



**CITY OF ELK GROVE  
CITY COUNCIL STAFF REPORT**

**AGENDA TITLE:** Adopt resolution ratifying the Agreement for Purchase and Sale and Joint Escrow Instructions for property located at 9362 Studio Court [APN: 116-0860-026]; authorizing the close of escrow; and amending the Fiscal Year 2019-20 Budget and 2019-2024 Capital Improvement Program by \$2,133,900 (CEQA Exempt)

**MEETING DATE:** September 25, 2019

**PREPARED BY:** Julie D. Cline, Real Estate Manager  
Kevin Bewsey, Capital Program Manager

**DEPARTMENT HEAD:** Robert Murdoch, P.E., Public Works Director/  
City Engineer

---

**RECOMMENDED ACTION:**

Staff recommends that the City Council adopt a resolution:

1. Ratifying the Agreement for Purchase and Sale and Joint Escrow Instructions with elmage Secured Solutions, LLC (a.k.a. Sytech Solutions, LLC) (together, "Owner") for the property located at 9362 Studio Court [Assessor Parcel Number 116-0860-026] ("Property"); and
2. Authorizing the close of escrow of the Property; and
3. Amending the Fiscal Year 2019-20 Budget and 2019-2024 Capital Improvement Program as follows:
  - a. Creating a new Capital Project titled 9362 Studio Court Acquisition and Remodel (WFC037)
  - b. Amend the budget of WFC037 by adding \$382,073.73 in Capital Reserve Fund (Fund 106) and \$1,572,926.27 in CFF - Police Fund (Fund 312)

- c. Authorizing the transfer of WFC037 project expenses and budget that were charged to the City Facilities Assessment & Master Plan (WFC031) in the amount of \$178,900.

### **BACKGROUND INFORMATION:**

As part of the City Facilities Assessment Master Plan (WFC031), staff is completing the assessment and analysis of the City's existing and future office needs, including spatial needs, staffing levels, departmental adjacencies, and location and functionality of the existing facilities and campuses. This Draft Master Plan will be brought to Council in the near future. The Draft Master Plan indicates that the City's Police Department needs an additional 8,000 to 12,000 square feet in the near term (0-5 years).

The Property is nearly 9,000 square feet, and has been identified in the Draft Master Plan as a preferred site for the expansion of City facilities and is located directly behind 8400 Laguna Palms Way, which currently houses the City's Police Department and Council Chambers.

The Property consists of 0.59-net acres and is improved with an owner-occupied 8,923± square foot building. The building is configured with 3,000± square feet of office space, 3,000± square feet of air-conditioned warehouse space, and 3,000± square feet of non-air-conditioned warehouse space with roll-up/dock door. The Project Location Map is provided as Attachment 4.

The Property's building size, in combination with existing City buildings, is anticipated to meet the space needs of the City's Police Department for the next five plus years with an additional 12,000 sf needed in the next 10 to 20 years.

Staff approached the Owner to gauge its level of interest in the sale of the Property to the City. The Owner provided a positive response to the City's proposal based upon its successful business operations and future expansion needs; however, relocation of business operations must be feasible to the Owner.

As part of the City's proposal to the Owner, staff identified a potential replacement property within the City of Elk Grove, which would afford the Owner the opportunity to expand and grow their current operations. The Owner agreed to begin negotiations, at its own cost, for their acquisition of the proposed replacement property.

On June 12, 2019, City Council authorized staff to negotiate for, and enter into, a purchase and sale agreement with the Owner for the purchase of 9362 Studio Court, contingent on specified terms and the City's due diligence concerning the purchase. (Attachments 2 and 3).

### **ANALYSIS/DISCUSSION:**

The City's purchase of the Property is conditioned upon the City's completion of due diligence activities by 5:00 p.m. on September 26, 2019, and the concurrent close of Escrow for the Owner's replacement property, on or before October 17, 2019. As part of the Agreement for Purchase and Sale, the City will lease-back the Property to the Owner after the close of escrow, for up to one hundred eighty (180) days, during which time the Owner will relocate Owner's operations to the replacement property. The initial rental payment for the lease-back term shall be prepaid in escrow by the Owner, to City. The Owner shall be responsible for maintenance and upkeep of the property, building and fixtures for the duration of the lease-back term. Consistent with the authority provided by City Council, staff and the Owner have reached an all-inclusive agreement in the amount of \$1,900,000, which includes the purchase price of the Property and settlement relocation costs.

Elk Grove Municipal Code Section 3.42.300(B), as established in accordance with Section 65402(a) of the California Government Code, requires the purchase of real property be submitted to and reported upon by the planning agency to the conformity with the adopted General Plan. On August 1, 2019, the Planning Commission, by its Resolution No. 2019-31, made a finding that the proposed acquisition is consistent with the City's General Plan.

To assist with determination of the Property's condition, the City has completed the following due diligence activities to-date:

- Preparation of a Property Market Value range – Staff concludes the proposed purchase price for the Property is reasonable and at the upper range of the Market Value for similar properties;
- Review of Property documents provided by Owner;
- Phase I Environmental Site Assessment, which yielded no adverse conditions;

- HVAC, Electrical and Plumbing Inspections, which yielded minor improvements recommended;
- Roof Inspection – Based on the age of the building the roof inspection revealed that the roof is near the end of its expected life. The report provided options for maintenance and repairs which would extend the life of the roof for three (3) years. This timeline coincides with the anticipated modification to the roof associated with tenant improvements; and

Staff has negotiated with Owner to make minor property repairs and roofing repairs prior to the close of escrow. If Owner fails to complete the agreed upon roofing repairs by close of escrow, Owner shall credit \$17,500 to City towards the purchase price of the Property in lieu of completing roof repairs. Either option is acceptable to staff.

Staff supports the purchase of the Property at the negotiated all-inclusive settlement price of \$1,900,000, which includes the purchase price of the Property and settlement relocation costs, and recommends the City Council approve the purchase of the Property, Sacramento County Assessor Parcel Number 116-0860-026, from elmage Secured Solutions, LLC, together with closing costs, not expected to exceed \$5,000, all in a total amount not to exceed \$1,905,000. The provision noted above concerning the roof repairs would be accommodated at close of escrow; either the Owner makes the roof repairs or credits the City \$17,500 at the close of escrow. This, and any other agreed-upon Owner repairs to the building, would be memorialized by an amendment to the purchase and sale agreement.

The City Facilities Assessment Master Plan (WFC031), has been utilized to fund the right of way support, due diligence activities, down payment, and scoping for the acquisition of the Property in the amount of \$178,900. Staff is recommending these expenses and budget be transferred to a new Capital Project titled 9362 Studio Court Acquisition and Remodel (WFC037). Staff is also recommending that remaining acquisition costs and initial design effort be budgeted in the additional amount of \$1,955,000. The design will need to be advanced to a 35% design or schematic design level prior to programming the remaining funds for final design, construction, construction engineering, fixtures, furnishing, and equipment.

Staff anticipates that the project will consist of the acquisition of 9362 Studio Court, interior remodeling, and onsite improvements to incorporate the

building into the Police Department campus. The total cost of the acquisition and remodel is estimated to be \$3,934,000 (\$440/sf). The acquisition is \$2,023,900 which includes purchase price and soft costs for acquisition and due diligence activities. The remaining \$1,910,120 is for the design, construction, construction engineering, fixtures, furnishing, and equipment. If the City acquired property and constructed a new building, the estimated range of cost would be \$5,354,000 (\$600/sf) to \$8,925,000 (\$1,000/sf) based on the Draft Master Plan.

### **ALTERNATIVE ACTIONS:**

As an alternative, the City Council may direct staff to cancel the Purchase and Sales Agreement prior to the expiration of the due diligence period, which ends at 5:00 p.m. on September 26, 2019. Staff does not believe the alternative action is in the City's best interest and therefore does not recommend this alternative action.

### **ENVIRONMENTAL REVIEW:**

Staff has reviewed the proposed purchase to determine the required level of review under CEQA. The proposed Project is exempt from CEQA under State CEQA Guidelines Section 15061(b)(3) ("Common-Sense Exemption"). CEQA Guidelines section 15061(b)(3) states that an activity is covered by the common sense exemption where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

There is no possibility that the proposed property acquisition will result in a physical change in the environment. The Property is occupied by an existing commercial building with a mix of office and warehouse space and there are no plans to modify the existing use. However, the acquisition of the Property presents an opportunity to provide additional Police Department resources. The acquisition of the Property does not approve any development project, nor does it disturb the physical environment. Any future development of the site would be subject to review under Title 23 of the Elk Grove Municipal Code (Zoning) and CEQA. Therefore, the proposed purchase is exempt from CEQA review.

**FISCAL IMPACT:**

The purchase of the Property would be funded by the City’s Capital Facilities Fee (CFF) – Police Fund (Fund 312) and the Capital Reserve Fund (Fund 106). The CFF – Police Fund would provide 79.93% of the purchase price, while the Capital Reserve Fund would provide 20.07% of the purchase price. These funds would be budgeted in the 9362 Studio Court Acquisition and Remodel (WFC037). Fund 312 is a development impact fee funds used to pay for new development’s share of expanded police facilities. The existing nexus study for this fee assigns new development’s fair share allocation at 79.93%.

