

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

SELLER: City of Anaheim

BUYER: ATN Asset Holding Co. LLC,
a California limited liability company

DATED: July 30, 2019

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

This **PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS** (“Agreement”), dated for reference purposes only as of 30th day of July, 2019, by and between the **CITY OF ANAHEIM**, a California municipal corporation and charter city (“Seller”), and **ATN ASSET HOLDING CO. LLC**, a California limited liability company (“Buyer”) for acquisition by Buyer of all of Seller’s interests, tangible and intangible, in that certain Property defined and described below.

RECITALS

A. Seller has entered into an agreement with the Anaheim Housing Authority to acquire that certain real property located in the City of Anaheim, California, commonly known as 1213 S. Claudina Street and 1227 S. Claudina Street and legally described on Exhibit A attached hereto and made a part hereof (collectively, the “Property”). 1213 S. Claudina Street is improved and currently occupied by NS Utilities, LLC, a Delaware limited liability company pursuant to a lease dated December 18, 2017, (the “1213 Lease”). 1227 S. Claudina Street is improved and currently occupied by Green Clean Water and Waste Services, Inc., a California corporation pursuant to lease, dated as of July 7, 2014 and amended as of July 7, 2017 (the “1227 Lease”). The 1213 Lease and 1227 Lease are collectively referred to herein as the “Leases”.

B. Buyer, a wholly owned subsidiary of the Anaheim Transportation Network, a California non-profit corporation, which provides public bus services within the City of Anaheim, is a California limited liability company.

C. Pursuant to this Agreement, Seller desires to sell the Property to Buyer and Buyer desires to purchase the Property from Seller, on the terms and conditions set forth herein.

D. No application for any land use entitlement involving the Property has been submitted to the City.

E. The specifics of any potential future use of the Property are not yet known in sufficient detail to allow for the completion of “meaningful ... environmental assessment” under California Environmental Quality Act (“CEQA”) Guidelines Section 15004.

F. Any application (if any) for future land use entitlement would require the City to undertake all required environmental review pursuant to CEQA.

G. This Agreement does not anticipate or approve any land use or development entitlement, does not grant any vested development rights, and does not otherwise restrict the City’s full and complete consideration and adoption of any feasible mitigation measures or feasible alternatives (expressly including the “no project” alternative) that may be required as part of any future CEQA process.

NOW, THEREFORE, in consideration of the foregoing recitals, which are true and correct and are incorporated into this Agreement by reference, the mutual covenants and agreements contained

herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. Purchase and Sale.

(a) Seller hereby agrees to sell the Property to Buyer, and Buyer hereby agrees to purchase the Property from Seller, on the terms and conditions set forth in this Agreement. Seller shall convey to Buyer fee simple, marketable title with the condition of title for the Property meeting the requirements of Section 3 herein for which Seller is responsible. The term “Property” is defined inclusively and collectively for and under this Agreement as the following:

(i) The fee interest in the Property;

(ii) All improvements, if any, to the Property;

(iii) All rights, privileges, easements, licenses and interests, both tangible and intangible, appurtenant to the Property. “Property” shall be deemed to include, without limitation, all royalties, minerals, oil and gas rights and profits, water and water rights (whether or not appurtenant) derived from the Property that are owned by Seller;

(iv) All moveable and immovable personal property, equipment, supplies, furniture, furnishings, and fixtures owned by Seller and located at the Property, if any, as of Closing; and

(v) All licenses, permits, authorizations and approvals issued by governmental authorities with respect to the Property and the improvements thereon.

(b) **Purchase Price.** The purchase price for the Property is the sum of Seven Million Two Hundred Fifty Thousand Dollars (\$7,250,000) plus amounts necessary to terminate the 1213 Lease which will be agreed upon by the parties prior to Closing (the “Purchase Price”) payable in accordance with the Purchase Money Note attached hereto as Exhibit B and incorporated herein by reference (the “Purchase Price”) and secured by a deed of trust in the form attached hereto as Exhibit E and incorporated herein by reference (the “Purchase Money Deed of Trust”).

(c) **Possession and Disposition of Seller’s FF&E.** Upon the Closing Date (as defined below), the Property, including land, improvements, furniture, fixtures and equipment, whether immovable or moveable (“FF&E”), if any, on, upon, or about the Property shall be deemed to be the property of Buyer.

2. Obligation re Leases. The 1213 Lease can be terminated by written notice not less than 90 days following October 1, 2020. The 1227 Lease expires in accordance with its terms on September 14, 2019. The Seller will attempt to cause the earlier termination of the 1213 Lease by negotiation with the Tenant. Seller’s failure to cause early termination of the 1213 Lease, for any reason, shall be a failure of condition and not a default hereunder. In the event that the Seller is able to terminate the Leases prior to the Outside Closing Date then, in such event, the Seller shall defend, indemnify and hold Buyer harmless with respect to compliance with Relocation Laws.

As used herein, “Relocation Laws” shall mean all applicable federal and state relocation laws and regulations, including without limitation, (i) the relocation obligations of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“URA”), 42 U.S.C. 4201–4655, and

the implementing regulations thereto set forth in 49 CFR Part 24, (ii) the California Relocation Assistance Act, Government Code Section 7260, *et seq.* and the implementing regulations thereto set forth in Title 25, Section 6000, *et seq.* of the California Code of Regulations, and (iii) any other applicable federal, state or local enactment, regulation or practice providing for relocation assistance, benefits, or compensation for moving and for property interests (including without limitation goodwill and furnishings, fixtures and equipment, and moving expenses).

3. Escrow and Title Matters.

(a) Escrow and Closing.

(i) Opening of Escrow. For the purposes of this Agreement, the escrow (“Escrow”) shall be deemed opened (“Opening of Escrow”) on the date that First American Title Company (“Escrow Holder”) receives a copy of this Agreement fully executed by Seller and executed and attested by Buyer. Buyer and Seller shall use reasonable efforts to cause the Opening of Escrow to occur as soon as possible, but not later than five (5) business days after the Effective Date. Escrow Holder shall promptly provide Buyer and Seller with notice confirming the date of the Opening of Escrow in writing. Buyer and Seller agree to execute, deliver and be bound by any reasonable or customary supplemental Escrow instructions or other instruments reasonably required by Escrow Holder to consummate the transaction contemplated by this Agreement; provided, however, that no instrument shall be inconsistent or in conflict with, amend or supersede any portion of this Agreement. If there is any conflict or inconsistency between the terms of any Escrow instrument and the terms of this Agreement, then the terms of this Agreement shall control. Without limiting the generality of the foregoing, no Escrow instrument shall extinguish any obligations imposed by this Agreement or any other contract between Seller and Buyer.

(ii) Closing. For purposes of this Agreement, the “Closing” or “Closing Date” shall be the date the Grant Deed (as defined below) is recorded pursuant to applicable law in the Official Records of Orange County. Unless changed in writing by Buyer and Seller, the Closing shall occur on or before November 30, 2019 (“Outside Closing Date”). If the Closing has not, for any reason, occurred by the Outside Closing Date (as it may be extended pursuant to the immediately preceding sentence), then either Buyer or Seller may terminate this Agreement by delivering written notice to the other at any time after the Outside Closing Date; provided, however, that if there is a Seller Default or a Buyer Default under this Agreement at the time of the termination, then the termination shall not affect the rights and remedies of the non-defaulting party against the defaulting party. If neither party so elects to terminate this Agreement and the Escrow, Escrow Holder shall close the Escrow as soon thereafter as Buyer’s and Seller’s Conditions Precedent to Closing are satisfied pursuant to Sections 7(a) and 7(b) of this Agreement.

(b) Title Matters.

(i) Title Review; Survey. Seller shall promptly request Escrow Holder to order from First American Title Company (“Title Company”) and deliver to Buyer a preliminary report covering the Property (“Preliminary Title Report”) together with copies of all documents referenced in the Preliminary Title Report recorded against the Property (the Preliminary Title Report and such documents are referred to herein collectively as the “Title Documents”). Buyer shall have ten (10) business days after delivery of the Preliminary Title Report (“Title Review Period”) to deliver written notice to Seller of those exceptions in the Title Documents that Buyer disapproves (“Buyer’s Title Objection Notice”). If Buyer fails to deliver the Buyer’s Title Object Notice prior to the expiration of

the Title Review Period, then Buyer shall be deemed to have approved all matters disclosed in the Title Documents (except those listed under Section 3 (b)(v)). If Buyer delivers the Buyer's Title Objection Notice prior to the expiration of the Title Review Period, then Seller shall advise Buyer in writing of any such exceptions that Seller agrees to remove at or prior to the Closing and the manner in which Seller shall do so, by delivering written notice thereof to Buyer ("Seller's Response Notice") within ten (10) business days after receiving Buyer's Title Objection Notice. Seller's failure to deliver Seller's Response Notice shall be deemed to be Seller's determination not to remove or cure any of Buyer's title objections. Within ten (10) business days after receipt of Seller's Response Notice (or deemed response) that it is not removing all exceptions disapproved by Buyer, Buyer may (A) by delivering written notice to Seller, terminate this Agreement in which case neither Party shall have any rights or obligation to the other hereunder, or (B) waive Buyer's objections to the disapproved exceptions which Seller will not remove. Buyer's failure to timely deliver such termination notice shall be deemed to be Buyer's approval of all matters disclosed in the Title Documents (subject to removal of the matters which Seller agreed to remove in the Seller's Response Notice).

(ii) In the event that Title Company delivers written notice to Buyer of any new title exception after Buyer's delivery of Buyer's Title Objection Notice or after the Title Review Period, Buyer shall have five (5) business days after receipt of such notice ("New Title Review Period") to disapprove such new title exception(s), in Buyer's sole and absolute discretion, by written notice to Seller ("New Title Objection Notice"). If Buyer fails to deliver the New Title Objection Notice prior to the expiration of the New Title Review Period, then Buyer shall be deemed to have approved the new title exception(s). If Buyer delivers the New Title Objection Notice prior to the expiration of the New Title Review Period, then Seller shall advise Buyer in writing of any such exceptions that Seller agrees to remove at or prior to the Closing and the manner in which Seller shall do so, by delivering written notice thereof to Buyer ("New Response Notice") within five (5) business days after receiving the New Title Objection Notice. Seller's failure to deliver the New Response Notice shall be deemed to be Seller's determination not to remove or cure any of Buyer's title objections in the New Title Objection Notice. Within five (5) business days after receipt of the New Response Notice (or deemed response) that it is not removing all exceptions disapproved by Buyer in the New Title Objection Notice, Buyer may (A) by delivering written notice to Seller, terminate this Agreement in which case, neither Party shall have any rights or obligation to the other hereunder, or (B) waive Buyer's objections to the disapproved exceptions which Seller will not remove. Buyer's failure to timely deliver such termination notice shall be deemed to be Buyer's approval of the new title exception(s) (subject to removal of the matters which Seller agreed to remove in the New Response Notice).

