



## **MARIN COUNTY TRANSIT DISTRICT BOARD OF DIRECTORS**

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Webinar ID: 879 7268 3373

Wednesday, February 10, 2021

Until further notice the Marin County Transit District meetings will not be providing an in-person meeting location for the public to attend. Members of the Board of Directors and staff may participate in this meeting electronically or via teleconference. Members of the public are encouraged to participate remotely as described below.

### **How to watch the meeting:**

**Zoom:** To join Webinar visit <https://www.zoom.us/j/87972683373>

**Webinar ID:** 879 7268 3373

**Teleconference:** Members of the public wishing to participate via teleconference, can do so by dialing in to the following number at **3:30 P.M.**

**February 10, 2021: +1 669 900 6833; Access Code: 879 7268 3373.**

### **How to provide comment on agenda items:**

- To provide written public comment prior to or during the meeting, please email [info@marintransit.org](mailto:info@marintransit.org) (if intended to be read aloud as public comment, please state "Public Comment" in subject line). Please email your comments no later than **3:30 P.M. Wednesday, February 10, 2021** to facilitate timely distribution to the Board of Directors. Please include the agenda item number you are addressing and include your name and address. Your comments will be forwarded to the Board of Directors and will be placed into the public record.
- During the meeting (only): Use the comment form available at <https://www.marintransit.org/meetings> to submit your meeting-related comments on this agenda. Your comments will become part of the public record.
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## **MARIN COUNTY TRANSIT DISTRICT BOARD OF DIRECTORS**

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### **SPECIAL BOARD MEETING AGENDA**

Wednesday, February 10, 2021

#### **4:00 p.m. Convene as the Marin County Transit District Board of Directors**

1. Open Time for Public Expression (limited to three minutes speaker on items not on the Transit District's agenda)
2. Board of Directors' Matters

#### **Convene in Closed Session**

##### **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

**California Government Code section 54956.8.**

**Real Property Address: 3000 Kerner Blvd, San Rafael, CA**

**Agency Negotiators: Brian Case, Deputy County Counsel, Marin County; Deborah Miller, Partner, Shute, Mihaly and Weinberger; Nancy Whelan, General Manager, Marin Transit**

**Negotiating Party: Jason and Irene Strahm, co-trustees of the Jason R. Strahm and Irene W.P. Strahm Revocable Trust**

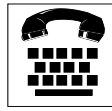
**Under Negotiation: Price and terms of payment**

#### **Report from Closed Session**

3. Purchase of Property at 3000 Kerner Blvd, San Rafael for \$3.25 million and associated activities  
**Recommended Action: Approve the purchase of property at 3000 Kerner Blvd, San Rafael for \$3.25 million and associated activities; authorize spending for due diligence, closing, and related costs; determine that the acquisition and use of the property is exempt from the California Environmental Quality Act (CEQA); and adopt two FY20-21 budget amendments in the amounts of \$3.9 million and \$1.1 million, respectively, each funded with the District's Capital Reserves.**

#### **Adjourn**





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**Late agenda material can be inspected in the office of Marin Transit, between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday. The office is located at 711 Grand Avenue, Suite 110, San Rafael, CA 94901.**

Todas las reuniones públicas de Marin Transit se llevan a cabo en lugares accesibles. Están disponibles copias de los documentos en formatos accesibles, a solicitud. Si usted requiere ayuda con la traducción, intérpretes de Lenguaje Americano de Señas, dispositivos de ayuda auditiva, u otras adaptaciones para participar en esta reunión, puede solicitarlas llamando al (415) 226-0855 (voz) o comunicarse con el Servicio California Relay marcando al 711 para conectarse al número de teléfono mencionado. **Las solicitudes deben recibirse a más tardar cinco días laborables antes de la reunión para ayudar a asegurar la disponibilidad.** Para obtener información adicional, visite nuestro sitio web en <http://www.marintransit.org>

**Material de agenda de última hora puede ser inspeccionado en la oficina de Marin Transit, entre las horas de 8:00 am y 5:00 pm. La oficina está ubicada en 711 Grand Avenue, Suite 110, San Rafael, CA 94901.**





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February 10, 2021

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: Approve the purchase of property at 3000 Kerner Blvd, San Rafael for \$3.25 million and associated activities; authorize spending for due diligence, closing, and related costs; determine that the acquisition and use of the property is exempt from the California Environmental Quality Act (CEQA); and adopt two FY20-21 budget amendments in the amounts of \$3.625 million and \$1.1 million, respectively, each funded with the District's Capital Reserves.**

Dear Board Members:

**RECOMMENDATION:** Approve a Purchase and Sale Agreement to acquire the property located at 3000 Kerner Blvd, San Rafael, California for \$3.25 million; approve execution of all documents and performance of all activities consistent with the terms of the Purchase and Sale Agreement, including delegation of authority to the General Manager to approve/accept information received during due diligence; authorize expenditures for due diligence, closing, and related costs not to exceed \$375,000; determine that the proposed acquisition and use of the site is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15301 (Class 1); and adopt two FY2020/21 budget amendments in the amounts of \$3.625 million (BA# 2021-06) and \$1.1 million (BA#2021-07), respectively, each funded with the District's Capital Reserves.

**SUMMARY:** The District currently owns a fleet of 100 buses and paratransit vehicles operated and maintained through contracts with four vendors. The operations and maintenance of the District's fleet has historically been performed through a county-wide network of several storage and maintenance facilities owned or leased by contractors. The District has identified the value of investing in permanent, District-controlled facilities to incentivize competition for service operations contracts, reduce cost uncertainty, and reduce or minimize overall operating cost growth. In 2015, your Board authorized the General Manager to identify and begin negotiating terms to purchase or lease of sites for maintenance and operations facilities.



In January 2020, the District acquired 600 Rush Landing in Novato primarily for use as a bus storage facility. The site is not optimal for maintenance purposes, however, so the District has continued searching for an appropriate maintenance site.

Following an extensive search, staff has identified the property located at 3000 Kerner Blvd, San Rafael, CA (APN 009-121-14 and 009-131-01) (the "Property") for a District-owned bus maintenance facility. Staff recommends that your Board approve the purchase of the Property pursuant to the attached Purchase and Sale Agreement for \$3.25 million, and approve the execution of all documents and performance of all activities consistent with the terms of the Purchase and Sale Agreement, including delegation of authority to the General Manager to approve/accept information received during due diligence. Staff recommends that your Board authorize expenditures for due diligence, closing, and related costs in an amount not to exceed \$375,000 for items such as appraisal, land surveying, and title insurance premium. Staff recommends that your Board determine that the proposed acquisition of this Property and continued use under the existing leases is exempt from CEQA under CEQA Guidelines section 15301 (Class 1). Staff recommends that your Board adopt two FY2020/21 budget amendments in the amounts of \$3.625 million and \$1.1 million, respectively, each funded with the District's Capital Reserves, to accomplish the acquisition and improvements to the site.

## **BACKGROUND:**

### **Purpose and Need for Property Acquisition**

The District currently owns a fleet of 100 buses and paratransit vehicles operated and maintained through contracts with four vendors. The operations and maintenance of the District's fleet has historically been performed through a county-wide network of several storage and maintenance facilities owned or leased by contractors. The District has been able to operate and expand services with these dispersed facilities, but the District has identified the value of investing in permanent facilities as the District transitions to hybrid electric and battery electric buses. Purchasing a facility has been a priority project for the District to incentivize competition for service operations contracts, reduce cost uncertainty, and reduce or minimize overall operating cost growth. District ownership of a facility will impact procurements and operations for the Local Fixed Route, Muir Woods Shuttle, West Marin Stagecoach, Community Shuttle, and paratransit operations. District owned facilities will enable the District to better plan for service growth and effectively deploy, maintain, and integrate new vehicle technologies.

In June 2015, your Board authorized the General Manager to identify and begin negotiating terms to purchase or lease sites for maintenance and operations facilities. In October 2016 your Board established goals and criteria for evaluating potential bus maintenance and operations facility sites. Attachment A, Initial Evaluation Criteria for Siting a Marin Transit Bus Maintenance and Operations Facility, describes these selection criteria. At a minimum, the site had to be at least 3 acres for a single site or combination of two sites, consistent with the local jurisdiction's General Plan, and the purchase and development needed to be financially feasible and cost effective. Other adopted criteria included:

1. Within Marin County to minimize deadhead or non-revenue service costs
2. Accessible to US 101
3. Compatible land use / good neighbor potential
4. Sufficient size and accessibility to maneuver and store buses
5. Primary egress and ingress routes to site are compatible with local circulation plan
6. Site readiness
7. Minimal vulnerability in case of a natural disaster



8. Title VI Equity Analysis
9. Preliminary Analysis of Potential Environmental Impacts on Site Surroundings

With the assistance of a commercial real estate broker, staff explored over fifty-five sites for a property that met both our fleet and facility needs as well as the selection criteria. Properties meeting the District's needs are quite limited.

