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 14 STEPHEN J. DONELL

15 UNITED STATES DISTRICT COURT
 16 CENTRAL DISTRICT OF CALIFORNIA

17 SECURITIES AND EXCHANGE
 18 COMMISSION,

19 Plaintiff,

20 v.

21 ROBERT YANG, et al.,

22 Defendants,

23 YANROB'S MEDICAL, INC., et al.,

24 Relief Defendants.

Case No. 5:15-CV-02387-SVW (KKx)

DECLARATION OF RECEIVER,
 STEPHEN J. DONELL, IN SUPPORT
 OF MOTION FOR ORDER
 APPROVING SETTLEMENT
 AGREEMENT WITH THE
 METROPOLITAN WATER DISTRICT
 OF SOUTHERN CALIFORNIA

[Notice of Motion and Motion;
 Declaration of Joshua A. del Castillo; and
 [Proposed] Order submitted concurrently
 herewith]

Date: March 20, 2017
 Time: 1:30 p.m.
 Ctrm: 10A
 Judge: Hon. Stephen V. Wilson

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DECLARATION OF STEPHEN J. DONELL

I, Stephen J. Donell, declare:

1. I am the Court-appointed receiver in the action styled SEC v. Yang, et al., for Defendants Suncor Fontana, LLC, Suncor Hesperia, LLC, Suncor Care Lynwood, LLC, and their respective subsidiaries and affiliates (collectively, the "Receivership Entities"). I was appointed on December 11, 2015 pursuant to this Court's Preliminary Injunction, Order Appointing Receiver, Freezing Assets, and Providing for Other Ancillary Relief (the "Appointment Order"). I make this declaration in support of my concurrently filed Motion for Order Approving Settlement Agreement with Metropolitan Water District of Southern California. I have personal knowledge of the facts stated herein, and if called upon to do so, I could and would personally and competently testify to them.

2. Pursuant to the Appointment Order, this Court has vested me with exclusive authority and control over the assets of the Receivership Entities ("Receivership Assets"), including funds derived from Receivership Entity investors, wherever held. Among other things, the Court has directed me to: (1) marshal and preserve Receivership Assets; (2) conduct such investigation and discovery as is necessary to identify and locate outstanding Receivership Assets; and (3) pursue and recover available Receivership Assets, wherever and by whomever held.

3. In connection with my efforts to identify and locate outstanding Receivership Assets, and as reflected in my prior submissions to this Court, I engaged Jeffrey E. Brandlin as my forensic accountant to investigate and analyze the business and financial activities of the Receivership Entities. Under my supervision, Mr. Brandlin reviewed tens of thousands of pages of materials relating to the Receivership Entities' business and financial activities, and the amount, nature, and location of Receivership Assets. My forensic accounting analysis and

1 conclusions are presented in my previously filed Forensic Accounting Report and
2 Amended Forensic Accounting Report. As reflected therein, in accounting for the
3 disposition of funds raised from Receivership Entity investors, Mr. Brandlin and I
4 confirmed that certain funds raised from investors were used for or in connection
5 with business opportunities entirely separate from or distinct from those disclosed to
6 investors.

7 4. Among other things, I confirmed that on or around January 8, 2015,
8 Suncor Care, Inc., ("Suncor Care"), a Receivership Entity affiliate, entered into a
9 purchase and sale agreement (the "PSA") with the Metropolitan Water District of
10 Southern California (the "MWD") in order to purchase a parcel of real property
11 located in Riverside County, California (the "Property"). Among other things, the
12 PSA provided that Suncor Care would purchase the Property from the MWD for
13 \$5 million, with an initial deposit amount of \$250,000 (the "Deposit") to be paid
14 within two business days after full execution of the PSA. A true and correct copy of
15 the PSA is attached hereto as **Exhibit 1**.

16 5. As reflected in the PSA, in the event that Suncor Care failed to
17 consummate its purchase of the Property in accordance with the terms of the PSA,
18 the PSA provided that the MWD would be entitled to retain the entire Deposit
19 amount as liquidated damages.

20 6. In connection with my review and analysis of the transaction
21 memorialized by the PSA, I confirmed that Suncor Care, in fulfilling its obligations
22 under the PSA, opened an escrow account at Park Place Escrow, as Escrow No.
23 10832-NW, and caused \$250,000 in funds derived directly and exclusively from
24 investors in the Receivership Entity Suncor Care Lynwood, LLC, to be transferred
25 into this escrow account, reflecting the Deposit amount.

26 7. I have further confirmed that Suncor Care subsequently failed to
27 perform its obligations under the PSA. As a result of its failure to perform, the
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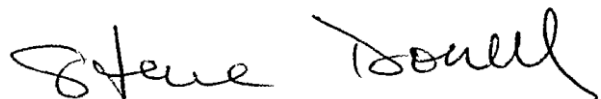
1 \$250,000 in Deposit funds were released from escrow to the MWD on or around
2 March 13, 2015.

3 8. As reflected in my concurrently filed Motion for Order Approving
4 Settlement Agreement with the Metropolitan Water District of Southern California,
5 the MWD and I, through our respective counsel, have engaged in substantial
6 negotiations. As a result of these discussions, the MWD and I have arrived at a
7 tentative agreement (the "Settlement Agreement"), which permanently resolves all
8 disputes relating to the PSA and the Deposit, and which is currently submitted for
9 approval by this Court. Attached hereto as **Exhibit 2** is a true and correct copy of
10 the fully-executed Settlement Agreement.

11 9. After weighing the anticipated costs and risks associated with pursuing
12 litigation, and in my reasonable business judgment, I have determined that the
13 proposed settlement, as memorialized by the Settlement Agreement, reflects an
14 appropriate compromise which will yield a substantial benefit to the Receivership
15 Entities and their Estate. Accordingly, I respectfully ask that the Settlement
16 Agreement be approved by this Court.

17
18 I declare under penalty of perjury under the laws of the State of California
19 that the foregoing is true and correct.

20 Executed this 16th day of February, 2017, at Los Angeles, California.

21
22 

23
24 _____
STEPHEN J. DONELL

EXHIBIT 1

**PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

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**PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (this "**Agreement**") is made and entered into as of the date specified hereinbelow on the List of Particulars, by and between Seller and Purchaser. The following terms shall have the meanings specified, when used in this Agreement:

LIST OF PARTICULARS

Date of Agreement: ~~December~~ January 8, 15, 2014

MWD Parcel Numbers: INFED1-10-100 (portion) and INFED1-10-101

Assessor Parcel Numbers: Riverside County 422-040-009 (portion) & -015

Seller: THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, a metropolitan water district duly organized and existing pursuant to the Metropolitan Water District Act of the State of California, as amended

Purchaser: SUNCOR CARE, INC.

Land: Approximately 133.045 acres in Moreno Valley, California comprising portions of the property identified as Assessor Parcel Numbers 422-040-009 (portion) & -015 and as more particularly described on Attachment 1 attached hereto and incorporated herein by reference and as shown on Attachment 2 attached hereto and incorporated herein by reference. The seller will retain a 17.341 acre permanent easement for pipeline, tunnel and access uses.

Purchase Price: Five Million Dollars (\$5,000,000), all cash payable at the close of escrow

Deposit: Two Hundred and Fifty Thousand Dollars (\$250,000). Deposit to be released to Seller upon expiration of the Due Diligence Period.