(iii) Buyer's Title Policy. Concurrently with the Closing, the Title Company shall issue to Buyer a 2006 or ALTA Standard Owner Policy of title insurance (amended 6/17/06) without arbitration provisions in the amount of the Purchase Price, showing fee title to the Property vested solely in ATN Asset Holding Co. LLC, a California limited liability company, with all property taxes and assessments shown as paid ("Buyer's Title Policy"). The premium for the Buyer's Title Policy shall be charged to Buyer. If Buyer requests an Extended ALTA Owner Policy and/or any endorsements, then Buyer shall also be charged any premium associated with such requests.

(iv) No New Liens or Exceptions. Buyer hereby objects to any and all liens and exceptions to title not shown on the Preliminary Title Report subject to the provisions of Section 3 (b)(i) and (ii). Further, during the period commencing on the Effective Date and continuing until the Closing, Seller agrees it shall not cause any new or modified lien or encumbrance to title to become of record against the Property, unless such lien or encumbrance is approved in writing by Buyer. Each and every new lien or encumbrance shall be subject to Buyer's prior written consent and unless and

until approved by Buyer shall be deemed a disapproved exception to title that shall be removed by Seller at Seller's sole cost as a condition to Closing.

(v) Monetary Encumbrances. All monetary encumbrances, or ancillary documentation thereof, shall be automatically determined to be a disapproved exception that shall be removed by Seller at Seller's sole cost as a condition to Closing.

4. Seller's Delivery of Property Documents. Within three (3) days after the Effective Date, Seller shall deliver to Buyer complete, true, and legible copies of the following items (collectively, "Property Documents"):

- (a) Copies of tax bills, including assessments, if any.
- (b) Copies of Phase 1 environmental reports and Leases.
- (c) Proof of Sellers' authority and authorization to enter into this Agreement and to consummate this transaction as may be reasonably requested by the Title Company.

5. Buyer's Right of Entry and Tests of Property. From and after the termination of the Leases through the earlier to occur of the termination of this Agreement or the Closing Date, Seller hereby agrees to permit Buyer and Buyer's employees, agents, consultants and contractors to enter upon the Property during normal business hours, provided 24 hours prior notice has been given to Seller, for the purpose of conducting any physical and legal inspections, investigations, assessments, tests, and studies as Buyer in its sole discretion elects to make or obtain, including, but not limited to, investigations with regard to zoning, building codes and other governmental regulations; engineering tests; surveying; soils, seismic and geologic reports; environmental audits, inspections and studies; environmental investigation or other invasive or subsurface testing; and any other physical or legal inspections and/or investigations, including without limitation the presence, release, and/or absence of adverse soils conditions, adverse groundwater conditions, asbestos, lead based paint, and/or Hazardous Materials, as hereinafter more fully defined and described (collectively, "Tests").

(a) **Conditions to Right of Entry for Tests**. As a condition to conducting any Tests, Buyer shall (i) prior to entry, notify Seller not less than 24 hours in advance of the purpose of the intended entry and provide to Seller the names and affiliations of the entity or person(s) entering the Property; (ii) conduct all Tests in a diligent, expeditious and safe manner and not allow any dangerous or hazardous conditions to occur on the Property; (iii) comply with applicable laws and governmental regulations in conducting such Tests; (iv) keep the Property free and clear of materialmen's liens and other liens arising out of entry onto the Property for such Tests performed by or on behalf of Buyer; (v) Buyer to maintain, or Buyer to cause to be maintained by Buyer's contractor(s), workers' compensation insurance on all persons entering the Property for such Tests in the amounts required by the State of California; (vi) Buyer to maintain, or Buyer to cause to be maintained by Buyer's contractor who will be entering the Property, commercial general liability insurance policy with a financially responsible insurance company (or as to Buyer its membership in a joint powers insurance authority with comparable coverage) covering any and all liability of Buyer and its agents, contractors, consultants and employees, with respect to or arising out of the Tests conducted at the Property, written on a per occurrence and not claims made basis in a combined single limit of not less than One Million Dollars (\$1,000,000); and (vii) promptly repair any and all damage to the Property from such Tests caused by Buyer, its agents, employees, contractors, or consultants and return the Property to its original condition (subject to the Tests conducted) following Buyer's entry.

Buyer shall indemnify, defend, and hold harmless Seller and Seller's agents from and against any and all loss, cost, liability or expense (including reasonable attorneys' fees) arising from the entry(ies) of Buyer, its agents, contractors, consultants, and employees upon the Property for and related to such entry and Tests or from Buyer's failure to comply with the conditions to Buyer's entry onto the Property for such Tests. Such indemnity shall survive the Close of Escrow or the termination of this Agreement for any reason, but shall be limited to actions and inactions arising from and related to such entry onto the Property and/or the Tests.

6. Due Diligence Notices; Condition of Property.

(a) Buyer's Due Diligence Notice. Buyer shall notify Seller in writing on or before the date that is thirty (30) days following the Effective Date ("Contingency Date" and the period between the Opening of Escrow and the Contingency Date shall be referred to as the "Contingency Period"), of Buyer's approval or disapproval, in its sole and absolute discretion, of the Property Documents and of the condition of the Property as disclosed by the Tests ("Buyer's Due Diligence Notice"). Any disapproval may state the matters objected to and the action Seller would be required to take to remediate or cure the objectionable matters to Buyer's satisfaction.

(i) Provided that Seller has delivered the Property Documents to Buyer within the time set forth in Section 4(a), Buyer's failure to deliver the Buyer's Due Diligence Notice on or before the Contingency Date shall be deemed Buyer's disapproval of the Property Documents and condition of the Property. In such event of Buyer's failure to deliver its Buyer's Due Diligence Notice, then such failure shall be deemed Buyer's election to terminate this Agreement.

(b) Seller's Due Diligence Notice. In the event Buyer timely delivers its Buyer's Due Diligence Notice disapproving any Property Documents or any condition of the Property, Seller shall have ten (10) days from receipt of Buyer's Due Diligence Notice to deliver written notice to Buyer ("Seller's Due Diligence Response Notice") of Seller's election in its sole and absolute discretion to any of the following: (i) decline to remediate all such conditions and to terminate Escrow and this Agreement; (ii) correct and/or remediate any or all of the objectionable conditions at its sole cost prior to the Close of Escrow.

(i) If Seller's Due Diligence Response Notice informs Buyer of Seller's election to terminate Escrow (choice (i) in subsection (b) above) rather than remediate any or all of the objectionable conditions, then this Agreement shall immediately terminate and the parties shall have no further rights or obligations hereunder. Seller's failure to deliver Seller's Due Diligence Response Notice shall be deemed Seller's election to terminate this Agreement (choice (i) of subsection (b) above) and the parties shall have no further rights or obligations hereunder.

(ii) If Seller's Due Diligence Response Notice informs Buyer of Seller's election to correct some, but not all, of the objectionable conditions (choice (ii) in subsection (b) above), then Buyer shall have the right, by a second written notice delivered to Seller within five (5) days after Buyer's receipt of Seller's Due Diligence Response Notice, to agree to accept the Property subject to one or more of the objectionable conditions that Seller will not correct ("Buyer's Second Due Diligence Notice"), which notice shall list the objectionable conditions remaining that Buyer is willing to accept, in which event Seller may elect, in its sole discretion, to either (A) accept Buyer's Second Due Diligence Notice and proceed to correct the objectionable conditions listed in its notice and proceed with the sale of the Property to Buyer, with Buyer taking at the Close of Escrow subject to such remaining objectionable conditions without any adjustment to or credit against the Purchase

Price (subject to Seller's correction of certain conditions to be corrected as listed in Seller's Due Diligence Response Notice), or (B) reject Buyer's Second Due Diligence Notice and terminate the Escrow.

(A) If Seller accepts Buyer's Second Due Diligence Notice, then the correction of and/or completion of the remediation or removal of objectionable conditions listed in the Seller's Due Diligence Notice shall be deemed to be one of the Buyer's Conditions Precedent to Closing under Section 7 below, and Buyer and Seller shall exercise good faith efforts to agree in writing on an extended Closing Date, if necessary, to allow those certain conditions to be corrected and completed.

(iii) If Seller's Due Diligence Response Notice informs Buyer of Seller's election to correct all of the objectionable conditions (choice (ii) in subsection (b) above), then the completion of the correction and/or remediation or other removal of all objectionable conditions shall be deemed to be one of the Buyer's Conditions Precedent to Closing under Section 7 below, and Buyer and Seller shall exercise good faith efforts to agree in writing on an extended Closing Date, if necessary, to allow all conditions to be corrected and completed.

(c) **No Warranties as to Property.** The physical condition of the Property is and shall be delivered from Seller to Buyer in "as-is" condition, with no warranty, express or implied, by the City, including without limitation, the presence of Hazardous Materials or the condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Property for the development purposes intended by Buyer (the "Property Condition").

(d) **Assignment of Rights from Prior Owner.** To the extent authorized by contract or law, the Seller shall assign to the Buyer all warranties, indemnities, guarantees, claims, and causes of action with respect to Hazardous Materials, on or under the Property, if any, that the City has received from or has against the prior owners or operators of the Property.

(e) **Definition of "Hazardous Materials."** For purpose of this Agreement, the term "Hazardous Materials" means any substance, material, or waste which is or becomes, regulated by any local governmental authority, the State of California, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law)), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum and breakdown and derivative products thereof, (vi) asbestos, (vii) polychlorinated biphenyls, (viii) methyl tertiary butyl ether, (ix) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Chapter 11 of Title 22, Division 4.5 of the California Code of Regulations, (x) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (xi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. (42 U.S.C. §6903), (xii) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq. (42 U.S.C. §9601).