In January 2020, the District acquired 600 Rush Landing in Novato primarily for use as a bus storage facility. As staff noted at the time of the acquisition, the site meets only a portion of the fleet parking needs, so the District has continued searching for additional parking and maintenance sites. The focus of the current search has been on an appropriate site for vehicle maintenance.

### **Description of the Property**

Following an extensive search, staff has identified the property located at 3000 Kerner Blvd, San Rafael, CA (APN 009-121-14 and 009-131-01) (the "Property") for a District-owned bus maintenance facility.

The Property is an about 0.31 acre site. The Property is bounded Kerner Boulevard to the west, a vacant tidal wetlands to the east, and privately owned property to the north and south. Attachment B is a site map. The Property is located within San Rafael's Light Industrial/Office (LI/O) zoning district and is similarly designated by San Rafael for light industrial/office use per General Plan 2020. Uses in the immediate vicinity of the Property include commercial and non-profit offices, a UPS sorting facility, and an industrial supply company.

The Property is improved with an approximately 10,000 square foot, one-story warehouse/office building built in 1978. Approximately 3,000 square feet is currently used as an office, while approximately 7,000 square feet is used as a warehouse. The warehouse portion has 3 roll-up doors. The site has limited parking for up to four paratransit vans and 15 automobiles.

The Property is owned by John R Strahm and Irene W.P. Strahm Revocable Living Trust. The seller currently leases the property to a commercial printing business under a month-to-month lease. In December 2020, the seller listed the property on the market for lease and was soliciting a new tenant/lessee at the time the District made its offer to purchase the Property.

### **The District's Planned Use**

The District anticipates acquiring the Property and using it in its existing, improved condition for vehicle maintenance activities, including automatic brake adjustment verification; inspection of safety components; inspection of other systems and components; lubrication; replacement of brake pads, pack wheel bearings, and similar; transmission service; and bus washing and interior cleaning. The building may also be used for maintenance administration, parts inventory, paratransit scheduling and dispatch, travel navigator offices, and employee breakroom. The site is not anticipated to be used for major vehicle repairs (such as transmission replacements, component rebuilds, paint and body work, or upholstery work); fueling; or bus parking/storage.

No significant improvements are anticipated to be required at the site. Planned improvements are intended to enhance the property's functionality and safety. Interior improvements may include improved accessibility, removal of drop ceilings, installation of vehicle lifts, safety enhancements, and minor electrical alterations. Planned exterior modifications may include safety lighting, perimeter fencing, and front gate. Other potential improvements may include



installation of additional roll-up doors to enhance access options, and a landscape irrigation system.

Operating and maintenance costs will be verified during the due diligence period. District staff will evaluate options for managing the property including hiring a management company, using currently contracted suppliers, or using existing staff.

The acquisition of this Property, when combined with the previously acquired 600 Rush Landing site, fulfills much of the Board's evaluation criteria. Acquiring the Property is expected to attract new bids for contract operations, and allow for more competition in service procurements making it valuable to the District's operations.

### **Key Terms and Conditions of Acquisition**

Staff has negotiated with the property owner on a voluntary basis to acquire an unencumbered fee simple interest in the Property. The negotiated form of Purchase and Sale Agreement is attached as Attachment C. The seller has executed the agreement. Some of the key terms and conditions of the acquisition include:

**Price:** The purchase price is \$3.25 million. The District will complete an appraisal during the due diligence period to confirm the appropriateness of the negotiated price.

**Occupancy:** As described above, the Property is currently leased on a month-to-month basis. The seller was actively seeking a new tenant at the time the District made its offer to purchase. At the close of the due diligence period, the seller/landlord will exercise its right to give the tenant a notice of termination. The District will acquire an unencumbered interest in the Property and the Property will be vacant at closing.

**As-Is Purchase; Release of Claims:** The District would acquire the property in its "as-is" condition and generally release seller from claims related to the condition of the Property. During the due diligence period, staff intends to, among other things, engage a consultant to perform a "Phase I" environmental assessment and, if warranted, further investigations.

**Due Diligence Period:** The District would have a 60-day period to conduct and complete a due diligence review, including such matters as title condition; lease status; appraisal; physical, structural, and environmental condition; land use, zoning, and entitlement status; and suitability of the Property for the District's intended purpose. Should the District identify material concerns with the Property, it may terminate the Agreement and receive a refund of its deposit during this due diligence period. Staff recommends authorizing the General Manager to approve/accept information received during due diligence and proceed with the closing of the purchase of the Property in the event that she determines in her reasonable discretion that such information does not materially affect the District's interests, is consistent with the District's expectations under the Purchase and Sale Agreement, and/or is otherwise commercially reasonable to accept.

**Title Matters:** The District has received a preliminary title report for the Property indicating a limited number of items/exceptions pertaining to the Property. Staff is not aware that any of the items will materially effect the value or use of the Property for the District's intended purpose, but that assessment is subject to confirmation during the due diligence period. Staff intends to retain a surveyor to assist in this process.



**Deposit:** The District would make an initial \$100,000 deposit upon opening escrow and an additional \$150,000 deposit at the end of the due diligence period (\$250,000 total), which would be applied toward the purchase price at closing. If the District terminates the agreement during the due diligence period, the full amount of the deposit would be refunded to the District. After the close of the due diligence period, the deposit would only be refunded to the District in limited circumstances (such as breach by the seller).

**Schedule:** If your Board approves a Purchase and Sale Agreement to acquire the Property, escrow would open and the 60-day due diligence period would begin promptly. The closing would occur on the earlier of 95 days or 5 days after the tenant has vacated (but not before completion of due diligence). Staff expects closing to occur by no later than July 15, 2021.

### **Other Matters for Consideration**

**San Rafael Report on Conformity with General Plan:** California Government Code Section 65402(c) requires that whenever a governmental entity intends to acquire property within the jurisdiction of another city, the local planning agency of that city must have an opportunity to report on whether the location, purpose, and extent of the proposed acquisition conforms with city's adopted general plan. District staff requested a report from the City of San Rafael regarding the conformity of the District's proposed acquisition of the Property with San Rafael's general plan. On February 5, 2021 the San Rafael Community Development Director issued a letter reporting to the District that the acquisition and use is consistent with the San Rafael General Plan 2020.

**Title VI Equity Analysis:** The District is required to conduct a Title VI equity analysis to ensure the location identified for purchase is selected without regard to race, color, or national origin. No engine or bodywork will be performed at the site.

After considering all potential Title VI-related impacts, staff determined that there are no equity impacts associated with acquisition of the Property. The District's purchase of the Property will not change the intensity of use of the Property and will be consistent with the existing light industrial and commercial activities on site, and those same uses at adjacent properties.

An inspection of the Property disclosed that the site is on the east side of Kerner Blvd. To the west of Kerner Blvd. is E. Francisco Blvd, a freeway frontage road immediately adjacent to and parallel with Highway 101. The east side of the Property consists of vacant land/wetlands. The developed properties in this area are primarily used for light industrial operations. The proposed purchase will not disrupt any community activities or community uses such as community centers, parks, and churches. There are no residences located within a half mile from the Property on either side of Kerner Blvd, and there are no visual or noise impacts to residential properties. No displacement of residential or commercial properties is required.

The property immediately to the south at 2980 Kerner Blvd was formerly used for manufacturing and industrial equipment and supplies and a portion of the building is currently rented to Silk Road Teas. A Ross Valley Sanitary District facility is located on the other side of that building, at 2960 Kerner Blvd. Immediately to the north is an animal protection organization at 3010 Kerner Blvd. The building at 3020 Kerner houses an insurance agency and Integrated Community Services (ICS). ICS is a non-profit organization for people with disabilities to assist with careers, housing and life skills. A youth gymnastics academy is located to further north at 3030 Kerner Blvd. Immediately across from the Property there is a major UPS shipping and distribution facility at 2985 Kerner Blvd. Other nearby uses include an electrical supply store, car rental,



auto repair, bathroom supply, signage shop, U-Haul, fast food businesses, and warehouses. The Property is accessed directly via Kerner Blvd from the north and south.

While not currently anticipated, should the District propose a change in use in the future, the District will conduct all appropriate public noticing, outreach, and Title VI analysis.

*No Displacement; Relocation Benefits:* Staff has determined that because the District is acquiring the Property through a voluntary sale, and because the tenant occupies on a month-to-month basis and the seller was actively soliciting a new tenant for the site at the time the District made its offer to purchase, the seller and tenant will not be displaced persons in connection with the proposed purchase of the Property and, as such, will not be eligible for relocation assistance under state law.

