



AGENDA REPORT

Meeting Date: May 13, 2009

Item Number: F-4

To: Honorable Mayor & City Council

From: City Attorney

Subject: RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS APPROVING A PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS AND A SHORT TERM LEASE BETWEEN THE CITY OF BEVERLY HILLS AND RODERICK J. WOOD AND GINA WOOD FOR PROPERTY LOCATED AT 265 SOUTH LAPEER DRIVE

Attachments:

1. Resolution
2. Purchase and Sale Agreement and Escrow Instructions
3. Short Term Lease (Exhibit C to Agreement)

RECOMMENDATION

The City Attorney recommends that the City Council approve the purchase and sale agreement and escrow instructions and a short-term lease between the City of Beverly Hills and Roderick J. Wood and Gina Wood for property located at 265 South Lapeer Drive.

INTRODUCTION

Upon the cessation of his employment with the City, the City Manager's employment contract requires the City Manager to either: (1) repay his home loan from the City or (2) sell the home to the City at a price fixed by the contract. As Mr. Wood has announced his retirement, the agreements on the City Council's agenda provide for the sale of his home to the City at that fixed price and the lease of the home back to the Woods for the period between the close of the sale and August 9, 2009, Mr. Wood's last day of employment with the City.

DISCUSSION

As the City Council is aware, the City Manager's employment contract includes a requirement that he live within a reasonable response time of the City and, in order to provide an incentive for the City Manager to live within the City, the contract also provides that the City will offer a home loan to the City Manager if the City Manager purchases a home within the City.

As the City Council is also aware, Mr. Wood purchased a home on LaPeer Drive and the City provided a home loan pursuant to the terms of the employment contract.

Also pursuant to the terms of the employment contract and the housing loan, Mr. Wood must repay the loan or sell the home to the City upon his decision to terminate his employment with the City. His recent retirement announcement has triggered this requirement to repay the loan or sell the home to the City. Mr. Wood has elected to sell the home to the City. The sales price to the City is fixed by the employment contract at \$1,637,000 less the principal balance outstanding on the loan. The principal balance outstanding on the loan is \$1,387,735.43.

Since the purchase and sale transaction will likely be completed before Mr. Wood's official retirement date of August 9, 2009, the City Attorney's office has prepared a short-term lease to allow Mr. Wood to remain in the home until August 9.

FISCAL IMPACT

As a result of this transaction, the City will be repaid the balance of the home loan that was made to the City Manager and will acquire the property at 265 S. LaPeer Drive for \$1,637,000. The City will then be free to use or dispose of the property in any lawful manner. Depending on the City Council's decision regarding the ultimate use or disposal of the property, this transaction may have a positive or negative fiscal impact.

The short-term lease to the Woods through August 9, 2009 will also result in a small payment to the City.

 For LLW
Laurence S. Wiener
Approved By

RESOLUTION NO. 09-R- _____

RESOLUTION OF THE COUNCIL OF THE CITY OF
BEVERLY HILLS APPROVING A PURCHASE AND
SALE AGREEMENT AND ESCROW INSTRUCTIONS
AND A SHORT TERM LEASE BETWEEN THE CITY
OF BEVERLY HILLS AND RODERICK J. WOOD AND
GINA WOOD FOR PROPERTY LOCATED AT 265
SOUTH LA PEER DRIVE

The City Council of the City of Beverly Hills does resolve as follows:

Section 1. Those certain Agreements, dated _____, and identified as Contract Nos. _____ and _____, copies of which are on file in the office of the City Clerk, between the City of Beverly Hills and Roderick J. Wood and Gina Wood for the sale and rental of the property at 265 South La Peer Drive ("Agreements") are hereby approved.

Section 2. The Mayor is authorized and directed to execute said Agreements on behalf of the City and the City Clerk is directed to attest thereto.

Section 3. The City Attorney or his designee shall administer the terms of the Agreement on behalf of the City and shall execute the appropriate Certificate of Acceptance.

Section 4. The City Clerk shall furnish a copy of said Agreements after they have been approved and fully executed by the City, along with a copy of this resolution, to: Roderick J. and Gina Wood, 265 S. La Peer Drive, Beverly Hills, California, 90211.

