

FIRST AMENDMENT TO
CONTINGENT AGREEMENT TO PURCHASE AND SELL
REAL ESTATE AND ESCROW INSTRUCTIONS
(Washington & Telegraph)

THIS FIRST AMENDMENT TO CONTINGENT AGREEMENT TO PURCHASE AND SELL REAL ESTATE AND ESCROW INSTRUCTIONS (this "Amendment") is entered into as of _____, 2018 by and between THE SUCCESSOR AGENCY TO THE COMMERCE COMMUNITY DEVELOPMENT COMMISSION, a public entity ("Seller"), WASH-TEL COMMERCE, LLC, a California limited liability company ("Wash-Tel Buyer") and CRAIG REALTY GROUP CITADEL, LLC, a California limited liability company ("CRC Buyer"). The Wash-Tel Buyer and the CRC Buyer are sometimes collectively referred to herein as the "Buyers".

RECITALS

- A. Seller and Buyers entered into a Contingent Agreement to Purchase and Sell Real Estate and Escrow Instructions dated May, 2017 ("Original Purchase Agreement"), pursuant to which Seller agreed to sell and Buyers agreed to buy certain real property in the City of Commerce, California ("the Land"), together with other forms of property (collectively referred to as "the Property"), as more particularly described in the Original Purchase Agreement.
- B. Seller and Buyers wish to amend the Original Purchase Agreement pursuant to the terms and conditions of this Amendment. Capitalized terms not otherwise defined in this Amendment shall have the meanings ascribed to such terms in the Original Purchase Agreement.
- C. A portion of the Property defined in the Original Purchase Agreement and depicted as approximately shown on Exhibit "A" attached hereto, consisting of approximately 1.8 acres of the Property is contemplated by Seller, Buyers and the City of Commerce for development as a City Public Safety Facility, ("City Public Safety Facility Land"). The City Public Safety Facility may include any combination of public safety services such as community services officers, public safety personnel and law enforcement personnel. As of the date of this Amendment, various matters remain to be addressed pertaining to the City Public Safety Facility Land. Pending completion of those negotiations, the Parties have agreed to exclude the City Public Safety Facility Land from the Purchase Agreement, subject however, to the right of Buyers to acquire the City Public Safety Facility Land from Seller on the same terms and conditions as set forth in the Original Purchase Agreement, as modified by this Amendment, in the event that neither Seller nor the City of Commerce finalize arrangements for the development of the City Public Safety Facility Land as a City Public Safety Facility.
- D. The Original Purchase Agreement will continue to control all aspects of the agreement between Seller and Buyers except for those terms that this Amendment explicitly modifies.

NOW, THEREFORE, incorporating the foregoing recitals as a part of this Amendment, and in consideration of the mutual covenants and conditions contained in this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Buyers and Seller agree as follows:

AGREEMENT

1. Property. Except as otherwise provided in Paragraph 3 of this Amendment, the terms “Land”, “Property”, “Wash-Tel Land” and “Wash-Tel Property” shall be modified to exclude the City Public Safety Facility Land. The precise boundaries and legal description of the City Public Safety Facility Land, together with the balance of the Land and the Property, shall be determined by the Survey in accordance with the Original Purchase Agreement. Seller or the City of Commerce shall take all necessary actions, including the filing of a lot line adjustment, certificate of compliance or parcel map necessary to convey to Buyers (and more precisely to the Wash-Tel Buyer pursuant to the Original Purchase Agreement) the Property exclusive of the City Public Safety Facility Land. Buyers shall cooperate with Seller and the City of Commerce in such efforts, including addressing such separation in any lot line adjustment, certificate of compliance or parcel map that Buyers may process prior to Close of Escrow.

2. Purchase Price. The Purchase Price set forth in Section 4.1 of the Original Purchase Price shall be reduced by the approximate amount of One Million Six Hundred Ninety-Nine Thousand One Hundred Fifty-Two and 54/100 Dollars (\$1,699,152.54), representing approximately 1.8 acres at \$943,973.63 per acre. The precise amount of the reduction shall be determined when the precise acreage of the City Public Safety Facility Land is ascertained by the Survey pursuant to the Purchase Agreement, on the basis of the foregoing per acre purchase price, and the amount of such reduction is referred to herein as the “City Public Safety Facility Land Allocable Purchase Price”. The City Public Safety Facility Land Allocable Purchase Price shall reduce the Wash-Tel Purchase Price from Seven Million One Hundred Ninety-Three Thousand Seventy- Nine Dollars (\$7,193,079.00) to Five Million Four Hundred Ninety Three Thousand Nine Hundred Twenty Six and 50/100 Dollars (\$5,493,926.50) subject to adjustment based on the Survey.