### **Environmental Review**

Based on a review of the facts and circumstances of the Property and this transaction, staff determined that the acquisition and use of the Property is exempt from CEQA pursuant to 14 Cal. Code Regs. ("CEQA Guidelines") section 15301 (Class 1). Section 15301 exempts projects that "consist[] of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use beyond that existing at the time of lead agencies determination." Here, as described above, the District has no plans to materially alter the Property, and the District plans to continue the existing light industrial use of the Property with minor alterations to the interior and exterior. Under certain circumstances outlined in CEQA Guidelines section 15300.2, a project that otherwise qualifies for an exemption will not be exempt from CEQA. None of the circumstances outlined in CEQA Guidelines section 15300.2 apply to District's proposed acquisition and use of the Property.

### **FISCAL/STAFFING IMPACT:**

These board actions approve the expenditure of \$3.25 million for the purchase of the Property and \$375,000 for expenditures related to the acquisition such as due diligence, closing, and related costs (e.g., building inspection, title insurance premium, escrow and recording fees).

To accomplish the acquisition and in anticipation of the planned improvements to the site, staff recommend that the Board adopt two FY20-21 budget amendments:

- 2021-06 would add project Maintenance Facility Purchase (FA) with budget of \$3.625 million funded with the District's Capital Reserves.
- 2021-07 would add project Maintenance Facility Improvements (FD) with a budget of \$1.1 million funded with the District's Capital Reserves.

The District currently has a Capital Reserve of \$15.2 million funded with unspent prior year property tax funding. Adoption of budget amendments 2021-06 and 2021-07 program the expenditure of \$4.725 million of the District reserves. Based on current year estimated actuals, the District may have approximately \$1.0 million in current year property tax funds and Measure AA capital funds that can be transferred to these projects and reduce the expenditure of reserves.



Respectfully submitted,

Nancy Whelan  
General Manager

ATTACHMENTS:      Attachment A - Initial Evaluation Criteria for Siting a Marin Transit Bus  
Maintenance and Operations Facility

Attachment B - Site Map

Attachment C - Purchase and Sale Agreement



## Threshold Criteria

These requirements must be met. If they are not met, the site will be rejected.

A	Minimum size for a single site or combination of two sites shall be at least 3 acres.	✓ Combined with property at Rush Landing (and other sites)
B	Land use shall be consistent with the General Plan.	✓
C	Purchase and development of the site shall be financially feasible and cost effective.	✓

## Selection Criteria

1	Minimize deadhead or non-revenue service costs	<div>  Peak period travel time to San Rafael Transit Center (SRTC) less than 12 minutes and within 4 miles </div> <div>  Peak period travel time to SRTC between less than 25 minutes and within 8 miles </div> <div>  Peak period travel time to SRTC less than 40 minutes and within 12 miles </div> <div>  Peak period travel time to SRTC more than 40 minutes or 12 miles </div>	
2	Accessible to US 101	<div>  Within 1 minute from a US 101 on ramp </div> <div>  Within 5 minutes from a US 101 on ramp </div> <div>  Within 10 minutes from a US 101 on ramp </div> <div>  10+ minutes from a US 101 on ramp </div>	
3	Compatible land use / good neighbor potential	<div>  Current zoning and use is same or similar to proposed bus maintenance and storage facility use </div> <div>  Zoning is consistent with a bus maintenance and storage facility, or the site is eligible for a conditional use permit </div>	
4	Sufficient size and accessibility to maneuver and store buses	<div>  Accommodates 75 bus and shuttle vehicles </div> <div>  Accommodates 45 - 75 bus and shuttle vehicles </div> <div>  Accommodates 30-45 bus and shuttle vehicles </div> <div>  Accommodates less than 30 bus and shuttle vehicles </div>	 Site is maneuverable & accommodates maintenance functions
5	Primary egress and ingress routes to site are compatible with local circulation plan	<div>  Primary access route is adjacent to or on frontage road of highway </div> <div>  Primary access route is on arterial </div> <div>  Primary access route is on local collector </div>	
6	Site Readiness	<div>  Developable within three years </div> <div>  Developable within five years </div> <div>  Developable within ten years </div> <div> <b>+1</b> * Extra point if site is partially available within 2 years </div>	 <b>+1</b>
7	Minimal vulnerability in case of a natural disaster	<div>  Multiple bus and shuttle vehicle access opportunities </div> <div>  Adequate vehicle access opportunities </div> <div>  Single point of vehicle access </div>	



# Site Map: 3000 Kerner Blvd





## CONFIDENTIAL REAL ESTATE NEGOTIATION

**PURCHASE AND SALE AGREEMENT  
(3000 Kerner Blvd, San Rafael, CA)**

This Purchase and Sale Agreement (“**Agreement**”), dated as of \_\_\_\_\_, 2021 (the “**Effective Date**”), is by and between the Jason R. Strahm and Irene W.P. Strahm Revocable Trust, dated March 3, 1993 (“**Seller**”), and Marin County Transit District, a transit district formed pursuant to California Public Utilities Code Sections 70000 et seq. (“**Buyer**”). Seller and Buyer may be individually referred to herein as a “**Party**” and collectively referred to herein as “**Parties**.”

**RECITALS**

A. Buyer is a transit district whose purpose is to develop, finance, organize, and provide local Marin County transit service in a manner consistent with an overall San Francisco Bay Area regional transit system. Buyer currently operates local fixed route, paratransit, and mobility management services under contracts with service providers. Buyer typically provides these contractors with the vehicles needed to operate the service and relies on the contractors to provide their own maintenance facilities. The existing contractor maintenance facilities are dispersed throughout the county. Buyer is interested in purchasing its own maintenance facility and consolidating maintenance of a portion of the existing fleet at that facility to increase competition for contracted services by expanding future procurement opportunities to include bidders who do not have access to maintenance facilities within the county, reduce long term risk, improve efficiency, and reduce operating costs.

B. Seller is the owner of certain real property commonly known as 3000 Kerner Blvd., San Rafael, California, and more particularly described on Exhibit A attached to and incorporated into this Agreement.

C. MCTD represents to Seller that no specific site or property needs to be acquired, the property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits, and MCTD will not acquire the property if negotiations fail to result in an amicable agreement; MCTD has informed Seller in writing of what MCTD believes to be the market value of the property.

NOW, THEREFORE, in consideration of the foregoing, the Parties agree as follows:

**1. Purchase and Sale Terms.**

a. **Property Included in Sale.** Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase from Seller, subject to the terms, covenants and conditions hereinafter set forth, the following: (i) the real property commonly known as 3000 Kerner Blvd, San Rafael, CA, identified as Assessor Parcel Numbers 009-121-14 and 009-131-01, which is described in detail on Exhibit A attached hereto and incorporated herein by this reference (the “**Real Property**”); (ii) the one- (1-) story building located on the Real Property; (iii) any and all other improvements, structures, and fixtures to the Real Property, and all apparatus, equipment, and appliances used in connection with the operation or occupancy of the real property and its improvements (subsections (ii) and (iii) collectively, the “**Improvements**”); (iv) any and all rights, privileges, and easements



## CONFIDENTIAL REAL ESTATE NEGOTIATION

incidental or appurtenant to the Real Property or the Improvements, if any, and only to the extent legally transferable, and any and all other development rights, air rights, water, water rights, riparian rights, and water stock relating to the Real Property and owned by Seller, and any and all easements, rights-of-way, or other appurtenances used in connection with the beneficial use and enjoyment of the Real Property or the Improvements, and any and all of Seller's right, title, and interest in and to all roads and alleys adjoining or servicing the Real Property; and (v) any and all intangible personal property now or hereafter owned by Seller and used exclusively in the ownership, use, and operation of the real property and its improvements, including warranties (including roof warranties) and guaranties, any contracts, utility contracts, or other rights relating to the ownership, use, and operation of the real property and its improvements, to the extent assignable without cost to Seller and accepted by Buyer. All of the items referred to in subsections (i) through (v) above are collectively referred to herein as the **"Property."**

**b. Purchase Price.** Seller shall sell the Property to Buyer, and Buyer shall buy the Property from Seller, for Three Million Two Hundred Fifty Thousand and No/100 Dollars (\$3,250,000) (the **"Purchase Price"**) in cash, which Purchase Price shall be paid in full at the Closing (defined below).

**2. Conditions to Closing.** The Parties' respective obligations to close escrow (the **"Closing"**) on the sale of the Property shall be conditioned upon all of the following:

**a. Buyer's Conditions.** Buyer's obligation to purchase the Property is conditioned upon the approval or Buyer's written waiver on or prior to the Closing Date (as defined in Section 4(b)) (or such earlier date as specified) of the following conditions:

**1.** Buyer shall have sixty (60) calendar days after the Effective Date (the **"Review Period"** with the last day of such period being the **"Review Deadline"**) to (a) obtain the final and complete Buyer's Board of Director's approval to this Agreement and (b) conduct any and all inspections, approvals, verifications, or other requirements Buyer deems necessary and appropriate for the completion of Buyer's due diligence review of the transaction covered by this Agreement, all to Buyer's satisfaction in its sole discretion, including, but not limited to, review and approval of the following: (i) the title condition of the Property; (ii) the lease, license, and occupancy status of the Property; (iii) appraisal of the Property; (iv) the physical, structural, and environmental condition of the Property; (v) the land use, zoning, and entitlement status of the Property; (vi) the Property's compliance with all applicable laws, regulations, permits, and approvals; (vii) compliance with the California Environmental Quality Act; (viii) compliance with California Government Code Sections 7260, et seq.; and (ix) compliance with California Government Code Section 65402.