The Approved Budget for the City Facilities Assessment and Master Plan Project (WFC031) is \$475,000 and is shown in Table 1 below. Table 1 also reflects a previously authorized amendment to the current Capital Improvement Program and Budget of \$75,000 per City Council Resolution No. 2019-156.

**Table 1 – Budget  
 City Facilities Assessment & Master Plan Project (WFC031)**

<b>Funding Source</b>	<b>Total Funding</b>
Capital Reserve Fund (Fund 106)	\$50,000
CFF – Civic Center (Fund 311)	\$50,000
CFF – Police (Fund 312)	\$225,000
CFF – Corporation Yard (Fund 313)	\$100,000
CFF – Bus Facilities (Fund 317)	\$50,000
<b>Total</b>	<b>\$475,000</b>

As described in the Analysis, the proposed new capital project, 9362 Studio Court Acquisition and Remodel (WFC037), requires the following funding as shown in Table 2. Table 2 reflects the transfer from WFC031, and the additional funding requested for acquisition and initial design. These funds have sufficient fund balance for project budgeting.

**Table 2 –Budget  
 9362 Studio Court Acquisition and Remodel (WFC037)**

<b>Funding Source</b>	<b>WFC031 Funding to be Transferred</b>	<b>Additional Funding</b>	<b>Total Funding</b>
Capital Reserve Fund (Fund 106)	\$46,200.00	\$382,073.73	\$428,273.73
CFF – Police (Fund 312)	\$132,700.00	\$1,572,926.27	\$1,705,626.27
<b>Total</b>	<b>\$178,900.00</b>	<b>\$1,955,000.00</b>	<b>\$2,133,900.00</b>

A summary of estimated total project costs is shown in Table 3:

**Table 3 – Total Estimated Project Costs for the  
9362 Studio Court Acquisition and Remodel (WFC037)**

<b>Capital Costs</b>	<b>Projected Cost</b>
Design	\$110,000
Right of Way (Services & Land Purchase)	\$2,023,900
<b>Total Costs</b>	<b>\$2,133,900</b>

As described in the analysis, these costs do not include final design, construction, construction engineering, fixtures, furnishing, and equipment. The design will need to be advanced to a 35% design or schematic design level prior to programming the remaining funds.

**ATTACHMENTS:**

1. Resolution
2. Purchase and Sale Agreement and Joint Escrow Instructions
3. First Amendment to Purchase and Sale Agreement and Joint Escrow Instructions
4. Location Map

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
RATIFYING THE AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW  
INSTRUCTIONS FOR PROPERTY LOCATED AT 9362 STUDIO COURT [APN: 116-  
0860-026]; AUTHORIZING THE CLOSE OF ESCROW; AND AMENDING THE FISCAL  
YEAR 2019-20 BUDGET AND 2019-2024 CAPITAL IMPROVEMENT PROGRAM BY  
\$2,133,900 (CEQA EXEMPT)**

**WHEREAS**, in 2010, elmage Secured Solutions, LLC (a.k.a. Sytech Solutions, LLC) (together, "Owner") acquired 9362 Studio Court [Assessor Parcel Number 116-0860-026] (the "Property"), a .59-net acre property improved with an 8,923± square foot building; and

**WHEREAS**, the City's draft City Facilities Assessment & Master Plan identified the Property as a preferred site for expansion of City facilities; and

**WHEREAS**, staff approached Owner and proposed a replacement property within the City of Elk Grove to relocate their business and Owner agreed to begin negotiations on the proposed replacement property as the relocation provides an opportunity to expand and grow their current operations in the City of Elk Grove; and

**WHEREAS**, on June 12, 2019, City Council authorized staff to negotiate for and enter into a purchase and sale agreement with Owner for the purchase of the Property; and

**WHEREAS**, consistent with the authority provided by City Council, staff negotiated an all-inclusive settlement in the amount of \$1,900,000, which includes the purchase price of the Property and settlement relocation costs; and

**WHEREAS**, staff completed due diligence activities including roof, HVAC, electrical and plumbing; and

**WHEREAS**, staff has negotiated with Owner to make minor property repairs and roofing repairs prior to the close of escrow; if Owner fails to complete the agreed upon roofing repairs by close of escrow, Owner shall credit \$17,500 to city towards the purchase price of the Property in lieu of completing roof repairs; and

**WHEREAS**, the proposed purchase of the Property is consistent with the City's General Plan pursuant to California Government Code Section 65402(a), and in compliance with Elk Grove Municipal Code Section 3.42.300(B), as determined by the Planning Commission on August 1, 2019, by its Resolution No. 2019-31; and

**WHEREAS**, staff recommends the purchase of the Property pursuant to the Purchase and Sale Agreement and Joint Escrow Instructions and the First Amendment to the Purchase and Sale Agreement and Joint Escrow Instructions, which includes a short-term leaseback agreement with the Owner to allow sufficient time for relocation to the replacement property; and

**WHEREAS**, the purchase of the Property and initial design will be funded by the City's Capital Facilities Fee (CFF) – Police Fund (79.93%) and the Capital Reserve Fund (20.07%) and sufficient fund balance is available for project budgeting; and

**WHEREAS**, the design will need to be advanced to a 35% design or schematic design level prior to programming the remaining funds for final design, construction, construction engineering, fixtures, furnishing, and equipment; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Elk Grove hereby:

- 1) Finds the purchase of the Property exempt from CEQA review pursuant to CEQA Guidelines section 15061(b)(3) (Common Sense Exemption); and
- 2) Ratifies the Purchase and Sale Agreement and Joint Escrow Instructions, including the First Amendment to the Purchase and Sale Agreement and Joint Escrow Instructions, in substantially the form presented, including all associated documents, necessary to complete the purchase of the property located at 9362 Studio Court, Sacramento County Assessor Parcel Number 116-0860-026, in the amount of \$1,900,000, together with associated costs, not to exceed \$5,000, all in a total amount not to exceed \$1,905,000; and
- 3) Authorizes the City Manager to take all actions and execute all documents reasonably necessary to close escrow on the purchase of the Property including, without limitation, execution of any necessary amendments to the Purchase and Sale Agreement to accommodate the aforementioned repairs to the roof and/or other appropriate and agreed upon repairs prior to close of escrow; and
- 4) Amends the Fiscal Year 2019-20 Budget and 2019-2024 Capital Improvement Program as follows:
  - a. Creates a new capital project titled 9362 Studio Court Acquisition and Remodel (WFC037);
  - b. Establishes the budget of WFC037 by adding \$382,073.73 from the Capital Reserve Fund (Fund 106) and \$1,572,926.27 from CFF - Police Fund (Fund 312);
  - c. Authorizes the transfer of WFC037 project expenses and budget that were charged to the City Facilities Assessment Master Plan Project (WFC031) in the amount of \$178,900.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 25<sup>th</sup> day of September 2019.

---

STEVE LY, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

---

JASON LINDGREN, CITY CLERK

---

JONATHAN P. HOBBS,  
CITY ATTORNEY

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

THIS AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS ("**Agreement**") is made this 30<sup>th</sup> day of July, 2019, by and between EIMAGE SECURED SOLUTIONS, LLC, a California limited liability company ("**Seller**" or "**eImage**"), and the CITY OF ELK GROVE, a municipal corporation ("**Buyer**" or "**City**"), collectively referred to as ("**Parties**"), who agree as follows:

**ARTICLE 1. GENERAL; PURCHASE PROPERTY**

1.1. **The Purchase Property.** Seller is the owner of certain real property located at 9362 Studio Court in the City of Elk Grove, County of Sacramento, State of California, designated Assessor Parcel Number 116-0860-026, consisting of approximately .59 acres and legally described in **Exhibit "A"**, attached hereto and incorporated herein by this reference (the "**Purchase Property**"), together with all improvements and fixtures located thereon, including but not limited to the 8,923+/- square foot building, all easements, mineral rights, riparian rights, rights of way, permits, approvals, privileges and entitlements appurtenant thereto, except as disclosed in the Preliminary Report.

1.2. **Buyer's Right to Exercise Eminent Domain.** At the time Buyer approached Seller regarding interest in the Purchase Property Seller was not actively marketing its property. Buyer represents and acknowledges that it has the power of eminent domain. Buyer is acquiring the Property pursuant to the terms of this Agreement in lieu of exercising such power of eminent domain. Buyer may seek approval to institute eminent domain proceedings if Seller does not sell the Property to Buyer pursuant to this Agreement. Upon full consideration of its rights, including the opportunity to consult with independent legal counsel, Seller waives any compensation, reimbursement or damages, as well as relocation benefits, or any other recovery or benefits that might otherwise be recoverable through eminent domain or related proceedings. To the extent such provisions are applicable to this transaction, the Parties waive any notice or right of first refusal pursuant to Code of Civil Procedure Section 1245.245 and any leaseback rights under Code of Civil Procedure Section 1263.615. Should the sale not close of the Purchase Property as provided for in the terms of this Agreement eImage retains all rights related to Eminent Domain proceedings.

1.3. **The Replacement Property.** Seller has entered into contract to purchase certain real property located at 8930 Big Horn Boulevard in the City of Elk Grove, County of Sacramento, State of California, designated as Assessor Parcel Number 116-0012-034 ("**Replacement Property**").