Section 5. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Council of the City.

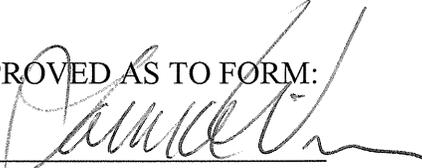
Adopted:

NANCY KRASNE
Mayor of the City of Beverly Hills,
California

ATTEST:

_____ (SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

This PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (the "Agreement") is dated as of _____, 2009 (the "Effective Date") and is entered into by and between the CITY OF BEVERLY HILLS, a California municipal corporation (the "Buyer"), and RODERICK J. WOOD and GINA WOOD (collectively, the "Seller").

RECITAL

A. Buyer and Roderick J. Wood ("Employee") entered into an Amended and Restated Employment Agreement dated March 11, 2009 (the "Employment Agreement").

B. Employee has elected under Section 16A.14 of the Employment Agreement to sell Buyer the land, improvements and fixtures at 265 S. La Peer Drive, Beverly Hills, California (collectively, the "Property") together with certain limited personal property relating to the ownership and use of the Property (hereinafter described) in accordance with the terms of Section 16A.14 and Section 16B of the Employment Agreement. A legal description of the land included in the Property is attached hereto as **Exhibit "A"**. Employee may elect to sell the home on the open market, repay the principal balance of the loan and the deferred interest, and Employee would be entitled to capture the appreciation in the property value. Instead, Employee has elected to sell the home to the City at a price fixed by Employee's investment in the Property. The City may then dispose of the home and realize any and all gains from its appreciation in value.

C. Seller desires to lease the Property from Buyer from the date of the close of escrow hereunder to August 9, 2009.

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement and other consideration, the sufficiency of which is hereby acknowledged, the Buyer and Seller agree as follows:

1. **Purchase and Sale.** Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, subject to and in accordance with the terms and conditions hereinafter set forth.

2. **Opening and Closing of Escrow.** Within ten (10) days after the Effective Date, an escrow (the "Escrow") shall be opened with _____ Title Company (the "Escrow Holder"), at _____, Attn: _____, Escrow Officer, Phone: _____; Email: _____. For the purposes of this Agreement, the Escrow shall be deemed to be opened on the date on which Escrow Holder shall have received a fully executed copy of this Agreement from Buyer and Seller. The "Close of Escrow" shall be the date that a grant deed for the Property in favor of Buyer is recorded in the Official Records of the Los Angeles County Recorder's Office. The Close of Escrow shall occur on or before May 29, 2009 (the "Closing Date").

3. **Purchase Price.** The purchase price for the Property ("Purchase Price") is \$1,637,000 less all sums outstanding (as of the Close of Escrow) under that certain loan made by Employee that is secured by the Property.

4. Delivery of Documents on the Close of Escrow.

(a) On the Close of Escrow, Seller shall deliver to Buyer a duly acknowledged Grant Deed in the form attached as **Exhibit "B"** attached hereto (the "Grant Deed") conveying the Property to Buyer, subject only to the title exceptions shown on the Buyer's existing lender's title policy (except that all property taxes and assessments that are due or past due must have been paid by Seller) (the "Permitted Exceptions").

(b) As a condition to the Close of Escrow, _____ Title Company (the "Title Company") shall issue the Title Policy (as defined in Section 5) insuring in Buyer fee simple title to the Property, free and clear of all liens and encumbrances other than the Permitted Exceptions.

(c) Seller shall not encumber, sell or transfer, or agree to encumber, sell or transfer, the Property or any portion thereof or interest therein during the period from the Effective Date to the earlier of the Close of Escrow or the date of the termination of this Agreement.

5. Deposit of Documents and Funds in Escrow.

(a) Seller and Buyer shall deliver to Escrow Holder at least one (1) business day prior to the Close of Escrow the following:

(b) Seller shall deliver the Grant Deed, duly executed and acknowledged by Seller, a counterpart original of a lease in the form attached hereto as **Exhibit "C"** (the "Lease"). (Upon the expiration or earlier termination of the Lease, Seller shall deliver to Buyer the following [the "Specific Personal Property"]: all material documents (including warranties) relating to the Property, and all keys for locks, garage door openers, pass-codes for security systems and similar personal property and information necessary or convenient for the operation or use of the Property [to the extent not previously delivered to Buyer], and all such Specific Personal Property, together with any other personal property not removed by Seller, shall become the property of Buyer.)