Escrow Agent: Park Place Escrow
2400 East Katella Ave.
Anaheim, CA 92806
Attention: Nancye Woodward
Telephone: (714) 263-2012
Mobile: (714) 608-5886
Email: nancye@parkplaceescrow.com
Escrow No. 10832-NW

Title Company: Lawyers Title
3480 Vine Street
Riverside, CA 92507
Attention: Danielle Gonzales
Telephone: (909) 201-9385
Fax: (866) 657-1033
Email: daniellegonzalez@ltic.com
Title Order Number: 614674874

**PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS**

R E C I T A L S

A. Seller desires to sell the Property (as defined in Section 1.1 below) to Purchaser, and Purchaser desires to purchase the Property from Seller;

B. In order to set forth the terms and conditions of such purchase and sale, Seller and Purchaser desire to enter into this Agreement.

C. Seller is a public corporation whose primary goal is the acquisition and distribution of water to its member public agencies. As such, Seller acquired the Property for the purpose of developing, constructing, operating and maintaining the Inland Feeder pipeline and tunnel. Seller has determined that the Property is surplus and, having complied with Article 8, Chapter 5, Part 1, Division 2, Title 5 of the California Government Code Sections 54220-54232 (the "Surplus Lands Act"), desires to sell the Property to Purchaser.

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

A G R E E M E N T

**ARTICLE I
PURCHASE AND SALE**

1.1. **Purchase and Sale.** Seller hereby agrees to sell and convey to Purchaser, and Purchaser hereby agrees to purchase from Seller, all of Seller's right, title and interest in and to the Land, and all Rights and Appurtenances, privileges, Easements, improvements and fixtures thereto, subject to the terms, conditions and exceptions provided in this Agreement (collectively, the "**Property**"). Capitalized terms not defined in this Section 1.1 or below shall have the meanings ascribed to them in the List of Particulars or Recitals above:

1.1.1. **Easements.** All easements, if any, benefiting the Land

1.1.2. **Leases.** All leases, if any, currently in effect; and

1.1.3. **Rights and Appurtenances.** All rights and appurtenances pertaining to the foregoing, including any right, title and interest of Seller in and to adjacent streets, gores, alleys or rights-of-way, except that Seller shall retain all minerals and mineral rights.

ARTICLE II PURCHASE PRICE

2.1 **Purchase Price.** The Purchase Price for the Property shall be as specified in the List of Particulars and shall be paid by Purchaser to Seller, in immediately available funds, as follows:

2.1.1 **Deposit.** Within two (2) business days after full execution of this Agreement, Purchaser shall deliver the deposit of \$250,000 (the "**Deposit**") endorsed to Escrow Agent. The Deposit is to be invested by Escrow Agent in an interest bearing federally insured account, at a mutually acceptable financial institution, which designates Purchaser as the account holder. Any interest which is earned on the Deposit will become part of the Deposit and will be applied to the Purchase Price or, if the sale of the Property is not consummated, its disposition will be determined by Sections 6.4, 7.1, 7.2 or 10.1 of this Agreement. Absent a valid notice of termination of the Agreement during the Due Diligence Period as set forth in Section 10.1, the Deposit shall become non-refundable upon the expiration of the Due Diligence Period and shall be released to Seller by the Escrow Agent upon the first business day after the end of the Due Diligence Period.

2.1.2 **Remainder Payment.** Prior to the Closing, Purchaser shall deliver to Escrow Agent the Remainder Payment by wire transfer of immediately available funds. At Closing, the Remainder Payment shall be applied to the Purchase Price.

ARTICLE III PURCHASER'S ACCEPTANCE OF PHYSICAL CONDITION OF PROPERTY

3.1 **Physical Condition.** Prior to the Closing, Purchaser shall have inspected the Property to the extent Purchaser deems necessary or desirable. Purchaser's failure to notify Seller prior to the expiration of the Due Diligence Period (as defined in Section 10.1), as provided in Article X of this Agreement, shall constitute Purchaser's representation to Seller that Purchaser is satisfied in all respects as to the location and physical condition of the Property.

3.2 **"AS-IS" Nature of Sale.** PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A

PARTICULAR PURPOSE OF THE PROPERTY, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY OR (H) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY LAW, RULE OR REGULATION OF ANY GOVERNMENTAL ENTITY HAVING JURISDICTION OVER HAZARDOUS SUBSTANCES ("HAZARDOUS SUBSTANCES LAW"). "HAZARDOUS SUBSTANCES" MEAN ANY SUBSTANCE, PRODUCT, WASTE OR OTHER MATERIAL OF ANY NATURE WHATSOEVER WHICH IS OR BECOMES LISTED, REGULATED, OR ADDRESSED PURSUANT TO ANY FEDERAL, STATE, OR LOCAL STATUTE, LAW, ORDINANCE, RESOLUTION, CODE, RULE, REGULATION, ORDER OR DECREE REGULATING, RELATING TO, OR IMPOSING LIABILITY OR STANDARDS OF CONDUCT CONCERNING ANY HAZARDOUS OR TOXIC SUBSTANCE. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, PURCHASER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED BY OR ON BEHALF OF SELLER WITH RESPECT TO THE PROPERTY INCLUDING, WITHOUT LIMITATION, INFORMATION MADE AVAILABLE TO PURCHASER BY SELLER, MAY HAVE BEEN OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF INFORMATION SO OBTAINED. SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY AGENT, EMPLOYEE, REPRESENTATIVE OR OTHER PERSON. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS. PURCHASER AND ANYONE CLAIMING BY, THROUGH OR UNDER PURCHASER (COLLECTIVELY, "RELEASOR") HEREBY FULLY AND IRREVOCABLY RELEASE SELLER, ITS EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES AND AGENTS FROM ANY AND ALL CLAIMS THAT RELEASOR MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST SELLER, ITS EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES AND AGENTS FOR ANY COST, LOSS, LIABILITY, DAMAGE, EXPENSE, DEMAND, ACTION OR CAUSE OF ACTION ARISING FROM OR RELATED TO ANY DEFECTS, ERRORS, OMISSIONS OR OTHER CONDITIONS, INCLUDING ENVIRONMENTAL MATTERS, AFFECTING THE PROPERTY OR ANY PORTION THEREOF. THIS RELEASE INCLUDES CLAIMS OF WHICH PURCHASER IS PRESENTLY UNAWARE OR WHICH PURCHASER DOES NOT PRESENTLY SUSPECT TO EXIST IN PURCHASER'S FAVOR WHICH, IF KNOWN BY PURCHASER, WOULD

MATERIALLY AFFECT PURCHASER'S RELEASE OF SELLER. PURCHASER SPECIFICALLY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES AS FOLLOWS: "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." IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE HAS BEEN ADJUSTED BY PRIOR NEGOTIATION TO REFLECT THAT THE PROPERTY IS SOLD BY SELLER AND PURCHASED BY PURCHASER SUBJECT TO THE FOREGOING.

**ARTICLE IV
CONDITION OF TITLE**

4.1 Permitted Exceptions.

4.1.1. Purchaser agrees to accept title to Property subject to the following matters (collectively, with any additional exceptions approved by Purchaser pursuant to Section 4.2, the "**Permitted Exceptions**"):

4.1.1.1 Real property taxes, any general or special assessments or bonds, taxes with respect to any possessory interest and any association fees.

4.1.1.2 Those matters shown on any survey which Purchaser elects to obtain that are not reflected in the Title Report.

4.1.1.3 A 17.341 acre permanent pipeline and tunnel and access easement to be retained by Seller. Limited surface uses are only permitted as set forth in the Grant Deed, subject to easement holder approval.

4.1.1.4 Reservation to Seller of all oil, gas, hydrocarbon substances, and minerals of every kind and character below the surface of the Property, together with the right to drill into, through, onto, use and occupy all parts of the Property lying more than five hundred (500) feet below the surface thereof for any and all purposes incidental to the exploration and for production of oil, gas, hydrocarbon substances or minerals from the Property or other lands.

