seller's expenses.
- b. *Specific Performance.* Subject to section M.15, Seller may enforce specific performance of Buyer's obligations under this contract. If title to the Property is awarded to Buyer, the conveyance will be subject to the matters stated in the Title Commitment.

3. *Liquidated Damages.* The parties agree that just compensation for the harm that would be caused by a default by either party cannot be accurately estimated or would be very difficult to accurately estimate and that Buyer's Liquidated Damages or the Earnest Money and Seller's Additional Liquidated Damages are reasonable forecasts of just compensation to the

nondefaulting party for the harm that would be caused by a default.

4. *Attorney's Fees.* If either party retains an attorney to enforce this contract, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

M. Miscellaneous Provisions

1. *Notices.* Any notice required by or permitted under this contract must be in writing. Any notice required by this contract will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this contract. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, electronic mail, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein. Copies of each notice must be given by one of these methods to the attorney of the party to whom notice is given.

2. *Entire Contract.* This contract, together with its exhibits, and any Closing Documents delivered at closing constitute the entire agreement of the parties concerning the sale of the Property by Seller to Buyer. There are no oral representations, warranties, agreements, or promises pertaining to the sale of the Property by Seller to Buyer not incorporated in writing in this contract.

3. *Amendment.* This contract may be amended only by an instrument in writing signed by the parties.

4. *Assignment.* Buyer may assign this contract only with the consent of Seller.

5. *Survival.* The obligations of this contract that cannot be performed before termination of this contract or before closing will survive termination of this contract or closing for six (6) months, and the legal doctrine of merger will not apply to these matters. If there is any conflict between the Closing Documents and this contract, the Closing Documents will control.

6. *Choice of Law; Venue; Alternative Dispute Resolution.* This contract will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue for any dispute arising under this agreement shall be in the appropriate state court in Hays County, Texas having jurisdiction. The parties will submit in good faith to an alternative dispute resolution process before filing a suit concerning this contract.

7. *Waiver of Default.* It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays taking any action with respect to the default.

8. *No Third-Party Beneficiaries.* There are no third-party beneficiaries of this contract.

9. *Severability.* The provisions of this contract are severable. If a court of competent

jurisdiction finds that any provision of this contract is unenforceable, the remaining provisions will remain in effect without the unenforceable parts.

10. *Ambiguities Not to Be Construed against Party Who Drafted Contract.* The rule of construction that ambiguities in a document will be construed against the party who drafted it will not be applied in interpreting this contract.

11. *No Special Relationship.* The parties' relationship is an ordinary commercial relationship, and they do not intend to create the relationship of principal and agent, partnership, joint venture, or any other special relationship.

12. *Counterparts.* If this contract is executed in multiple counterparts, all counterparts taken together will constitute this contract.

13. *Confidentiality.* The parties will keep confidential all information learned in the course of this transaction, except to the extent disclosure is required by the Texas Public Information Act, the Texas Open Meetings Act, other law or court order or to enable third parties to advise or assist Buyer to investigate the Property or either party to close this transaction.

14. *No Waiver of Immunity.* The parties agree that this contract is not a contract for goods or services and neither party waives any immunity from suit or liability of limitations on liability granted under applicable laws and constitution of the State of Texas.

15. *Subject to Funding and Approval.* This contract and closing are subject to the following during the Inspection Period: a) the approval of the San Marcos City Council; and b) the appropriation by the San Marcos City Council of lawfully available funds for payment of the Purchase Price, all of Buyer's Closing Costs and any other expenses provided for in this contract. If no such approval is obtained or appropriation made during the Inspection Period, Buyer may terminate this contract and Seller shall have no recourse against Buyer for such termination and this contract shall be of no further force and effect.

N. Special Provisions

1. DISCLAIMER

- A. BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT: (I) BUYER HAS, OR WILL HAVE BEFORE THE CLOSING, COMPLETED AN INVESTIGATION AND INSPECTION OF THE PROPERTY INCLUDING, WITHOUT LIMITATION, SUCH SOILS, ENGINEERING AND ENVIRONMENTAL STUDIES AS MAY BE NECESSARY TO ASSESS THE CONDITION OF THE PROPERTY AND THE SUITABILITY OF THE PROPERTY FOR BUYER'S INTENDED USES, (II) SELLER IS SELLING AND BUYER IS PURCHASING THE PROPERTY ON AN "AS IS WITH ALL FAULTS" BASIS AND (III) EXCEPT AS EXPRESSELY SET FORTH HEREIN OR IN DOCUMENTS DELIVERED AT CLOSING, BUYER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OR GUARANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SELLER, ITS EMPLOYEES, DIRECTORS, OFFICERS, AGENTS, CONSULTANTS, CONTRACTORS, SUBCONTRACTORS OR BROKERS AS TO ANY MATTERS CONCERNING THE PROPERTY INCLUDING, WITHOUT LIMITATION, ANY INFORMATION CONTAINED IN ANY REPORT, PLAN OR OTHER WRITTEN MATERIAL GIVEN BY SELLER TO BUYER WITH RESPECT TO THE PROPERTY OTHER THAN AS SET FORTH IN THIS CONTRACT OR ANY CLOSING DOCUMENT THAT IS DELIVERED TO**