(c) Buyer shall deliver a Certificate of Acceptance for the Grant Deed, duly executed and acknowledged by Buyer, a counterpart original of the Lease, the Purchase Price and funds required to pay costs payable by Buyer under Section 7 below.

6. Authorization to Record Documents and Disburse Funds. Escrow Holder is hereby authorized to record the Grant Deed and Certificate of Acceptance, disburse funds to pay liens encumbering the Property (other than liens held by the Buyer), apply Buyer's funds to costs payable by Buyer, distribute the counterparts of the Lease to Buyer and Seller and then deliver remaining funds to Seller, provided each of the following conditions has then been fulfilled:

(a) The Title Company can issue in favor of Buyer the Title Policy, with a liability amount of \$1,637,000.00, showing fee title to the Property vested in Buyer, subject only to the Permitted Exceptions.

(b) Seller and Buyer shall have deposited in Escrow the documents and funds required pursuant to Section 5 above.

Unless otherwise instructed in writing, Escrow Holder is authorized to record at the Close of Escrow any instrument delivered through Escrow if necessary or proper for the issuance of the Title Policy.

7. Escrow Charges and Prorations.

(a) Buyer shall pay (i) all of the fees and charges of Escrow Holder, (ii) the cost of the premium for the Title Policy (including ALTA coverage, if elected by Buyer), and (iii) all documentary or other local transfer taxes on the transfer of the Property (if any). If the Escrow shall fail to close due to Buyer's default, then Buyer shall pay all Escrow and title cancellation charges.

(b) If the Escrow shall fail to close due to Seller's default, Seller will pay all Escrow and title cancellation charges.

(c) If the Escrow shall fail to close for any reason other than Seller's or Buyer's default, Buyer and Seller shall each pay one-half (1/2) of any applicable Escrow cancellation charges.

(d) Assessments for which Buyer is not exempt shall be apportioned and prorated with respect to the Property as of 12:01 a.m., on the day on which the Close of Escrow occurs, as if Buyer were vested with title to the Property during the entire day upon which the Close of Escrow occurs. Any such apportionment made with respect to a tax year for which the tax rate or assessed valuation, or both, have not yet been fixed shall be based upon the tax rate and/or assessed valuation last fixed. To the extent that the actual assessments for the current year differ from the amount apportioned at the Close of Escrow, the parties shall make all necessary adjustments by appropriate payments between themselves following the Close of Escrow. All delinquent taxes and assessments (and any penalties therein) for periods prior to the Close of Escrow, if any, affecting the Property shall be paid by Seller. Seller acknowledges that Seller shall have the responsibility to make a claim for refund of taxes and assessments paid by Seller and allocable to the period after the Close of Escrow for which Buyer is exempt.

(e) All prorations shall be determined on the basis of a 360-day year. The provisions of this Section shall survive the Close of Escrow.

8. Buyer's Conditions. Buyer's obligations under this Agreement are expressly made subject to the following conditions precedent solely for the benefit of Buyer. The Close of Escrow and Buyer's obligation to consummate the purchase of Property shall be contingent upon and subject to written notice to Escrow Holder by Buyer of the occurrence of all of the following (or Buyer's written waiver thereof, it being agreed that Buyer can waive any or all such contingencies) on or before the Close of Escrow:

(a) Buyer's obtaining a satisfactory commitment issued by Title Company to issue an owner's title policy in favor of Buyer with a liability amount in the amount of \$1,637,000 showing Buyer's fee interest in the Property subject only to the Permitted Exceptions (the "Title Policy").

(b) Seller's delivery of all documents, funds and Specific Personal Property required to be delivered by Seller under Section 5.

If any of the foregoing conditions precedent has not been either met to Buyer's sole satisfaction or expressly waived in writing by Buyer on or prior to the last date for the Close of Escrow, then Buyer may terminate this Agreement upon written notice to Seller.