Prior to making any inspections, Buyer shall provide to Seller a certificate of insurance(s) evidencing Buyer's and any Buyer's agents', employees', attorneys', consultants' and/or contractors' (collectively, **"Buyer's Agents"**) procurement of a commercial general liability insurance and property damage insurance policy against any liability arising out of such inspections. Such insurance shall be in the amount of One Million Dollars (\$1,000,000) combined single limit for injury to or death of one or more persons per occurrence, and for damage to tangible property (including loss of use) per occurrence. The policy maintained by Buyer shall name the Seller as



## CONFIDENTIAL REAL ESTATE NEGOTIATION

additional insured, contain a cross-liability provision, and contain a provision that such insurance shall be primary and non-contributing with any other insurance available to Seller. Buyer shall not be permitted to undertake a "Phase II" environmental assessment without first obtaining Seller's written consent. Prior to entering the Property (and on each and every occasion), Buyer shall (a) deliver to Seller prior written notice, (b) afford Seller a reasonable opportunity to have a representative of Seller present while Buyer performs its inspections, and (c) provide the identity of the party(s) who will perform the inspections and the proposed scope of such inspections. Buyer shall promptly deliver to Seller a true and complete copy of any reports relating to its inspections, except to the extent protected from disclosure by law. If there is any damage to the Property caused by Buyer's and/or Buyer's Agents' entry in or on the Property under this Section, Buyer shall immediately restore the Property to the same condition existing prior to such entry.

Buyer and Seller agree that, during the Review Period and prior to the Review Deadline: (1) Buyer shall have the opportunity to study all aspects or circumstances of the Property, and make all inspections and verifications that Buyer deems material or relevant; (2) Seller shall provide all documents and materials in Seller's possession that Buyer reasonably requests in writing and as Buyer determines are material or relevant with the respect to the Property (the "**Seller's Reports**"); (3) Seller shall cause to be delivered to Buyer a fully-executed estoppel certificate for each current tenant, licensee, or occupant of the Property ("**Tenant**") on the AIR Commercial Real Estate Form as required by Tenant's lease (the "**Tenant Estoppel Certificate**") and, to facilitate same, within (3) calendar days after the Effective Date, Seller shall make a written request that each current tenant, licensee, or occupant execute, acknowledge, and deliver the Tenant Estoppel Certificate; and (4) on or before that date which is seven (7) business days following the Effective Date, Seller shall deliver to Buyer a Natural Hazard Disclosure Statement as and to the extent prescribed by California law.

2. As of the Closing Date, Seller shall not be in material default of its obligations under this Agreement.

3. As of the Closing Date, each document required to be delivered by Seller pursuant to this Agreement shall have been timely delivered.

4. All of Seller's representations and warranties shall be true and correct in all material respects when made and shall be true and correct in all materials respects as of the Closing Date.

5. The condition of the Property (including, but not limited to, physical, title, legal) on the Closing Date shall be substantially the same as on the date of Buyer's execution of this Agreement, except for reasonable wear and tear, and any loss accepted by Buyer in the manner provided in Section 11. There shall no personal property or equipment on the Property, except in accordance with Section 1(a).

6. On the Closing Date, there shall be no action, suit, litigation, arbitration, or administrative agency or other governmental proceeding, pending or threatened in writing, which after the Closing Date may materially adversely affect the value of the Property or the ability of Buyer to operate the Property for its intended use, and no proceedings shall be pending or



## CONFIDENTIAL REAL ESTATE NEGOTIATION

threatened in writing which could or would cause the change, re-designation, or other modification of the zoning classification of, or of any building or environmental code requirements applicable to, the Property.

7. As of the Closing Date, the Title Company (as defined in Section 4(a)) shall be committed to issue to Buyer the Title Policy (as defined in Section 8). Except for monetary liens, Seller shall not be obligated to remove any title exceptions set forth in the Preliminary Title Report.

The conditions precedent to the close of escrow described in subsections (1) through (7) above are "**Buyer's Closing Conditions**" and are solely for the benefit of Buyer.

If, by the applicable date provided for each Buyer's Closing Condition, any such condition precedent is not satisfied, Buyer shall have the right, in its sole discretion, to either (i) waive the condition by written notice to Seller, in which event the Parties shall close on and consummate the transaction contemplated herein, or (ii) terminate this Agreement by written notice to Seller, in which event the Parties shall have no further obligation to each other under this Agreement except that Buyer shall promptly be refunded the Deposit (as defined in Section 6(a)). If Buyer elects to terminate this Agreement in its sole discretion within the Review Period by delivering written notice to Seller prior to the Review Deadline, the Deposit shall be returned to Buyer and neither Buyer nor Seller shall have any further liability or obligation to each other.

b. **Seller's Conditions.** Seller's obligation to sell the Property is conditioned upon the approval or Seller's written waiver on or prior to the Closing Date of the following conditions:

1. On or before the business day prior to the Closing, Buyer shall deliver to Escrow Holder (for payment to Seller), in immediately available funds, the balance of the Purchase Price remaining after deduction for the Deposit plus costs and prorations required to be paid by Buyer hereunder.

2. As of the Closing Date, Buyer shall not be in material default of its obligations under this Agreement.

3. As of the Closing Date, each document required to be delivered by Buyer pursuant to this Agreement shall have been timely delivered.

4. All of Buyer's representations and warranties shall be true and correct in all material respects when made and shall be true and correct in all material respects as of the Closing Date.

The conditions precedent to the close of escrow described in subsections (1) through (4) above are "**Seller's Closing Conditions**" and are solely for the benefit of Seller.

If, by the applicable date provided for each Seller's Closing Condition, any such condition precedent is not satisfied, Seller shall have the right, in its sole discretion, to either (i) waive the condition by written notice to Buyer, in which event the Parties shall close on and consummate



## CONFIDENTIAL REAL ESTATE NEGOTIATION

the transaction contemplated herein, or (ii) terminate this Agreement by written notice to Buyer, in which event the Parties shall have no further obligation to each other under this Agreement.

### 3. Condition of the Property.

a. Buyer acknowledges and agrees that, except as otherwise expressly set forth in this Agreement, Seller makes no representations or warranties as to the physical condition of the Property, or in connection with any matter relating to its condition, value, fitness, use, or zoning on which Buyer has relied directly or indirectly. Buyer further acknowledges and agrees that, except as otherwise expressly set forth in this Agreement, Seller's cooperation with Buyer in connection with Buyer's due diligence review of the Property, whether by providing the Seller's Reports or any other documents, or permitting inspection of the Property, shall not be construed as any warranty or representation, express, implied, or statutory, of any kind with respect to the condition of the Property or the completeness or accuracy of any documents delivered by Seller to Buyer.

b. Buyer acknowledges and agrees that, except as otherwise expressly set forth in this Agreement, the sale of the Property is and will be made on an "as is" basis and that neither Seller, nor any representative, agent, or employee of Seller has made, or will make, any representations, warranties, or guaranties of any kind or character whatsoever with respect to the Property.

Buyer hereby acknowledges that it has read and is familiar with the provisions of California Civil Code Section 1542, which is set forth below:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

By initialing below, Buyer hereby waives the provisions of Section 1542 solely in connection with the matters that are the subject of the foregoing waivers and releases:

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

The waivers and releases by Buyer herein contained shall not apply to any breach of Seller's representations or warranties under Section 9, or a Seller Default (as defined in Section 14(b)).

c. Notwithstanding Sections 3(a) and 3(b) above, Seller acknowledges that during its ownership of the Property prior to the Closing Date: (i) Seller shall be solely responsible for any and all maintenance and security for the Property, including its improvements; and (ii) Seller shall maintain and secure the Property in a responsible manner that preserves the condition and value of the Property.



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### 4. Escrow.

a. No later than three (3) business days after the Effective Date, Buyer shall open escrow with Old Republic Title Company, located at 1400A Grant Avenue, Novato, CA 94945, Attn: Diana McInnis, Telephone: (415) 897-9632, email: dmcinnis@ortc.com (the "**Escrow Holder**" and "**Title Company**") for the purpose of closing the sale of the Property by depositing with Escrow Holder one (1) original of this Agreement duly executed and dated by the Parties.

b. The Closing shall occur on the date which is the earlier of (i) ninety five (95) calendar days after the Review Deadline or (ii) five (5) business days after the Tenant has vacated the Property but which date shall not occur before the Review Deadline (such earlier date, the "**Closing Date**"), unless the parties agree to another date in writing. Escrow Holder shall close escrow on the Closing Date by recording a Grant Deed (as defined in Section 7) and any other documents required to be recorded, and by disbursing the funds and documents in accordance with this Agreement.

c. On the Review Deadline, Seller intends to serve on the Tenant a notice to vacate the Property no later than ninety (90) calendar days after the Review Deadline ("**Notice to Vacate**"). As described in Section 7 below, on the Closing Date, Seller is required to convey to Buyer fee simple title to the Property free and clear of encumbrances, including tenancies and/or leasehold interests.