BUYER. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE CLOSING. BUYER ACKNOWLEDGES AND AGREES THAT IT IS EXPERIENCED IN ACQUIRING, OWNING, DEVELOPING, MARKETING, LEASING, OPERATING, MANAGING AND SELLING OF PROPERTIES SIMILAR TO THE PROPERTY, AND THAT BUYER SHALL, DURING THE INSPECTION PERIOD, THOROUGHLY INSPECT, TEST, STUDY, REVIEW AND INVESTIGATE ALL ASPECTS OF THE PROPERTY TO ITS FULL SATISFACTION, AND THAT EXCEPT FOR THE WARRANTIES, REPRESENTATIONS AND COVENANTS OF SELLER MADE IN THIS CONTRACT, AS AN INDUCEMENT TO ENTER INTO THIS CONTRACT OR ANY CLOSING DOCUMENT THAT IS DELIVERED TO BUYER, BUYER IS RELYING SOLELY THEREON IN MAKING ITS DECISION TO ACQUIRE THE PROPERTY. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT EXCEPT AS OTHERWISE SPECIFICALLY STATED IN THIS CONTRACT OR IN THE CLOSING DOCUMENTS EXECUTED IN CONNECTION HERewith, SELLER IS NOT MAKING, AND HEREBY SPECIFICALLY DISCLAIMS MAKING ANY WARRANTY, GUARANTY OR REPRESENTATION, OF ANY KIND OR CHARACTER, WHETHER EXPRESS, IMPLIED, STATUTORY OR ARISING BY OPERATION OF LAW, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, OR CONCERNING THE PROPERTY, INCLUDING, WITHOUT LIMITATION, (I) THE PHYSICAL AND ENVIRONMENTAL NATURE AND CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, AND THE SUITABILITY THEREOF AND OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY ELECT TO CONDUCT THEREON, AND THE EXISTENCE OF ANY ENVIRONMENTAL HAZARDS OR CONDITIONS THEREON (INCLUDING THE PRESENCE OF ASBESTOS OR OTHER HAZARDOUS SUBSTANCES) OR THE COMPLIANCE OF THE PROPERTY WITH ANY AND ALL APPLICABLE ENVIRONMENTAL LAWS, RULES OR REGULATIONS; (II) EXCEPT FOR ANY WARRANTIES CONTAINED IN THIS CONTRACT OR IN THE DOCUMENTS TO BE DELIVERED BY SELLER AT CLOSING, THE NATURE AND EXTENT OF ANY RIGHT-OF-WAY, LEASE, POSSESSION, LIEN, ENCUMBRANCE, LICENSE, RESERVATION, CONDITION OR OTHER MATTER AFFECTING TITLE; (III) THE COMPLIANCE OF THE PROPERTY OR ITS OPERATION WITH ANY LAWS, STATUTES, ORDINANCES, RULES, REQUIREMENTS OR REGULATIONS OF ANY GOVERNMENT OR OTHER BODY; (IV) THE ECONOMIC VIABILITY OR MARKETABILITY OF THE PROPERTY; (V) TAX MATTERS PERTAINING TO THE TRANSACTION CONTEMPLATED HEREBY; (VI) EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE ACCURACY OR COMPLETENESS OF ANY REPORTS OR OTHER INFORMATION FURNISHED BY SELLER TO BUYER WITH RESPECT TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ENGINEERING, FINANCIAL, ENVIRONMENTAL OR OTHER REPORTS, STUDIES OR INVESTIGATIONS, IF ANY; (VII) ZONING; (VIII) VALUATION; (IX) HABITABILITY; (X) MERCHANTABILITY; OR (XI) SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR THE REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER AS SET FORTH HEREIN AND SELLER'S WARRANTIES SET FORTH IN THE CLOSING DOCUMENTS, BUYER HEREBY EXPRESSLY ACKNOWLEDGES AND AGREES THAT THE PURCHASE OF THE PROPERTY, AS PROVIDED FOR HEREIN, IS BEING MADE ON AN "AS IS" BASIS, "WITH ALL FAULTS," AND UPON CLOSING, BUYER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, WITHOUT LIMITATION, ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY EXIST WITH RESPECT TO THE PROPERTY AND WITH FULL KNOWLEDGE AND ACCEPTANCE BY BUYER OF ALL INFORMATION AND MATTERS DISCLOSED IN ANY AND ALL REPORTS, STUDIES, ASSESSMENTS, INVESTIGATIONS, PROPOSALS AND DOCUMENTS FURNISHED TO, OR OBTAINED BY, BUYER WITH RESPECT TO THE PROPERTY. FURTHER, BUYER ACKNOWLEDGES AND AGREES THAT THERE ARE NO ORAL AGREEMENTS, WARRANTIES OR REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE TRANSACTION CONTEMPLATED HEREBY WHICH HAVE BEEN MADE BY SELLER OR ANY THIRD PARTY.