1.4. **Replacement Property Contingency.** This Agreement is contingent upon Seller's ability to close escrow on the Replacement Property according to the Replacement Property Contract ("**Replacement Property Contingency**").

1.5. **Purchase Property Close of Escrow.** The close of escrow (defined below) for the Purchase Property shall be completed concurrently with the close of escrow for the Replacement Property.

1.6. Purpose. The purpose of this Agreement is to set forth the terms and conditions of the purchase by Buyer, and sale from Seller, of the Purchase Property.

1.7. Effective Date. The effective date of this Agreement ("**Effective Date**") shall be the date upon which the last party signs this Agreement.

## ARTICLE 2. PURCHASE AND SALE

2.1. Purchase and Sale. Seller shall sell the Purchase Property to Buyer, and Buyer shall purchase the Purchase Property from Seller on the terms and conditions specified in this Agreement.

2.2. Price. The purchase price for the Purchase Property shall be One Million Seven Hundred Thousand and 00/100 Dollars (**\$1,700,000.00**) (the "**Purchase Price**"). In addition to the Purchase Price, Buyer shall tender a payment to the Escrow Holder (as defined below) in the amount of Two Hundred Thousand and 00/100 Dollars (**\$200,000.00**), as compensation for relocation costs pursuant to the specified terms and conditions of Section 2.2.1, below.

2.2.1. Relocation Assistance. Buyer agrees to pay Seller the sum of Two Hundred Thousand and 00/100 Dollars (**\$200,000.00**) as a settlement payment in-full for all relocation benefits, advisory assistance, business reestablishment, moving expenses, and other payments or assistance to which Seller may be entitled under state, federal or local law, rule or regulation (together "**Settlement Relocation Costs**").

2.3. Payment of Purchase Price and Settlement Relocation Costs. Buyer shall pay the Purchase Price and Settlement Relocation Costs in accordance with the following:

2.3.1. Earnest Money Deposit. Within fourteen (14) calendar days following the Effective Date of this Agreement, Buyer shall deposit the sum of Fifty Thousand Dollars and 00/100 (**\$50,000.00**) (the "**Deposit**") with Escrow Holder (defined below). The Deposit shall be applied to the Purchase Price at the Close of Escrow. If Escrow fails to close because this Agreement is terminated in accordance with Section 4.1, the Deposit and all interest earned thereon shall be returned to Buyer and thereafter neither Seller nor Buyer shall have any further obligations hereunder except as expressly set forth herein.

2.3.2. Replacement Property Escrow. If escrow fails to close on the Replacement Property, any funds deposited by Buyer shall be returned to Buyer and thereafter neither Seller nor Buyer shall have any further obligations hereunder except as expressly set forth herein.

2.3.3. Balance of Purchase Price. On or before the Close of Escrow (defined below), Buyer shall deposit the remainder of the Purchase Price, One Million Six Hundred Fifty Thousand Dollars and 00/100 (\$1,650,000.00) and Settlement Relocation Costs, Two Hundred Thousand Dollars and 00/100 (\$200,000.00) and Buyer's share of costs and prorations, in cash by a deposit of immediately available funds, on or before the Closing Date, as defined below.

### ARTICLE 3. ESCROW

3.1. Escrow; Escrow Instructions. Within three (3) business days following the Effective Date, the Parties shall open an escrow to consummate the purchase and sale of the Purchase Property pursuant to this Agreement at the office of Fidelity National Title Company, 8525 Madison Avenue, Suite 110, Fair Oaks, California 95628, Attn: Paul Avila ("**Escrow Holder**"). Upon the opening of escrow, the Parties shall deposit with the Escrow Holder an executed copy of this Agreement, which shall serve as the joint escrow instructions of Buyer and Seller for this transaction, together with such additional instructions as may be executed by the Parties and delivered to the Escrow Holder. Any further Escrow instructions given to Escrow Holder shall be consistent with the terms of this Agreement and, as between the Parties, the terms of this Agreement shall prevail if there is any inconsistency.

3.2. Close of Escrow. For the purpose of this Agreement, and unless extended by mutual agreement of the Parties, "**Close of Escrow**", "**Closing**" or the "**Closing Date**" shall be defined as the date that the Grant Deed (defined below) is recorded in the Official Records of Sacramento County. Close of Escrow shall occur no later than fifteen (15) calendar days after Buyer has delivered the approval of its Feasibility pursuant to Section 4.1.3.

#### 3.3. Leaseback Agreement, Term and Base Rent.

3.3.1. Leaseback Agreement and Term. If Seller is unable to vacate the Purchase Property by the Close of Escrow, Buyer and Seller shall both execute a mutually agreeable short-term leaseback agreement ("**Leaseback Agreement**") prior to the Close of Escrow, in substantially the form presented in **Exhibit "B"**, attached hereto and incorporated herein by this reference, in which Buyer leases the Purchase Property back to the Seller for a period not to exceed one hundred and eighty (180) days following the Close of Escrow ("**Leaseback Term**"). Seller shall not be due any further relocation assistance costs due to execution of a Leaseback Agreement for any period of time.

3.3.2. Base Rent. The Base Rent for the Purchase Property shall be Ten Thousand Seven Hundred Seven Dollars and 60/100 (\$10,707.60) per month ("**Base Rent**"). Beginning on the commencement of the Leaseback Term, the Seller shall pay a discounted monthly base rent for the Purchase Property as follows:

- A. Days 1 – 90: Five Thousand Three Hundred Fifty-Three Dollars and 80/100 (\$5,353.80) per month – equivalent to 50% of base rent per month;
- (1) The first ninety (90) days' Leaseback payment shall be prepaid, in the amount of Sixteen Thousand Sixty-One Dollars and 40/100 (\$16,061.40) and shall be credited to Buyer and collected in Escrow.
  - (2) Should Seller vacate the Purchase Property prior to Day 90 of the Leaseback Period, Buyer shall credit Seller for any portion of the unearned rent collected for Day 1-90 of the Leaseback Period.

- B. Days 91 – 180: Eight Thousand Thirty Dollars and 70/100 (\$8,030.70) per month – equivalent to 75% of base rent per month.
  - (1) Such sums shall be remitted to Buyer on a monthly basis, due and payable every 30 days following the 91st day of occupancy of the Purchase Property.
- C. Should Seller hold over after the 180-day period market rent per month shall be deemed to be Sixteen Thousand Sixty-One Dollars and 40/100 (\$16,061.40) and shall be paid during the holdover period and for any period where the City is in the process of an Unlawful Detainer action.

3.4. Closing Costs.

3.4.1. Borne by Seller. Seller shall pay (i) the premium for the CLTA Owner's Policy in the amount of the Purchase Price including the costs of any endorsements required to cure an objected title exception, if any; and (ii) any sales, use, and ad valorem taxes connected with the Close of Escrow. Seller shall pay its own legal and professional fees and fees of other consultants incurred with regard to this transaction.

3.4.2. Borne by Buyer. Buyer shall pay the costs of (i) any transfer and similar taxes imposed on the Grant Deed; (ii) the title insurance premium for any ALTA Standard Coverage or ALTA Extended Coverage desired by Buyer; (iii) public hearing publication costs; and (iv) Fees of Escrow Holder. Buyer shall pay its own legal and professional fees and fees of other consultants incurred with regard to this transaction.

3.4.3. Prorations. Buyer is exempt from real estate taxes and certain assessments and charges pursuant to the California Constitution. All ad valorem real property taxes on the Purchase Property shall be apportioned and paid at Close of Escrow as provided in California Revenue and Taxation Code Section 5086. If Seller has prepaid any of the ad valorem real property taxes, which are cancelled pursuant to Section 5086, Seller may seek and retain any funds to which it is entitled from such taxing agencies. Buyer shall be responsible for its pro-rata share of any non-exempt assessments and charges. For purposes of this section, the term the "Proration Date" shall be defined as 11:59 p.m. on the day preceding the Close of Escrow. All prorations shall be made on the basis of the actual number of days of the year and month which have elapsed as of the Proration Date.

3.5. Utility Charges. Seller will cause all utility and water meters to be read on the Close of Escrow, or the end of the Leaseback Period, whichever is later, and will be responsible for the cost of all utilities and water used prior to that time.

3.6. Delivery of Documents and Funds.

3.6.1. By Seller. Prior to and as a condition to Close of Escrow, Seller shall:

- A. Deposit with Escrow Holder the grant deed conveying the Purchase Property to Buyer, in the form customarily used by Escrow Holder in the County (the "**Grant Deed**"), fully executed and notarized;

- B. Deposit with Escrow Holder a Transferor's Certificate of Non-foreign Status pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended, certifying that Seller is not a foreign person;
- C. Deposit with Escrow Holder such forms required by Escrow Holder regarding California withholding requirements for real estate sales; and
- D. Execute and deliver to Escrow Holder such other instructions, documents and funds as may be required by Escrow Holder to close Escrow in accordance with this Agreement.

3.6.2. By Buyer. Prior to and as a condition to Close of Escrow, Buyer shall:

- A. Deposit with Escrow Holder the balance of the Purchase Price and Settlement Relocation Costs, and any other funds required from Buyer for prorations and costs; and
- B. Execute and deliver to Escrow Holder such other instructions, documents and funds as may be required by Escrow Holder to close Escrow in accordance with this Agreement.