9. Seller's Contingencies. For the benefit of Seller, the Close of Escrow and Seller's obligation to consummate the sale of the Property shall be contingent upon and subject to the Buyer delivering all documents and funds required to be delivered by Buyer under Section 5 above on or before the Close of Escrow.

10. Condemnation; Destruction. All risk of loss with respect to the Property shall remain with Seller until the Close of Escrow. If at any time prior to the Close of Escrow, the Property, or any portion thereof, is damaged by fire or other casualty or taken or appropriated through eminent domain or similar proceedings, or is condemned for any public or quasi-public use, Buyer shall be entitled to receive all insurance proceeds payable to Seller or all condemnation proceeds actually paid for that portion of the Property taken or, if such proceeds have been paid to Seller, Buyer shall receive a credit against the Purchase Price equal to the amount of proceeds actually paid to Seller.

11. Relocation Assistance. In consideration for the Purchase Price and the Lease, upon the expiration or earlier termination of the Lease, Buyer shall have no further obligation to Seller under any federal or state relocation laws or regulations, including without limitation, the California Relocation Assistance and Real Property Acquisition statutes and guidelines. Seller waives and forever releases Buyer, including its successors, officers, employees, attorneys, agents, representatives and anyone else acting on Buyer's behalf, of and from any and all claims, demands, actions or causes of action, obligations, liabilities, or claims for further compensation relating to the matters described in this Section, known or unknown, based upon or relating to the facts or allegations and circumstances arising from Buyer's acquisition of the Property or the expiration or earlier termination of the Lease. By such release, Seller expressly waives its rights, if any, under California Civil Code Section 1542 which provides:

"A General Release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release which if known by him must have materially affected his settlement with the debtor."

Seller's initials

12. Notices. All notices and demands shall be given in writing by certified mail, postage prepaid, and return receipt requested, or by personal delivery. Notices shall be considered given upon the earlier of (a) personal delivery, (b) one (1) business day following delivery to a reputable overnight messenger service (such as Federal Express), or (b) two (2) business days following deposit in the United States mail, postage prepaid, certified or registered, return receipt requested. Notices shall be addressed as provided below for the respective party; provided that if any party gives notice in writing of a change of name or address, notices to such party shall thereafter be given as demanded in that notice:

Buyer: City of Beverly Hills
455 North Rexford Drive, Room 320
Beverly Hills, California 90210
Attn: City Attorney

Seller: Mr. Roderick J. Wood
265 S. La Peer Drive
Beverly Hills, California 90211

Escrow
Holder: _____

13. Broker's Commissions. No broker was involved in connection with the transaction contemplated herein. Each party hereby indemnifies and holds the other party harmless from and against any and all claims for any other broker's commission or similar compensation that may be payable to any broker, finder or other person or entity based upon such party's own acts. The provisions of this Section shall survive the Close of Escrow.

14. Standard Instructions. Each party agrees to execute Escrow Holder's supplemental reasonable standard instructions as may be necessary or proper in order to consummate the transactions contemplated by this Agreement; provided, however, in the event of a conflict between the terms hereof and the terms of such standard instructions, the terms hereof shall control.

15. Time is of the Essence. The parties hereto agree that time is of the essence with respect to each term, condition and covenant hereof.

16. Successors and Assigns. The provisions of this Agreement are expressly binding upon, and shall inure to the benefit of, the parties hereto and their successors in interest and assigns.

17. Entire Agreement. This Agreement, together with all exhibits hereto, integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

18. Severability. Invalidation of any of the terms, conditions, covenants, or other provisions contained herein by judgment or court order shall in no way affect any of the other terms, conditions, covenants, or provisions hereof, and the same shall remain in full force and effect.

19. Attorneys' Fees. In the event that suit is brought for the enforcement of this Agreement or as the result of any alleged breach thereof, the prevailing party or parties in such suit shall be entitled to recover their reasonable attorneys' fees, costs, and expenses from the losing party or parties, and any judgment or decree rendered in such proceedings shall include an award thereof.