7. Conditions Precedent to Close of Escrow and Termination Rights.

(a) Buyer's Conditions Precedent. The Closing and Buyer's obligation to buy the Property and to consummate the transaction contemplated by this Agreement are subject to the timely satisfaction or written waiver of the following conditions precedent (collectively, "Buyer's Conditions Precedent") on or before the Closing Date or such earlier time as provided for herein, which are for Buyer's benefit only.

(i) No Termination as a Result of Buyer's Due Diligence Review. This Agreement shall not have terminated pursuant to Sections 3(b) or 6 as a result of Buyer's review and inspection of title to, the Property Documents relating to, and the Tests on the Property.

(ii) Buyer's Title Policy. The Title Company shall, upon payment of Title Company's regularly scheduled premium, have agreed to provide Buyer's Title Policy for the Property upon the Closing, in accordance with Section 3(b).

(iii) Delivery of Documents. Seller's delivery of all items and documents described in Section 8.

(iv) Representations and Warranties. All representations and warranties of Seller contained in this Agreement shall be true and correct in all respects as of the Effective Date and as of the Closing.

(v) No Seller Default. As of the Closing, there shall be no Seller Default under this Agreement.

(vi) Termination of Leases/Agreements; Vacancy of Property. Seller shall have terminated the Leases and any and all contracts affecting and/or relating to the Property. All tenants, licensees, or other occupants shall have permanently vacated the Property. Seller's failure to terminate the Lease shall be a failure of Condition Precedent and not a default hereunder.

(vii) Final Site Plan Approval. The Director of Planning and Building shall have granted the Final Site Plan Approval in accordance with the provisions of Exhibit F attached hereto and incorporated herein by reference.

(viii) Acquisition of the Property by City. Seller has closed on and has title to the Property no later than two (2) business days prior to the Outside Closing Date.

(ix) Cost of Terminating 1213 Lease; Completion of Purchase Money Note. The parties have agreed upon the cost of terminating the 1213 Lease and have mutually instructed the Escrow Holder as to the amount so determined and have instructed Escrow Holder in insert into the Purchase Money Note and the Purchase Money Deed of Trust such amount.

(b) Seller's Conditions Precedent. The Closing and Seller's obligation to sell the Property and consummate the transaction contemplated by this Agreement are subject to the timely satisfaction or written waiver of the following conditions precedent (collectively, "Seller's Conditions Precedent") on or before the Closing Date or such earlier time as provided for herein, which are for Seller's benefit only:

(i) No Termination as a Result of Buyer's Due Diligence Review. This Agreement shall not have terminated pursuant to Section 3(b) or 6 as a result of Buyer's review and inspection of title, the Property Documents, and the Property.

(ii) No Buyer Default. As of the Closing, there shall be no Buyer Default under this Agreement.

(iii) Representations and Warranties. All representations and warranties of Buyer contained in this Agreement shall be true and correct in all respects as of the Effective Date and as of the Closing.

(iv) Delivery of Funds and Documents. Buyer shall have delivered all funds and documents and other items described in Section 9.

(v) Termination of Leases; Agreements; Vacancy of Property. Seller shall have terminated the Leases and any and all contracts affecting and/or relating to the Property. All tenants, licensees, or other occupants shall have permanently vacated the Property. Seller's failure to terminate the Lease shall be a failure of condition and not a default hereunder.

(vi) Acquisition of the Property by the City. Seller has acquired fee simple title to the Claudina Property no later than two (2) business days prior to the Outside Closing Date.

(vii) Cost of Terminating 1213 Lease; Completion of Purchase Money Note. The parties have agreed upon the cost of terminating the 1213 Lease and have mutually instructed the Escrow Holder as to the amount so determined and have instructed Escrow Holder to insert into the Purchase Money Note and the Purchase Money Deed of Trust such amount.

(viii) Final Site Plan Approval. The Director of Planning and Building shall have granted Final Site Plan Approval.

(ix) ATN Facility PSA. Buyer shall have entered into the "ATN Facility PSA" as described in Section 23 hereof and such ATN Facility PSA shall remain in full force and effect.

(c) Waiver. Buyer may at any time or times, at its election in its sole and absolute discretion, waive any of the Buyer's Conditions Precedent set forth in Section 7(a), but any such waiver shall be effective only if contained in a writing signed by Buyer and delivered to Seller and Escrow Holder. Seller may at any time or times, at its election in its sole and absolute discretion, but only if and to the extent permitted by law, waive any of the Seller's Conditions Precedent set forth in Section 7(b) above, but any such waiver shall be effective only if contained in a writing signed by Seller and delivered to Buyer and Escrow Holder.

(d) Termination. In the event that each of the Buyer's Conditions Precedent set forth in Section 7(a) is not fulfilled by the Outside Closing Date, or such earlier time period as provided for herein or waived by Buyer pursuant to Section 7(c), and provided there is no Buyer Default under this Agreement, Buyer may at its option terminate this Agreement and the Escrow opened hereunder. In the event each of the Seller's Conditions Precedent set forth in Section 7(b) is not fulfilled by the Outside Closing Date, or such earlier time period as provided for herein or waived by Seller pursuant to Section 7(c), and provided there is no Seller Default under this Agreement, Seller may at its option

terminate this Agreement and the Escrow opened hereunder. Notwithstanding the foregoing, if Escrow is not in a position to close due to a party's failure to deposit into Escrow any documents or funds required for the Closing of Escrow, the non-defaulting party shall not have the right to terminate this Agreement without first having given the defaulting party notice of the default and five (5) days to cure the default, with the understanding that it is the parties' desire that this Agreement not terminate as a result of a technicality such as a party's inadvertent failure to timely make a deposit of a document or money into Escrow. No termination under this Agreement shall release either party then in default from liability for such default. In the event this Agreement is terminated, (i) all documents and funds delivered by Seller to Buyer or Escrow Holder shall be returned immediately to Seller, provided there is no Seller Default, and likewise (ii) all documents and funds delivered by Buyer to Seller or Escrow Holder shall be returned immediately to Buyer.

(i) If Escrow fails to close due to a party's default or breach, the defaulting or breaching party shall pay all Escrow Cancellation Charges. If Escrow fails to close for any other reason, the Buyer shall pay all Escrow Cancellation Charges. The term "Escrow Cancellation Charges" shall mean all fees, charges and expenses actually charged by Escrow Holder and the Title Company to the parties in connection with the cancellation of the Escrow and the title order, if any.

8. Seller's Deliveries to Escrow Holder. At least two (2) business days prior to the Closing Date, except as to possession of the Property which shall be delivered as of Closing, Seller shall deposit or cause to be deposited with Escrow Holder the following items, duly executed and, where appropriate, acknowledged:

(a) **Funds for Closing.** Any additional funds, if necessary, to pay Seller's Charges set forth in Section 11(a) herein.

(b) **Grant Deed.** The Grant Deed in the form attached hereto as Exhibit C ("Grant Deed"), duly executed by Seller and acknowledged.

(c) **Bill of Sale.** A Bill of Sale transferring all FF&E as of the Closing Date, duly executed by Seller.

(d) **Licenses, Certificates, and Permits.** To the extent the same are within the actual or possession, custody or control of, Seller and are applicable and/or transferable to Buyer, all original licenses, certificates and permits pertaining to the Property and beneficial for, or necessary for, or affecting the use or occupancy thereof.

(e) **FIRPTA/Tax Exemption Forms.** Transferor's Certification of Non Foreign Status in the form attached hereto as Exhibit C ("FIRPTA Certificate"), together with any necessary tax withholding forms, and a duly executed California Form 593-C, as applicable ("California Exemption Certificate").

(f) **Authority.** Such proof of Seller's authority and authorization to enter into this Agreement and to consummate this transaction as may be reasonably requested by the Title Company.

(g) **Further Documents or Items.** Any other documents or items reasonably required to cause the Closing of the transaction contemplated by this Agreement as reasonably determined by the Escrow Holder.

9. **Buyer's Deliveries to Escrow.** At least two (2) business days prior to the Closing Date, Buyer shall deposit or cause to be deposited with Escrow Holder the following, each duly executed and acknowledged, by Buyer as appropriate:

(a) **The Purchase Money Note and the Purchase Money Deed of Trust.** The Purchase Money Note duly executed, the Purchase Money Deed of Trust duly executed and acknowledged and additional funds necessary to pay Buyer's Charges set forth in Section 11(b) herein. Seller qualifies for an exemption from California withholding tax under Section 18662 of the California Revenue and Taxation Code, as will be evidenced by the delivery at Closing of the California Exemption Certificate duly executed by Seller.

(b) **Final Escrow Instructions.** Buyer's final written Escrow instructions to close Escrow in accordance with the terms of this Agreement.

(c) **Further Documents or Items.** Any other documents or items reasonably required to cause the Closing of the transaction contemplated by this Agreement as determined by the Escrow Holder.

10. **Tax Adjustment Procedure.** Escrow Holder is authorized and is instructed to comply with the following tax adjustment procedure:

(a) **Delinquent Taxes.** Pay and charge Seller for any unpaid delinquent property taxes and/or penalties and interest thereon, and for any delinquent assessments or bonds against the Property.

(b) **Proration.** Escrow is not to be concerned with proration of Seller's taxes for the current fiscal year. Seller's prorata portion of taxes due at close of Escrow, shall be cleared and paid by Seller, outside Escrow, pursuant to provisions of Section 5082 through 5090 of the Revenue and Taxation Code of the State of California.

(c) **Refund of Taxes.** After the Closing of the Escrow, Seller shall have the right in Seller's sole discretion to apply to the Orange County Tax Collector for refund of any excess property taxes paid by Seller with respect to the Property, so long as no proration or credit for such taxes was provided to Seller through the Escrow. This refund would apply to the period after the Closing Date and Buyer's acquisition of the Property pursuant to Revenue and Taxation Code Section 5096.7.

11. **Escrow Holder Authorization.** Escrow Holder is authorized to and shall pay, charge and perform the following at Closing:

(a) **Seller Charges.** None.

(b) **Buyer Charges.** Pay and charge Buyer for the Escrow fees, all charges for recording the Grant Deed, any documentary transfer taxes, and Buyer's Title Policy (collectively, "Buyer's Charges").