3.6.3. By Escrow Holder. When all other conditions for the Close of Escrow have been met, Escrow Holder shall promptly:

- A. Disburse to Seller the Purchase Price and Settlement Relocation Costs, excepting that first ninety (90) days' Leaseback payment described in Section 3.3.2.A. (1) of this Agreement, which shall be credited to Buyer at the Close of Escrow, and after deducting therefrom all items chargeable to the account of Seller pursuant to this Agreement;
- B. Cause the Grant Deed to be recorded in the official records of Sacramento County; and
- C. Deliver to Buyer a CLTA standard coverage owner's policy of title insurance (or ALTA extended coverage policy if Buyer so requests), insuring title in Buyer subject only to exceptions consistent with the terms of this Agreement.

#### **ARTICLE 4. CONDITIONS TO CLOSE OF ESCROW; ADDITIONAL AGREEMENTS**

4.1. Buyer's Conditions to Close of Escrow. Buyer's obligation to purchase the Purchase Property and close Escrow is subject to the fulfillment of each and every one of the conditions in this Section 4.1. Except where a different time period is specifically set forth, satisfaction of each condition shall occur no later than the Close of Escrow.

4.1.1. Title; Title Policy. At the Close of Escrow, Seller shall convey title to the Purchase Property to Buyer by Grant Deed, subject only to the "Permitted Exceptions" defined below, and shall cause the Escrow Holder's underwriter to issue the "Buyer's Title Policy" described below.

A. Preliminary Report; Buyer's Title Notice. Within ten (10) business days after the Effective Date of this Agreement, Seller, at Seller's expense, shall deliver to Buyer a current CLTA preliminary report (the "**Preliminary Report**") issued by the Escrow Holder, including copies of all recorded exceptions to title referred to therein (the "Exceptions"), showing title to the Purchase Property vested in Seller (the Preliminary Report, together with the Exceptions, pursuant to this section, shall be collectively referred to as the "**Title Documents**"). Prior to the end of the Feasibility Period (as defined herein), Buyer shall give Seller Notice of Buyer's approval or disapproval of every item or exception set forth in the Title Documents ("**Buyer's Title Notice**"). Buyer's failure to give the Buyer's Title Notice within such Feasibility Period shall be deemed to be Buyer's approval of title to the Purchase Property.

B. Seller's Title Notice. In the event that the Buyer's Title Notice disapproves any exception, Seller shall have ten (10) business days after Seller's receipt of Buyer's Title Notice to give Buyer Notice ("**Seller's Title Notice**") of those disapproved title matters, if any, which Seller is unwilling or unable to remove from title or endorse over. The failure of Seller to give the Seller's Title Notice within such period shall be deemed Seller's refusal or inability to remove or endorse over all items objected to by Buyer. Seller shall have until the Close of Escrow to remove or endorse over those exceptions which Seller has agreed to remove or endorse over. Buyer shall have ten (10) business days from receipt of Seller's Title Notice or date on which Seller is deemed to have refused to remove or endorse over items to notify Seller that either: (1) Buyer accepts Seller either removing or endorsing over such disapproved title matters as described in Seller's Title Notice; (2) Buyer is willing to purchase the Purchase Property subject to such disapproved exceptions; or (3) Buyer elects to terminate this transaction. In the event this Agreement is terminated pursuant to this section, the Parties shall have no further obligations under this Agreement, and the Deposit and Settlement Relocation Costs shall be immediately returned to Buyer.

C. Permitted Exceptions. Those exceptions which Buyer has approved pursuant to this section are called the "**Permitted Exceptions.**"

D. Buyer's Title Policy. The title insurance policy issued at the Close of Escrow (the "**Buyer's Title Policy**") shall be a CLTA Owner's policy of title insurance, with liability in the amount of the Purchase Price, insuring title to the Purchase Property in Buyer, subject only to: (1) the Permitted Exceptions; and (2) the printed exceptions and exclusions common to CLTA Owner's policies.

E. ALTA Extended Policy. Notwithstanding the foregoing, at Buyer's election, the Buyer's Title Policy shall be an ALTA Extended Coverage Owner's policy, so long as Buyer furnishes any ALTA Survey required by Escrow Holder (or, at Buyer's election, agrees to accept the survey exception required by the title insurer). If Buyer does elect to obtain an ALTA Extended Coverage Owner's title policy, the printed exceptions and exclusions to the Buyer's Title Policy would be those common to ALTA Extended Coverage policies. Buyer's request for an

ALTA Extended Coverage Owner's policy shall not extend any dates set forth herein, or delay the Closing, or cause Seller to incur any additional costs.

4.1.2. No Material Change. No "Material Change", as hereinafter defined, shall have occurred with respect to the Purchase Property that has not been approved in writing by Buyer. For purposes of this Agreement, a "Material Change" shall be a change in the status of the use, occupancy, tenants, any change in title not approved by Buyer per 4.1.1 herein, or condition of the Purchase Property as reasonably expected by the Buyer, that occurs after the Effective Date of the Agreement and prior to the Close of Escrow. Buyer shall have five (5) calendar days following receipt of written notice from any sources of any such Material Change within which to approve or disapprove same. If Buyer disapproves of a Material Change, then all deposits shall be returned to Buyer immediately and this Agreement shall be cancelled. Unless otherwise notified in writing by either Party. Escrow Holder shall assume that no Material Change has occurred prior to the close of escrow.

4.1.3. Keys. On or before the Close of Escrow, Seller shall supply to Buyer keys to all lockable doors for the Purchase Property.

4.1.4. Feasibility. The Feasibility Period Commencement Date, as hereinafter defined, shall be the Effective Date of this Agreement. Seller agrees to deliver the below such items to Buyer within five (5) calendar days of the Effective Date. With respect to any items Seller does not possess, or are not readily available to Seller, a written statement from Seller shall be delivered to Buyer, certifying which listed items are not in Seller's possession or readily available to Seller. Buyer shall have until 5:00 p.m. on the date that is forty-five (45) calendar days after the Feasibility Period Commencement Date (the "**Feasibility Period**"), to perform its feasibility review of the Purchase Property, and to determine, in Buyer's sole and absolute discretion, whether or not to proceed with the acquisition of the Purchase Property.

A. Documents and Materials. Within five (5) business days following the Effective Date, Seller shall furnish Buyer with copies of the following:

- (1) Copies of all contracts relating to the operation, maintenance and management of the Purchase Property, if any;
- (2) "As Built" construction plans, if not available, then the most current and complete and accurate construction plans available to Seller;
- (3) Copies of all maintenance records;
- (4) All soils and engineering reports pertaining to the Purchase Property;
- (5) Architectural, civil, and structural Certificates of Compliance;
- (6) Most recent Fire Department Inspection report;

- (7) Copies of Certificates of Occupancy for each tenant; and
- (8) Any tests, surveys, maps, plans, records, permits, correspondence, reports and other materials related to or affecting the Purchase Property which are within Seller's possession or control (altogether "**Documents and Materials**"). Prior to the expiration of the Feasibility Period.

B. Right to Enter. Buyer, its agents, consultants, contractors and subcontractors, and any governmental or quasi-governmental personnel and agencies as Buyer may choose to contact, shall have the right to enter the Purchase Property, after providing 48 hours' Notice to Seller, to make any and all inspections and tests as Buyer may, in its sole and absolute discretion, deem necessary or desirable. All such inspections and any other work conducted or materials furnished with respect to the Purchase Property, by or for Buyer, shall be paid for by Buyer as and when due.

4.1.5. Approval; Disapproval. Buyer shall deliver a Notice to Seller approving or disapproving feasibility on or before the end of the Feasibility Period. If Buyer fails to deliver a Notice of approval on or before 5:00 p.m. on the last day of the Feasibility Period, Buyer shall be deemed to have disapproved the feasibility of purchasing the Purchase Property. If Buyer delivers a Notice of disapproval or is deemed to have disapproved feasibility, this Agreement shall automatically be terminated, the Deposit shall be immediately returned to Buyer and the Parties shall have no further liability to each other, except for the provisions which survive termination.

4.1.6. Planning Commission Determination. Prior to the expiration of the Feasibility Period, Buyer shall obtain a report from its Planning Commission, under California Government Code Section 65402, finding the purchase of the Purchase Property in conformance with the City of Elk Grove General Plan. Should Buyer be unable to obtain such report during the Feasibility Period, Buyer may provide Seller with notice of termination of the Agreement. If Buyer timely delivers a Notice of approval of its feasibility of the Purchase Property, such Notice shall be deemed satisfaction of this condition.

4.1.7. Deeds of Trust. Notwithstanding the foregoing, Seller agrees to remove, at the Close of Escrow, any deeds of trust, which are currently recorded against the Purchase Property.