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

21. Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. For purposes of this Agreement, facsimile signatures shall be deemed to be original signatures, and shall be followed by the immediate overnight delivery of original signature pages.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

BUYER:

CITY OF BEVERLY HILLS,
a municipal corporation

By: _____
Nancy Krasne
Mayor

SELLER:

Roderick J. Wood

Gina Wood

Attest:

Byron Pope, City Clerk

Approved as to form:



Laurence Wiener, City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION OF THE LAND

LOT 436 OF TRACT NO. 6380, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 69 PAGES 11 TO 20 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Commonly known as: 265 South La Peer Drive, Beverly Hills, California,

Assessor's Parcel Number(s): 4333-003-017

EXHIBIT "B"

FORM OF GRANT DEED (AND CERTIFICATE OF ACCEPTANCE)

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

CITY OF BEVERLY HILLS
455 North Rexford Drive
Beverly Hills, California 90210
Attn.: City Clerk

APN: 4333-003-017

[SPACE ABOVE FOR RECORDER'S USE ONLY]

GRANT DEED

THE UNDERSIGNED GRANTOR DECLARES AS FOLLOWS:

This transfer is exempt from documentary Transfer Tax pursuant to Revenue & Taxation Code Section 11922.

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, RODERICK J. WOOD and GINA WOOD (collectively, "Grantor") hereby grant to the CITY OF BEVERLY HILLS, a municipal corporation ("Grantee"), the land located in the City of Beverly Hills, County of Los Angeles, State of California, more particularly described as follows, and all improvements and fixtures thereon (the "Property"), and all documents and personal property delivered by Grantor to Grantee relating to the Property:

LOT 436 OF TRACT NO. 6380, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 69 PAGES 11 TO 20 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Commonly known as: 265 South La Peer Drive, Beverly Hills, California,

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of the date set forth below.

Dated: _____, 2009

Roderick J. Wood

Gina Wood

ACKNOWLEDGMENT

State of California)
)
County of Los Angeles)

On _____, 2009, before me, _____
(insert name and title of the officer)

personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)
Signature of Notary Public

ACKNOWLEDGMENT

State of California)
)
County of Los Angeles)

On _____, 2009, before me, _____
(insert name and title of the officer)

personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)
Signature of Notary Public

EXHIBIT "C"

FORM OF LEASE

(Attached.)

SHORT TERM LEASE

This SHORT TERM LEASE ("Lease") is made and entered into as of the ____ day of May, 2009 (the "Effective Date"), by and between the CITY OF BEVERLY HILLS, a municipal corporation ("Landlord") and RODERICK J. WOOD and GINA WOOD (collectively, "Tenant").

RECITALS:

A. Landlord and Tenant are parties to that certain Purchase and Sale Agreement (the "Purchase Agreement") entered into substantially concurrently herewith pursuant to which Landlord has agreed to purchase from Tenant the land described on Exhibit "A" attached hereto and improvements and fixtures thereon commonly known as 265 South La Peer Drive in the City of Beverly Hills, County of Los Angeles, State of California and all improvements thereon (collectively, the "Demised Premises").

B. Tenant desires to lease the Demised Premises from Landlord and Landlord desires to lease the Demised Premises to Tenant on the terms hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Landlord and Tenant agree that upon the purchase of the Demised Premises by Landlord under the Purchase Agreement, and commencing on the Close of Escrow thereunder, Landlord leases the Demised Premises to Tenant and Tenant leases the Demised Premises from Landlord upon the terms hereinafter set forth.

ARTICLE 1

Use of Demised Premises

The Demised Premises shall at all times be used and occupied by Tenant in accordance with applicable laws.

ARTICLE 2

As-Is

Landlord makes no representations or warranties, express or implied, with respect to the Demised Premises, and Landlord shall have no obligation to construct any improvements, make any alterations or repairs or remediate any hazardous substances as a condition of Tenant's occupancy of the Demised Premises or during the term of this Lease, whether or not such improvements, alterations, repairs or remediations are required by applicable law. Tenant acknowledges that Tenant is currently in possession of the Demised Premises and is aware of the condition of the Demised Premises.

ARTICLE 3

Term

The term of this Lease ("Term") shall begin upon the Close of Escrow (as defined in the Purchase Agreement) and shall continue until August 9, 2009.