(c) **Proration of Revenues and Expenses.** All revenues (including, but not limited to, rent collected under the Lease and fees collected under any other agreements relating to the Property) and expenses relating to the Property (including, but not limited to, utility costs and expenses, water charges and sewer rents and refuse collection charges) shall be prorated as of the Closing Date

(collectively, the “Prorations”). Not less than five (5) business days prior to the Closing, Seller shall deliver to Buyer a tentative schedule of prorations for Buyer’s approval (“Proration and Expense Schedule”). If any prorations made under this Section shall require final adjustment after the Closing, then the parties shall make the appropriate adjustments promptly when accurate information becomes available and either party hereto shall be entitled to an adjustment to correct the same. Any corrected or adjusted proration shall be paid promptly in cash to the party entitled thereto.

(d) Tax Requirements. Escrow Holder shall prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099 S form, and be responsible for withholding taxes, if any such forms and/or withholding is provided for or required by law.

(e) Closing Statement. Escrow Holder is instructed to prepare and provide copies of a proposed closing statement and thereafter the final closing statement (“Closing Statement”) to both Seller and Buyer. Escrow Holder shall deliver the estimated Closing Statement to Seller and Buyer no later than three (3) business days prior to the Closing Date.

(f) Escrow Holder Responsibility. The responsibility of the Escrow Holder under this Agreement is limited to Sections 1 through 12, and 19(b) and (c), and to its liability under any policy of title insurance issued in regard to this transaction.

12. Closing Procedure. On the Closing Date, and provided all of the Buyer’s Conditions Precedent and Seller’s Conditions Precedent set forth in Sections 7(a) and 7(b) of this Agreement have been satisfied or waived in writing by the appropriate party (per Section 7(c)), Escrow Holder shall immediately close Escrow in the manner and order provided below.

(a) Recording. Escrow Holder shall cause the Grant Deed, the Purchase Money Deed of Trust and Option Agreement (as defined below) to be recorded pursuant to applicable law in Orange County and obtain conformed copies thereof for distribution to Buyer and Seller.

(b) Disburse Funds. None.

(c) Documents to Seller. Escrow Holder shall deliver to Seller, a conformed copy of the Grant Deed, the Purchase Money Declaration of Trust, the original Purchase Promissory Note, and a copy of each other document deposited into Escrow by Buyer pursuant hereto.

(d) Documents to Buyer. Escrow Holder shall deliver to Buyer the original FIRPTA Certificate, the original California Exemption Certificate (as applicable), a conformed copy of the Grant Deed, and each other document (or copies thereof) deposited into Escrow by Seller pursuant hereto, including, without limitation, those documents referenced in Section 8.

(e) Title Company. Escrow Holder shall cause the Title Company to issue the Buyer’s Title Policy to Buyer.

(f) Closing Statement. Escrow Holder shall forward to both Buyer and Seller a separate accounting of all funds received and disbursed for each party in the form of the Closing Statement prepared pursuant to Section 11(e).

(g) Informational Reports. Escrow Holder shall file any informational reports required by Internal Revenue Code Section 6045(e), as amended.

(h) **Possession.** Subject to the Lease, possession of the Property shall be delivered to Buyer at the Closing.

13. Representations and Warranties.

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

(i) Seller has the authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby.

(ii) All requisite action has been taken by Seller in connection with entering into this Agreement and the instruments referenced herein; and, by the Closing, all such necessary action will have been taken to authorize the consummation of the transaction contemplated hereby. By the Closing no additional consent of any individual, director, manager, shareholder, partner, member, trustee, trustor, beneficiary, creditor, investor, judicial or administrative body, governmental authority or other party shall be required for Buyer to consummate the transaction contemplated by this Agreement.

(A) In this regard, if applicable, Seller shall deliver or cause delivery to Buyer of true and complete copies of each requisite action or authorization that has been taken by Seller or will be taken (immediately after taking such action prior to Closing) when in connection with entering into this Agreement and execution of the instruments referenced herein.

(iii) The individuals executing this Agreement and the instruments referenced herein on behalf of Seller have the legal power, right and actual authority to bind Seller to the terms and conditions hereof and thereof.

(iv) Neither the execution or delivery of this Agreement or the documents or instruments referenced herein, nor incurring the obligations set forth herein, nor the consummation of the transaction contemplated herein, nor compliance with the terms of this Agreement or the documents or instruments referenced herein or therein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, lease or other agreement or instrument (a) to which Seller is a party, or (b) that affect the Property of which Seller has actual or constructive knowledge.

(v) To the best of Seller's actual knowledge, there are no actions, suits, claims, legal proceedings, or any other proceedings affecting the Property or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign.

(vi) To the best of Seller's actual knowledge, there are no actions or proceedings pending or threatened against Seller, before any court or administrative agent in any way connected with or relating to the Property, or affecting Seller's ability to fulfill all of its obligations under this Agreement.

(vii) Seller has made no written or oral commitments to or agreements with any governmental authority or agency materially and adversely affecting the Property, or any part thereof, or any interest therein, which will survive the Closing. Seller has entered into no understanding or agreement with any taxing or assessing authority respecting the imposition or deferment of any taxes or assignments respecting the Property.

(viii) To the best of Seller's actual knowledge, Seller is not in default of its obligations under any contract, agreement or instrument to which Seller is a party pertaining to the Property.

(ix) To the best of Seller's actual knowledge, no document supplied to Buyer by Seller contains any untrue statement of a material fact, and to the best of Seller's actual or constructive knowledge no document omits any facts that would be necessary, in the circumstances, to make the document supplied not misleading.

(x) To the best of Seller's actual knowledge, there are no encroachments onto the Property by improvements on any adjoining property, nor do any buildings or improvements located on the Property encroach on other properties.

(xi) There are no mechanics', materialmen's or similar claims or liens presently claimed or which will be claimed against the Property for work performed or commenced for Seller or on Seller's behalf prior to the Effective Date of this Agreement. Seller agrees to indemnify, defend, and hold Buyer and its elected and appointed officials, officers, employees, contractors, and agents harmless from all costs, expenses, liabilities, losses, charges, and fees, including attorney fees, arising from or relating to any such lien or any similar lien claims against the Property and arising from work performed or commenced for Seller or on Seller's behalf at any time prior to Closing.

(xii) There are no undisclosed contracts, licenses, commitments, undertakings or other written or oral agreements for services, supplies or materials concerning the use, operation, maintenance, or management of the Property that will be binding upon Buyer or the Property after the Closing. There are no oral contracts or other oral agreements for services, supplies or materials, affecting the use, operation, maintenance or management of the Property to which Seller is a party or of which Seller has actual knowledge and/or constructive knowledge.

(xiii) Except as to the Lease, there are no written or oral contracts, leases, licenses, or contractual rights or options to lease, purchase, or otherwise enjoy possession, rights or interest of any nature in and to the Property or any part thereof, and except to the extent expressly otherwise agreed by Buyer, no person other than the Tenant under the Lease shall have any right of possession to the Property or any part thereof as of the Closing.

(A) As of the Effective Date, Seller agrees not to enter into any leases, licenses or easements in the Property (or any part thereof), or grant any other rights of access, use or occupancy to the Property (or any part thereof) without the prior written approval of Buyer, which may be granted or denied in Buyer's sole and complete discretion.

(xiv) Except as revealed in the Preliminary Title Report, Seller shall not allow, consent to, or otherwise permit any encumbrance, lien, or other exception to title to become of record or affect title to the Property during the period from the Effective Date through the Closing

Date, unless such encumbrance, lien, or other exception is expressly pre-approved by Buyer in its sole and absolute discretion.

(xv) Neither Seller nor, to the best of Seller's actual knowledge, any previous owner, tenant, occupant, or user of the Property used, generated, released, discharged, stored, or disposed of any Hazardous Materials on, under, in, or about the Property, or transported any Hazardous Materials to or from the Property. Seller has not received any oral or written notice from any applicable federal, state or local governmental agency requiring remediation or monitoring in connection with the release, storage or disposal of any Hazardous Materials on, under, in or about the Property.

(xvi) Except as revealed in that certain Phase I Environmental Site Assessment prepared by EMI Global and dated as of May 14, 2019, to the best of Seller's actual knowledge no Hazardous Materials exist on, under, in or about the Property, nor have Hazardous Materials ever been transported to or from the Property.

(xvii) Seller has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of any of the Property or all, or substantially all, of Seller's other assets, (iv) suffered the attachment or other judicial seizure of any of the Property or all, or substantially all, of Seller's other assets, (v) admitted in writing its inability to pay its debts as they come due, or (vi) made an offer of settlement, extension or composition to its creditors generally.

(xviii) Until the Closing, Seller shall continue to maintain and repair the Property in conformance with the Leases.

(xix) Until the Closing, Seller shall, upon learning of any fact or condition, which would cause any of the warranties and representations in the section not to be true as of the close of Escrow, immediately give written notice of such fact or condition to Buyer.

As used herein, the term "actual knowledge" shall mean the actual, current knowledge of John Woodhead and shall not impose any duty of investigation or inquiry and the term "constructive knowledge" shall mean implied knowledge due to any notice or other document addressed to and evidenced to have been sent to Seller, and any other document in the Seller's possession and control.

(b) Subsequent Changes to Seller's Representations and Warranties. If, prior to the Closing, Buyer or Seller should learn, discover or become aware of any existing or new item, fact or circumstance which renders a representation or warranty of Seller set forth herein incorrect or untrue in any respect (collectively, the "Seller Representation Matter"), then the party who has learned, discovered or become aware of such Seller Representation Matter shall promptly give written notice thereof to the other party and Seller's representations and warranties shall be automatically limited to account for the Seller Representation Matter. Buyer shall have the right to approve or disapprove any such change and to terminate this Agreement by written notice to Seller if Buyer reasonably disapproves any such change; provided, however Seller shall first have the opportunity to cure the Seller Representation Matter. If Buyer does not elect to terminate this Agreement, Seller's representation shall be qualified by such Seller Representation Matter and Seller shall have no obligation to Buyer for such Seller Representation Matter.