4.1.8. Leases. Seller agrees not to assign, transfer or sell to any third party any right, title or interest Seller has in the Purchase Property. The Parties acknowledge that, upon acquisition by Buyer, any lease, tenancy or occupancy shall terminate. Further, if there exists either recorded or unrecorded leases, the Parties agree that at Buyer's sole discretion, escrow shall not close and this Agreement shall become all or in part null and void if Escrow Holder fails to receive adequate documentation (such as a quitclaim deed) establishing that lessee has agreed to claim no interest in the Purchase Property or in any compensation for the Purchase Property and/or Settlement Relocation Costs and further enables Buyer to obtain sufficient title insurance.

4.1.9. Seller's Obligations and Performance. Buyer's obligations hereunder are conditioned upon the performance by Seller of every covenant, condition, agreement and promise to be performed by Seller pursuant to this Agreement and the related documents executed or to be executed by Seller hereunder. Seller shall have timely performed all of its other obligations under this Agreement.

4.1.10. Representations and Warranties True. Each and every one of Seller's representations and warranties contained in this Agreement shall be true and correct in every material respect.

4.2. Seller's Conditions. Seller's obligation to sell the Purchase Property and close Escrow is subject to the fulfillment of the following conditions:

4.2.1. Buyer's Performance. Buyer shall have timely performed all of its obligations under this Agreement.

4.2.2. Representations and Warranties True. Buyer's representations and warranties contained in this Agreement shall be true and correct in all material respects.

## **ARTICLE 5. ADDITIONAL AGREEMENTS OF THE PARTIES**

5.1. As-Is Purchase. Buyer agrees and acknowledges, that except with respect to express covenants, Seller's Indemnity, and representations and warranties set forth in this Agreement or as otherwise expressly provided in this Agreement, Buyer is acquiring the Purchase Property in its "AS IS" condition. Buyer shall have forty-five (45) calendar days during the Feasibility Period, to satisfy itself in its complete discretion of the feasibility of the transaction contemplated herein.

5.2. Seller's Representations and Warranties. Buyer's obligations hereunder are conditioned upon the truth and accuracy, in all material respects, of all Seller's representations and warranties in this Agreement and the related documents executed or to be executed by Seller.

5.3.1 Seller makes the following representations and warranties:

- i. Seller owns full legal title to the Purchase Property (subject to matters of record unless Seller agrees to remove said matters as exceptions to title prior to the Close of Escrow as provided herein), and has full power and authority to convey all property rights described herein to Buyer.
- ii. This Agreement constitutes a legal, valid, and binding obligation of Seller enforceable in accordance with its terms.
- iii. There is no suit, action, arbitration, legal, administrative or other proceeding or inquiry pending or, to the best of Seller's knowledge, threatened against the Purchase Property, or any portion thereof, or pending or threatened against Seller which could (i.) affect Seller's title to the Purchase Property, or any portion thereof, (ii.) affect the

value of the Purchase Property, or any portion thereof, or (iii.) subject any purchaser of the Purchase Property, or any portion thereof, to liability.

- iv. There are no uncured notices, which have been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule, or regulation, which would affect the Purchase Property, or any portion thereof.
- v. There are no Hazardous Substances, as defined in Exhibit "B", present on the Purchase Property in violation of any Hazardous Substances Laws, or storage tanks containing Hazardous Substances, in, on, under, or about the Purchase Property.
- vi. There has been no production, storage, disposal, presence, observance, or release of any Hazardous Substances in, on, under, or about the Purchase Property in violation of any Hazardous Substances Laws.
- vii. There are no violations of any federal, state or local law, statute, ordinance, regulation, rule, order, decree, or other governmental requirement that pertains to the regulation of Hazardous Substances and/or the protection of public health and safety or the environment ("Hazardous Substances Laws"), including, but not limited to, the ambient air, soil, soil vapor, groundwater, surface water or land use, nor of any legal, administrative or other action or proceeding, pending or threatened, affecting the Purchase Property and relating to Hazardous Substances and/or environmental compliance.
- viii. There is no license, permit, option, right of first refusal, or other agreement, written or oral, which affects the Purchase Property or any portion thereof.
- ix. Conveyance of the property rights described herein shall not constitute a breach or default under any agreement to which Seller is bound and/or to which the Purchase Property is subject.

5.2.2. Each of the above warranties and representations is material and is relied upon by Buyer separately and collectively. Each of the above representations shall be deemed to have been made as of the date that the Grant Deed (as defined in Section 3.2) is recorded, and shall survive the recording of the Grant Deed by a period of two years following the date that the Grant Deed is recorded. If, before the recording of the Grant Deed, Seller discovers any information or facts that would materially change any of these warranties and representations, Seller shall immediately give notice in writing to Buyer of such facts and information. In the event a warranty or representation becomes untrue prior to the closing, Seller shall fully discharge its obligations to Buyer under this Agreement by notifying Buyer of the change and shall not be liable for such changed circumstance unless such warranty or representation was untrue as of the date of this Agreement or if Seller fails

to notify Buyer of such change prior to the Close of Escrow. Buyer acknowledges that Seller has provided to Buyer no representations or warranties with respect to this transaction other than as expressly set forth in this Agreement and that Seller shall not be held accountable for any statement, promise, representation or warranty that is not expressly set forth herein.

## ARTICLE 6. MISCELLANEOUS

### 6.1. Notices.

6.1.1. "**Notice**" means any notice, demand, request or other communication or document to be provided under this Agreement to a party to this Agreement.

6.1.2. The Notice shall be in writing and shall be given to the party at its address or facsimile number set forth below or such other address or facsimile number as the party may later specify for that purpose by Notice to the other party. Each Notice shall, for all purposes, be deemed given and received:

- A. If given by facsimile, when the facsimile is transmitted to the party's facsimile number specified below and confirmation of complete receipt is received by the transmitting party during normal business hours or on the next business day if not confirmed during normal business hours;
- B. If hand-delivered to a party against receipted copy, when the copy of Notice is receipted;
- C. If given by a nationally-recognized and reputable overnight delivery service, the day on which the Notice is actually received by the party;  
or
- D. If given by any other means or if given by certified mail, return receipt requested, postage prepaid, two business days after it is posted with the United States Postal Service, at the address of the party specified below:

If to Seller: eImage Secured Solutions  
Attn: Barbara Golden, Controller  
9362 Studio Court  
Elk Grove, CA 95758  
Telephone No.: (916) 996-3389  
Facsimile No.: (916) 381-3350

If to Buyer: City of Elk Grove  
Attn: City Manager  
8401 Laguna Palms Way  
Elk Grove, California 95758  
Telephone No.: (916) 478-2200  
Facsimile No.: (916) 627-4200

6.1.3. If any Notice is sent by facsimile, the transmitting party shall send a duplicate copy of the Notice to the other party by regular mail. In all events, however, any Notice sent by facsimile transmission shall govern all matters dealing with delivery of the Notice, including the date on which the Notice is deemed to have been received by the other party.

6.1.4. The provisions above governing the date on which a Notice is deemed to have been received by a party to this Agreement shall mean and refer to the date on which a party to this Agreement, and not its counsel or other recipient to which a copy of the Notice may be sent, is deemed to have received the Notice.

6.1.5. If Notice is tendered under the provisions of this Agreement and is refused by the intended recipient of the Notice, the Notice shall nonetheless be considered to have been given and shall be effective as of the date provided in this Agreement. Any Notice given to either party in a manner other than that provided in this Agreement, that is actually received by the noticed party, shall be effective with respect to such party on receipt of the Notice.

6.2. Brokers. Neither Buyer, nor Seller, are represented by a broker or other party entitled to a commission as a result of the transaction described in this Agreement. Buyer and Seller each agree to indemnify and hold harmless one another against any loss, liability, damage, cost, claim or expense incurred by reason of any brokerage commission or finder's fee alleged to be payable because of any act, omission or statement of the indemnifying party.

6.3. Tax-Deferred Exchange. Seller desires to involve the Purchase Property in a tax-deferred exchange under the provisions of Section 1033 of the Internal Revenue Code ("Exchange"); Buyer agrees to cooperate with the Seller in the Exchange. Such cooperation may include the execution by the Buyer of documents and instruments deemed reasonably necessary by the Seller in order to affect the Exchange. The Seller agrees to indemnify Buyer and to pay for all costs that may be incurred by the Buyer, including Buyer's attorneys' fees or other similar or dissimilar costs should the Buyer be named in any lawsuit or claim related to the Exchange.

6.4. Default by Seller. If Close of Escrow does not occur as a result of any default by Seller, Buyer shall be entitled to an immediate return of the Deposit, Settlement Relocation Costs and any other monies delivered to Escrow Holder by Buyer.

6.5. Assignment. Buyer may not assign its rights under this Agreement in whole or in part without the prior written consent of Seller, which will not be unreasonably withheld.

6.6. Possession. Buyer shall be entitled to legal possession of the Purchase Property at the Close of Escrow, or the end of the Leaseback Period, whichever is later.

6.7. Damage or Destruction. In the event that any portion of the Purchase Property is damaged or destroyed after the Effective Date, Buyer, in its absolute discretion, may either: (a) terminate this Agreement; or (b) proceed to close this transaction, in which case Buyer shall be entitled to the entire portion of the award and/or insurance proceeds which are attributable to the Purchase Property.

6.8. Interpretation. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the Parties and are not a part of the Agreement. Whenever required

by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine, and vice versa. This Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared the same. Unless otherwise indicated, all references to paragraphs, sections, subparagraphs and subsections are to this Agreement.

