

**PURCHASE AND SALE AGREEMENT**  
**DRAFT 2/27/18**

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017 (“Effective Date”), by and between UTAH TRANSIT AUTHORITY, a public transit district organized under the laws of the State of Utah (“Seller”) and THE REDEVELOPMENT AGENCY OF MURRAY CITY, a public body of the State of Utah (“Purchaser”). Seller and Purchaser are hereinafter sometimes collectively referred to as “parties” and either may be referred to individually as “party,” all as governed by the context in which such words are used.

RECITALS

WHEREAS, Seller is the owner of approximately 2.97 acres of real property (the “North Parcel”, the “South Parcel” and the “Road Parcel” and collectively the “Property”) located at approximately 4822 (the “North Parcel”), 4850 (the “South Parcel”) and 4865 (the “Road Parcel”) South Box Elder Street, in Murray City, Utah as depicted and described at Exhibit A (collectively referred to as the “Property”);

WHEREAS, Seller does not foresee a need of the Property for any transit-related purposes;

WHEREAS, Purchaser wants to purchase the Property to facilitate the redevelopment of a core downtown area of the Murray City (the “City”) for private and public uses that will contribute to the economic and revitalization of the City;

WHEREAS, Purchaser has undertaken a site assessment to determine the nature and extent of any oil or hazardous materials concerning the Property and has determined that the Property contains certain contaminants;

WHEREAS, Seller received an appraisal for the Property in the amount of One Million and Three Hundred Thirty Thousand Dollars (\$1,330,000);

WHEREAS, the Agency has completed an initial environmental evaluation which estimates the cost for environmental cleanup of the Property in an amount between Two Hundred Twenty Six Thousand Five Hundred Dollars and Six Hundred Ninety One Thousand Five Hundred Dollars (\$226,500 - \$691,500);

WHEREAS, in light of the potential cost of the environmental cleanup and the Agency’s assumption of responsibility for the Property’s environmental condition, the Parties agree that a discount of the purchase price by Two Hundred Thousand Dollars (\$200,000) is appropriate under the circumstances; and

WHEREAS, Seller is willing to sell, and Purchaser is willing to purchase, the Property according to the terms and conditions of this Agreement.

## AGREEMENT

NOW THEREFORE, on the stated Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereafter set forth, the mutual benefits to the parties to be derived herefrom, and for other valuable consideration, the receipt and sufficiency of which the parties acknowledge, it is hereby agreed as follows:

1. Purchase and Sale of the Property. Subject to the terms and conditions of this Agreement, Seller agrees to sell, and Purchaser agrees to purchase, the Property as depicted on the Boundary Exhibit Map and as generally described in the legal description attached hereto as Exhibit A, together with all appurtenances, rights-of-way or other rights benefiting the Property.
2. Purchase Price. Subject to the terms of this Agreement, Purchaser shall pay to Seller a total purchase price (the "Purchase Price") of ONE MILLION ONE HUNDRED THIRTY THOUSAND DOLLARS (\$1,130,000.00).
  - 2.1. The Purchase Price shall be paid as follows:
  - 2.2. On or before the Effective Date, Purchaser shall deposit into an escrow account (the "Escrow Account") established with Alta Title (the "Title Company"), whose address is 2180 South 1300 East, #270, Salt Lake City, Utah 84106, an initial deposit in the amount of FIVE THOUSAND DOLLARS (\$5,000.00) (the "Earnest Money Deposit"). In the event that this Agreement is terminated prior to the expiration of the Due Diligence Period as set forth in Articles 3 and 4, the Earnest Money Deposit shall be refunded to Purchaser.
  - 2.3. At the closing of the purchase contemplated in this Agreement (the "Closing"), the Earnest Money Deposit shall be paid to the Seller and credited against the Purchase Price. The balance of the Purchase Price shall be paid to Seller at the Closing.
3. Environmental Issues.
  - 3.1. Contamination. The Property is subject to environmental contamination, as disclosed in the reports listed on Exhibit C attached hereto (the "Environmental Reports"). Seller represents and warrants as follows:
    - a. Seller is not aware of any environmental contamination at the Property except as disclosed in the Environmental Reports.
    - b. No hazardous substances, hazardous materials, or pollutants have been released or disposed at the Property during the time period of Seller's ownership of the Property.
    - c. Seller has not received any environmental claims from any person related to the environmental contamination of the Property.