4.1.1.5 All other matters not specifically disapproved by Purchaser pursuant to Section 4.2 below.

4.2 **Approval of Title.** Purchaser hereby acknowledges receipt of the preliminary title reports dated April 12, and April 13, 2014, issued by Orange Coast Title Company, together with copies of all documents shown as exceptions therein (the "**Title Report**"), disclosing the condition of title to the Property. Purchaser shall have fifteen (15) days from Effective Date (as defined in Section 8.1) of this Agreement (the "**Title Review Period**") to review title and to obtain an update or supplement to the Title Report, if Purchaser so desires. Purchaser shall have the right during the Title Review Period to disapprove, by written notice delivered to

Seller and Escrow Agent, any exceptions to title, except those Permitted Exceptions described in Section 4.1. If Purchaser does not so disapprove of any of such exceptions shown on the Title Report and any of its updates or supplements within the Title Review Period, Purchaser shall be deemed to have approved the legal description and all title matters described in the Title Report and any updates or supplements thereto. Seller, at its sole option, shall have ten (10) days, from and after delivery to it of Purchaser's disapproval notice, to agree that, prior to the Closing, Seller shall cause to be removed some or all of the exceptions to title to which Purchaser objects. Seller shall have no obligation to remove any exceptions to title. If Seller does not agree to remove the objectionable exceptions, Purchaser may elect to waive said objections or, in the alternative, may elect to terminate its obligations under this Agreement, by written notice to Escrow Agent and Seller. If Purchaser does not elect to terminate its obligations under this Agreement within ten (10) days following the expiration of the Title Review Period, as terminated by notice or passage of time, Purchaser shall be deemed to have waived its objections to the Title Report and any updates or supplements thereto.

4.3 **Title Policy.** Either CLTA Owner's Title Insurance Policies (each a "CLTA Title Policy" or together, the "CTLA Title Policies"), or a commitment therefor, shall be issued to Purchaser by Title Company, or its underwriter, at the Closing. Such policies shall be CLTA Owner's Title Insurance Policies unless Purchaser elects prior to the Closing, by appropriate escrow instructions to Escrow Agent, to cause Title Company or its underwriter to issue ALTA Owner's Title Insurance Policies (each a "ALTA Title Policy" or together, the "ALTA Title Policies") in place of either CLTA Title Policy. Purchaser shall not be entitled to an ALTA Title Policy if the issuance thereof would cause any delay in the Closing. If Purchaser elects to have an ALTA Title Policy issued, Purchaser shall pay all costs associated with, and the premium for, said ALTA Title Policy in excess of the costs and premium that would have been incurred for a CLTA Title Policy. Purchaser shall obtain, at its sole cost, any survey required in connection with the ALTA Title Policy. The CTLA Title Policies or ALTA Title Policies shall be in the amount of the Purchase Price, for the protection of Purchaser as a fee owner of the Property, subject only to the Permitted Exceptions (and Title Company's standard printed exceptions).

4.4 **No General Title Warranty.** Nothing in this Agreement or in the deeds from Seller to Purchaser recorded at the Closing shall be construed as a warranty or representation by Seller concerning Seller's title to the Property, and Seller makes no such warranty or representation. Purchaser is relying solely upon the Title Report, the CTLA Title Policies or ALTA Title Policies and Purchaser's own investigations respecting the state of title to the Property.

ARTICLE V CLOSING

5.1 **Closing through Escrow.** Subject to the provisions of this Agreement, Purchaser and Seller shall consummate and close the purchase and sale of the Property contemplated by this Agreement no later than ten (10) days after the end of the Due Diligence Period, (the "Closing"), unless the same shall be extended by Seller. The purchase and sale contemplated by this Agreement shall be consummated through an escrow which Purchaser and Seller shall cause to be established with Escrow Agent contemporaneously with the execution of

this Agreement. This Agreement shall be deposited in escrow and shall constitute escrow instructions to Escrow Agent from Purchaser and Seller. The parties agree to execute and deliver to the Escrow Agent, such reasonable and customary escrow instructions in the usual form of escrow agreement for the purpose of consummating the sale contemplated by this Agreement; provided, however, that standard extension provisions in such escrow instructions shall not apply and that in the event of conflicts between the provisions of this Agreement any such escrow instructions, the provisions of this Agreement shall control. Escrow Agent shall perform all customary functions of an escrow agent to consummate this transaction, including among other duties of Escrow Agent, recordation of the deed to be executed by Seller and calculation of the prorations and Closing costs, as described herein, as well as serving as depository for all funds, instruments and documents needed for the Closing. The Escrow Agent shall also be instructed to issue at the Closing the CTLA Title Policies or the ALTA Title Policies showing title to the Property vested in Purchaser, subject only to applicable Permitted Exceptions.

5.2 Seller's Obligations with Respect to Closing.

5.2.1 Prior to the Closing, Seller shall deliver to Escrow Agent the following documents (all duly executed and acknowledged by Seller, where required):

5.2.1.1 **Grant Deed.** Grant Deed in substantially the form attached to this Agreement as Attachment 3, executed by Seller and conveying property to Purchaser, subject to no exceptions other than the property Permitted Exceptions;

5.2.1.2 **Foreign Person.** An affidavit of Seller in the form prescribed by Treasury Regulation § 1.1445-2 certifying that Seller is not a "foreign person," as defined in the federal Foreign Investment in Real Property Tax Act of 1980, and the 1984 Tax Reform Act, as amended;

5.2.1.3 **Assignment of Lease.** An assignment of the year-to-year ground lease (R.L. 1655) with The Lamar Companies (Lessee).

5.3 Purchaser's Obligations at Closing. Prior to Closing, Purchaser shall deliver to Escrow Agent the following (all duly executed and acknowledged by Purchaser, where required):

5.3.1. **Remainder Payment.** Purchaser shall deliver the balance of the Purchase Price.

5.3.2 **Evidence of Authority.** A copy of the duly adopted resolution of the Board of Directors of Purchaser, certified as true and complete as of Closing, authorizing the execution, delivery and performance by Purchaser of this Agreement and the documents required hereby, and designating one or more persons to execute such documents in Purchaser's name in connection with this Agreement, together with an incumbency certificate for each person executing documents on behalf of Purchaser with specimen signatures for such persons.

5.4. **Closing Costs.** Seller shall pay the following closing costs: all of Seller's attorneys' fees and costs; one-half (1/2) of the fees and costs due to Escrow Agent for services

rendered as escrow agent and all premiums and charges relating to the issuance of the CLTA Title Policies. Purchaser shall pay the following closing costs: all of Purchaser's attorneys' fees and costs; one-half (1/2) of the fees and costs due to Escrow Agent for services rendered as escrow agent; any sales, use, transfer or personal property tax or assessment payable in connection with the transfer of personal and real property; any and all recording charges, stamp taxes, filing fees, other sales and transfer fees; any additional premium for an ALTA Owner's Policies of Title Insurance if Purchaser elects to receive same, including the cost of any survey, the cost of any title endorsements to the CLTA Title Policies or ALTA Title Policies and the premium for the Lender's Title Policies. Purchaser shall, and does hereby, indemnify, defend and hold harmless Seller from any and all sales, use or personal property taxes or assessments to be paid by Purchaser pursuant to this Section 5.4, and such indemnification by Purchaser shall survive the Closing.

5.5 **Proration.** All expenses with respect to the Property shall be prorated to the Closing, as set forth below, subject to the provisions of Section 5.4. The provisions of this Section 5.5 shall survive the Closing.