### 5. Documents and Items.

a. **Seller's Documents and Items.** At least one (1) business day prior to the Closing Date, Seller shall deposit with Escrow Holder the items set forth in (i), (ii), (iii), and (iv), below, and on the day of Close of Escrow Seller shall deposit with Escrow Holder or deliver to Buyer the items set forth in (v), below:

(i) one (1) original, duly executed, acknowledged, and dated Grant Deed in the form hereto attached as Exhibit B;

(ii) one (1) original, duly executed and dated affidavit from Seller which satisfies the requirements of Section 1445 of the Internal Revenue Code, as amended;

(iii) one (1) original, duly executed and dated California Form 593-C;

(iv) such other instruments and documents as may be reasonably required by Escrow Holder/Title Company to transfer the Property and issue the Title Policy to Buyer, including an owner's affidavit; and

(v) one working set of keys and/or access codes to all locks on the Property, including mail boxes, gates, alarms, and garage doors, and garage door remote controls, if any.

b. **Buyer's Documents and Items.** At least one (1) business day prior to the Closing Date, Buyer shall deposit with Escrow Holder the following:



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- (i) one (1) original, duly executed and dated acceptance of the Grant Deed;
- (ii) one (1) original, duly executed and dated Preliminary Change of Ownership Report;
- (iii) the Purchase Price and any funds in excess of the Purchase Price owed by Buyer as described in Section 6; and
- (iv) such other instruments and documents as may be reasonably required by Escrow Holder/Title Company to transfer the Property.

### 6. Funds.

a. No later than three (3) business days after the Effective Date, Buyer shall deposit with Escrow Holder the sum of One Hundred Thousand and No/100 Dollars (\$100,000) (the "**Deposit**"). No later than three (3) business days after the Review Deadline, Buyer shall deposit with Escrow Holder the additional sum of One Hundred Fifty Thousand and No/100 Dollars (\$150,000) ("**Additional Deposit**"). The Additional Deposit shall be deemed part of the Deposit for all purposes under this Agreement. If Buyer fails to make the Additional Deposit as provided in this paragraph, this Agreement shall terminate, the Deposit shall be returned to Buyer, and the parties shall have no further obligation to one another except as to obligations which expressly survive the Closing or earlier termination of this Agreement. The Deposit shall thereupon be nonrefundable except as otherwise set forth in this Agreement. At least one (1) business day prior to the Closing Date, Buyer shall deposit with Escrow Holder the sum of Three Million and No/100 Dollars (\$3,000,000), which when combined with the Deposit is the amount of the Purchase Price.

b. Escrow Holder shall deposit funds deposited with it by Buyer in a State or Federally chartered bank in an interest bearing account. The interest on the Deposit shall accrue to the benefit of the party who is paid the Deposit in accordance with the terms of this Agreement.

c. At the Closing, Buyer shall pay Seller the full amount of the Purchase Price, plus or minus additional sums as may be credited/debited to Buyer as follows:

i. Amounts payable under any contracts assumed pursuant hereto, annual or periodic permit or inspection fees (prorated on the basis of the period covered), and liability for other normal Property operation and maintenance expenses and other recurring costs with respect to the Property shall be apportioned as of 12:01 a.m. on the Closing Date, so that Seller bears all expenses with respect to the Property and has the benefit of all income with respect to the Property, including, but not limited to, rents and common area maintenance charges, through and including the date immediately preceding the Closing Date. Uncollected income shall not be prorated at the Closing.

ii. All real and personal property taxes based on the most recent property tax bills available for the Property shall be prorated as of the Closing Date. Any tax bills received by



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Buyer after the Closing relating to a period prior to the Closing shall be prorated between the Parties as if said tax bills had been available as of the Closing.

iii. Seller shall pay at the Closing: (1) the cost to reconvey any financing on the Property; (2) any applicable escrow fee attributable to the processing of any documents that may be necessary for Seller to convey Property; and (3) the Brokerage Commission (as defined in Section 15).

iv. Buyer shall pay at the Closing: (1) transfer tax, if any; (2) the escrow fee; (3) recording fees for the Grant Deed, if any; and (4) the premium for the Title Policy and any endorsement thereto, including the cost of any survey which may be required.

v. Other fees and charges not expressly addressed herein will be allocated according to custom of the county in which the Property is located.

vi. Each Party shall pay its own attorneys' fees and other expenses incurred by it in connection with the Closing.

d. All payments made by any Party hereto shall be in legal tender of the United States of America paid in cash or be wire transfer of immediately available funds to the Escrow Holder.

7. **Title.** At the Closing, Seller shall convey to Buyer by duly executed and acknowledged grant deed (the "**Grant Deed**"), fee simple title to the Property, free and clear of all monetary liens and encumbrances, except those matters approved by Buyer in writing prior to the expiration of the Review Deadline, which Grant Deed shall be recorded in the Official Records of Marin County, California on the Closing Date. Except for removal of monetary liens, Seller shall have no obligation to remove exceptions to title that may appear on the Preliminary Title Report.

8. **Title Insurance.** Delivery of title shall be evidenced by commitment of Title Company to provide an ALTA extended coverage owner's policy of title insurance, issued by Title Company in the amount of the Purchase Price, insuring that fee simple title to the Property is vested in Buyer upon the close of escrow, subject only to those matters approved by Buyer in writing prior to the expiration of the Review Deadline (the "**Title Policy**").

9. **Seller's Representations.** Seller represents and warrants to Buyer that: (a) Seller owns and has the power to convey the Property to Buyer; (b) at the Closing, the Property will be unoccupied and no person other than Seller will be in possession of the Property or have claim to possession of the Property; (c) Seller has no actual knowledge of any unrecorded agreements affecting the Property after the Closing Date; (d) Seller has full power and authority to execute and deliver this Agreement and to consummate the transactions provided herein; (e) this Agreement and all documents executed by Seller hereunder are duly authorized, executed and delivered by Seller; (f) this Agreement and all documents executed by Seller hereunder, constitute legal, valid, and binding obligations of Seller, and neither this Agreement nor anything provided to be done under this Agreement violates or shall violate any contract, document, understanding, agreement, judicial order, or instrument to which Seller is a party or to which it is bound; (g) to Seller's actual knowledge, there is no action, suit, litigation, arbitration, or administrative agency



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or other governmental proceeding, pending or threatened in writing, which affects the Property (including any bankruptcy, insolvency, or probate proceedings involving Seller or Seller's assets) or the ability of Buyer to operate the Property for its intended use; (h) to Seller's actual knowledge, there are no violations of any law, order, ordinance, or regulation affecting the Property; (i) to Seller's actual knowledge, there is no pending or threatened condemnation of all or part of the Property; (j) Seller has not received any written notice or any written warning of any violation, administrative complaint, judicial complaint, or other formal or informal written notice alleging that conditions on the Property are or have been in violation of any Environmental Law or informing Seller that the Property is subject to investigation or inquiry regarding Hazardous Materials on the Property or the potential violation of any Environmental Law; (k) Seller has not received any written notice or any written warning of any violation of any federal, state, or local law, ordinance, or regulation relating to industrial hygiene or to the environmental conditions on, under, or about the Property, including but not limited to soils and groundwater conditions; (l) to Seller's actual knowledge, no party has used or installed any underground tank on, under, or about the Property; (m) to Seller's actual knowledge, Seller is not in default under any lease, license, or occupancy agreement relating to the Property, and no event has occurred that, with the passage of time or the giving of notice, or both, would constitute a default by Seller under any such document, and Seller has no claim of default or offset or defense against the payment of any amounts required to be paid by Seller under any such document, and has no claim against any tenant, licensee, or occupant under any such document; and (n) to Seller's actual knowledge, there is no default by any tenant, licensee, or occupant under any lease, license or occupancy agreement relating to the Property and no event has occurred that, with the passage of time or the giving of notice, or both, would constitute a default by any tenant, licensee, or occupant under such document.