Except for Seller's representations and warranties in this Section 3.1, Purchaser purchases the Property AS IS and assumes all risk associated with any environmental condition of the Property or surrounding properties and any liability arising therefrom, including, but

not limited to, any groundwater contamination thought to be resulting from the gas station site adjacent to the northeast portion of the Property. Purchaser further agrees to indemnify Seller with respect to any liability, losses, liens, claims, damages or other costs arising from third party claims against Seller related to any environmental condition of the Property, except as to any breach of Seller's representations and warranties provided in this Section 3.1. This Section 3.1 shall survive closing.

3.2. Voluntary Cleanup Program Costs. Upon Purchaser's request, Seller will participate with Purchaser, as co-applicant, in a Voluntary Cleanup Program ("VCP") with the Utah Department of Environmental Quality ("UDEQ") whereas the Parties will jointly enter into a VCP Agreement with UDEQ, with Purchaser assuming responsibility for remediation of the Property required under the VCP Agreement. Purchaser shall have authority, according to its sole discretion, to undergo, or not undergo, all environmental programs, efforts, and remediation work after Closing, including without limitation the authority to terminate any VCP Agreement. Purchaser shall solely and fully pay the any and all costs for the remediation of environmental conditions that it chooses to undergo.

3.3. Enforceable Written Assurance. Purchaser may, at its option, apply to UDEQ for an enforceable written assurance letter.

4. Right of Entry; Due Diligence Period. Purchaser is granted the right, for a period commencing on the Effective Date and extending for thirty (30) days thereafter (the "Due Diligence Period"), of entering the Property for the purpose of performing further surveys, soil and environmental tests and any other studies deemed necessary by Purchaser. With respect to the performance of inspections or testing pursuant to this Section, Purchaser agrees not to unreasonably interfere with the operations conducted on the Property. Purchaser further agrees to assume all risks and costs with respect to the entry upon the Property and to indemnify the Seller with respect to any losses, liens, claims, damages or other costs related to the acts or omissions of Purchaser or its agents pursuant to the right of entry herein granted. In the event that Purchaser terminates this Agreement for any reason prior to the Due Diligence Period, the right of entry granted in this Section shall automatically terminate. The obligations and indemnities of Purchaser as set forth in this Section shall survive the Closing and not be merged into any instrument of conveyance delivered at Closing.

5. Purchaser's Conditions to Closing. The following are Purchaser's conditions precedent to the Closing of the purchase and sale of the Property. If Purchaser's conditions to Closing are not satisfied, Purchaser shall have the option to waive the condition or terminate the Agreement. In the event that Purchaser fails to terminate the Agreement under this provision prior to the end of the Due Diligence Period, Purchaser shall be deemed to have waived its objections and this condition to Closing shall be deemed fulfilled. In the event of any termination because of the failure to meet any condition as set forth in this paragraph 5, the Earnest Money Deposit shall be refunded to Purchaser, and this Agreement shall be without any force and effect, and without further obligation of either party.

5.1. The Closing is subject to Purchaser's review of the title to the Property as outlined in this Section 5.1. Purchaser shall obtain from the Title Company a current commitment for an owner's policy of title insurance (the "Title Commitment") within ten (10) days from the Effective Date. No later than thirty (30) days following the Effective Date, Purchaser shall

advise Seller in writing of any objections which Purchaser has to the Title Commitment (“Purchaser’s Objections”). Any title issues that are not identified as Purchaser’s Objections during the above-referenced 30-day period will be deemed to have been accepted by the Purchaser. Upon receipt of written notice detailing Purchaser’s Objections, Seller shall have an additional fifteen (15) business-days to either cure all of Purchaser’s Objections or notify Purchaser that Seller is unable or unwilling to cure Purchaser’s Objections within the fifteen-business-day period. In the event that Seller has not for any reason cured all of Purchaser’s Objections within the fifteen-business-day cure period, Purchaser may either (i) terminate this Agreement by providing written notice to Seller prior to the expiration of the Due Diligence Period; or (ii) waive any unremedied objections to the title and proceed with the purchaser of the Property.