ARTICLE 4

Rent

4.01 The monthly rent ("Rent") for the Demised Premises during the Term hereof shall be \$_____ per month, and that \$_____ shall be paid to Landlord upon the execution hereof as rent for the period from _____, 2009 through _____, 2009. Monthly Rent shall otherwise be paid in advance on the first day of each calendar month during the term of this Lease, without prior notice from Landlord and without offset or deduction.

ARTICLE 5

Maintenance, Repairs, Services and Utilities

5.01 Tenant shall be responsible for maintaining and repairing the Demised Premises, and making all improvements and alterations required by law.

5.02 Tenant shall obtain and pay for all utilities to the Demised Premises. Tenant shall be responsible for servicing and maintenance of all utilities, electrical, plumbing and mechanical systems related to the Demised Premises.

5.03 Landlord shall in no way be liable or responsible for any loss, damage, or expense that Tenant may sustain or incur by reason of any change, failure, interference, disruption, or defect in the supply or character of any utility or service furnished to the Demised Premises.

ARTICLE 6

Alterations

6.01 Tenant shall not make any removals, additions, improvements or other alterations in or to the Demised Premises without Landlord's prior written consent, in its sole and absolute discretion.

6.02 Any mechanic's lien filed against the Demised Premises for work done or materials or equipment furnished to or contracted for by Tenant shall be discharged or bonded by Tenant, at Tenant's expense, within ten (10) days after the date it is filed. Tenant shall give Landlord at least ten (10) days' written notice prior to making any alterations, repairs or improvements and Landlord shall have the right to post notices of nonresponsibility.

6.03 All articles of personal property private telephone systems and lines, furniture and movable partitions owned, leased or installed by Tenant at its expense in the Demised Premises

shall be and remain the property of Tenant and may be removed by Tenant at any time. Prior to the expiration or earlier termination of this Lease, Tenant shall, at Tenant's cost, remove all of its personal property and furniture from the Demised Premises but shall deliver the Specific Personal Property (as defined in the Purchase Agreement) to Landlord. Any personal property that is not timely removed shall, at the election of Landlord, become the property of Landlord.

ARTICLE 7

Damage to Tenant's Property

7.01 Neither Landlord nor its officers, agents or employees shall be liable to Tenant for any loss of or damage to personal property of Tenant located in the Demised Premises resulting from fire, explosion, steam, gas, electricity, water or moisture in or from any part of any structure, including any roof, walls, ceilings and floors, or from the pipes, appliances, or mechanical and electrical systems or from any other place or from any other cause, whether or not similar to the foregoing causes.

7.02 Tenant shall promptly notify Landlord verbally, and promptly thereafter in writing, in the event of any material damage to the Demised Premises or Tenant's property resulting from any fire, accident, occurrence or condition in, on or about the Demised Premises.

ARTICLE 8

Personal Property Taxes and Possessory Interest Taxes

8.01 Tenant shall be liable for and shall pay (and if Landlord pays, reimburse Landlord for) any taxes levied against or attributable to any of Tenant's personal property.

8.02 Tenant shall also pay any and all possessory interest taxes assessed on Tenant's possessory interest under this Lease, and Landlord hereby informs Tenant that possessory interest taxes (a form of property tax) exists under California law and may be assessed against Tenant's leasehold interest.

ARTICLE 9

Insurance; Waiver of Subrogation **[DISCUSS]**

9.01 Landlord shall not be obligated to maintain any insurance for the Demised Premises, but may do so if it so elects.

9.02 Tenant, at Tenant's expense, shall obtain and maintain in effect at all times during the term of this Lease a policy of personal liability insurance and a policy of renter's insurance acceptable to Landlord.

9.03 Any insurance policies obtained and maintained by Tenant: (a) must provide that Landlord shall be an additional insured; (b) must be written as primary policy coverage and not contributing with or in excess of any coverage which Landlord may carry; (c) must provide that the policy may not be canceled unless Landlord shall have received at least fifteen (15) days'

prior written notice of cancellation; and (d) must be issued by an insurance company with a Best's Rating of B+XII or greater. The issuance of any such insurance policy shall not be deemed to limit or restrict in any way Tenant's liability or obligations arising under or out of this Lease.