- B. ANY FACTUAL INFORMATION SUCH AS PROPERTY TAXES, UTILITY INFORMATION, FINANCIAL PROJECTIONS, PROPERTY DIMENSIONS, SQUARE FOOTAGE, OR SKETCHES SHOWN TO BUYER OR SET FORTH HEREIN ARE OR MAY BE APPROXIMATE. BUYER**

ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH OTHERWISE IN THIS AGREEMENT, BUYER WILL HAVE THE OPPORTUNITY TO VERIFY SUCH FACTS AND INFORMATION TO BUYER'S SATISFACTION, AND THAT NO LIABILITY FOR ANY INACCURACIES, ERRORS OR OMISSIONS WITH RESPECT THERETO IS ASSUMED BY SELLER OR OTHER AGENTS OR REPRESENTATIVES OF SELLER. BUYER UNDERSTANDS AND ACKNOWLEDGES THAT SALES BROCHURES AND OTHER DOCUMENTS, IF ANY, DELIVERED TO BUYER (THE "PROPERTY DOCUMENTS") BOTH PRIOR TO AND FOLLOWING EXECUTION OF THIS CONTRACT, MAY HAVE BEEN PREPARED BY PARTIES OTHER THAN SELLER AND THAT SELLER MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, AS TO THE COMPLETENESS, CONTENT OR ACCURACY OF THE PROPERTY DOCUMENTS, EXCEPT AS EXPRESSLY SET FORTH OTHERWISE IN THIS AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH HEREIN, BUYER SPECIFICALLY RELEASES SELLER AND SELLER'S BROKERS, EMPLOYEES, PARTNERS, PRINCIPALS, OFFICERS, DIRECTORS, AGENTS, CONTRACTORS, AND AFFILIATES, FROM ALL CLAIMS, DEMANDS, CAUSES OF ACTION, JUDGMENTS, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, WHETHER SUIT IS INSTITUTED OR NOT, AND ENVIRONMENTAL CONSULTANTS' FEES) WHETHER KNOWN OR UNKNOWN, LIQUIDATED OR CONTINGENT (COLLECTIVELY "CLAIMS") ASSERTED AGAINST OR INCURRED BY BUYER BY REASON OF THE INFORMATION CONTAINED IN, OR THAT SHOULD HAVE BEEN CONTAINED IN, THE PROPERTY DOCUMENTS, EXCEPT TO THE EXTENT SELLER HAS CURRENT ACTUAL KNOWLEDGE OF THE BASIS OF THE CLAIMS AND HAS FAILED TO DISCLOSE SAME TO BUYER OR TO THE EXTENT THE CLAIMS RESULT FROM THE INTENTIONAL OR FRAUDULENT ACTIONS OF SELLER.