6.9. Time of Essence. Seller and Buyer hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either party shall constitute a material breach of and a non-curable (but waivable) default under this Agreement by the party so failing to perform.

6.10. Integration. This Agreement contains the entire agreement of the Parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements or understandings, oral or written, relating to the subject matter which are not fully expressed herein.

6.11. Severability. If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to either party. Upon such determination that any term or provision is illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Seller and Buyer as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the greatest extent possible.

6.12. Waivers. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege or service voluntarily given or performed by Seller or Buyer shall give the other party any contractual rights by custom, estoppel or otherwise.

6.13. Additional Documents. From time to time prior to and after the Close of Escrow, each party shall execute and deliver such instruments of transfer and other documents as may be reasonably requested by the other party to carry out the purpose and intent of this Agreement.

6.14. Dependency and Survival of Provisions. The respective warranties, representations, covenants, agreements, obligations and undertakings of each party hereunder shall be construed as dependent upon and given in consideration of those of the other party, and shall survive the Close of Escrow and delivery of the deed.

6.15. Governing Law. This Agreement shall be constructed in accordance with and governed by the laws of the State of California. Any legal action arising under or related to this agreement shall be brought and prosecuted in the Sacramento County Superior Court.

6.16. Calculation of Time Periods. If any date for performance under this Agreement falls on a Saturday, Sunday or federal holiday, then the date of performance shall be the next day which is not a Saturday, Sunday or federal holiday, and the next time period shall be calculated from and after the date of such actual performance.

6.17. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. Photocopied or electronic signatures shall be enforceable as originals.

6.18. Authority. Each individual executing this Agreement on behalf of an entity represents and warrants that he or she has been authorized to do so by the entity on whose behalf he or she executes this Agreement and that said entity will thereby be obligated to perform the terms of this Agreement.

6.19. Exhibits. All exhibits to which reference is made in this Agreement are incorporated in this Agreement by the respective references to them, whether or not they are actually attached, provided they have been signed or initialed by the Parties. Reference to "this Agreement" includes matters incorporated by reference.

6.20. List of Exhibits.

- Exhibit "A" – Description of Purchase Property
- Exhibit "B" – Leaseback Agreement
- Exhibit "C" – Definition of Hazardous Materials

*(signature page follows)*

IN WITNESS WHEREOF, the Parties have executed this Agreement as follows:

**SELLER:**

EIMAGE SOLUTIONS, LLC,  
a California limited liability company

Dated: 7/23/19

By: [Signature]  
Name: Barbara Golden  
Its: Principal Owner

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**BUYER:**

CITY OF ELK GROVE,  
a municipal corporation

Dated: 7/29/19

By: [Signature]  
Jason Behrmann, City Manager

RECOMMENDED FOR APPROVAL

Dated: July 25, 2019

By: [Signature]  
Julie Cline, Real Estate Manager

APPROVED AS TO FORM

Dated: \_\_\_\_\_

By: [Signature]  
Jonathan P. Hobbs, City Attorney

ATTEST

Dated: July 30, 2019

By: [Signature]  
Jason Lindgren, City Clerk

EFFECTIVE DATE: July 30, 2019.



---

**EXHIBIT "A"**  
**Purchase Property**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ELK GROVE, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Lot 12, together with the Southeasterly fifteen (15.00) feet of Lot 13, measured at right angles to the Southeasterly boundary of said Lot 13, as said Lots are shown on the official plat of Laguna Palms Office Park, filed in the Office of the Recorder of Sacramento County in Book 219 of Maps, Map No. 2.

Also known as Parcel 1 of that certain Lot Line Adjustment Resolution No. 97-BLS-0267.

APN: 116-0860-026-0000

**EXHIBIT "B"**  
**Leaseback Agreement**

**LANDLORD: CITY OF ELK GROVE, a municipal corporation**

**TENANT: EIMAGE SECURED SOLUTIONS, LLC, a California limited liability company**

**LEASEBACK AGREEMENT**

This Leaseback Agreement (“**Agreement**”) is made this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the **CITY OF ELK GROVE, a municipal corporation** (“**City**” or “**Landlord**”), and **EIMAGE SECURED SOLUTIONS, LLC, a California limited liability company** (“**Tenant**”), collectively referred to as (“**Parties**”).

**RECITALS**

**WHEREAS**, City is the owner of certain real property located at 9362 Studio Court in Elk Grove, California, identified as Sacramento County Assessor Parcel Number 116-0860-026 (“**Subject Property**”); and

**WHEREAS**, City acquired Subject Property from Tenant for the expansion of City Facilities; and

**WHEREAS**, the acquisition of the Subject Property is being facilitated by Fidelity National Title Company, Escrow No. \_\_\_\_\_ (“**Escrow**”);

**WHEREAS**, the Parties desire to enter into this Agreement upon the terms and conditions set forth below.

**NOW, THEREFORE**, in consideration of the payment, and other obligations set forth below, City and Tenant mutually agree as follows:

**1. Premises**

By this Agreement, and at the close of Escrow for the Subject Property, City will rent to Tenant, and Tenant will rent from City, the Subject Property located at 9362 Studio Court, Elk Grove, California.

**2. Term**

The term of this Agreement shall commence upon the close of Escrow between City and Tenant (hereinafter referred to as the "**Commencement Date**") and continue for a maximum of 180 days from the Commencement Date. City may, at its sole option, extend this Agreement for any period beyond the expiration date of this Agreement. Any extension to the Term of this Agreement must be expressed, in writing, and signed by an authorized City representative; otherwise, the provisions of Section 9 of this Agreement shall apply. Upon vacating the Subject Property, Tenant shall cause all personal property to be removed from the Subject Property.

**3. Relocation Assistance**

In connection with the sale of the Subject Property, and pursuant to the Agreement for Purchase and Sale and Joint Escrow Instructions ("**Purchase Agreement**") dated \_\_\_\_\_, 2019, settlement payment in-full, for all relocation benefits, advisory assistance, business reestablishment, moving expenses, and other payments to which Tenant may be entitled under state, federal or local law, rule or regulation have been paid. Tenant's post-escrow-closing occupancy of the Subject Property does not entitle Tenant to any additional relocation assistance.

**4. Base Rent**

The base rent for the Subject Property shall be Ten Thousand Seven Hundred Seven Dollars and 60/100 (\$10,707.60) per month ("**Base Rent**"). Beginning on the Commencement Date, Tenant shall pay a discounted monthly base rent for the Subject Property as follows:

Days of Lease Term	Base Rent	% of Base Rent	Monthly Installment of Base Rent
1 – 90	\$10,707.60	50 %	\$5,353.80
91-180	\$10,707.60	75%	\$8,030.70

The initial rent payment for Days 1-90, in the amount of Sixteen Thousand Sixty-One Dollars and 40/100 (\$16,061.40), shall be prepaid and collected by City in Escrow. If Tenant vacates Subject Property prior to Day 90, City shall refund any unearned rent to Tenant. At the end of the initial 90 day-period, if Tenant has not vacated the Subject Property, monthly rent for Days 91-180 shall be due every 30 days beginning on the 91<sup>st</sup> day of occupancy.

Payments shall be made to City at the following address:

City of Elk Grove – Facilities Department  
8401 Laguna Palms Way  
Elk Grove, CA 95758

**5. Holding Over**

Any occupancy of the Subject Property by Tenant beyond 180 days shall be assessed at 150% of the base rent amount, totaling Sixteen Thousand Sixty-One Dollars and 40/100 (\$16,061.40) per month ("**Holdover Rent**"). If Tenant remains in possession of the Subject Property after expiration of the Term, Tenant shall pay, and City may recover, Holdover Rent, pro-rated on a daily basis, based on a thirty (30) calendar day month. Any holding over by Tenant after expiration of the Term shall not constitute a renewal or extension of this Agreement or give Tenant any rights in or to the Subject Property, including but not limited to continuing occupancy of the Subject Property, except as expressly provided in this Agreement. City shall have the right to take any necessary legal action to remove Tenant from the Subject Property, and Tenant shall be liable for

any and all costs, including but not limited to legal expenses and staff time, expended to effectuate such removal. Notwithstanding the foregoing, no termination of this Agreement shall release Tenant from any liability or obligation hereunder, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or date of surrender, if it is later.

## 6. Use of Subject Property

6.1. Occupants. Continued business use by Tenant only.

6.2. Utilities. Tenant is responsible for payment of all utilities and service charges related to occupancy of the Subject Property during the term of this Agreement.

6.3. Tenant's Obligations. Tenant agrees to perform the following obligations: (i) To keep the Subject Property as clean and sanitary as their condition permits; (ii) To dispose of all rubbish, garbage, and other waste in a clean and sanitary manner; (iii) To use and operate properly all electrical, gas, and plumbing fixtures and pipes, and to keep them as clean and sanitary as their condition permits; (iv) To maintain any surrounding grounds, including lawns and shrubbery, and keep the same clear of rubbish or weeds; and (v) To refrain from willfully or wantonly destroying, defacing, damaging, impairing, or removing any part of the Subject Property or the facilities, equipment, or appurtenances, or permitting any person on the Subject Property to commit such acts.