(c) Buyer's Representations and Warranties. In consideration of Seller entering into this Agreement and as an inducement to Seller to sell the Property, Buyer makes the following representations and warranties as of the date hereof and at and as of the Closing, each of which is material and is being relied upon by Seller, the truth and accuracy of which shall constitute a condition precedent to Seller's obligations hereunder, and all of which shall survive Closing:

(i) Buyer has the legal power, right and authority to enter into this Agreement and the instruments referenced herein, and to consummate the transaction contemplated hereby pursuant to the terms of this Agreement, subject to this representation not becoming effective unless, until, and subject to this Agreement being placed on an agenda of the Buyer's governing board for consideration and action at a duly noticed, open public meeting of the Buyer's governing board, and, if approved, then such representation shall be effective as of the Effective Date. Buyer's execution of this Agreement on or after the Effective Date shall be conclusive evidence that Buyer's governing board has approved this Agreement at a duly noticed, open public meeting.

(ii) As of the Effective Date, all requisite governmental action has been taken by Buyer in connection with entering into this Agreement and the instruments referenced herein; and, by the Closing, all such necessary action will have been taken to authorize the consummation of the transaction contemplated hereby. By the Closing Date, no additional consent of any individual, judicial or administrative body, governmental authority or other party shall be required for Seller to consummate the transaction contemplated by this Agreement, subject to no material change in the terms or provisions hereof.

(iii) As of the Effective Date, the individuals executing and attesting this Agreement and the instruments referenced herein on behalf of Buyer have the legal power, right and actual authority to bind Buyer to the terms and conditions hereof and thereof.

(iv) Neither the execution and delivery of this Agreement and the documents and instruments referenced herein, nor incurring the obligations set forth herein, nor the consummation of the transaction contemplated herein, nor compliance with the terms of this Agreement and the documents and instruments referenced herein conflict with or result in the material breach of any terms, conditions or provisions of, or constitute a default under, any bond, note or other evidence of indebtedness or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease or other agreement or instrument to which Buyer is a party or by which any of Buyer's properties are bound.

(d) Subsequent Changes to Buyer's Representations and Warranties. If, prior to the Closing, Seller or Buyer should learn, discover or become aware of any existing or new item, fact or circumstance which renders a representation or warranty of Buyer set forth herein incorrect or untrue in any respect (collectively, the "Buyer's Representation Matter"), then the party who has learned, discovered or become aware of such Buyer's Representation Matter shall promptly give written notice thereof to the other party and Buyer's representations and warranties shall be automatically limited to account for the Buyer's Representation Matter. Seller shall have the right to approve or disapprove any such change and to terminate this Agreement by written notice to Buyer if Seller reasonably disapproves any such change; provided, however Buyer shall first have the opportunity to cure the Buyer's Representation Matter. If Seller does not elect to terminate this Agreement, Buyer's representation shall be qualified by such Buyer's Representation Matter and Buyer shall have no obligation to Seller for such Buyer's Representation Matter.

14. Conveyance of Property in its Existing Condition. As of the Closing Date, and subject to its rights under Section 5, Buyer acknowledges that Buyer will have been given an adequate opportunity to conduct the Tests at the Property. Except as otherwise expressly provided in this Agreement and except as required to be disclosed or otherwise action taken pursuant to federal, state or local laws and regulations, Seller makes no representation or warranty of any kind as to the physical or environmental condition of the Property or in connection with any matter, report or information relating to the condition of the Property, its value, fitness, use, zoning, entitlements, the existence of Hazardous Materials thereon, moratoriums, economic feasibility, developability or any other matter relating to Buyer's proposed use or development of the Property.

15. Seller's Covenants during Escrow Period.

(a) New Liens or Encumbrances. Seller shall not further encumber or place any further liens or encumbrances on the Property from the Effective Date and during the Escrow period to the Closing Date without the express, prior written authorization of Buyer in its sole and complete discretion. Further, if the Buyer does consent to a new lien or encumbrance, then such lien or encumbrance on the Property shall not survive the Closing Date, including, but not limited to, right of entry, covenants, conditions, restrictions, easements, liens, options to purchase, options to lease, leases, tenancies, or other possessory interests or rights of use or rights of entry relating to or affecting the Property without the prior written consent of Buyer which consent may be withheld by Buyer in its sole and complete discretion.

(b) Hazardous Materials. Seller shall not cause or permit the presence, use, generation, release, discharge, storage, or disposal of any Hazardous Materials on, under, in, or about, or the transportation of any Hazardous Materials to or from, the Property; provided, however, the foregoing shall not apply to Hazardous Materials that migrate onto the Property from other property. Seller shall comply with all applicable Environmental Laws in Seller's use, ownership and operation of the Property.

(i) As used in this Agreement, the term "Hazardous Materials" or "Hazardous Material" shall mean any substance, material, or waste which is or becomes, regulated by any local governmental authority, the State, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) lead based paint (viii) polychlorinated biphenyls, (ix) methyl tertiary butyl ether, (x) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (xi) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §§6901, *et seq.* (42 U.S.C. §6903) or (xii) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§9601, *et seq.*

(ii) As used in this Agreement, the term “Environmental Laws” shall mean any state or local law, statute, ordinance or regulation pertaining to environmental regulation, contamination or cleanup of any Hazardous Materials, including, without limitation: (i) Sections 25115, 25117, 25122.7 or 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) Section 311 of the Clean Water Act (33 U.S.C. Section 1317), (vi) Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq. (42 U.S.C. Section 6903), (vii) Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sections 9601 et seq., or (viii) any state or federal lien or “superlien” law, any environmental cleanup statute or regulation, or any permit, approval, authorization, license, variance or permission required by any governmental authority having jurisdiction.

16. Hazardous Materials Indemnification. Seller agrees to and hereby does release, indemnify, defend and hold Buyer, and the City and their respective officers, employees and agents (“Indemnitees”) harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (including, without limitation, attorneys’ fees and expert witness fees) (hereinafter collectively referred to as the “Claims”), resulting from, arising out of, or based upon (i) the presence, release, use, generation, discharge, storage, or disposal of any Hazardous Materials on, under, in, or about, or the transportation of any such materials to or from, the Property in violation of applicable Environmental Laws, whenever discovered and/or (ii) the environmental, soils, or physical condition of the Property, and/or (iii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment, or license relating to the presence, use, generation, release, discharge, storage, disposal, or transportation of Hazardous Materials on, under, in, or about, to or from, the Property whenever discovered. This release and indemnity shall include, without limitation, any Claims for personal injury including sickness, disease or death, tangible or intangible property damage, compensation or lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, pollution, contamination, leak, spill, release, or other adverse effect on the environment.

17. CEQA. This Agreement merely confirms the fiscal and business-related terms relative to the potential purchase and sale of the Property. This Agreement shall not be construed as, and does not approve, any land use or development entitlement, does not grant any vested development rights, and does not otherwise restrict the City’s full and complete consideration and adoption of any feasible mitigation measures or alternatives (expressly including the “no project” alternative) that may be required as part of any future CEQA process. Further, any potential future uses of the Property are not yet known in sufficient detail to allow for the completion of “meaningful ... environmental assessment,” such that undertaking environmental review would be premature under State CEQA Guidelines section 15004. As such, this Agreement does not bind or commit the City to any definite course of action with regard to the property, and this Agreement does not constitute the approval of a “project” pursuant to CEQA.

Nonetheless, the Closing of escrow and any transfer of title under this Agreement, as well any consideration by the City of future actions allowing for potential future development of the site, are expressly made contingent upon the completion of all required environmental review under CEQA, as permitted by State CEQA Guidelines 15004(b).

18. Indemnification of City. The Buyer shall defend, indemnify, and hold harmless the City and its officials, officers, employees and agents (collectively referred to individually and collectively as “City Indemnitees”) from any and all claims, actions or proceedings brought against City Indemnitees to attack, review, set aside, void, or annul the decision of the City Indemnitees. The Buyer’s indemnification is intended to include, but not be limited to, damages, fees and/or costs awarded against or incurred by City Indemnitees and costs of suit, claim or litigation, including without limitation attorneys’ fees and other costs, liabilities and expenses incurred by City Indemnitees in connection with such proceeding.

19. Reentry and Revesting of Title in the Seller After the Closing.

The Seller has the additional right, at its option, to reenter and take possession of the Property with all improvements thereon and terminate and revest in the Seller the estate conveyed to the Buyer if, after the Closing, the Buyer shall, except as permitted by this Agreement:

(a) Fail to start the construction of the improvements in accordance with Final Site Plan Approval within one-hundred eighty (180) days following the Closing, so long as Seller has provided Buyer written notice of such revesting at least ten (10) days prior to the exercise of the Seller’s right to reenter and revest; or

(b) Abandon or substantially suspend construction of the improvements being constructed in accordance with Final Site Plan Approval for a period of forty-five (45) days after written notice thereof from the Seller.

The Grant Deed shall contain appropriate reference and provision to give effect to the Seller’s right as set forth in this Section 19, to reenter and take possession of the Property, with all improvements thereon, and to terminate the revest in the Seller the estate conveyed to the Buyer.

Upon the revesting in the Seller of title to the Buyer as provided in this Section 19 the Seller shall use commercially reasonable efforts to resell the Property as soon and in such manner as the Seller shall find feasible to a qualified and responsible party or parties as determined by the Seller, acting in its sole and absolute discretion. Upon such resale of the Property, the proceeds thereof shall be applied:

(a) First, to reimburse the Seller, for all costs and expenses incurred by the Seller, including, but not limited to, any expenditures by the Seller in connection with the recapture, management and resale of the Property; all taxes assessments and water or sewer charges with respect to the Property for which the Buyer is responsible and has not paid (or, in the event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by the Buyer, an amount, if paid, equal to such taxes, assessments, or charges as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge an encumbrances or liens existing on the Property or part thereof at the time of revesting of title thereto in the Seller, or to discharge or prevent the attaching or being made any subsequent encumbrance or lien due to obligations, defaults or acts of the Buyer, its successor or transferees; any expenditures made or obligations incurred with respect to the making or completion of the improvements or any part thereof on the Property, or part thereof; and any amounts otherwise owed to the Seller by the Buyer and its successor or transferee; and, in the event additional proceeds are thereafter available, then

(b) Second, to reimburse the Buyer up to the amount equal to the costs incurred for the development of improvements existing on the Property at the time of the reentry and repossession.

Any balance remaining after such reimbursements shall be retained by Seller as its property.