- B. EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE CLOSING DOCUMENTS, IN THE EVENT THAT FROM AND AFTER CLOSING ANY INVESTIGATION, REMOVAL, ABATEMENT, REMEDIATION, OR OTHER CORRECTIVE ACTION IS AT ANY TIME REQUIRED IN CONNECTION WITH THE PROPERTY OR ANY ADJACENT OR NEARBY REAL PROPERTY AS A RESULT OF THE PRESENCE OF ANY ENVIRONMENTAL PROBLEMS, HAZARDOUS SUBSTANCES, HAZARDOUS MATERIALS, OR ENVIRONMENTAL CONTAMINATION (AS EACH SUCH TERM IS DEFINED IN ANY AND ALL APPLICABLE ENVIRONMENTAL LAWS) AT OR ON THE PROPERTY OR ANY ADJACENT OR NEARBY REAL PROPERTY, INCLUDING, WITHOUT LIMITATION, ASBESTOS AND PETROLEUM PRODUCTS AND BYPRODUCTS AND ANY CONSTITUENTS THEREOF, REGARDLESS OF WHEN SAME OCCURRED, BUYER ACKNOWLEDGES AND AGREES THAT (i) ANY SUCH INVESTIGATION, REMOVAL, REMEDIATION OR CORRECTIVE ACTION SHALL BE PERFORMED BY BUYER AND AT BUYER'S SOLE COST AND EXPENSE, AND (II) THE SELLER HAS NO DUTY OR OBLIGATION TO PERFORM OR CAUSE TO BE PERFORMED ANY SUCH INVESTIGATION, REMOVAL, REMEDIATION, OR CORRECTIVE ACTION. THE BUYER FURTHER ACKNOWLEDGES AND AGREES THAT, EFFECTIVE UPON CLOSING, THE BUYER, FOR ITSELF, AND ITS SUCCESSORS AND ASSIGNS, HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, RELEASES, AND RELINQUISHES, SELLER FROM ANY AND ALL CLAIMS OR RIGHTS OF CONTRIBUTION (INCLUDING ANY RIGHT TO CONTRIBUTION UNDER 42 U.S.C. §9613(F)) WHICH THE BUYER OR ITS SUCCESSORS, LEGAL REPRESENTATIVES OR ASSIGNS NOW HAS OR MAY HAVE AGAINST THE SELLER, ITS PARTNERS, PRINCIPALS, AFFILIATES, AGENTS OR ANY OF ITS EMPLOYEES OR AGENTS BY REASON OF THE PRESENCE OF ANY HAZARDOUS SUBSTANCE (INCLUDING, BUT NOT LIMITED TO, ASBESTOS AND PETROLEUM PRODUCTS AND BYPRODUCTS AND THE CONSTITUENTS THEREOF) OR ANY OTHER ADVERSE ENVIRONMENTAL CONDITION, DEFECT, OR PROBLEM WITH RESPECT TO THE PROPERTY (WHETHER SUCH CONDITION, DEFECT, OR CONDITION BE KNOWN OR UNKNOWN, LATENT OR PATENT, OR WHETHER OR NOT ANY INVESTIGATION, REMEDIATION, OR CORRECTIVE ACTION MAY BE REQUIRED OR**

DESIRABLE WITH RESPECT TO THE PROPERTY, EXCEPT FOR ANY CLAIMS CAUSED BY SELLER'S INTENTIONAL OR FRAUDULENT ACTIONS).

EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE CLOSING DOCUMENTS, WITHOUT LIMITING THE PROVISIONS OF THE FOREGOING PROVISIONS, EFFECTIVE UPON CLOSING, BUYER HEREBY UNCONDITIONALLY AND IRREVOCABLY RELEASES SELLER FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, LIABILITIES, LOSSES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES) ARISING FROM OR RELATED TO THE PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY. THE RELEASE SET FORTH IN THIS SECTION SPECIFICALLY INCLUDES ANY CLAIMS UNDER ANY ENVIRONMENTAL LAWS. "ENVIRONMENTAL LAWS" INCLUDES, BUT IS NOT LIMITED TO, THE RESOURCE CONSERVATION AND RECOVERY ACT (42 U.S.C. 6901, ET SEQ.), THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED BY THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT (42 U.S.C. 9601, ET SEQ.); THE CLEAN AIR ACT (42 U.S.C. 4701, ET SEQ.); THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (42 U.S.C. §1101, ET SEQ.); THE HAZARDOUS MATERIALS TRANSPORTATION ACT OF 1974 (49 U.S.C. §1801, ET SEQ.); THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. §1251, ET SEQ.); THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (7 U.S.C. §137, ET SEQ.); THE SAFE DRINKING WATER ACT (42 U.S.C. §3001, ET SEQ.); AND THE TOXIC SUBSTANCE CONTROL ACT (15 U.S.C. §2601, ET SEQ.), AS ANY OF THE SAME MAY BE AMENDED FROM TIME TO TIME, AND ANY COMPARABLE OR SUCCESSOR PROVISIONS OF FEDERAL, STATE OR LOCAL LAW, AND ANY REGULATIONS, ORDERS, RULES, PROCEDURES, GUIDELINES AND THE LIKE PROMULGATED IN CONNECTION THEREWITH. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, SELLER SHALL NOT BE RELEASED FROM CLAIMS RESULTING FROM SELLER'S INTENTIONAL OR FRAUDULENT ACTIONS.