**10. Buyer's Representations.** Buyer represents and warrants to Seller that: (a) Buyer has full power and authority to execute and deliver this Agreement and, subject to approval of Buyer's Board of Directors, to consummate the transactions provided herein; (b) this Agreement and all documents executed by Buyer hereunder are duly authorized, executed and delivered by Buyer; (c) this Agreement and all documents executed by Buyer hereunder, constitute legal, valid, and binding obligations of Buyer, and neither this Agreement nor anything provided to be done under this Agreement violates or shall violate any contract, document, understanding, agreement, judicial order, or instrument to which Buyer is a party or to which it is bound; (d) Buyer is not presently the subject of a bankruptcy, insolvency or probate proceedings and Buyer neither anticipates nor intends to file or cause to be filed any bankruptcy or insolvency proceeding involving Buyer or Buyer's assets during the pendency of this Agreement; (e) Buyer is a sophisticated investor with substantial experience in investing in assets of the same type as the Property and has such knowledge and experience in financial and business matters that Buyer is capable of evaluating the merits and risks of an investment in the Property; (f) Buyer is represented by competent counsel; and (g) Buyer shall furnish all of the funds for the purchase of the Property (other than funds supplied by institutional lenders which will hold valid mortgage liens against the Property) and such funds will not be from sources of funds or properties derived from any unlawful activity.

**11. Risk of Loss.** All risk of loss shall remain with Seller until Close of Escrow. In the event that the Property or any material portion thereof is destroyed or damaged after the Effective Date and prior to the Close of Escrow or in the event of condemnation or taking or threatened condemnation or taking, Buyer or Seller may, at their option, elect to terminate this Agreement by



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written notice to the other Party, so long as such termination notice is received by the Party not giving such notice within ten (10) calendar days following written notice of such damage or condemnation, taking or threat thereof, in which event the Parties shall have no further obligation to each other under this Agreement except for those provisions that expressly survive termination. In the event of such termination, Buyer shall promptly be refunded the Deposit.

**12. Notices.** All notices pertaining to this Agreement shall be in writing delivered to the Parties either (a) personally by hand, courier service, or overnight delivery, in which case notice shall be deemed given when delivered, or (b) by first class mail, postage prepaid, at the addresses specified below, in which case notice shall be deemed given three (3) days following deposit. Telephone numbers are included for information only. The Parties shall endeavor to provide a courtesy copy of any such notice by electronic mail, but such delivery shall not constitute notice. The Parties may, by notice as provided above, designate a different address to which notice shall be given.

### SELLER:

Jason Strahm  
544 Bret Harte Rd  
San Rafael, CA 94901  
Tel: (415) 577-5409  
Email: jstrhm@gmail.com

### BUYER:

Marin County Transit District  
711 Grand Ave, Suite 110  
San Rafael, CA 94901  
Attn: Nancy Whelan, General Manager  
Tel: (415) 226-0855  
Email: nwhelan@marintransit.org

Copies of any notice to Seller shall also be sent to:

Marin County  
County Counsel Office  
3501 Civic Center Drive  
San Rafael CA 94903  
Attn: Brian Case, Deputy County Counsel  
Tel: (415) 499-6117  
Email: BCase@marincounty.org

**13. Attorneys' Fees.** If any legal action is brought by either Party to enforce any provision of this Agreement, or in the event of the termination of this Agreement, each Party shall bear its own costs and expenses, including attorneys' fees.

### 14. Default; Remedies.

a. In the event Buyer defaults in the performance of any of Buyer's obligations under this Agreement (each a "**Buyer Default**"), and Buyer fails to cure such Buyer Default within the time periods set forth in Section 14(c) below, Seller's sole and exclusive remedy shall be as follows: IF BUYER FAILS TO PURCHASE THE PROPERTY BY REASON OF A BUYER DEFAULT, SELLER SHALL BE RELEASED FROM ITS OBLIGATION TO SELL THE PROPERTY TO BUYER. BUYER AND SELLER HEREBY ACKNOWLEDGE AND AGREE THAT IT WOULD BE IMPRACTICAL AND/OR EXTREMELY DIFFICULT TO FIX OR



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ESTABLISH THE ACTUAL DAMAGE SUSTAINED BY SELLER AS A RESULT OF SUCH BUYER DEFAULT AND AGREE THAT THE DEPOSIT (AND ALL INTEREST) AND BUYER'S PAYMENT OF ALL ESCROW CANCELLATION CHARGES IS A REASONABLE APPROXIMATION THEREOF. ACCORDINGLY, IN THE EVENT BUYER FAILS TO PURCHASE THE PROPERTY AS A RESULT OF BUYER DEFAULT, THE DEPOSIT (AND ALL INTEREST) AND PAYMENT OF ALL ESCROW CANCELLATION CHARGES SHALL CONSTITUTE AND BE DEEMED TO BE THE AGREED AND LIQUIDATED DAMAGES OF SELLER, AND SHALL BE PAID TO SELLER AS SELLER'S SOLE AND EXCLUSIVE REMEDY. THE PAYMENT OF THE DEPOSIT (AND ALL INTEREST) AND THE PAYMENT BY BUYER OF ALL ESCROW CANCELLATION CHARGES AS LIQUIDATED DAMAGES IS NOT INTENDED TO BE A FORFEITURE OR PENALTY, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677.

Seller's Initials:


  
JS


  
IS

Buyer's Initials: \_\_\_\_\_

b. In the event Seller defaults in the performance of any of Seller's obligations under this Agreement (each a "**Seller Default**"), and Seller fails to cure such Seller Default within the time periods set forth in Section 14(c) below, Buyer shall, as its sole remedy, have the right, in its sole discretion, to pursue any one of the following (i) waive the Seller Default by written notice to Seller, in which event the Parties shall close on and consummate the transaction contemplated herein, or (ii) terminate this Agreement by written notice to Seller. In the event of such termination, Buyer shall promptly be refunded the Deposit, or (iii) record a lis pendens on the Property and commence an action for specific performance. Under no circumstances shall Buyer be entitled to seek or recover damages from Seller.

c. Each Party shall give the other party prompt written notice upon learning of any breach or default by the other Party under this Agreement. A Party shall have a cure period commencing on the date such party receives from the other party written notice of breach or default hereunder and continuing until (i) five (5) calendar days thereafter if the breach or default is monetary, or (ii) fifteen (15) calendar days thereafter if the breach or default is non-monetary; provided, however, that if the breach or default is non-monetary and cannot reasonably be cured within such period then the cure period shall continue as long as such diligent efforts to cure continue. In any event, if Seller cannot cure such a breach or default within one hundred eighty (180) calendar days, either Party shall have the right to terminate this Agreement by written notice, and, in the event of a breach or default by Seller, shall have the rights set forth in Section 14(b), above. In the event of such termination, Buyer shall promptly be refunded the Deposit and the Parties shall have no further obligation to one another.

d. In no event shall a Party be liable to the other Party for any punitive, incidental or consequential damages under this Agreement whatsoever, all such damages hereby being expressly and intentionally waived by the Parties.

### 15. Broker Commissions.



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a. The following real estate brokers and brokerage relationships exist in this transaction and are consented to by the Parties: Buyer hereby represents and warrants to Seller that Cushman & Wakefield represents the Buyer only ("**Buyer's Broker**") and Seller hereby represents and warrants to Buyer that Newmark represents the Seller only ("**Seller's Broker**") (Buyer's Broker and Seller's Broker collectively, the "**Brokers**"). The Parties acknowledge that other than the Brokers listed herein, there are no other brokers representing the Parties or due any fees or commissions under this Agreement. Buyer and Seller each represent and warrant to the other that he/she/it has had no dealings with any person, firm, broker, or finder in connection with the negotiation of this Agreement, and/or the consummation of the purchase and sale contemplated herein, other than the Brokers listed herein, and no broker or other person, firm, or entity, other than the Brokers listed herein is/are entitled to any commission or finder's fee in connection with this transaction as the result of any dealings or acts of such Party. Buyer and Seller do each hereby agree to indemnify, defend, protect, and hold the other harmless from and against any Claims arising from or related to a claim by any broker, finder, or other similar party, other than the Brokers listed herein, by reason of any dealings or acts of the indemnifying Party. The foregoing indemnity shall survive the Closing (or earlier termination of this Agreement).

b. Seller shall pay a brokerage commission to the Brokers through Escrow Holder at the Closing (and only if the Closing actually occurs) in an amount equal to Four Percent (4%) of the Purchase Price ("**Brokerage Commission**"), which shall be split evenly between Buyer's Broker and Seller's Broker.

**16. Time of the Essence; Dates.** Time is of the essence in this Agreement. In the event that any date specified in this Agreement falls on Saturday, Sunday, or a public holiday, such date shall be deemed to be the succeeding day on which public agencies and major banks are open for business.

**17. Binding on Successors.** This Agreement shall be binding not only upon the Parties but also upon their heirs, personal representatives, assigns, and other successors in interest.

**18. Additional Documents.** Seller and Buyer agree to execute such additional documents, including escrow instructions, as may be reasonable and necessary to carry out the provisions of this Agreement.

**19. Assignment.** Neither Party may assign its interests under this Agreement without the written consent of the other Party.

**20. Entire Agreement; Modification; Waiver.** This Agreement constitutes the entire agreement between Buyer and Seller pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both Parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver or any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.



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**21. Counterparts.** The Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall constitute one and the same agreement. Executed counterparts delivered by facsimile or scanned and emailed shall be treated the same as originals.