9.04 Tenant shall furnish Landlord with satisfactory evidence of the insurance required by this Article prior to the Close of Escrow.

9.05 Notwithstanding any other provision of this Lease, Landlord shall not be liable to Tenant or to any insurance company (by way of subrogation or otherwise) insuring Tenant for any loss or damage to any building, structure or other tangible property, or any resulting loss of income or additional expense, even though such loss or damage might have been occasioned by the negligence of such party, its agents or employees, if such loss or damage is covered by insurance benefiting Tenant or was required to be covered by insurance pursuant to this Article. If required to make the foregoing waiver of subrogation binding upon their respective insurance carriers, Tenant shall give notice to its insurance carriers that such mutual waiver of subrogation is contained in this Lease.

ARTICLE 10

Indemnity

10.01 Tenant shall defend, indemnify and hold Landlord, and its officers, agents and employees, at Tenant's sole cost with counsel reasonably satisfactory to Landlord, from and against any and all liabilities, losses, claims, damages, costs, expenses and causes of action on account of any claim for relocation benefits, the use or occupancy by Tenant or its employees, agents or contractors of the Demised Premises, and any injury to or death of any person or any loss of or damage to property occurring in, on or about the Demised Premises at any time during the term of this Lease, and the presence or release of any hazardous substances at any time prior to the expiration or earlier termination of this Lease and the vacation of the Demised Premises by Tenant.

10.02 This Article shall survive the expiration or termination of this Lease.

ARTICLE 11

Landlord's Access to Demised Premises

11.01 Landlord and its employees, contractors, agents and authorized representatives shall have the right to enter the Demised Premises without the consent of Tenant at any reasonable time to determine whether Tenant is complying with this Lease and to inspect the Demised Premises.

ARTICLE 12

Assignment and Subletting

12.01 Tenant shall not assign, mortgage or encumber this Lease, or sublet the Demised Premises or any part thereof, or suffer or permit the Demised Premises or any part thereof to be used or occupied by any other person or entity without the prior, express written consent of Landlord in its sole and absolute discretion.

ARTICLE 13

Default and Remedies

13.01 The occurrence of any one of the following shall constitute an Event of Default by Tenant under this Lease: (a) Tenant shall fail to pay rent within five (5) business days after Tenant receives written notice of the failure from Landlord (provided, however, that the notice requirement contained in this subsection (a) is not in addition to any legal requirement that notice be given and may be satisfied by sending the notice required by any applicable law or statute including, but not limited to, Section 1161 of the California Code of Civil Procedure); (b) Tenant violates Article 12; or (c) Tenant shall fail to perform or comply with any of the other covenants or conditions of this Lease, and such failure is not cured within twenty (20) days after Tenant is given written notice by Landlord; provided, however, that if the failure to perform or comply cannot reasonably be cured within twenty (20) days, Tenant shall not be in default if Tenant promptly commences to cure the failure to perform or comply within the twenty (20) day period and diligently and in good faith continues to cure the same thereafter.

13.02 If Tenant commits an Event of Default, Landlord shall in addition to any and all other rights and remedies which Landlord may have under this Lease or by law or in equity, the remedies under Section 1951.2 of the California Civil Code (*i.e.*, terminate this Lease and sue for damages).

13.03 The various rights, options, elections, powers and remedies of Landlord contained in this Article shall not be deemed to be exclusive; they are cumulative and in addition to any other remedies, rights or priorities contained elsewhere in this Lease or now or later allowed by law or in equity.

ARTICLE 14

No Waiver

14.01 The failure of Landlord or Tenant to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Lease shall not be deemed a waiver by Landlord or Tenant of its right to such redress for a prior, concurrent or subsequent violation of the same or to subsequently insist upon strict performance of any other covenant or condition of this Lease. The receipt and acceptance by Landlord of rent with knowledge of any preceding breach by Tenant of any covenant, term or condition of this Lease shall not be deemed a waiver of such breach. No provision of this Lease and no default by Landlord or Tenant hereunder shall

be deemed to have been waived by the other party unless such waiver is in writing and signed by the waiving party.