The rights established in this Section 19 are to be interpreted in light of the fact that the Seller will convey the Property to the Buyer for development, and not for speculation in undeveloped land.

20. Option Agreement. In addition to the other remedies provided to the Seller under the Agreement or available under applicable laws, the Seller shall have the option to repurchase the Property on the terms and conditions as set forth in the Option Agreement, attached hereto as Exhibit G and incorporated by reference herein.

21. Default and Remedies.

(a) **Seller Default.** The term “Seller Default” shall mean Seller’s failure to timely perform a material obligation of Seller under this Agreement within five (5) business days following written notice from Buyer describing Seller’s failure to perform. In the event of a Seller Default, Buyer, as its sole and exclusive remedies, may either: (i) terminate this Agreement, or (ii) be entitled to the remedy of specific performance.

(b) **Buyer Default.** The term “Buyer Default” shall mean Buyer’s failure to timely perform a material obligation of Buyer under this Agreement within five (5) business days following written notice from Seller describing Buyer’s failure to perform. In the event of a Buyer Default, Seller, as its sole and exclusive remedy, may terminate this Agreement.

22. General Provisions.

(a) **Loss or Damage to Improvements.** Loss or damage to the Property including any improvements thereon, by fire, other casualty, or acts of God, occurring at any time prior to the Closing of Escrow shall be at the sole risk of Seller.

(b) **Notices.** All notices, demands, requests or other communications required or permitted hereunder (collectively, “Notices”) shall be in writing, shall be addressed to the receiving party, and shall be personally delivered, sent by overnight mail (Federal Express or another carrier that provides receipts for all deliveries), or sent by certified mail, postage prepaid, return receipt requested, to the address listed below:

If to Seller: City Clerk
 City of Anaheim
 200 S. Anaheim Boulevard, 2nd Floor
 Anaheim, California 92805
 FAX No. (714) 765-4105

With a copy to: John E. Woodhead IV
 Director of Community and Economic Development
 201 S. Anaheim Boulevard, 10th Floor
 Anaheim, California 92805
 FAX No. (714) 765-4630

City Attorney
City of Anaheim
200 S. Anaheim Boulevard, 3rd Floor
Anaheim, California 92805
FAX No. (714) 765-4630

Thomas P. Clark, Jr.
Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660

If to Buyer: ATN Asset Holding Co. LLC
Anaheim Transportation Network, Inc.
Manager
1354 South Anaheim Boulevard
Anaheim, CA 92805
Attention: Diana Kotler, Executive Director

With a copy to: Cummins & White, LLP
2424 SE Bristol St., Suite 300
Newport Beach, CA 92660
Attention: Fred M. Whitaker, P.C.

All Notices shall be effective upon receipt at the appropriate address. Notice of change of address shall be given by written Notice in the manner detailed in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no Notice in accordance with this Section was given shall be deemed to constitute receipt of such Notice. The providing of copies of Notices to the parties' respective counsels is for information only, is not required for valid Notice and does not alone constitute Notice hereunder.

(c) Brokers. Buyer and Seller each represent to the other that no brokerage commission, finder's fee or other compensation of any kind is due or owing to any person or entity in connection with this Agreement. Each party agrees to and does hereby indemnify and hold the other free and harmless from and against any and all costs, liabilities or causes of action or proceedings which may be instituted by any broker, agent or finder, licensed or otherwise, claiming through, under or by reason of the conduct of the indemnifying party in connection with this Agreement.

(d) Waivers and Consents. Each provision of this Agreement to be performed by Buyer and Seller shall be deemed both a covenant and a condition and shall be a material consideration for Seller's and Buyer's performance hereunder, as appropriate, and any breach thereof by Buyer or Seller shall be deemed a material default hereunder; provided however that failure of a condition hereunder shall not be deemed or determined to be a default unless such condition is also a covenant. Either party may specifically and expressly waive in writing any portion of this Agreement or any breach thereof, but no such waiver shall constitute a further or continuing waiver of a preceding or succeeding breach of the same or any other provision. A waiving party may at any time thereafter require further compliance by the other party with any breach or provision so waived. The consent by one party to any act by the other for which such consent was required shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or any similar acts in the future. No waiver or consent shall be implied from silence or any failure of a party to act, except as

otherwise specified in this Agreement. All rights, remedies, undertakings, obligations, options, covenants, conditions and agreements contained in this Agreement shall be cumulative and no one of them shall be exclusive of any other.

(e) Construction. The parties acknowledge and agree that (a) each party is of equal bargaining strength; (b) each party has actively participated in the drafting, preparation and negotiation of this Agreement; (c) each party has consulted with such party's own independent counsel and such other professional advisors, if at all, as each party has deemed appropriate, relating to any and all matters contemplated under this Agreement; (d) each party and such party's counsel and advisors, if so elected by the party, have reviewed this Agreement; (e) each party has agreed to enter into this Agreement following such review and the rendering of such advice, if so elected by the party; and (f) any rule of construction to the effect that ambiguities are to be resolved against the drafting parties shall not apply in the interpretation of this Agreement, or any portions hereof, or any amendments hereto.

(f) Cooperation. Buyer and Seller agree to execute such instruments and documents and to diligently undertake such actions as may be reasonably required in order to consummate the purchase and sale herein contemplated and shall use all reasonable efforts to accomplish the Closing in accordance with the provisions hereof.

(g) Time. Time is of the essence of every provision herein contained. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which said period of time runs shall be excluded, and the last day of such period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which case the period shall be deemed to run until 5:00 p.m. of the next day that is not a Saturday, Sunday, or legal holiday. Except as otherwise expressly provided herein, all time periods expiring on a specified date or period herein shall be deemed to expire at 5:00 p.m. on such specified date or period.

(h) Counterparts; Facsimile Signatures. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument. A facsimile signature shall be deemed an original signature.

(i) Captions. Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

(j) No Obligations to Third Parties. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties to this Agreement to, any person or entity other than the parties hereto.

(k) Amendment to this Agreement. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

(l) Director Authority. The Director of the Community and Economic Development Department of the City of Anaheim ("Director") or his or her designee shall have the authority to sign this Agreement, closing documents, issue interpretations, waive provisions, and enter into amendments of or supplements to this Agreement, including notices, consents, waivers, and

agreements contemplated by Section 20 hereof, on behalf of Buyer, so long as such actions do not substantially or substantively change the terms and conditions of the purchase and sale of the Property as set forth herein and as agreed to by the Buyer in its approval of this Agreement. No such action by the Director shall be effective unless and until approved by the City Attorney. All other waivers or amendments shall require the consideration and written consent of Buyer's governing board.

(m) Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(n) Exhibits and Schedules. The exhibits and schedules attached hereto are incorporated herein by this reference for all purposes.

(o) Entire Agreement. This Agreement (along with the Post-Closing Lease Agreement and the Exhibits hereto and thereto) supersedes any prior agreements, negotiations and communications, oral or written, and contains the entire agreement between, and the final expression of, Buyer and Seller with respect to the subject matter hereof. The parties hereto expressly agree and confirm that this Agreement (along with the Post-Closing Lease Agreement and the Exhibits hereto) is executed without reliance on any oral or written statements, representations or promises of any kind which are not expressly contained in this Agreement. No subsequent agreement, representation or promise made by either party hereto, or by or to an employee, officer, agent or representative of either party hereto shall be of any effect unless it is in writing and executed by the party to be bound thereby.

(p) Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto.

(q) Assignment. Seller may not assign its interest in this Agreement without the prior written consent of the Buyer. The Buyer's Executive Director is authorized, on behalf of the Buyer, to assign the Buyer's interest in this Agreement to the City or the Agency at any time, without obtaining Seller's consent but after written notice to Seller of such Assignment.

(r) Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be valid under applicable law, but if any provision shall be invalid or prohibited thereunder, such provision shall be ineffective to the extent of such prohibition or invalidation but shall not invalidate the remainder of such provision or the remaining provisions.

23. ATN Facility. Buyer is the owner of that certain property located at 1354 South Anaheim Boulevard, Anaheim, California 92805 (the "ATN Facility"). Buyer has entered into a purchase and sale agreement with a third party with respect to the ATN Facility (the "ATN Facility PSA"). The City agrees to take assignment of the ATN Facility PSA and be obligated thereunder in the event that the third party purchaser fails to close escrow on or before the 240th day following commencement of construction by ATN on the Property in accordance with the Final Site Plan, Approval.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Sale Agreement and Joint Escrow Instructions as of the day and year first written above.

“SELLER”

CITY OF ANAHEIM

a California municipal corporation and charter city

By: _____
John E. Woodhead IV,
Executive Director or Authorized Designee

ATTEST:

THERESA BASS, AUTHORITY SECRETARY

Theresa Bass

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

By: _____

STRADLING YOCCA CARLSON & RAUTH

“BUYER”

ATN ASSET HOLDING CO. LLC,
a California limited liability company

By: Anaheim Transportation Network, Inc.

a California non-profit corporation

Manager

By: Diana Kotler
Its: Executive Director _____

Acceptance by Escrow Holder:

[_____], on behalf of Escrow Holder, hereby acknowledges that Escrow Holder has received a fully executed copy of the foregoing Purchase and Sale Agreement and Joint Escrow Instructions by and between the City of Anaheim, a California municipal corporation and charter city, as Seller, and the ATN Asset Holding Co. LLC, a California limited liability company, as Buyer, and agrees to act as Escrow Holder thereunder and to be bound by and strictly perform the terms thereof as such terms apply to Escrow Holder.

Dated: _____, 2019

First American Title Insurance Company
Escrow Holder

EXHIBIT A

LEGAL DESCRIPTION

All that certain real property situated in the City of Anaheim, County of Orange, State of California, described as follows:

1213 S. Claudina St., Anaheim, CA 92805

Lot 7, except the southerly 75 feet thereof, and the southerly 58.536 feet of Lot 8 of Tract No. 3351, in the City of Anaheim, County of Orange, State of California, as shown on a map recorded in Book 110, Pages 5, 6 and 7 of Miscellaneous Maps, Records of Orange County, California.

1227 S. Claudina St., Anaheim, CA 92805

The Southerly 75 feet of Lot 7 and the northerly 80 feet of Lot 6 of Tract No. 3351, in the City of Anaheim, County of Orange, State of California, as per map recorded in Book 110 Pages 5, 6 and 7 of Miscellaneous Maps, in the office of the County Recorded of said county.