**22. Survival.** The following provisions shall survive the Closing: (i) Section 2 [Conditions to Closing], Section 3 [Condition of the Property], Section 6(c) [prorations], Section 9 [Seller's Representations], Section 10 [Buyer's Representations], Section 12 [Notices], Section 13 [Attorneys' Fees], Section 14 [Defaults; Remedies], Section 15 [Broker Commissions], Section 23 [Governing Law]. The following provisions shall survive the early termination of this Agreement: Section 2 [Conditions to Closing], Section 12 [Notices], Section 13 [Attorneys' Fees], Section 14 [Defaults; Remedies], and Section 23 [Governing Law].

**23. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue for all litigation relative to this Agreement shall be in Marin County.

**25. Interpretation.** Each party and/or its counsel have reviewed and revised this Agreement and no rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall be employed in the interpretation or enforcement of this Agreement or any amendments to this Agreement or any document executed and delivered by either party in connection with this Agreement.

**26. No Third Party Beneficiary.** Except as otherwise expressly set forth herein, Seller and Buyer do not intend and this Agreement shall not be construed to create a third-party beneficiary status or interest in, nor give any third-party beneficiary rights or remedies to, any other person or entity not a party to this Agreement.

**27. Severability.** If for any reason any provision of this Agreement shall be held to be unenforceable, it shall not affect the validity or enforceability of any other provision of this Agreement and to the extent any provision of this Agreement is not determined to be unenforceable, such provision or portion thereof, shall be and remain in full force and effect.

**28. Exhibits.** All exhibits attached hereto are deemed a part of this Agreement. Any and all future modifications of this Agreement will be effective only if in writing and signed by the parties thereto.

**29. Tax Deferred Exchange.** Seller and Buyer acknowledge and agree that the purchase and sale of the Property may be part of a tax-free exchange for either Buyer or Seller pursuant to Section 1031 of the Internal Revenue Code, the regulations promulgated thereunder, revenue procedures, pronouncements and other guidance issued by the Internal Revenue Service. Each party hereby agrees to cooperate with each other and take all reasonable steps on or before the Closing Date to facilitate such exchange if requested by the other party, provided that (a) no party making such accommodation shall be required to acquire any substitute property, (b) such exchange shall not affect the representations, warranties, liabilities and obligations of the parties to each other under this Agreement, (c) no party making such accommodation shall incur any additional cost, expense or liability in connection with such exchange (other than expenses of



**CONFIDENTIAL REAL ESTATE NEGOTIATION**

reviewing and executing documents required in connection with such exchange), and (d) no dates in this Agreement will be extended as a result thereof.

**30. Entry After the Review Deadline.** Seller and Buyer acknowledge and agree that during the period after the Review Deadline and before the Closing Date, Buyer and Buyer's Agents and invitees shall have reasonable opportunities to enter the Property to conduct inspections related to Buyer's planned uses of the Property, subject to Buyer's compliance with the terms and conditions of Section 2(a)(1) above related to entry.

///SIGNATURES ON FOLLOWING PAGE///



## CONFIDENTIAL REAL ESTATE NEGOTIATION

IN WITNESS of the foregoing provisions, the Parties hereto have executed this Agreement as of the day and year first above written.

SELLER:



Jason R. Strahm, Co-trustee of the Jason R. Strahm and Irene W.P. Strahm Revocable Trust, dated March 3, 1993



Irene W.P. Strahm, Co-trustee of the Jason R. Strahm and Irene W.P. Strahm Revocable Trust, dated March 3, 1993

BUYER:

MARIN COUNTY TRANSIT DISTRICT, a transit district formed pursuant to California Public Utilities Code Sections 70000 et seq.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: President, Board of Directors

Approved as to Form

By: \_\_\_\_\_  
 Brian Case  
 Deputy County Counsel



**CONFIDENTIAL REAL ESTATE NEGOTIATION****EXHIBIT A TO PURCHASE AND SALE AGREEMENT**

**Legal Description of the Property**

[to be inserted]



**ORDER NO. : 0436027935**

## **EXHIBIT A**

The land referred to is situated in the County of Marin, City of San Rafael, State of California, and is described as follows:

Lots 25 and 26, as shown upon that certain map entitled, "Map of Bahia de Rafael Industrial Park, San Rafael, California", filed for record February 13, 1973 in Volume 15 of Maps, at Page 54, Marin County Records.

APN: 009-131-01 & 009-121-14



**CONFIDENTIAL REAL ESTATE NEGOTIATION****EXHIBIT B TO PURCHASE AND SALE AGREEMENT****Form of Grant Deed****[attached]**



## CONFIDENTIAL REAL ESTATE NEGOTIATION

**Recording Requested by, and  
When Recorded Mail to,  
and Mail Tax Statements to:**

Marin County Transit District  
711 Grand Ave., Suite 110  
San Rafael, CA 94901  
Attn: Nancy Whelan, General Manager

---

Space Above This Line for Recorder's Use

The undersigned declares exemption under the following:  
Exempt from recording fee per Govt Code sec. 27383; 6103  
Exempt from documentary transfer tax per Rev & Tax Code sec. 11922

3000 Kerner Blvd., San Rafael CA  
APN 009-121-14 and 009-131-01

**GRANT DEED**

For valuable consideration, receipt and adequacy of which are hereby acknowledged, \_\_\_\_\_ *[insert full legal name of Seller]* ("Grantor"), hereby grants, sells, conveys and transfers to MARIN COUNTY TRANST DISTRICT, a transit district formed pursuant to California Public Utilities Code Sections 70000 et seq. ("Grantee"), that certain improved real property located in the City of San Rafael, County of Marin, State of California, commonly known as 3000 Kerner Boulevard (APN 009-121-14 and 009-131-01), as legally described in Exhibit A (the "Real Property"), together with all improvements, structures, and fixtures (collectively, the "Improvements") located thereon, and any and all apparatus, equipment, and appliances used in connection with the operation or occupancy of the Real Property and its Improvements owned by Grantor, and any and all rights, privileges, and easements, incidental or appurtenant to the Real Property or the Improvements, if any and only to the extent legally transferable, and any and all other development rights, air rights, water, water rights, riparian rights, and water stock relating to the Real Property and owned by Grantor, and any and all easements, rights-of-way, or other appurtenances used in connection with the beneficial use and enjoyment of the Real Property or the Improvements, and any and all of Grantor's right, title, and interest in and to all roads and alleys adjoining or servicing the Real Property.

///SIGNATURES ON FOLLOWING PAGE///



**CONFIDENTIAL REAL ESTATE NEGOTIATION**

**IN WITNESS WHEREOF**, Grantor has caused its duly authorized representative to execute this instrument as of the date hereinafter written.

**GRANTOR:**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_



Item 3



**CONFIDENTIAL REAL ESTATE NEGOTIATION****EXHIBIT A TO GRANT DEED****Legal Description****[attached]**



CERTIFICATE OF ACCEPTANCE TO GRANT DEED

This is to certify that the interest in real property conveyed to the MARIN COUNTY TRANSIT DISTRICT by the foregoing GRANT DEED, which is dated \_\_\_\_\_, and executed by \_\_\_\_\_, is hereby accepted by the undersigned pursuant to authority conferred by Marin County Transit District Board of Directors actions on \_\_\_\_\_. The Marin County Transit District, as Grantee, consents to recordation of said GRANT DEED.

MARIN COUNTY TRANSIT DISTRICT,  
a transit district formed pursuant to California  
Public Utilities Code Sections 70000 et seq.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_