14.02 No payment by Tenant or receipt and acceptance by Landlord of a lesser amount than the rent herein stipulated shall be deemed to be other than on account of the rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment of the rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other right or remedy provided herein or at law or in equity.

ARTICLE 15

Litigation Expenses

15.01 In the event any action, suit or proceeding is commenced under or in connection with this Lease the losing party shall pay to the prevailing party, and the prevailing party shall be entitled to an award for, the reasonable amount of the attorneys' fees, court costs and other litigation expenses incurred by the prevailing party in connection with such action, suit or proceeding.

ARTICLE 16

Damage and Destruction

16.01 Repair of Damage by Landlord. Tenant agrees to notify Landlord in writing promptly of any damage to the Demised Premises resulting from fire, earthquake, or any other event beyond Tenant's control ("Casualty"). If the Demised Premises are materially damaged by a Casualty, or any areas providing access to the Demised Premises are damaged to the extent that Tenant does not have reasonable access to the Demised Premises, or the Casualty results in the structural elements of the Demised Premises not being sound or safe to occupy, then: Landlord may terminate this Lease by written notice to Tenant and provided Tenant did not cause the damage, Tenant may terminate this Lease by written notice to Landlord. In no event shall Landlord be obligated in any manner whatsoever to repair any Casualty damage.

16.02 Waiver of Statutory Provisions. The provisions of this Article 17 constitute an express agreement between Landlord and Tenant that applies in the event of any Casualty to the Demised Premises. Tenant and Landlord, therefore, fully waive the provisions of any statute or regulation, including California Civil Code Sections 1932(2) and 1933(4), for any rights or obligations concerning a Casualty.

ARTICLE 17

Notices

Any notice or communication that Landlord may desire or be required to give to Tenant shall be sent by registered or certified mail, return receipt requested, or by Federal Express or any other nationally recognized overnight delivery service, addressed to Tenant at the Demised Premises. Any notice or communication which Tenant may desire or be required to give to

Landlord shall be sent by registered or certified mail, return receipt requested, or by Federal Express or any other nationally recognized overnight delivery service, addressed to Landlord at 455 North Rexford Drive, Beverly Hills, California 90210, Attn: City Attorney, or at such other address or addresses as Landlord shall designate by written notice to Tenant. All notices sent by mail shall be deemed given on the date the return receipt is signed or delivery rejected by the addressee. Notice sent by Federal Express or any other nationally recognized overnight delivery service shall be deemed to have been duly given one (1) business day after delivery to the service prior to its deadline for overnight delivery.

ARTICLE 18

Miscellaneous

18.01 Upon request of Landlord, Tenant shall execute, acknowledge and deliver to Landlord a recordable Memorandum of Lease for this Lease that is in form and substance acceptable to Landlord.

18.02 Time is of the essence of the terms of this Lease.

18.03 This Lease contains the entire agreement between the parties hereto with respect to the subject matter hereof, and any purported agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of it in whole or in part unless such purported agreement is in writing and signed by the party against whom enforcement is sought.

18.04 This Lease shall be governed and interpreted in accordance with the laws of the State of California.

18.05 The unenforceability, invalidity or illegality of any provision of this Lease Agreement shall not render the other provisions unenforceable, invalid or illegal.

18.06 Each party represents to the other that it has not engaged or used the services of any broker, finder or salesperson in connection with this Lease.

18.07 This Lease may be executed in multiple counterparts each of which said executed counterparts shall be deemed an original for all purposes.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date and year first set forth above.

LANDLORD:

ATTEST:

CITY OF BEVERLY HILLS,
a municipal corporation

Byron Pope,
City Clerk

By: _____
Nancy Krasne
Mayor

APPROVED AS TO FORM:

Lawrence S. Wiener,
City Attorney

TENANT:

RODERICK J. WOOD

GINA WOOD

EXHIBIT "A"

DESCRIPTION OF LAND

LOT 436 OF TRACT NO. 6380, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 69 PAGES 11 TO 20 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Commonly known as: 265 South La Peer Drive, Beverly Hills, California,

Assessor's Parcel Number(s): 4333-003-017