Assessor's Parcel Numbers: 082-461-29; 082-461-38

EXHIBIT B

PURCHASE MONEY NOTE

DO NOT DESTROY THIS NOTE:

When paid, this Note and the Deed of Trust securing same, must be surrendered to Trustee for cancellation and retention before reconveyance of the Deed of Trust will be made.

PROMISSORY NOTE SECURED BY DEED OF TRUST

\$ _____, 2019

For value received, the undersigned (referred to as "Borrower"), promises to pay to the City of Anaheim ("Holder"), at 200 S. Anaheim Boulevard, Anaheim, California 92805, or such other place designated in writing submitted by Holder to Borrower, the principal sum of _____ and no/100 Dollars (\$ _____), plus interest on the unpaid principal balance according to the terms contained in this Note.

Interest on the principal sum of this Note from time to time outstanding will be computed on the basis of a 365-day year and actual days elapsed from date of recordation of the Deed of Trust and securing repayment of this Note until paid, at the per annum rate of four percent (4%). Payments shall be in monthly installments of Sixteen Thousand Five Hundred Dollars (\$16,500.00), on the first day of each month beginning on the 1st day of the month following the earlier to occur of (i) the date on which Buyer's property located at 1354 S. Anaheim Blvd., Anaheim, CA 92805 (the "ATN Facility") is sold to the City or (ii) the agreement pursuant to which Buyer has agreed to sell the ATN Facility to the City is terminated, and continuing each consecutive month thereafter until _____, 20____, at which time the then unpaid balance of principal and accrued but unpaid interest shall all be due and payable. The Borrower acknowledges that the required monthly payments as described above are less than interest only. Accordingly, the principal balance will include significant accrued interest.

If the Borrower shall sell, convey or alienate the property as described in the Deed of Trust (defined below), or any part thereof, or any interest therein, or shall be divested of his title or any interest therein in any manner or way, whether voluntarily or involuntarily, without the written consent of the Holder being first had and obtained, Holder shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any Note evidencing the same, immediately due and payable.

Borrower agrees to pay a late charge to the Holder of this Note for any amount of principal or interest due under this Note and not received by Holder on or before the ten (10) days following the written demand of Holder. The amount of the late charge is two and one-half percent (2½%) of the overdue amount. This late charge is a reasonable sum that takes into consideration all of the circumstances existing on the date of this Note and is a fair and reasonable estimate of the costs and expenses that will be incurred by Holder due to Borrower's failure to make timely payments. The parties to this Note agree that it would be impracticable or extremely difficult to fix the actual damages resulting to Holder from Borrower's failure to make timely payments.

All payments under this Note shall be made in lawful money of the United States. Payments shall be credited first against any costs or expenses due under this Note, then to accrued interest, and finally to principal. Borrower may prepay in whole or in part amounts due under this Note without penalty.

Should Borrower be obligated to pay a late charge on three (3) occasions in any consecutive twelve (12) month period, Borrower shall be in default under this Note. Should Borrower be in default under this Note, without further notice, as described in the immediately preceding sentence, Holder shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, including all unpaid yet accrued interest and principal, irrespective of the maturity date specified in any Note evidencing the same, immediately due and payable. Failure by Holder to exercise this option shall not constitute a waiver of the right to exercise it in the event of any subsequent default.

Whether or not suit is filed, Borrower agrees to pay all reasonable attorneys' fees, costs of collection, and expenses incurred by Holder in connection with the enforcement or collection of this Note. Borrower further agrees to pay all costs of suit and the some adjudged as attorneys' fees in any action to enforce payment of this Note or any part of it.

This Note is secured by a Deed of Trust ("Deed of Trust"), dated _____, 2019 to First American Title Company, a California corporation, as Trustee, executed by Borrower in favor of Holder, and is given as part of the purchase price for the real property described in the deed of trust describing commonly as APN: 082-461-29 and 082-461-38 with street addresses of 1213 S. Claudina Street and 1227 S. Claudina Street Anaheim, CA 92805(collectively, the "Property").

This Note shall be construed in accordance with the laws of the State of California. Any alteration, change or modification of or to this Note, in order to become effective, shall be made by written instrument executed by both Borrower and Holder.

"Borrower"

ATN Asset Holding Co. LLC,
a California limited liability company
By: Anaheim Transportation Network, Inc., a California non-profit corporation
Manager
By: _____
Name: Diana Kotler_____
Title: Executive Director_____

EXHIBIT C

GRANT DEED

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City of Anaheim
200 Anaheim Boulevard
Anaheim, California 92805
Attn: City Clerk

Empty rectangular box for recording information.

APN: 082-461-38

(Space above this line for Recorder’s Use Only)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the **CITY OF ANAHEIM**, a California municipal corporation and charter city (“Grantor”), hereby grants to the **ATN ASSET HOLDING CO. LLC**, a California limited liability company (“Grantee”), certain real property located in the County of Orange, State of California, more particularly described on **Schedule 1** attached hereto and incorporated herein by this reference.

The Grantor has the additional right, at its option, to reenter and take possession of the Property with all improvements thereon and terminate and revest in the Grantor the estate conveyed to the Grantee if, after the Closing, the Grantee shall, except as permitted by this Agreement:

(a) Fail to start the construction of the improvements in accordance with Final Site Plan Approval within one-hundred eighty (180) days following the Closing, so long as Grantor has provided Grantee written notice of such reversion at least ten (10) days prior to the exercise of the Grantor’s right to reenter and revest; or

(b) Abandon or substantially suspend construction of the improvements being constructed in accordance with Final Site Plan Approval for a period of forty-five (45) days after written notice thereof from the Grantor.

The Grant Deed shall contain appropriate reference and provision to give effect to the Grantor’s right as set forth in this Section 19, to reenter and take possession of the Property, with all improvements thereon, and to terminate the revest in the Grantor the estate conveyed to the Grantee.

Upon the reversion in the Grantor of title to the Grantee as provided in this Section 19 the Grantor shall use commercially reasonable efforts to resell the Property as soon and in such manner as the Grantor shall find feasible to a qualified and responsible party or parties as determined by the Grantor, acting in its sole and absolute discretion. Upon such resale of the Property, the proceeds thereof shall be applied:

(c) First, to reimburse the Grantor, for all costs and expenses incurred by the Grantor, including, but not limited to, any expenditures by the Grantor in connection with the recapture, management and resale of the Property; all taxes assessments and water or sewer charges with respect to the Property for which the Grantee is responsible and has not paid (or, in the event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by the Grantee, an amount, if paid, equal to such taxes, assessments, or charges as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge an encumbrance or lien existing on the Property or part thereof at the time of revesting of title thereto in the Grantor, or to discharge or prevent the attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Grantee, its successor or transferees; any expenditures made or obligations incurred with respect to the making or completion of the improvements or any part thereof on the Property, or part thereof; and any amounts otherwise owed to the Grantor by the Grantee and its successor or transferee; and, in the event additional proceeds are thereafter available, then

(d) Second, to reimburse the Grantee up to the amount equal to the costs incurred for the development of improvements existing on the Property at the time of the reentry and repossession.

Any balance remaining after such reimbursements shall be retained by Grantor as its property.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of _____, 2019.

CITY OF ANAHEIM,
a California municipal corporation and charter city

By: _____

SCHEDULE 1 TO GRANT DEED

LEGAL DESCRIPTION

All that certain real property situated in the City of Anaheim, County of Orange, State of California, described as follows:

1213 S. Claudina St., Anaheim, CA 92805

Lot 7, except the southerly 75 feet thereof, and the southerly 58.536 feet of Lot 8 of Tract No. 3351, in the City of Anaheim, County of Orange, State of California, as shown on a map recorded in Book 110, Pages 5, 6 and 7 of Miscellaneous Maps, Records of Orange County, California.

1227 S. Claudina St., Anaheim, CA 92805

The Southerly 75 feet of Lot 7 and the northerly 80 feet of Lot 6 of Tract No. 3351, in the City of Anaheim, County of Orange, State of California, as per map recorded in Book 110 Pages 5, 6 and 7 of Miscellaneous Maps, in the Office of the County Recorded of said county.

Assessor's Parcel Numbers: 082-461-29; 082-461-38

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

Title Or Type Of Document

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

Number Of Pages

Signer is representing:
Name Of Person(s) Or Entity(ies)

Date Of Documents

Signer(s) Other Than Named Above

EXHIBIT D

FIRPTA CERTIFICATE

TRANSFEROR'S CERTIFICATE OF NON FOREIGN STATUS

To inform **ATN ASSET HOLDING CO. LLC**, a California limited liability company ("Transferee"), that withholding of tax under Section 1445 of the Internal Revenue Code of 1986, as amended ("Code") will not be required upon the transfer of that certain real property to the Transferee by **B&AINV 2, LLC**, a California limited liability company ("Transferor"), the undersigned hereby certifies the following:

1. The Transferor, **CITY OF ANAHEIM**, a California municipal corporation and charter city, is not a foreign person or citizen, foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Code and the Income Tax Regulations promulgated thereunder);

2. The Transferor's social security number or U.S. employer identification number is as follows: _____ **[insert social security number]**;

3. The Transferor's home or office address is:

The Transferor understands that this certification may be disclosed to the Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment or both. Under penalty of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document.

CITY OF ANAHEIM,
a California municipal corporation and charter city

By: _____

Its: _____

EXHIBIT E

RECORDING REQUESTED BY
AND MAIL DOCUMENT TO:

John E. Woodhead IV
Director of Community and Economic Development
201 S. Anaheim Boulevard, 10th Floor
Anaheim, California 92805

(Space above this line is for recorder's use)

**PURCHASE MONEY DEED OF TRUST
WITH ASSIGNMENT OF RENTS**

THIS PURCHASE MONEY DEED OF TRUST WITH ASSIGNMENT OF RENTS (the “Deed of Trust”) is made as of _____, 2019 by ATN ASSET HOLDING CO, LLC, a California limited liability company, as Trustor, CITY OF ANAHEIM, as Beneficiary and First American Title Company, a California corporation, as Trustee. This Deed of Trust is given for, among other reasons, the purpose of securing a promissory note (the “Note”) from Beneficiary as lender to Trustor as borrower.