3. Option to Acquire City Public Safety Facility Land. In the event, within two (2) years following the closing of the acquisition of the Property, as amended hereby, neither Seller nor the City of Commerce have finalized arrangements for the development of a City Public Safety Facility on the City Public Safety Facility Land, then Seller shall provide written notice thereof to Buyers (“Option Notice”), and either of the Buyers (and the Wash-Tel Buyer if both Buyers may elect) shall have the option and right to purchase the City Public Safety Facility Land from the Seller (or from the City of Commerce, if the Seller has theretofore conveyed the City Public Safety Facility Land to the City of Commerce) for the City Public Safety Facility Land Allocable Purchase Price (“Option”). The Wash-Tel Buyer shall exercise such Option by written notice to Seller and the City within two (2) months following receipt by Buyers of the Option Notice, and in the event that the Wash-Tel Buyer does not exercise such Option within such period, then the CRC Buyer shall have the right to exercise such Option by written notice to Seller and the City within three (3) months following receipt by Buyers of the Option Notice. In the event that either Buyer exercises the Option, then Seller (and/or the City of Commerce, if applicable) and Buyers (or the exercising Buyer as applicable) shall enter into either an amendment to the Purchase Agreement or a new purchase and sale agreement on substantially the same terms as the Original Purchase Agreement, updated appropriately for matters which have therefore occurred at such time (“City Public Safety Facility Land Purchase Agreement”). Seller and Buyers shall diligently cooperate to finalize, execute and have the City Public Safety Facility Land Purchase Agreement finalized and approved by all applicable parties, including Seller, the Oversight Board and the California Department of Finance, if such approvals are required, as quickly as reasonably possible. The closing date for the purchase of the City Public Safety

Facility Land under such City Public Safety Facility Land Purchase Agreement shall be consistent with the closing timing in relation to such approvals as set forth in the Original Purchase Agreement, but in no event earlier than the later of (i) ninety (90) days following any applicable approvals required by the Oversight Board and the California Department of Finance with respect to the City Public Safety Facility Land Purchase Agreement; or (ii) six (6) months following the execution and delivery of the City Public Safety Facility Land Purchase Agreement. Such closing date shall be subject to the same rights of extension as set forth in Section 3.3 of the Original Purchase Agreement.

4. Substitution of Seller. Seller may determine that the transactions contemplated by the Original Purchase Agreement and this Amendment are better achieved by selling the entirety of the Property to the City of Commerce (“City”). In the event Seller determines to do so, Buyers shall consent to same, provided that the City assumes in writing, for the benefit of Buyers, the obligations of Seller under the Original Purchase Agreement, as amended by this Amendment. In such event, the City shall acquire the entire Property subject to the Purchase Agreement, and subject to the provisions of this Amendment, including the provisions of Paragraph 3 above.

5. Closing Date. Section 3.2 of the Original Purchase Agreement sets forth the Closing Date for the purchase and sale of the Property, which shall continue to apply with respect to the Property other than the City Public Safety Facility Land. As of the date of this Amendment, (i) Seller approved the Original Purchase Agreement on or about July 18, 2017, by Resolution No. 17-03 dated July 18, 2017; (ii) the Oversight Board approved the Original Purchase Agreement on March 28, 2018 by Resolution No. ob 18-2; and (iii) the Original Purchase Agreement is not required to be approved by the California Department of Finance. Although the approvals in the foregoing sentence have heretofore occurred, except for Oversight Board approval which is expected to occur with respect to this Amendment on or about April 25, 2018, the Project Approval Date has not yet occurred. Due to the complexity of issues pertaining to the approval of the Project and the CEQA analysis relating thereto, it is presently not anticipated that the Project Approval Date, assuming approval of the Project is forthcoming will occur until late in 2018. Buyers and Seller hereby reaffirm the Original Purchase Agreement and the provisions thereof, as modified by this Amendment, and agree that it remains in full force and effect notwithstanding such delay. In the event this Amendment is not approved by the Successor Agency and the Oversight Board, this Amendment shall be deemed null and void, but the Original Purchase Agreement shall remain in full force and effect.

6. Allocation of Development Costs. In the event that the City of Commerce or Seller does not develop the City Public Safety Facility pursuant to Paragraph 3 of this Amendment, and neither of the Buyers proceed with acquisition of the City Public Safety Facility Land, and Seller or the City, directly or through other parties, retains ownership thereof, Seller or the City, as applicable, shall bear (or cause the other party to bear) an allocable cost of those components of development of the overall Property that benefit the City Public Safety Facility Land, such as engineering and architectural costs and studies, infrastructure costs (dry and wet utilities, storm drain facilities, and the like) and the cost of planning and installation of private roads and shared amenities (or cost imposed on the developer for public roads and improvements) in the relation to the square footage of the City Public Safety Facility Land bears to the square footage of the overall Property. Seller and/or the City and Buyers shall cooperate in entering into an agreement that more precisely addresses the foregoing.

7. Full Force and Effect. Except as explicitly modified by this Amendment, the Original Purchase Agreement, and each provision thereof, shall continue unmodified and in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Buyer and Seller have executed this First Amendment to Contingent Agreement to Purchase and Sell Real Estate and Escrow Instructions as of the date first above written.

"Seller"

THE SUCCESSOR AGENCY TO THE
COMMERCE COMMUNITY DEVELOPMENT
COMMISSION

By: _____

Name: _____

Title: Executive Director

ATTEST:

By: _____

Name: Lena Shumway

Title: Secretary

APPROVED AS TO FORM:

By: _____

Name: Noel Tapia

Title: Legal Counsel

[Signatures continued on next page]

"Buyers"

WASH-TEL COMMERCE, LLC,
a California limited liability company

By: _____
Steven L. Craig, Manager

CRAIG REALTY GROUP CITADEL,
a California limited liability company

By: Citadel SPE, Inc.,
a Delaware corporation,
its Manager

By: _____
Steven L. Craig,
President

AGREED AND ACCEPTED AS OF
_____ 2018

FIRST AMERICAN TITLE INSURANCE COMPANY

By: _____

Name: _____

Its: _____

"Escrow Holder"