5.2. The Closing is subject to Purchaser’s review of other matters affecting the Property as outlined in this Section 5.2. The Purchaser may, at Purchaser’s sole discretion, examine any and all matters in connection with the Property, including, without limitation, the physical and environmental condition of the Property, land use regulations affecting the Property and the feasibility of developing the Property for the intended purposes. If the results of Purchaser’s review are unsatisfactory to Purchaser, as determined at Purchaser’s sole and absolute discretion, then Purchaser may elect to terminate this Agreement by giving Seller written notice of termination prior to the end of the Due Diligence Period.

5.3. The Closing is subject to Purchaser having completed, at Purchaser’s sole cost and expense, all necessary actions to create a legal parcel of the Property to be conveyed.

5.4. In the event that Purchaser chooses to undergo a VCP, the Closing is subject to: (i) the entering into a VCP Agreement with UDEQ; (ii) UDEQ approval of the Final Remedial Action Plan (“RAP”); and (iii) an estimate prepared by the Environmental Consultant of the costs to implement the Final RAP that is approved by Purchaser.

5.5. The Closing is subject to the remediation costs to be estimated, by commercially reasonable standards, prior to Closing, to not exceed, TWO HUNDRED EIGHTY THOUSAND DOLLARS (\$280,000).

6. Covenants of Seller. Seller covenants with Purchaser as follows:

6.1. Seller shall preserve the Property in substantially the same condition as existing on the Effective Date.

6.2. Prior to Closing, except for entering into the VCP, Seller shall not enter into any contract or agreement with respect to the Property that will survive Closing or affect the use, operation or enjoyment of the Property after Closing, except as provided in this Agreement.

6.3. Seller will pay in full, prior to Closing, any and all bills and invoices for labor, goods, materials, utilities and services contracted by the Seller and relating to the Property.

6.4.All covenants made by Seller in this Agreement shall survive the Closing and shall not be merged into any instrument of conveyance delivered at Closing.

7. Closing.

7.1.The Closing shall be through escrow with the Title Company pursuant to written instructions consistent with the provisions of this Agreement.

7.2.At Closing, Seller shall deliver the following:

7.2.1. A duly executed and acknowledged Special Warranty Deed (in substantially the form as set forth in Exhibit B) conveying good and marketable title to the Property to Purchaser.

7.2.2. A Closing statement signed by Seller in a form and with content satisfactory to Purchaser and Seller.

7.2.3. Any other documents, instruments or agreements called for in this Agreement, or required by the Title Company for the issuance of title insurance, which have not previously been delivered.

7.3.At Closing, Purchaser shall deliver the following:

7.3.1. A counterpart of the Closing statement signed by Seller.

7.3.2. The balance of the Purchase Price as contemplated in Section 2.2.

7.3.3. Any other documents, instruments or agreements called for in this Agreement, or required by the Title Company for the issuance of title insurance, which have not previously been delivered.

7.4.The Closing shall occur through escrow at the offices of the Title Company on or before \_\_\_\_\_ (“Closing Date”), unless Purchaser shall have exercised its right to terminate this Agreement. Closing shall be pursuant to the provisions of this Agreement and in accordance with the general provisions of the usual form of escrow agreement used by the Title Company in similar transactions (with such special provisions inserted as may be required to conform to this Agreement).

7.5.Any ad valorem taxes and assessments against the Property shall be prorated at the Closing.