6.4. Tenant Repairs/Maintenance. Tenant is renting Subject Property "AS-IS" and will be responsible for any repairs for defective conditions Tenant desires to have corrected. Tenant shall also be responsible for maintenance to ensure upkeep of the property, building, and its fixtures during the pendency of its lease.

## 7. Right of Entry

City shall have the right to enter to the Subject Property after providing 48 hours' Notice to Seller (which notice may be oral), except in a case of emergency, no such notice shall be required. If Seller shall not personally be present to open and permit entry into the Subject Property, when such entry by Buyer is necessary or permitted under the Leaseback Agreement, Buyer may enter by means of a key without liability to Tenant except for any failure to exercise due care for Tenant's Personal Property and without affecting the Leaseback Agreement.

## 8. Assignment and Subletting

Tenant shall not assign this Agreement, or any interest herein, nor sublet any portion of the Subject Property, without the prior written consent of the City. Any attempt by Tenant to assign or sublet all or any portion of Tenant's interest under this Agreement, without first requesting and obtaining City's advance written permission, shall be null and void and ineffective to transfer such interest to any person.

## 9. Indemnification, Defense and Insurance

Tenant agrees to accept all responsibility for loss or damage to any person or entity, including City, and to indemnify, defend, hold harmless, and release City, its officers, agents, employees, and volunteers from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Tenant, that arise out of, pertain to, or relate to the activities of Tenant, its guests or invitees, or Tenant's occupancy of the Subject Property under this Agreement. Tenant agrees to provide a complete defense for a claim or action brought against City based upon a claim relating to Tenant's action or negligence indemnity obligations herein, excluding liability due to City's conduct. City shall have the right to select its legal counsel at Tenant's expense, subject to Tenant's approval, which shall not be unreasonably withheld.

City shall not be liable for any damage or injury to Tenant, or any other person, or to any property, occurring on the Subject Property or any part thereof, unless such damage is due to the sole active negligence or sole willful misconduct of City, as determined by a court of competent jurisdiction. Unless, and until such judicial determination is made, or as otherwise agreed by the Parties, Tenant shall remain obligated to defend, indemnify and hold harmless. Tenant agrees to indemnify City for liability arising during Tenant's occupancy for its actions and negligence of the Subject Property, that may occur for personal injuries, property damage caused by the Tenant's actions or negligence of Tenant and his or her guests or invitees.

Tenant, at its sole cost and expense, shall, commencing on the date of the Leaseback Agreement, and during the entire Term hereof, procure, pay for and keep in full force and effect insurance coverage as set forth in Exhibit "A", attached hereto and incorporated herein by reference.

Prior to the close of Escrow, Tenant shall deliver the required proof of insurance compliance effective as of the Commencement Date, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage to City. City may designate an insurance certificate processor ("Processor") to accept and process Tenant's proof of insurance. Tenant shall deliver copies of the actual insurance policies, renewals, or replacements directly to City or Processor upon their request.

## 10. Default and Remedies

**10.1. Default by Tenant.** For any breach of a covenant or condition of this Agreement, City may, at its option, serve a three-day notice (i) specifying the nature of the breach, and (ii) demanding that Tenant cure the breach, if the breach can be cured. The notice may further declare that, if Tenant fails to cure a curable breach within the three-day period, or if the breach is not curable, the tenancy is terminated, and Tenant forfeits all rights under this Agreement. The question of whether breach of a covenant or condition is curable will be determined by the prevailing law in the State of California as of the time of service of a three-day notice specifying

that Tenant's alleged breach is a non-curable breach. If Tenant abandons or vacates the Subject Property, City may consider any property left on the Subject Property to be abandoned and may dispose of the same in any manner allowed by law, in the event the City reasonably believes that such abandoned property has no value, it may be discarded. All property on the Subject Property is hereby subject to a lien in favor of City for the payment of all sums due hereunder, to the maximum extent allowed by law.

**10.2. City's Remedies.** In the event of default by Tenant, City may elect to: (i) continue this Agreement in effect and enforce all its rights and remedies hereunder; or (ii) at any time, terminate all of Tenant's rights hereunder and recover from Tenant all damages City may incur by reason of the breach of the Agreement, including the cost of recovering the Subject Property.

**11. Termination**

Tenant may terminate this Agreement at any time during the Term hereof, or any extension to the Term, by providing City notice in writing at least thirty (30) calendar days prior to the effective date of such termination. In the event of any such termination, City shall return to Tenant the unearned portion of any prepaid rent attributable to the Subject Property, within thirty days.

**12. Amendment**

This Agreement may be modified, changed or rescinded only by an instrument in writing executed by the Parties hereto.

**13. Notices**

Any notice that either party may or is required to give the other shall be in writing, and shall be either (1) personally delivered or (2) sent by regular U.S. Mail with a copy also transmitted via email, to the following address:

**To City:**  
City of Elk Grove  
Public Works Department  
Development Services  
8401 Laguna Palms Way  
Elk Grove, CA 95758  
Attention: Real Property Manager  
Email: [jlcline@elkgrovecity.org](mailto:jlcline@elkgrovecity.org)

**To Tenant:**  
eImage Secured Solutions, LLC  
9362 Studio Court  
Elk Grove, CA 95758  
Attn: Barbara Golden, Controller  
Email: [barbgolden@sytechsolutions.com](mailto:barbgolden@sytechsolutions.com)

**14. Binding on Successors**

This Agreement shall be binding on and shall inure to the benefit of the City and Tenant, and their respective successors, assigns, and their past, present and future officers, employees and agents; provided that this Agreement may only be assigned with the

written consent of both Parties, and any attempt to assign this Agreement without such consent shall be void.

**15. Time of Essence**

Time is of the essence for each condition, term, and provision in this Agreement.

**16. Waivers**

No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any other covenant or provision in this Agreement and no waiver shall be valid unless in writing and executed by the waiving party.

**17. Severability**

If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner adverse to either party. Upon such determination that any term or provision is illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement so as to affect the original intent of the Parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the greatest extent possible.

**18. Construction**

Parties agree and acknowledge that the provisions of this Agreement have been arrived at through negotiation and that each party has had a full and fair opportunity to revise the provisions of this Agreement and to have such provisions reviewed by legal counsel. Therefore, any ambiguities in construing or interpreting this Agreement shall not be resolved against the drafting party. The titles of the various sections are merely informational and shall not be construed as substantive portion of this Agreement.

**19. Governing Law**

This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action arising under or related to this Agreement shall be brought and prosecuted in the Sacramento County Superior Court.

**20. Entire Agreement**

This Agreement constitutes the sole agreement between City and Tenant respecting the rental of the Subject Property. All prior oral discussions, representations, if any, are specifically superseded by this Agreement, which is intended by the Parties to contain all of the terms and conditions agreed to by them with regard to the rental of the Subject Property by City to Tenant.

**21. Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, when signed by all of the Parties hereto, shall constitute one and the same instrument.

**22. Authority**

Each individual executing this Agreement on behalf of an entity represents and warrants that he or she has been authorized to do so by the entity on whose behalf he or she executes this Agreement and that said entity will thereby be obligated to perform the terms of this Agreement.

*(signature page follows)*

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

**TENANT:**  
**EIMAGE SECURED SOLUTIONS, LLC,**  
**a California limited liability company**

**CITY:**  
**CITY OF ELK GROVE,**  
**a municipal corporation**

By: Exhibit Do Not Sign

By: \_\_\_\_\_  
Jason Behrmann, City Manager

Print: \_\_\_\_\_

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

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

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

**RECOMMENDED FOR APPROVAL:**

By: Exhibit-Do Not Sign

By: \_\_\_\_\_  
Julie Cline, Real Estate Manager

Print: \_\_\_\_\_

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

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

**APPROVED AS TO FORM:**

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

By: \_\_\_\_\_  
Jonathan P. Hobbs, City Attorney

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

**ATTEST:**

By: \_\_\_\_\_  
Jason Lindgren, City Clerk

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

## EXHIBIT A

### Insurance Requirements

Prior to commencement of any work under this Agreement, Tenant shall provide to the City proof of, and maintain in full force and effect at all times during the term of the Contract, at its sole cost and expense, policies of insurance as set forth herein:

1. General Liability:

- a. Comprehensive general liability insurance including, but not limited to, protection for claims of bodily injury, property damage, and premises liability.
- b. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
- c. Claims-made coverage is not acceptable.
- d. The limits of liability shall not be less than:

Each occurrence:	One Million Dollars (\$1,000,000)
Products & Completed Operations:	One Million Dollars (\$1,000,000)
Aggregate:	Two Million Dollars (\$2,000,000)
- e. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents, and authorized volunteers for losses arising from work performed by the Tennant.
- f. The City, its officials, employees, agents and authorized volunteers shall be covered and specifically named as additional insured as respects liability arising out of activities performed by or on behalf of the Tennant, products and completed operations of the Tennant, premises owned, occupied, or used by the Tennant, or automobiles leased, hired, or borrowed by the Tennant on a separate endorsement acceptable to the City.
- g. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents, or authorized volunteers.
- h. Provision or endorsement stating that for any claims related to this contract, the Tennant's insurance coverage shall be primary insurance as respects the City, its officials, employees, agents, and authorized volunteers to the extent the City is an additional insured. Any insurance or self-insurance maintained by the City, its officials, employees, agents, or authorized volunteers shall be in excess of the Tennant's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss or judgment.
- i. Any failure to comply with reporting or other provisions of the policies on the part of the Tennant, including breaches of warranties, shall not affect Tennant's requirement to provide coverage to the City, its officials, employees, agents, or authorized volunteers.