C. THE DISCLAIMERS AND RELEASES SET FORTH IN THIS SECTION SHALL SURVIVE THE CLOSING AND SHALL NOT MERGE THEREIN OR INTO ANY DOCUMENTS EXECUTED IN CONNECTION THEREWITH.

2. *Subject to Appraisal.* Buyer shall procure an appraisal of the value of the Property from a Texas licensed and MAI certified appraiser no later than the end of the Inspection Period. Buyer will provide a copy of such appraisal to Seller within seven days after Buyer's receipt of the appraisal. If the appraisal concludes that the value of the Property is less than the Purchase Price, Buyer may: a) terminate the contract by providing written notice of termination within 15 days after Buyer's receipt of the appraisal; b) disregard the appraisal and accept the Purchase Price, subject to the terms in this contract; or c) renegotiate the Purchase Price under mutually agreed written terms.

[SIGNATURES ON NEXT PAGE]

SELLER: 111 MLK Development, LLC, a Texas limited liability company

By: APEX 111 MLK, LLC, a Texas limited liability company, Managing Member

By: Vintra Holdings, LLC, a Texas limited liability company, General Partner

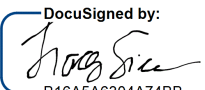
By: Sica Interests, LLC, a Texas limited liability company, Member

By: 
439F53EC65004FE...
Vincent Sica, Officer

Date: _____

By: APEX 111 MLK, LLC, a Texas limited liability company, Managing Member

By: Vintra Holdings, LLC, a Texas limited liability company, General Partner

By: 
B46A6A6304A74BB...
Tracey Silbert, Member

Date: _____

BUYER:

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A
Legal Description of the Property

Being a 1.015 acre (44,213 square feet) tract of land being all of Lots 14, 15, 16, and a portion of Lot 1, Block 13, according to the Plat of record in Volume 46, Page 448 of the Deed records of Hays County Texas, copied August 17, 1904 and recorded in Volume 46, Page 448 of the Plat Records of Hays County, Texas, being further described by metes and bounds description found in Special Warranty Deed with Vendor's Lien recorded in Document Number 17037124 of the Official Public Records of Hays County, Texas

Exhibit B

Representations; Environmental Matters

A. Seller's Representations

Seller represents to Buyer that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.

1. *Authority.* This contract is, and all documents required by this contract to be executed and delivered by each party at closing will be duly authorized, executed, and delivered by such party.

2. *Litigation.* There is no litigation pending or to Seller's best actual knowledge, threatened against either party that might affect the Property or either party's ability to perform its obligations under this contract.

3. *Condemnation; Zoning; Land Use.* Seller has not received notice of any condemnation, zoning, or land-use proceedings affecting the Property.

4. *No Other Obligation to Sell the Property or Restriction against Selling the Property.* Seller has not obligated itself to sell the Property to any party other than Buyer. Seller's performance of this contract will not cause a breach of any other agreement or obligation to which Seller is a party or to which it is bound.

5. *No Other Representation.* Except as stated above or in this Agreement Seller makes no other representation with respect to the Property.

6. *No Warranty.* Seller has made no warranty in connection with this contract.

Exhibit C Seller's Records

To the extent that Seller, or any of Seller's Agents, Consultants, Brokers, or Contractors, as a result of acting on Seller's behalf, have actual possession of the following items pertaining to the Property, Seller will deliver or make the items or copies of them available to Buyer by the deadline stated in section A:

Governmental

governmental licenses, certificates, permits, and approvals

tax statements for the current year and the last three years

notices of appraised value for the current year and the last three years

records of regulatory proceedings or violations (for example, condemnation, environmental)

Land

soil reports

environmental reports

water rights

engineering reports

prior surveys

site plans

Facilities

as-built plans, specifications, and mechanical drawings for improvements

engineering reports

environmental reports

operating and maintenance plans (for example, asbestos maintenance plans)

Leases

Leases

commission and leasing agent agreements

rent roll setting forth for each Lease:

tenant's name

square footage leased

date of expiration of current and renewal terms

renewal options

options to purchase any portion of the Property

rights of first refusal to lease other space

estoppel letters and/or subordination agreements

TITLE COMPANY RECEIPT

Title Company acknowledges receipt of Earnest Money and Inspection Period Fee in the total amount of \$49,900.00 and a copy of this contract executed by both Buyer and Seller.

Veritas Title Company

By: _____

Name: _____

Date: _____