5.5.1 **Taxes, Assessments and Fees.** All non-delinquent real estate taxes, assessments, and improvements bonds due and payable on the Property shall be prorated as of the date of the Closing based on the actual current Riverside County tax bill. After the Closing, Purchaser shall be solely liable and responsible for any real estate taxes and assessments except to the extent such taxes are attributable to the Property before the Closing. All real estate tax assessments which are or may become a lien against the Property arising out of Seller's ownership, use or development of the Property prior to the Closing, excluding assessments arising out of Buyer's ownership, use or development of the Property, shall be paid by Seller to be prorated as of the date of Closing.

5.5.2 If the Property is not assessed as a separate parcel for tax or assessment purposes, then such taxes and assessments attributable to the Property shall be determined by Seller in its sole and absolute discretion. If, as of the Closing, the Property is not being treated as a separate tax parcel, then within thirty (30) days after the Closing, Purchaser shall, at its sole cost and expense, have the Property assessed separately for tax and assessment purposes. In the event the Property has been assessed for property tax purposes at such rates as would result in "roll-back" taxes upon changes in land usage or ownership of the Property, Purchaser agrees to pay all such taxes and indemnify, defend and save Seller harmless from and against any and all claims and liabilities for such taxes. This indemnification by Purchaser shall survive the Closing. Purchaser shall assume all future obligations on any real property taxes, general or special assessments or bond, taxes with respect to any possessory interest or association fees. Purchaser acknowledges that the Property may be subject to future assessments in connection with the development of the Property and other real property in the vicinity thereof.

5.5.3 **Utilities.** No provision has been made for the proration of water charges, fuel charges or utility charges as Seller shall terminate its account with the providers of any such services as of the date of Closing, and Purchaser shall, prior to the date of Closing, make application to the providers of such services for the continuation of such services in the name of Purchaser, or its designee. It is anticipated that in connection with any such services, the meters will be read on or about the date of Closing, and Seller shall be responsible for paying the bills for

such services accruing prior to the date of Closing, and Purchaser shall be responsible for the payment of all such accounts accruing on or after the date of Closing. If any such accounts are not handled in this manner, then they shall be prorated as of the date of Closing in the same manner as described in Section 5.5.1 above.

5.5.4. **Lease.** No provision has been made for the proration of lease revenues.

5.6 **Delivery of Possession.** Upon the satisfaction by Seller of all of Seller's obligations, as set forth in Section 5.2 hereof, and upon the satisfaction by Purchaser of all of Purchaser's obligations, as set forth in Section 5.3 hereof, and upon the satisfaction of any and all other conditions precedent to this Agreement, if any, Escrow Agent shall cause the recordation of the Grant Deed, distribute to Purchaser and to Seller the items and documents described in Section 5.2 and Section 5.3, respectively, and the purchase and sale transaction contemplated in this Agreement shall be finally consummated. Delivery of possession of the Property to Purchaser at the Closing shall be made subject only to contractual obligations approved or to be assumed by Purchaser and to the Permitted Exceptions.

ARTICLE VI RISK OF LOSS

6.1 **Casualty.** Purchaser assumes all risks and liability for damage to or injury occurring to the Property by fire, storm, accident or any other casualty or cause prior to the Closing.

6.2 **Condemnation.** If, prior to the Closing, action is initiated or threatened to take the Property, or any substantial part thereof, by eminent domain or condemnation proceedings or by deed in lieu thereof, then Purchaser may either (a) terminate this Agreement by delivering written notice to Seller of such termination within five (5) days after Seller notifies Purchaser of the condemnation, or (b) consummate the Closing, in which latter event Seller shall deliver to Purchaser, at Closing, any proceeds actually received by Seller in respect of such condemnation or assign to Purchaser, at Closing, all of Seller's right, title and interest in the award of the condemning authority, provided that in no event shall Purchaser be entitled to receive payment or assignment of such proceeds in an amount greater than the Purchase Price. If Purchaser fails to timely deliver to Seller written notice of termination of this Agreement as described in (a) above, then Purchaser shall be deemed to have elected to proceed in accordance with (b) above.

6.3 **Determination of Substantial Portion.** For purposes of Section 6.2 hereof, a "substantial portion" of the Property shall be deemed to include any taking or casualty loss equal to or greater than ten percent (10%) of the Purchase Price, and shall not include any taking or casualty loss of less than such amount. If any taking or casualty loss is less than a "substantial portion" of the Property, then Seller may elect to (a) terminate this Agreement or (b) direct Purchaser to proceed with Closing, in which event Seller shall deliver to Purchaser at the Closing any proceeds actually received by Seller attributable to the Property from such taking or casualty loss, or shall assign to Purchaser at Closing all of Seller's right, title and interest in any claim to such proceeds.

6.4 **Disposition of Deposit.** If Purchaser elects to terminate this Agreement pursuant to Section 6.2 above, then contemporaneously with such termination, Escrow Agent shall immediately return the Deposit, together with all interest accrued thereon, to Purchaser and, upon Purchaser's receipt thereof, except as may be otherwise expressly provided herein, neither party hereto shall have any further rights against or obligations to the other under this Agreement.

**ARTICLE VII
DEFAULT AND REMEDIES**

7.1 **Purchaser Default.** If Purchaser refuses or fails to consummate the purchase of the Property pursuant to this Agreement for any reason other than termination hereof pursuant to a right granted to Purchaser hereunder to do so, or breach by Seller of its agreements hereunder, then Seller, as its sole and exclusive remedy, shall have the right to terminate this Agreement by giving Purchaser written notice thereof, in which event neither party hereto shall have any further rights, duties or obligations hereunder, except as may be otherwise expressly provided herein, and Seller shall retain, as liquidated damages, the Deposit, together with all interest earned thereon.

PURCHASER AND SELLER AGREE THAT IF PURCHASER BREACHES ITS DUTIES UNDER THIS AGREEMENT: (A) SELLER'S DAMAGES WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO DETERMINE; AND (B) TAKING INTO ACCOUNT ALL OF THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, THE AMOUNT OF THE DEPOSIT REPRESENTS THE BEST AND MOST REASONABLE ESTIMATE OF SELLER'S DAMAGES AT THE TIME OF THE EXECUTION OF THIS AGREEMENT. CONSEQUENTLY, IN THE EVENT OF PURCHASER'S DEFAULT UNDER THIS AGREEMENT, SELLER'S SOLE AND EXCLUSIVE REMEDY SHALL BE TO TERMINATE THIS AGREEMENT AND TO RETAIN THE DEPOSIT PLUS ALL INTEREST EARNED THEREON.



Purchaser's Initials



Seller's Initials

7.2 **Consequences of Termination of this Agreement.** If this Agreement is terminated by Purchaser pursuant to a right guaranteed to Purchaser hereunder to do so, the following shall occur: (i) the Deposit, together with interest accrued thereon, (or any portion thereof) deposited by Purchaser with Escrow Agent or any portion of the Deposit paid or released to Seller in accordance with the terms hereof, shall be refunded to Purchaser; (ii) any documents deposited with Escrow Agent by either party shall be returned to the party depositing the same; (iii) Purchaser shall return to Seller all documents delivered by Seller to Purchaser pursuant to this Agreement; and (iv) Purchaser shall pay any applicable Escrow and Title cancellation charges. Upon completion of all the foregoing, this Agreement shall be deemed terminated. Promptly after any termination of this Agreement and the Escrow for whatever reason, Purchaser shall deliver to Seller, at no cost to Seller, all technical data prepared or obtained by Purchaser, its agents or contractors in connection with the Property, including, but not limited to, land plans, maps,

engineering studies, soils studies, geological studies and other engineering information in Purchaser's possession or under Purchaser's control, all of which shall become the property of Seller.