7.6.Purchaser and Seller shall each pay one-half of the Title Company’s fees for its services as escrow agent. Seller shall pay the premium for a standard-coverage title policy issued in conjunction with this Agreement and Purchaser shall have the option of purchasing additional or extended-coverage title insurance beyond the standard-coverage policy. The prorations, credits and adjustments at Closing shall otherwise be accomplished in accordance with the customary practices in Salt Lake County, except to the extent those practices may be inconsistent with the provisions of this Agreement. Except as may be provided to the contrary elsewhere in this Agreement, Purchaser and Seller shall each bear

and pay the expense of their own performance and the expense of providing the materials that are required to be provided by each of them under the provisions of this Agreement. Buyer and Seller shall each bear the cost of their own legal counsel.

8. Possession of Property; Risk of Loss. Possession of the Property shall be delivered to the Purchaser within 24 hours of the Closing. Seller shall bear all risk of casualty or other loss or damage to the Property until Closing, and Purchaser shall bear all risk of casualty and other loss or damage thereafter. The provisions of this Section shall survive the Closing and not be merged into any instrument of conveyance delivered at Closing.
9. Governing Law. The validity, interpretation, and performance of this Agreement shall be governed by the laws of the State of Utah, without regard to its law on the conflict of laws. Any dispute arising out of this Agreement shall be brought in a court of competent jurisdiction in Salt Lake County, State of Utah. The parties exclude any and all statutes, laws and treaties that would allow or require any dispute to be decided in another forum or by other rules of decision than those provided in this Agreement.
10. Notices. Any notice or other communication required or permitted under this Agreement must be in writing and may be given by personal delivery or by mail, registered or certified, return receipt requested, or by overnight delivery service postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing herein, but each party may change its address by written notice in accordance with this Section:

If to Seller:

UTAH TRANSIT AUTHORITY  
Attn: Mailia Lauto'o  
669 West 200 South  
P.O. Box 30810  
Salt Lake City, Utah 84130-0810

If to Purchaser:

REDEVELOPMENT AGENCY OF MURRAY CITY  
Attn: Tim Tingey, RDA Executive Director  
5025 South State Street  
Murray, Utah 84107

#### 11. Default.

- 11.1. Either party shall be deemed in default under this Agreement if: (a) the warranties or representations made by such party shall be untrue or shall be discovered to be untrue; or (b) such party shall fail to meet, comply with or perform any covenant, agreement or obligation on its part required within the time limits and in the manner required by this Agreement.
- 11.2. If Seller defaults under this Agreement (including Seller's obligation to close), Purchaser shall be entitled to (i) bring an action for specific performance of this Agreement; (ii) terminate Purchaser's obligations under this Agreement by written notice

to Seller with a copy to Title Company, in which event the Earnest Money Deposit shall be returned immediately to Purchaser and Seller shall immediately reimburse Purchaser for its costs to apply for and enter the VCP Program and its costs to prepare a RAP incurred between the Effective Date and Closing Date only; or (iii) close, in which event Purchaser may pursue its available remedies at law or in equity.

11.3. In the event Purchaser defaults in its obligation to close the purchase of the Property, the Earnest Money Deposit shall be paid to seller as liquidated damages, it being understood that Seller's actual damages in the event of such default are difficult to ascertain and that, after negotiation, such proceeds represent the parties' best estimate of such damages. Seller shall have no other remedy, at law or in equity, for any default by Purchaser.

11.4. In the event that either party brings a legal action to enforce its rights or remedies under this Agreement, the prevailing party with respect to such action shall be entitled to recover reasonable costs and fees (including reasonable attorneys' fees) incurred with respect to the prosecution or defense of such enforcement action.

12. Time of the Essence. Time is of the essence with respect to this Agreement and each and every provision hereof.

13. Calculation of Days under Agreement. Unless specifically identified to the contrary, all references to "days" in this Agreement shall mean calendar days, beginning with the first day after the time period commences and ending at the close of business on the last day of the referenced time period. To the extent that the last day of any designated time period occurs on a Saturday, Sunday or legal holiday recognized by the State of Utah, then such period shall be deemed to conclude at the close of business on the following business day.

14. Brokers' Fees. There are no broker's fees incurred or claimed as the result of the purchase and sale contemplated in this Agreement.