# **Marin Transit Board Meeting**

## **Item 4**

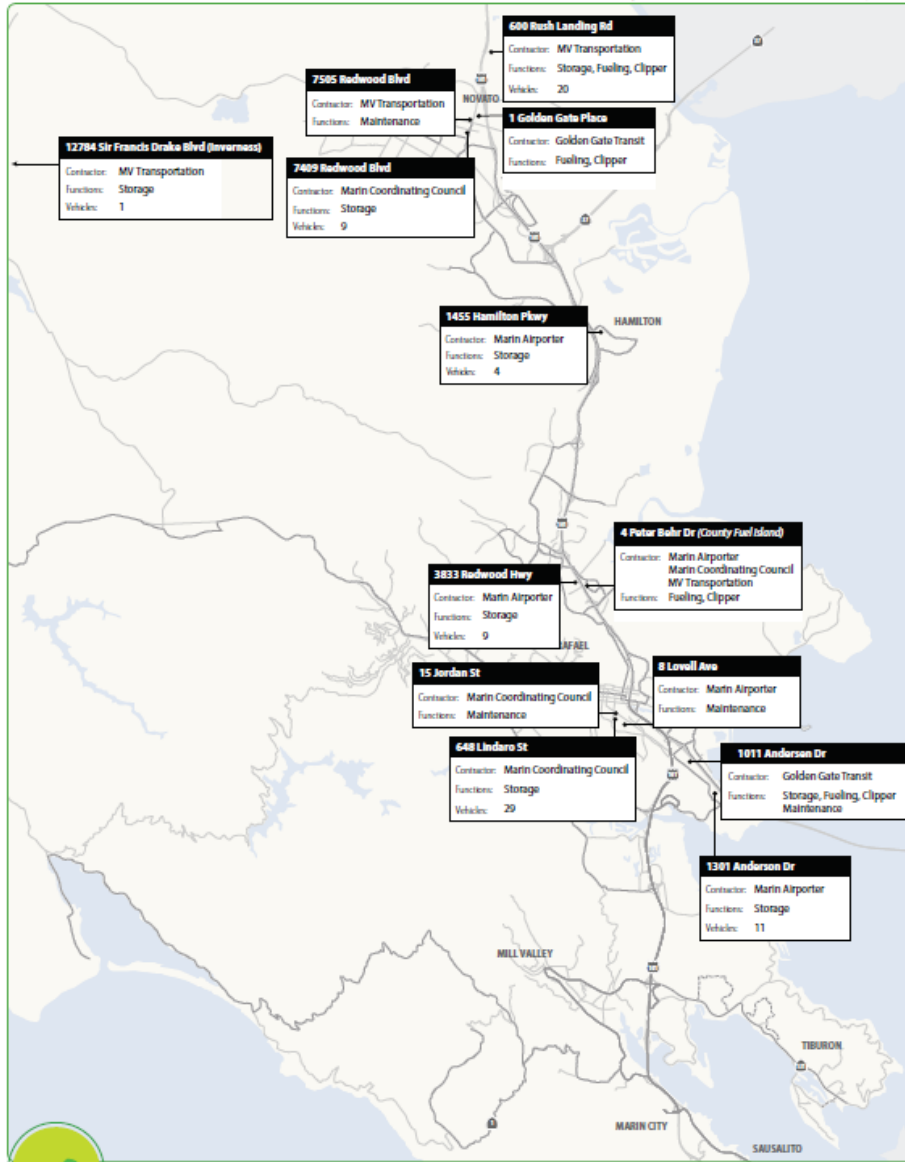
February 10, 2021



- Review Property Needs
- 3000 Kerner Acquisition Overview
- Due Diligence Activities
- Next Steps



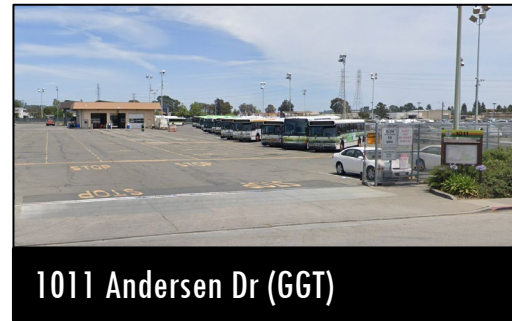
## MARIN TRANSIT | Bus Maintenance and Storage Facility Needs



Facility Locations and Functions by Contractor



648 Lindero St (Marin Coordinating Council)



1011 Andersen Dr (GGT)



1301 Andersen Dr (Airporter)



15 Jordan St (Marin Coordinating Council)



# Upcoming Bus Parking and Maintenance Needs

- Contracts for Marin Access Services expiring
- Contracts for fixed route services expire in 2 ½ years
- RFPs specify parking and maintenance facilities available

Potential Needs	Parking/Other	Maintenance
Paratransit	55 Shuttles	3 (min) smaller maintenance bays
Rural, Seasonal/MWS, Supplemental School	21 Buses	2 (min) maintenance bays
Local Shuttle and Fixed Route (not GGT operated)	31 Buses	3 (min) larger maintenance bays
All	Employee parking Scheduling/dispatch office Driver/employee break room	



## Property Summary

Owner	John R Strahm and Irene W.P. Strahm Revocable Living Trust
Address	3000 Kerner Blvd, San Rafael
Size	0.31 Acres
Description	Office space at the front of the building, warehouse with 3 rollup doors
Building	10,000 SF (Office: 3,000 SF; Warehouse: 7,000 SF)
Zoning	Light Industrial/Office
Land Use Compatibility	Good
Price	\$3,250,000





# 3000 Kerner Blvd - Photos





# 3000 Kerner Blvd - Floor Plan





## Threshold Criteria

These requirements must be met. If they are not met, the site will be rejected.





















A	Minimum size for a single site or combination of two sites shall be at least 3 acres.	✓ Combined with property at Rush Landing (and other sites)
B	Land use shall be consistent with the General Plan.	✓
C	Purchase and development of the site shall be financially feasible and cost effective.	✓

## Selection Criteria

1	Minimize deadhead or non-revenue service costs	<div> <div>●</div> <div>Peak period travel time to San Rafael Transit Center (SRTC) less than 12 minutes and within 4 miles</div> </div> <div> <div>◐</div> <div>Peak period travel time to SRTC between less than 25 minutes and within 8 miles</div> </div> <div> <div>◑</div> <div>Peak period travel time to SRTC less than 40 minutes and within 12 miles</div> </div> <div> <div>○</div> <div>Peak period travel time to SRTC more than 40 minutes or 12 miles</div> </div>	●
2	Accessible to US 101	<div> <div>●</div> <div>Within 1 minute from a US 101 on ramp</div> </div> <div> <div>◐</div> <div>Within 5 minutes from a US 101 on ramp</div> </div> <div> <div>◑</div> <div>Within 10 minutes from a US 101 on ramp</div> </div> <div> <div>○</div> <div>10+ minutes from a US 101 on ramp</div> </div>	◐



# 3000 Kerner Evaluation - continued

3	Compatible land use / good neighbor potential	 	<p>Current zoning and use is same or similar to proposed bus maintenance and storage facility use</p> <p>Zoning is consistent with a bus maintenance and storage facility, or the site is eligible for a conditional use permit</p>	
4	Sufficient size and accessibility to maneuver and store buses	   	<p>Accommodates 75 bus and shuttle vehicles</p> <p>Accommodates 45 - 75 bus and shuttle vehicles</p> <p>Accommodates 30-45 bus and shuttle vehicles</p> <p>Accommodates less than 30 bus and shuttle vehicles</p>	 <p>Site is maneuverable &amp; accomodates maintenance functions</p>
5	Primary egress and ingress routes to site are compatible with local circulation plan	  	<p>Primary access route is adjacent to or on frontage road of highway</p> <p>Primary access route is on arterial</p> <p>Primary access route is on local collector</p>	
6	Site Readiness	   <b>+1</b>	<p>Developable within three years</p> <p>Developable within five years</p> <p>Developable within ten years</p> <p><b>* Extra point if site is partially available within 2 years</b></p>	 <b>+1</b>
7	Minimal vulnerability in case of a natural disaster	  	<p>Multiple bus and shuttle vehicle access opportunities</p> <p>Adequate vehicle access opportunities</p> <p>Single point of vehicle access</p>	



# Key Terms of Purchase and Sale Agreement

Purchase Price	\$3,250,000
Deposit	\$100,000 (3 business days after effective date)
Additional Deposit	\$150,000 (3 business days after due diligence)
Type of Purchase	Voluntary Sale
Due Diligence Period	60 days
Current Lease	Seller to serve tenant with a notice to vacate at completion of due diligence; tenant will have 90 days to vacate.
Close Escrow	Earlier of 95 days, or 5 days after tenant has vacated, but not before completion of due diligence



- ☐ Appraisal
- ☐ Title
- ☐ Lease status
- ☐ Physical, structural, environmental condition
- ☐ Land use, zoning, entitlement
- ☐ Compliance with laws, regulations, permits, and approvals
- ☐ Compliance with CEQA

Staff will return to the Board for further direction if due diligence reveals any material, unexpected items.



- Enhancing functionality and safety
- Interior Improvements may include:
  - Improved accessibility
  - Removal of drop ceiling
  - Installation of vehicle lifts
  - Safety enhancements
  - Minor electrical
- Exterior Improvements may include:
  - Perimeter fencing
  - Safety lighting



Maintenance Facility Purchase	
Property	\$3,250,000
Closing costs, legal fees, due diligence	\$375,000
<b>Total Expenditure, Budget Amendment 2021-06</b>	<b>\$3,625,000</b>
Maintenance Facility Improvements	
Design and Engineering	\$250,000
Construction	\$850,000
<b>Total Expenditure, Budget Amendment 2021-07</b>	<b>\$1,100,000</b>



- **Approve the purchase of property at 3000 Kerner Blvd for \$3.25 Million and associated activities**
  - Authorize spending for due diligence, closing, and related costs
- **Determine that the acquisition and use of the property is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15301 (Class 1)**
  - Light Industrial use will continue
  - Property will not be materially altered
- **Adopt two FY20-21 budget amendments each funded with District's Capital Reserves**
  - \$3.625 million for purchase and closing costs
  - \$1.1 million for site improvements



# Questions

**Nancy Whelan**  
General Manager