7.2.1 **Seller Default.** If Seller defaults under this Agreement, then Purchaser may, at Purchaser's option, bring an action to terminate this Escrow or pursue any other rights or remedies that Purchaser may have at law; provided however, Purchaser does not view the Property as having any unique characteristics. Accordingly, Purchaser agrees that, in the event Seller defaults in any of its obligations hereunder, Purchaser's sole remedy shall be a monetary remedy and Purchaser waives any right to bring an action of specific performance or to otherwise seek enforcement of Seller's obligations hereunder. Purchaser specifically waives any and all rights it may have pursuant to the provisions of California Civil Code Sections 1680, 3384, 3387 and 3389.

ARTICLE VIII EFFECTIVE DATE

8.1 **Effective Date.** This Agreement shall constitute an offer to purchase the Property on the terms and conditions set forth herein upon the delivery to Seller of three (3) counterparts of this Agreement, which have been duly executed by Purchaser. Such offer may be accepted only by Seller's delivery of all three (3) fully executed counterparts to Escrow Agent within two (2) business days after the date of this Agreement. The date of receipt by Escrow Agent of three (3) fully executed counterparts of this Agreement shall be the "**Effective Date**" for the purposes hereof and Escrow Agent shall write such date on all three (3) counterparts hereof and shall return one (1) counterpart to Purchaser and one (1) counterpart to Seller, and shall retain one (1) counterpart for its files. Notwithstanding Seller's execution of this Agreement as provided herein, this Agreement shall be subject in all respects to the terms and conditions this Agreement.

ARTICLE IX REPRESENTATIONS, WARRANTIES AND COVENANTS

9.1 **Representations and Warranties of Purchaser.** Purchaser represents and warrants to Seller all of the following, as of the date hereof and as of the date of the Closing; and all representations and warranties of Purchaser in this Agreement shall survive the Closing and any termination of this Agreement:

9.1.1 **Authority.** The execution, delivery and performance of this Agreement by Purchaser have been duly authorized and approved by all requisite action, and no other authorizations or approvals, whether of governmental bodies or otherwise, will be necessary in order to enable Purchaser to enter into or to comply with the terms of this Agreement.

9.1.2 **Binding Effect of Documents.** This Agreement and all other documents and certificates executed and delivered by Purchaser in connection with the transactions contemplated by this Agreement constitute legal, valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with their respective terms. Neither this Agreement

nor anything provided to be done under this Agreement violates or shall violate any statute, ordinance, contract, document, understanding, agreement or instrument to which Purchaser is a party or by which it is bound.

9.1.3 **Accuracy of Representations and Warranties.** Each of the representations and warranties of Purchaser contained in this Agreement and in any document or certificate delivered in connection herewith (including all information previously furnished by Purchaser to Seller) is at the date hereof and as of the date of the Closing shall be true and correct in all material respects.

9.1.4 **No Conflicts of Interest.** It is important for Seller to ensure that any potential conflicts of interest involving Purchaser and Seller that may exist, or may appear to exist, are fully disclosed and considered by the parties prior to execution of this Agreement. Purchaser acknowledges that, prior to the execution of this Agreement, it has disclosed to Seller any potential conflicts of interest between Seller and Purchaser. In addition, Purchaser hereby represents and warrants to Seller, without any qualification as to Purchaser's knowledge, that no city officers, officials or employees have a financial interest in this Agreement in contravention of California Government Code Sections 1090-1098.

9.2 **Seller's Representations and Warranties.** In consideration of Purchaser entering into this Agreement, and as an inducement to Purchaser to purchase the Property, Seller makes the following representations and warranties, each of which is material and is being relied upon by Purchaser (and the continued truth and accuracy of which shall constitute a condition precedent to Purchaser's obligations hereunder):

9.2.1 **Authorization.** This Agreement has been duly and validly authorized, executed and delivered by Seller, and no other action is requisite to the execution and delivery of this Agreement by Seller. Seller has full right and authority to enter into and consummate this Agreement and all related documents. Each person executing this Agreement on behalf of Seller hereby represents that the execution of this Agreement has been duly authorized by the party on whose behalf the person is executing this Agreement.

9.2.2 **Threatened Actions.** To the best of Seller's actual knowledge, without investigation, there are no actions, suits, investigations or proceedings pending against or threatened or affecting the Property, whether in law or equity or before any governmental authority.

9.2.3 **Third Party Consents.** To the best of Seller's actual knowledge, without investigation, except as otherwise provided herein, no consents or waivers of, or by, any third party are necessary to permit the consummation by Seller of the transactions contemplated pursuant to this Agreement.

9.2.4 **Condemnation.** To the best of Seller's actual knowledge, without investigation, there are no pending or threatened proceedings in eminent domain or otherwise, which would affect the Property or any portion thereof.

9.2.5 **Agreements.** But for aforementioned ground lease, to the best of Seller's actual knowledge, without investigation, there are no leases, licenses, easements, tenancies, possessory rights, rights of way, rights of first refusal, option rights, or other third party rights to lease, use, occupy, or purchase all or any portion of the Property and there are no other existing contracts or agreements of any kind affecting the Property entered into by Seller, or to Seller's knowledge without inquiry any predecessor in title of Seller under which any person or entity will have any rights against Purchaser or the Property after the Closing, except as may be reflected in the Condition of Title or otherwise described in this Agreement. Seller shall not grant, convey, transfer or enter into any such leases, licenses, easements, tenancies, rights, contracts, or agreements prior to the Closing (except to Purchaser in accordance with the terms of this Agreement) without the prior written approval of Purchaser, which Purchaser may withhold in its sole discretion.

9.2.6 **Maintenance Contracts.** There are no maintenance, service or similar agreements (whether oral or written) affecting or relating to the Property that will remain in effect after Closing.

9.2.7 **Hazardous Substances.** To the best of Seller's actual knowledge, without investigation, Seller has not introduced to the Land any Hazardous Substance in a manner that constitutes a violation of any Hazardous Substances Law, or which may expose Purchaser to liability to third parties, or individually or in the aggregate poses a significant risk to human health or the environment, or which could reasonably be expected to cause any person to incur investigation, removal, remediation or other cleanup costs under any Hazardous Substances Law. To the best of Seller's actual knowledge, there has been no proceeding or inquiry instituted or threatened by any governmental authority with respect to the presence of Hazardous Substances on the Land or any portion thereof. Nothing in this Section imposes any responsibility on Seller for any matter disclosed to Purchaser by its own investigation of the Property or any matter disclosed in any reports provided by its own agents or by Seller.

9.2.8 **No Prior Conveyance.** Seller has not previously conveyed, and shall not convey after the date of this Agreement, except to Purchaser in accordance with the terms of this Agreement, any of the water rights which are appurtenant or attributable to the Property, or which (to the extent owned by Seller) are used in the operation of the Property.

ARTICLE X DUE DILIGENCE PERIOD

10.1 **Inspection.** Purchaser shall have until 5:00 p.m. on the sixtieth (60th) day following the Effective Date, to inspect the Property and all matters relating to the Property that Purchaser deems necessary or advisable, and to determine, in Purchaser's reasonable discretion, whether or not to proceed with the transactions contemplated herein (such period is referred to herein as the "Due Diligence Period"). If Purchaser, in its reasonable discretion, is not satisfied with any aspect of the Property, and if Purchaser and Seller have not reached a written agreement in settlement thereof on or before the last day of the Due Diligence Period, then Purchaser shall deliver to Seller and Escrow Agent a termination notice, to be received by Seller on or before the last day of the Due diligence Period, informing Seller of Purchaser's desire to terminate this

Agreement. If such notice is properly delivered, then Escrow Agent shall immediately return the Deposit, together with all interest accrued thereon, to Purchaser without requiring any consent or notice from Seller and, upon Purchaser's receipt thereof, neither party hereto shall have any further rights against or obligations to the other under this Agreement, except as may be otherwise expressly provided herein. If Purchaser does not properly deliver a termination notice to Seller within the time period provided in this Section, then the inspection of the Property by Purchaser shall be deemed satisfactory to Purchaser, and Purchaser shall be deemed to have accepted the Property in its existing condition.