15. Amendment; Headings of Sections. This Agreement contains the entire agreement between the parties hereto with respect to the transactions contemplated in this Agreement and may not be modified or amended except by a written instrument executed by each of the parties hereto. The headings of the sections of this Agreement have been inserted for convenience of reference only and shall not affect any construction or interpretation of this Agreement.

16. Successors and Assigns. The terms and conditions of this Agreement shall be binding upon and shall inure to the benefit of the heirs, personal representatives, successors and assigns of the parties hereto.

17. Exhibits. The Exhibits attached to this Agreement are incorporated into and made a part of this Agreement as if fully set forth in this Agreement.

18. Mutual Release. After Closing and in exchange for consideration called for herein and the other terms and provisions of this Agreement, Seller and Purchaser hereby release, acquit and forever discharge each other of and from any, all and every claim, or cause of action including, without limitation, any claims based on common law, statutory claims, violations, demands,

rights, damages, costs, civil fines or penalties, expenses, compensation and liability of whatever kind or nature, in any way arising out of, or related to the contamination, whether known or unknown, of the Property or the Remediation Work (collectively, "Claims"), except to the extent that such Claim relates to the party's failure to comply with or breach of the terms of this Agreement.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate as of the date first herein written.

SELLER:

PURCHASER:

UTAH TRANSIT AUTHORITY

REDEVELOPMENT AGENCY OF  
MURRAY CITY

By: \_\_\_\_\_  
Name: Jerry Benson  
Title: President /CEO

By: \_\_\_\_\_  
Name: Brett A. Hales  
Title: RDA Chair

By: \_\_\_\_\_  
Name: Paul Drake  
Title: Sr. Mgr. Real Estate & TOD

By: \_\_\_\_\_  
Name: Jennifer Kennedy  
Title: City Recorder

Approved as to Content

By: \_\_\_\_\_  
Name: Tim Tingey  
Executive Director

UTA Approved as to Form

Approved as to Form

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Legal Counsel

By: \_\_\_\_\_  
Name: G.L. Critchfield  
Title: Deputy City Attorney

**EXHIBIT A**

**LEGAL DESCRIPTON OF THE PROPERTY AND SURVEY**

**EXHIBIT B**

**SPECIAL WARRANTY DEED**

When Recorded Please Return to:  
MURRAY CITY CORPORATION  
5025 South State Street  
Murray, UT 84107

SPECIAL WARRANTY DEED

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, UTAH TRANSIT AUTHORITY, a public transit district organized under the laws of the State of Utah (hereafter "GRANTOR") hereby conveys in fee and warrants by, through or under it but not otherwise, to the REDEVELOPMENT AGENCY OF MURRAY CITY, a public body of the State of Utah (hereafter "GRANTEE"), all of Grantor's interest in the following described real property situated in Salt Lake County, State of Utah:

Tax Parcel Nos. 211223000010000, 21122300130000, 21122300160000.

The property described in Exhibit A attached hereto and incorporated herein by this reference.

Subject to easements, restrictions and rights of way appearing of record or enforceable in law or in equity.

GRANTOR:

UTAH TRANSIT AUTHORITY

By \_\_\_\_\_  
Its \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Legal Counsel

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF UTAH                    )  
  :SS  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged to me this \_\_\_\_ day of \_\_\_\_\_ by \_\_\_\_\_ and \_\_\_\_\_, the \_\_\_\_\_ and \_\_\_\_\_, respectively, of Utah Transit Authority.

\_\_\_\_\_  
Notary Public

**EXHIBIT C**  
**ENVIRONMENTAL REPORTS**

**EXHIBIT D**  
**REMEDIATION PLAN**



<b>Summary report:</b>	
<b>Litéra® Change-Pro TDC 10.1.0.400 Document comparison done on 2/27/2018 12:21:52 PM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> iw://DMS.JONESWALDO.COM/slc/1446234/1	
<b>Modified DMS:</b> iw://DMS.JONESWALDO.COM/slc/1446234/2	
<b>Changes:</b>	
<u>Add</u>	72
<del>Delete</del>	50
<del>Move From</del>	0
<u>Move To</u>	0
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>122</b>