2. Acceptability of Insurers: Insurance is to be placed with insurers with a **Bests' rating of**

**no less than A:VII.**

3. Any deductibles, aggregate limits, pending claims or lawsuits that may diminish the aggregate limits, or self-insured retention(s), must be declared to, and approved by, the City.
4. The Tennant shall furnish the City with certificates of insurance and original endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this Contract. At the written request of the City, Tennant agrees to furnish a duplicate original or certified copy of each required policy including the declaration pages, conditions, provisions, endorsements, and exclusions.
5. The City, due to unforeseen risk or exhaustion, failure, or dilution of Tennant's insurance coverage, at its discretion, may increase the amounts and types of insurance coverage required hereunder at any time during the term of the contract by giving 30 days written notice.
6. The Tennant shall serve the City notice, in writing by certified mail, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement that concern the suspension, voidance, cancellation, termination, reduction in coverage or limits, non-renewal, or material changes of coverage proposed or otherwise.
7. If the Tennant fails to procure or maintain insurance as required by this section, and any Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due the Tennant under the contract.
8. Failure of the City to obtain such insurance shall in no way relieve the Tennant from any of its responsibilities under the contract.
9. The making of progress payments to the Tennant shall not be construed as relieving the Tennant or its Sub-Tennants or agents of responsibility for loss or direct physical loss, damage, or destruction occurring prior to final acceptance by the City.
10. The failure of the City to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at any time during the term of the contract.
11. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Consultant are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Consultant under the Contract.

**EXHIBIT "C"**  
**Definition of Hazardous Material(s)**

The term "Hazardous Material(s)" as used herein shall include any substance, chemical, compound or mixture which is (or which contains any substance, chemical, compound, or mixture which is):

(i) a "Hazardous Substance," "Hazardous Material," "Hazardous Waste" or "Toxic Substance" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq. or the Solid Waste Disposal Act, 42 U.S.C. Section 6901, et seq., including any regulations promulgated thereunder, as any of the foregoing may be amended;

(ii) an "Acutely Hazardous Waste," "Extremely Hazardous Waste," "Hazardous Waste" or "Restricted Hazardous Waste," under Sections 25110.02, 25115, 25117 or 25122.7 of the California Health and Safety Code, or is listed pursuant to Section 25140 of the California Health and Safety Code, as any of the foregoing may be amended;

(iii) a "Hazardous Material," "Hazardous Substance" or "Hazardous Waste" under Sections 25281, 25316, 25501 or 25501.1 of the California Health and Safety Code, as any of the foregoing may be amended;

(iv) "Oil" or a "Hazardous Substance" under Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. Section 1321, as may be amended, as well as any other hydrocarbonic substance, fraction, distillate or by-product.

(v) defined, identified or listed as an "Acutely Hazardous Waste," "Extremely Hazardous Material," "Extremely Hazardous Waste," "Hazardous Constituent," "Hazardous Material," "Hazardous Waste," "Hazardous Waste Constituent" or "Toxic Waste" pursuant to Division 4.5, Chapters 10 or 11 of Title 22 of the California Code of Regulations, as may be amended;

(vi) listed by the State of California as a chemical known by the State to cause cancer or reproductive toxicity pursuant to Section 25249.8 of the California Health and Safety Code, as may be amended;

(vii) a "Biohazardous Waste," "Medical Waste" or "Mixed Waste" under Sections 25020.5, 25023.2 or 25025.2 of the California Health and Safety Code, as may be amended;

(viii) hazardous, toxic, ignitable, radioactive, corrosive or reactive and which is regulated by any public entity or under any law; or

a material which, due to its characteristics or interaction with one or more other substances, wastes, chemicals, compounds, or mixtures, damages or threatens to damage health, safety, or the environment or is required by any law or public entity to be remediated, including remediation which such law or public agency requires in order for the property to be put to any lawful purpose, including but not limited to, petroleum, petroleum products, PCBs, asbestos, and asbestos-containing material.

**FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT  
AND JOINT ESCROW INSTRUCTIONS**

**THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS** (this "Amendment") dated as of August 23, 2019 ("Effective Date"), is executed by and between EIMAGE SECURED SOLUTIONS, LLC, a California limited liability company ("Seller" or "eImage"), and the CITY OF ELK GROVE, a municipal corporation ("Buyer" or "City"), collectively referred to as ("Parties"), who agree as follows:

**WHEREAS**, Seller and Purchaser entered into that certain Purchase and Sale Agreement and Joint Escrow Instructions dated July 30, 2019 City contract number C-19-397 (the "Original Agreement"), in accordance with the terms and conditions set forth in the Original Agreement; and

**WHEREAS**, Seller and Buyer desire to modify the Original Agreement for the purposes set forth herein.

**NOW THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby covenant and agree as follows:

1. Incorporation of Recitals. The recitals set forth above are incorporated herein by this reference.

2. Original Agreement Remains in Effect. Except as set forth in this Amendment, the Original Agreement remains unchanged and in full force and effect. All terms defined in the Original Agreement shall have the same meaning here.

3. ARTICLE 1.5. Purchase Property Close of Escrow. is replaced in its entirety by the following:

The close of escrow (defined in ARTICLE 3.2) for the Purchase Property will be completed concurrently with the close of escrow for the Replacement Property.

4. ARTICLE 2.3.3 Balance of Purchase Price. is replaced in its entirety by the following:

Buyer shall deposit the remainder of the Purchase Price, One Million Six Hundred Fifty Thousand Dollars and 00/100 (\$1,650,000.00) and Settlement Relocation Costs, Two Hundred Thousand Dollars and 00/100 (\$200,000.00) and Buyer's share of costs and prorations, in cash by a deposit of immediately available funds, on or before October 16, 2019.

5. ARTICLE 3.2. Close of Escrow. is replaced in its entirety by the following:

For the purpose of this Agreement, and unless extended by mutual agreement of the Parties, "Close of Escrow", "Closing" or the "Closing Date" shall be defined as the date that the Grant

Deed (defined below) is recorded in the Official Records of Sacramento County and shall occur on or before October 17, 2019.

6. ARTICLE 4.1.4. Feasibility. is replaced in its entirety by the following:

Seller agrees to deliver the below such items to Buyer within five (5) calendar days of the Effective Date. With respect to any items Seller does not possess, or are not readily available to Seller, a written statement from Seller shall be delivered to Buyer, certifying which listed items are not in Seller's possession or readily available to Seller. Buyer shall have until 5:00 p.m. September 26, 2019 (the "**Feasibility Period**"), to perform its feasibility review of the Purchase Property, and to determine, in Buyer's sole and absolute discretion, whether or not to proceed with the acquisition of the Purchase Property.

A. Documents and Materials. Within five (5) business days following the Effective Date, Seller shall furnish Buyer with copies of the following:

- (1) Copies of all contracts relating to the operation, maintenance and management of the Purchase Property, if any;
- (2) "As Built" construction plans, if not available, then the most current and complete and accurate construction plans available to Seller;
- (3) Copies of all maintenance records;
- (4) All soils and engineering reports pertaining to the Purchase Property;
- (5) Architectural, civil, and structural Certificates of Compliance;
- (6) Most recent Fire Department Inspection report;
- (7) Copies of Certificates of Occupancy for each tenant; and
- (8) Any tests, surveys, maps, plans, records, permits, correspondence, reports and other materials related to or affecting the Purchase Property which are within Seller's possession or control (altogether "**Documents and Materials**"). Prior to the expiration of the Feasibility Period.

B. Right to Enter. Buyer, its agents, consultants, contractors and subcontractors, and any governmental or quasi-governmental personnel and agencies as Buyer may choose to contact, shall have the right to enter the Purchase Property, after providing 48 hours' Notice to Seller, to make any and all inspections and tests as Buyer may, in its sole and absolute discretion, deem necessary or desirable. All such inspections and any other work conducted or materials

furnished with respect to the Purchase Property, by or for Buyer, shall be paid for by Buyer as and when due.

**IN WITNESS WHEREOF**, the Parties have executed this Amendment as of the date first written above.

**SELLER:**

EIMAGE SOLUTIONS, LLC,  
a California limited liability company

Dated: 8/23/19

By: [Signature]  
Name: Barbara Golden  
Its: owner

**BUYER:**

CITY OF ELK GROVE,  
a municipal corporation

Dated: 8-28-19

By: [Signature]  
For Jason Behrmann, City Manager

RECOMMENDED FOR APPROVAL

Dated: \_\_\_\_\_

By: [Signature]  
Julie Cline, Real Estate Manager

APPROVED AS TO FORM

Dated: 8-28-19

By: [Signature]  
Jonathan P. Hobbs, City Attorney

ATTEST

Dated: \_\_\_\_\_

By: [Signature]  
Jason Lindgren, City Clerk

Dated: August 29, 2019



# Attachment 4 Location Map