10.2 **Access to Property.** During the Due Diligence Period, Seller shall provide Purchaser and Purchaser's agents with access to the Property, and all books, records and information relating thereto, to the extent that these documents are available, upon reasonable notice and during normal business hours. Purchaser shall be liable for any damage or injury to any person or property occasioned by the acts of Purchaser, its employees, agents or representatives during any such inspection, and Purchaser shall, and does hereby, indemnify, defend and hold harmless Seller and its officers, directors, agents and employees from any and all liens, claims, demands or liability resulting therefrom. Prior to entry onto the Property by Purchaser or any of Purchaser's employees, agents or representatives, Purchaser shall deliver to Seller evidence reasonably satisfactory to Seller that Purchaser maintains (i) comprehensive general liability insurance covering Purchaser's operations in the minimum amount of \$1,000,000 per occurrence, and naming Seller as an additional insured, and (ii) workers' compensation insurance covering Purchaser's employees. The indemnification by Purchaser contained in this Section shall survive the Closing and any termination of this Agreement, as the case may be.

ARTICLE XI MISCELLANEOUS PROVISIONS

11.1 **Broker's Commission.** The parties hereto acknowledge that this transaction involved the assistance of a real estate broker, William Collazo, DRE License No. 00516712 ("Broker"), that assisted the Purchaser. Purchaser shall be responsible for the entirety of the Broker's commission, finder's fee, or other compensation owed to Broker. Seller shall not be responsible for any payment or compensation to the Broker. All payments and compensation shall be paid from proceeds outside of escrow and under no circumstances shall such monies be deducted or assessed from the Purchase Price. Purchaser shall also defend, indemnify, and hold harmless Seller from any and all claims for any broker's commissions or similar compensation that may be payable to the Broker. The provisions of this Section shall survive the Closing and/or the termination of this Agreement.

11.2 **Notices.** All notices, demands or requests required or permitted to be given pursuant to this Agreement shall be in writing. If not otherwise provided hereunder, all notices, demands or requests to be sent to any party hereto shall be deemed to have been properly given or served by delivering the same personally to each party, by sending the same through a nationally recognized overnight courier service, or by depositing the same in the United States mail, addressed to such party, postage prepaid, and registered or certified with return receipt requested, at the addresses for such parties listed below:

Seller: Metropolitan Water District of Southern California
Post Office Box 54153
Los Angeles, California 90054-0153
Attention: John Clairday, Manager
Real Property Development and Management Group

Purchaser: Suncor Care, Inc.
406 East Vanderbilt Way
San Bernardino, CA 92408
Attention: Claudia Kano

All notices, demands and requests shall be effective when personally delivered to the addressee or received by overnight courier, or upon the third day after being deposited in the United States mail in accordance with the foregoing.

11.3 **Time.** Time is of the essence in this Agreement and each and every provision of this Agreement.

11.4 **Binding Effect.** This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns. Purchaser shall not assign Purchaser's rights under this Agreement, in whole or in part, without the prior written consent of Seller, which may be withheld for any reason in Seller's sole and absolute discretion. Any purported assignment of Purchaser's interest in this Agreement in violation of this provision shall be null and void and shall vest no rights or interests in the purported assignee.

11.5 **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute one Agreement, binding on all parties hereto.

11.6 **Severability.** If all or any portion of any of the provisions of this Agreement shall be declared invalid, illegal or unenforceable by laws applicable thereto, then the performance of said offending provision or provisions shall be excused by the parties hereto and such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.

11.7 **Captions.** The titles or captions of the provisions of this Agreement are merely for convenience of reference and are not representations of matters included or excluded from such provisions.

11.8 **Entire Agreement.** THE PARTIES HERETO EXPRESSLY ACKNOWLEDGE AND AGREE THAT, WITH REGARD TO THE SUBJECT MATTER OF THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREIN, (1) THERE ARE NO ORAL AGREEMENTS BETWEEN THE PARTIES HERETO AND (2) THIS AGREEMENT, INCLUDING THE DEFINED TERMS AND ALL ATTACHMENTS AND ADDENDA, IF ANY, ATTACHED HERETO, (a) EMBODIES THE FINAL AND

COMPLETE AGREEMENT BETWEEN THE PARTIES, (b) SUPERSEDES ALL PRIOR AND CONTEMPORANEOUS NEGOTIATIONS, OFFERS, PROPOSALS, AGREEMENTS, COMMITMENTS, PROMISES, ACTS, CONDUCT, COURSE OF DEALING, REPRESENTATIONS, STATEMENTS, ASSURANCES AND UNDERSTANDINGS, WHETHER ORAL OR WRITTEN, AND (c) MAY NOT BE VARIED OR CONTRADICTED BY EVIDENCE OF ANY SUCH PRIOR OR CONTEMPORANEOUS MATTER OR BY EVIDENCE OF ANY SUBSEQUENT ORAL AGREEMENT OF THE PARTIES HERETO.

11.9 **No Modifications Except in Writing.** No modification hereof shall be binding unless set forth in writing and signed by the party or parties to be bound by the modification.

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

11.11 **Termination.** If a condition to Purchaser's obligations under this Agreement is not met, then Purchaser may terminate this Agreement by written notice given to Seller on or before the Due Diligence Period, whereupon Escrow Agent shall return the Deposit, together with all interest accrued thereon, to Purchaser without requiring any consent or notice from Seller and, upon Purchaser's receipt thereof, this Agreement shall be null and void and, except as may be otherwise expressly provided herein, neither party hereto shall have any rights against or obligations to the other under this Agreement.

11.12 **Agreement Conditioned Upon Compliance with Government Code.** Purchaser acknowledges and agrees that, notwithstanding any provision to the contrary contained in this Agreement, this Agreement, and Seller's obligations hereunder, are expressly subject to and conditioned upon compliance with the Surplus Land Act.

11.13 **[Reserved]**

11.14 **Further Assurances.** In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by either Seller or Purchaser, Seller and Purchaser shall perform, execute and/or deliver or cause to be performed, executed and/or delivered at the Closing, or if necessary, after the Closing, any and all further acts, deeds and assurances as may, from time to time, be reasonably required to consummate the transactions contemplated in this Agreement.

11.15 **Agreement Not to Be Recorded.** Seller and Purchaser acknowledge and agree that neither this Agreement nor any memorandum or summary hereof shall be recorded or filed in any public records or files and any such recording or filing by any person, whether or not a party to this Agreement, shall be a violation of this Agreement and shall be considered null and void. Seller and Purchaser further acknowledge and agree that, prior to the Closing, neither Seller nor Purchaser shall disclose any material term of this Agreement to any party not affiliated with Seller or Purchaser, without the prior written consent of the other party hereto; provided, however, that in addition to any reporting requirements imposed on Seller by any applicable state or federal

law or regulation, whether presently existing or hereafter enacted or amended, Seller shall have, and hereby expressly reserves, the absolute and unconditional right to disclose, report or otherwise communicate, at any time and from time to time after the Closing, any or all of the financial, business or legal terms or conditions of the transaction contemplated by this Agreement to any person, entity, agency, department or board, whether public or private, for such purposes or reasons as Seller may deem necessary, proper, advisable or convenient, including, without limitation, the right to disclose the terms of sale to any appraiser, broker or other person under contract with or otherwise incurs legal fees to resolve a breach hereof Seller in connection with the sale, lease, or other disposition of other real estate or personal property, wherever located. Seller and Purchaser agree to notify any of their respective employees, agents, representatives or brokers involved in this transaction of this confidentiality requirement. Purchaser further acknowledges that Seller may enforce any breach of such confidentiality by seeking injunctive relief, or by suit for damages, or both, or by any other legal means.

11.16 **Attorney's Fees and Expenses.** In the event legal action is commenced to enforce or interpret, or for breach of, any provision of this Agreement, the prevailing party shall be entitled to recover from the losing party costs and expenses incurred not limited to taxable costs, and reasonable attorney's fees incurred by the prevailing party, in addition to all other relief and remedies to which the prevailing party may be entitled.

11.17 **Survival of Covenants, etc.** All agreements, conditions, and other obligations set forth in this Agreement shall survive the Closing and any doctrine that would hold that performance is deemed completed upon the closing shall not apply to this Agreement because many obligations under this Agreement are to be performed after the Closing.

11.18 **Holiday.** When performance of an obligation or satisfaction of a condition set forth in this Agreement is required on or by a date that is a Saturday, Sunday or legal holiday, such performance or satisfaction shall instead be required on or by the next business day following that Saturday, Sunday, or holiday, notwithstanding any other provisions or this Agreement.

11.19 **Attachments.** All Attachments attached to, and to which reference is made in, this Agreement are incorporated into, and shall be deemed a part of this Agreement.

11.20 **Ambiguities Not to Be Construed Against Drafting Party.** The doctrine that any ambiguity contained in a contract shall be construed against the party whose counsel has drafted the contract is expressly waived by each of the parties hereto with respect to this Agreement.

11.21 **Offer to Purchase.** Execution of this Agreement by Purchaser constitutes an offer to buy the Property from Seller on the terms and conditions set forth herein. Under no circumstances whatsoever, including, without limitation, any oral representations or statements, shall this Agreement be deemed an offer by Seller to sell the Property or be binding upon Seller

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until executed by a duly authorized officer, employee or representative of Seller.

IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Sale Agreement and Joint Escrow Instructions to become effective as of the Effective Date.

SELLER:

PURCHASER:

THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, a metropolitan water district duly organized and existing pursuant to the Metropolitan Water District Act, as amended

SUNCOR GARE, INC.

By:

[Signature]

Title:

SVP

Date:

01/07/2015

By:

[Signature]

John Clairday, Manager
Real Property Management
and Development Group

Date:

1-08-2015

APPROVED AS TO FORM:

By:

[Signature]

Bryan M. Otake
Senior Deputy General Counsel

The undersigned, a duly authorized representative of Escrow Agent, hereby accepts this Agreement and agrees to act as Escrow Agent in accordance herewith.

PARK PLACE ESCROW

By:

[Signature]

Name:

Nancy Woodward

Its:

Escrow Officer

Effective Date:

January 9, 2015

EXHIBIT 2

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Release (“**Agreement**”), dated as of January 13, 2017, is made by and between Stephen J. Donell (the “**Receiver**”), in his capacity as Court-appointed permanent receiver in the action styled *SEC v. Yang, et al.*, on the one hand, and the Metropolitan Water District of Southern California, a metropolitan water district duly organized and existing pursuant to the Metropolitan Water District Act of the State of California, as amended (the “**MWD**”), on the other hand. The Receiver and the MWD are occasionally collectively referred to herein as the “**Parties**”, and each of the Parties, individually, as a “**Party**”.

RECITALS

A. On or around November 19, 2015 the United States Securities and Exchange Commission (the “**Commission**”) commenced an enforcement action (the “**Action**”) against Defendants Robert Yang, Claudia Kano, Suncor Fontana, LLC, Suncor Hesperia, LLC, and Suncor Care Lynwood, LLC, and Relief Defendants Yanrob's Medical, Inc., HealthPro Capital Partners, LLC, and Suncor Care, Inc. The Action is styled *SEC v. Yang, et al.*, and is presently pending before the United States District Court for the Central District of California (the “**District Court**”) as case number 5:15-cv-02387-SVW (KKx).

B. On December 11, 2015, Receiver was appointed as the permanent receiver for Suncor Fontana LLC; Suncor Hesperia, LLC; Suncor Care, Lynwood, LLC; and their respective subsidiaries and affiliates (collectively, the “**Receivership Entities**” and, individually, each a “**Receivership Entity**”), pursuant to the District Court's Preliminary Injunction, Order Appointing Receiver, Freezing Assets, and Providing for Other Ancillary Relief (the “**Appointment Order**”).

C. Pursuant to the Appointment Order, the Receiver was vested with exclusive authority and control over the assets of the Receivership Entities (“**Receivership Assets**”), including funds derived from Receivership Entity investors, wherever held. The Receiver was also vested with the authority to pursue and recover such Receivership Assets. Finally, the Appointment Order requires the turnover, to the Receiver, of all funds derived from Receivership Entity investors, wherever and by whomever held.

D. The Receiver has confirmed that, on or around January 8, 2015, Suncor Care, Inc. (“**Suncor Care**”), a Receivership Entity, entered into a Purchase and Sale Agreement and Joint Escrow Instructions (the “**Purchase and Sale Agreement**”) with the MWD to purchase a parcel of property described as the “Unimproved Portion of AP# 422-040-009+015, Riverside County, California,” comprising approximately 133.045 acres of land in Moreno Valley, California (the “**Property**”).

E. The Purchase and Sale Agreement provided that Suncor Care would purchase the Property for five million dollars (\$5,000,000.00), with an initial deposit amount of two hundred and fifty thousand dollars (\$250,000.00) (the “**Deposit**”) to be paid within two business days after the full execution of the Purchase and Sale Agreement, and which funds became non-refundable to Suncor Care and would be released to the MWD after the lapse of the due diligence period reflected in the Purchase and Sale Agreement.

F. The Receiver has confirmed that, in accordance with the requirements of the Purchase and Sale Agreement, Suncor Care opened an escrow account at Park Place Escrow, as Escrow No. 10832-NW, and deposited \$250,000, reflecting the Deposit amount, into this account. The Receiver has further confirmed that the funds for the Deposit were drawn from funds derived exclusively from Receivership Entity investors, in violation of the terms of the Receivership Entities' agreements with those investors.

G. Suncor Care ultimately failed to perform its obligations under the Purchase and Sale Agreement and the due diligence period provided for therein lapsed. As a result, and in accordance with the Purchase and Sale Agreement, the \$250,000 Deposit was released to the MWD on or around March 13, 2015, in accordance with the terms of the Purchase and Sale Agreement.

H. In or around late 2016, the Receiver advised the MWD, in writing, that he had confirmed the source of the Deposit as funds misappropriated from Receivership Entity investors and subject to the turnover requirements of the Appointment Order. The MWD contests the Receiver's claims.

I. It is now the intent of the Parties, subject to approval by the District Court, to settle and resolve all disputes, and release all claims arising from, or in connection with, the Purchase and Sale Agreement, the Property, and the payment of the Deposit to the MWD, as detailed herein.

A G R E E M E N T

In consideration of the foregoing recitals and mutual agreements stated herein, the Parties agree as follows:

1. Court Approval. All aspects of this Agreement are subject to approval by the District Court by way of an order approving this Agreement. Within fifteen (15) days after the execution of this Agreement by all Parties, the Receiver shall file a motion with the District Court requesting that the District Court enter an order approving the Agreement and the Parties' obligations hereunder. In the event that the District Court does not approve the Agreement, the Agreement shall terminate and shall not be binding upon any of the Parties.

2. Payment by the MWD to the Receiver. Within ten (10) days after the entry of an order from the District Court approving this Agreement, the MWD shall pay to the Receiver the sum of \$124,999.00, in the form of a wire transfer or similar payment instrument, as directed by the Receiver.

3. Mutual Release. Provided that District Court approval of this Agreement is secured in accordance with Paragraph 1, above, and that the MWD makes the payment due to the Receiver in accordance with Paragraph 2, above, the Receiver, on the one hand, and the MWD on the other hand, and each of them, for themselves, their agents, attorneys, employees, partners, directors, officers, successors and assigns, forever, irrevocably and unconditionally release and discharge one another, in their individual and official capacities, along with their respective agents, attorneys, employees, partners, directors, officers, successors and assigns, of and from any and all claims, demands, debts, obligations, liabilities, costs, expenses, rights of action, causes of action, awards and judgments arising from, or in connection with the Purchase and Sale Agreement, in its entirety, the Property, and the payment of the Deposit to the MWD (collectively, the “**Released Claims**”).

The Receiver and the MWD each waive all rights against one another and their respective agents, attorneys, employees, partners, directors, officers, successors and assigns, under California Civil Code § 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

The Receiver and the MWD each expressly waive and release any rights and benefits that each has or may have under any similar law or rule of any other jurisdiction pertaining to the Released Claims. It is the intention of the Parties to fully, finally and forever settle and release the claims and disputes existing between them as provided herein, known or unknown. The releases herein given shall be and remain in effect as full and complete releases of all such matters notwithstanding the discovery of any additional claims or facts relating hereto.

4. Representations and Warranties. None of the Parties nor any other person has made any promise, representation or warranty whatsoever, be it express, implied or statutory, not contained herein to induce the signing of this Agreement, and the Parties further acknowledge that none of them has signed this Agreement in reliance upon any promise, representation or warranty not contained in this Agreement. This Agreement contains the entire agreement among the Parties with respect to the subject matter of this Agreement and supersedes and replaces all prior negotiations, understandings and agreements, written and oral, with respect to the subject matter hereof, except that nothing in this Agreement shall be construed as limiting the Receiver's rights and authority under the Appointment Order or any other orders of the District Court.

5. Acts in Furtherance of Purpose of this Agreement. Each of the Parties to this Agreement shall execute all documents and do all acts necessary to carry out the purpose of this Agreement.

6. Voluntary Signing. Each of the parties to this Agreement has executed this Agreement without any duress and undue influence.

7. Independent Counsel. Each of the parties acknowledge and agree that it has been represented by independent counsel of its own choice throughout all negotiations which preceded the execution of this Agreement, that it has executed and approved of this Agreement after the consultation with said counsel, and that it shall not deny the validity of this Agreement on the ground that such party did not have the advice of legal counsel.

8. Choice of Law and Venue. This Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California, and federal equity receivership law, without regard to conflicts of law principles. Any action brought to enforce the provisions of this Agreement may be brought in the District Court. The Parties expressly acknowledge and agree that this term shall be treated as both a choice of law and venue provision.

9. Waiver/Amendment. No breach of any provision of this Agreement can be waived unless in writing. Waiver of any one breach of any provision of this Agreement is not a waiver of any other breach of the same or of any other provision in this Agreement. Amendment of this Agreement may be made only by written agreement signed by all of the Parties.

10. Ambiguity and Intended Meaning. Neither this Agreement nor any ambiguity herein shall be interpreted for or against any Party because any Party or its agent drafted any provisions of the Agreement. This Agreement shall instead be interpreted according to its intended meaning. Each Party participated actively in the negotiation and drafting of this Agreement, and no Party shall argue that any other Party was the designated "drafter" of this Agreement.

11. Execution Authority. Each respective Party, in signing this Agreement, warrants that he/she/it is vested with the authority to bind the entity/individual on behalf of which he/she/it has signed. Each Party further warrants that he/she/it has not assigned or transferred to any person or entity any claim or other matter released herein.

12. Recitals. The Parties agree that all provisions of this Agreement are contractual and not mere recitals.

13. Execution in Counterparts. This Agreement may be executed by email PDF, fax, and/or in counterparts and, if so executed, each counterpart shall have the full force and effect of an original.

14. Attorneys' Fees and Costs. The Parties hereto shall each bear their own costs and attorneys' fees incurred in connection with the herein-described dispute, as well as the negotiation, documentation, and subject of this Agreement, as well as the Parties' efforts to obtain District Court approval thereof. If any proceeding, action, suit or claim is undertaken to interpret or enforce this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and costs incurred in connection with such dispute.

15. Notices. Notices to be provided hereunder shall be effective if sent to the following:

To the MWD:

Heriberto F. Diaz, Senior Deputy General Counsel
Metropolitan Water District of Southern California
700 North Alameda Street
Los Angeles, CA 90012

To the Receiver:

Stephen J. Donell, Receiver
c/o Allen Matkins Leck Gamble Mallory & Natsis, LLP, ATTN: Joshua A. del Castillo
865 South Figueroa Street, Suite 2800
Los Angeles, CA 90017-2543
Attn: Joshua A. del Castillo, Esq.

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Dated: ~~January~~ 13, 2017
E. Baum

Stephen J. Donell, Receiver

By: *Steve Donell*
Stephen J. Donell, or his authorized agent

Dated: January 13, 2017

Metropolitan Water District of Southern California

By: *[Signature]*
Its: 1/31/17 General Manager

PROOF OF SERVICE

Securities and Exchange Commission v. Robert Yang, Suncor Fontana, et al.
USDC, Central District of California – Case No. 5:15-cv-02387-SVW (KKx)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 865 S. Figueroa Street, Suite 2800, Los Angeles, California 90017-2543.

A true and correct copy of the foregoing document(s) described below will be served in the manner indicated below:

**DECLARATION OF RECEIVER, STEPHEN J. DONELL, IN SUPPORT
OF MOTION FOR ORDER APPROVING SETTLEMENT
AGREEMENT WITH METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA**

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – the above-described document will be served by the Court via NEF. On **February 16, 2017**, I reviewed the CM/ECF Mailing Info For A Case for this case and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- **Zachary T. Carlyle**
carlylez@sec.gov,kasperg@sec.gov,karpeli@sec.gov,
blomgrene@sec.gov,pinkstonm@sec.gov,NesvigN@sec.gov
- **Stephen J. Donell**
jdelcastillo@allenmatkins.com
- **Mark T. Hiraide**
mth@msk.com,kjue@phlcorplaw.com,
hitabashi@phlcorplaw.com,eganous@phlcorplaw.com
- **Leslie J. Hughes**
hughesLJ@sec.gov,kasperg@sec.gov,pinkstonm@sec.gov,
nesvign@sec.gov
- **George D. Straggas**
George.straggas@straggasdean.com;sarah.borghese@straggasdean.com,
eric.dean@straggasdean.com
- **David J. Van Havermaat**
vanhavermaatd@sec.gov,larofiling@sec.gov,berryj@sec.vog,
irwinma@sec.gov
- **Joshua Andrew del Castillo**
jdelcastillo@allenmatkins.com

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- **David R Zaro**
dzaro@allenmatkins.com

2. **SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):** On _____, I served the following person(s) and/or entity(ies) in this case by placing a true and correct copy thereof in a sealed envelope(s) addressed as indicated below. I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion for party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 (one) day after date of deposit for mailing in affidavit. Or, I deposited in a box or other facility regularly maintained by FedEx, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in sealed envelopes or packages designated by the express service carrier, addressed as indicated above on the above-mentioned date, with fees for overnight delivery paid or provided for.

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **February 16, 2017** at Los Angeles, California.

/s/ Martha Diaz

Martha Diaz