ARTICLE 1

GRANT IN TRUST

TRUSTOR HEREBY IRREVOCABLY GRANTS, TRANSFERS, CONVEYS AND ASSIGNS TO TRUSTEE, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, for the purposes of and upon the terms and conditions of this Deed of Trust, all of Trustor’s right, title and interest, whether now owned or hereafter acquired, in and to the Property, as more particularly described in Attachment No, 1 attached hereto;

TOGETHER WITH all earnings, rents, issues, profits, revenue, royalties, income, proceeds and other benefits, including without limitation prepaid rents and security deposits (collectively, the “Rents”) derived from any lease, sublease, license, franchise or concession or other agreement now or hereafter affecting all or any portion of the Property, or the Improvements or the use or occupancy thereof; and

TOGETHER WITH all easements, tenements, hereditaments, appurtenances, rights-of-way and rights now owned or hereafter acquired by Trustor used or useful in connection with the Property or as a means of access thereto, including, without limiting the generality of the foregoing, all development rights and credits, rights pursuant to any trackage agreement and all rights to the nonexclusive use of common drive entries, all oil and gas and other hydrocarbons and all other minerals and water and water rights and shares of stock evidencing the same (collectively with the Property and the Rents, the “Trust Estate”).

EXHIBIT E-1

PURCHASE MONEY DEED OF TRUST WITH ASSIGNMENT OF RENTS

ARTICLE 2

OBLIGATIONS SECURED

2.1 Secured Obligations. Trustor makes this grant and assignment for the purpose of securing the following obligations (“Secured Obligations”):

(a) payment of indebtedness in the principal amount of \$ _____ with interest thereon, evidenced by the Note, dated as of _____, 2019 by Trustor.

(b) performance of every obligation, covenant or agreement of Trustor contained herein and in the Note.

ARTICLE 3

COVENANTS AND AGREEMENTS OF TRUSTOR

3.1 Payment of Secured Obligations. Trustor shall pay when due the principal of and interest on the indebtedness evidenced by the Note and the principal of and interest on any other indebtedness secured by this Deed of Trust.

3.2 Maintenance, Repair, Alterations. Trustor (a) shall keep the Property in good and safe condition and repair; (b) shall not remove, demolish or substantially alter the Property except upon thirty (30) days’ prior written notice to Beneficiary; (c) shall complete promptly and in a good and workmanlike manner any improvement which may be now or hereafter constructed on the Property.

3.3 Required Insurance. Trustor shall at all times provide, maintain and keep in force or cause to be provided, maintained and kept in force, at no expense to Beneficiary, policies of insurance, with reasonable levels of coverage and deductible amounts, covering such casualties, risks, perils, liabilities and other hazards reasonably required by Beneficiary.

ARTICLE 4

ASSIGNMENT OF LEASES AND RENTS

4.1 Assignment. Trustor hereby irrevocably assigns to Beneficiary all of Trustor’s right, title and interest in, to and under: (a) all leases of the Property and or any portion thereof, all licenses and agreements relating to the management, leasing or operation of the Property or any portion thereof, and all other agreements of any kind relating to the use or occupancy of the Property or any portion thereof, whether now existing or entered into after the date hereof (“Leases”); and (b) the Rents, including, without limitation, all amounts payable and all rights and benefits accruing to Trustor under the Leases.

EXHIBIT E-2

PURCHASE MONEY DEED OF TRUST WITH ASSIGNMENT OF RENTS

ARTICLE 5

REMEDIES UPON DEFAULT

5.1 Events of Default. For all purposes hereof, the term “Default” shall mean (a) the failure of Trustor to make any payment of principal or interest on the Note or, at Beneficiary’s option, to pay any other amount due hereunder or under the Note within ten (10) days after written demand from Beneficiary; and (b) the failure of Trustor to perform any non-monetary obligation hereunder, or the failure to be true in any material respect of any representation or warranty of Trustor contained herein, and the continuance of such failure for thirty (30) days after notice

5.2 Acceleration Upon Default, Additional Remedies. Upon the occurrence of a Default, Beneficiary may, at its option, declare all indebtedness secured hereby to be immediately due and payable without any presentment, demand, protest or notice of any kind. Thereafter Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Property or the improvements upon the Property (the “Improvements”), or any part thereof, in its own name or in the name of Trustee, and do any reasonable acts which it deems necessary or desirable to preserve the value, marketability or rentability of any portion of the Trust Estate;

(b) Enforce all of the rights and remedies of an assignee for turnover of rents, issues and profits under Section 2938 of the California Civil Code, as such Section may be amended from time to time;

(c) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(d) Deliver to Trustee a written declaration of default and demand for sale and a written notice of default and election to cause Trustor’s interest in the Trust Estate to be sold, which notice Trustee or Beneficiary shall cause to be duly filed of record in the Official Records of the County in which the Property is located; or

(e) Exercise all other rights and remedies provided herein, in any loan document or other document or agreement now or hereafter securing all or any portion of the obligations secured hereby, or by law.

5.3 Foreclosure by Power of Sale. Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

(a) Beneficiary or Trustee shall give such notice of default and election to sell as is then required by applicable law. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such notice of default and after notice of sale having been given as required by law, sell the Trust Estate at the time and place of sale fixed by it in

EXHIBIT E-3

PURCHASE MONEY DEED OF TRUST WITH ASSIGNMENT OF RENTS

the notice of sale, either as a whole, or in separate lots or parcels or items as Beneficiary shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof a trustee's deed conveying the property so sold, which shall not contain any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale and Beneficiary shall be entitled to pay the purchase price by crediting the purchase price of the property against the obligations secured hereby. Trustor hereby covenants to warrant and defend the title of such purchaser or purchasers.

(b) After deducting all costs, fees and expenses of Trustee and of this trust, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in the following priority, to payment of: (i) first, all sums expended under the terms hereof, not then repaid; (ii) second, all other sums then secured hereby; and (iii) the remainder, if any, to the person or persons legally entitled thereto.

(c) Subject to California Civil Code § 2924g, Trustee may postpone sale of all or any portion of the Trust Estate by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement or subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

5.4 Appointment of Receiver. Upon the occurrence of a Default hereunder, Beneficiary, as a matter of right and upon thirty (30) days' written notice to Trustor and/or anyone claiming under Trustor, and without regard to the then value of the Trust Estate or the adequacy of any security for the obligations then secured hereby, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Trust Estate, and Trustor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided herein.

5.5 Remedies Not Exclusive. Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or under the Note or other agreement or any laws now or hereafter in force, notwithstanding that some or all of the indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

5.6 Request for Notice. Trustor hereby requests a copy of any notice of default and that any notice of sale hereunder be mailed to the Property.

5.7 Forbearance by Beneficiary Not a Waiver. Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Beneficiary of payment of any sum secured by this Deed of Trust after the due date of such payment shall not be a waiver of Beneficiary's right either to require prompt payment when due of all other sums so secured or to declare a Default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Beneficiary shall not be a waiver of Beneficiary's right to accelerate the maturity of the indebtedness secured by this Deed of Trust nor shall Beneficiary's receipt of any awards, proceeds or damages under this Deed of Trust operate to cure or waive any Default with respect to any payment secured by this Deed of Trust.

ARTICLE 6

DUE-ON-SALE

Should the Trustor agree to or actually sell, convey, transfer, or dispose of or further encumber the Property, or any part of it, or any interest in it, without first obtaining the written consent of the Beneficiary, then all obligations secured by this Deed of Trust may be declared due and payable, at the option of the Beneficiary. Consent to one transaction of this type will not constitute a waiver of the right to require consent to future or successive transactions.

ARTICLE 7

MISCELLANEOUS

7.1 Amendments. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

7.2 Invalidity of Certain Provisions. Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal, invalid or unenforceable for any reason whatsoever by a court of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

7.3 Attorneys' Fees. If the Note is not paid when due or if any Default occurs, Trustor promises to pay all costs of enforcement and collection, including but not limited to, reasonable attorneys' fees, whether or not such enforcement and collection includes the filing of a lawsuit. As used herein, the terms "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto (including, without limitation, in-house counsel employed by Beneficiary) which may include printing, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and others not admitted to the bar but performing services under the supervision of an attorney. The terms "attorneys' fees" or "attorneys' fees and costs" shall also include, without limitation, all such fees and expenses incurred with respect to appeals, arbitrations and

EXHIBIT E-5

PURCHASE MONEY DEED OF TRUST WITH ASSIGNMENT OF RENTS

bankruptcy proceedings, and whether or not any action or proceeding is brought with respect to the matter for which said fees and expenses were incurred.

7.4 Governing Law. This Deed of Trust shall be governed by and construed in accordance with the laws of the State of California.

7.5 Substitute Trustee. Beneficiary at any time and from time to time, by instrument in writing, may substitute and appoint a successor Trustee (either corporate or individual) to any Trustee named herein or previously substituted hereunder, which instrument when executed, acknowledged, and recorded in the Official Records of the Office of the Recorder of the County of Orange shall be conclusive proof of the proper substitution and appointment of each successor trustee or trustees, who shall then have all the title, powers, duties and rights of the predecessor Trustee, without the necessity of any conveyance from such predecessor. Trustee shall not be obligated to notify any party hereto of pending sale under any other Deed of Trust, or, unless brought by Trustee, or any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party.

TRUSTOR ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS DEED OF TRUST WITHOUT CHARGE.

TRUSTOR PLEASE NOTE: UPON THE OCCURRENCE OF A DEFAULT, CALIFORNIA PROCEDURE PERMITS TRUSTEE TO SELL THE TRUST ESTATE AT A SALE HELD WITHOUT SUPERVISION BY ANY COURT AFTER EXPIRATION OF A PERIOD PRESCRIBED BY LAW. UNLESS YOU PROVIDE AN ADDRESS FOR THE GIVING OF NOTICE, YOU MAY NOT BE ENTITLED TO NOTICE OF THE COMMENCEMENT OF ANY SALE PROCEEDINGS. BY EXECUTION OF THIS DEED OF TRUST, YOU CONSENT TO SUCH PROCEDURE. BENEFICIARY URGES YOU TO GIVE PROMPT NOTICE OF ANY CHANGE IN YOUR ADDRESS SO THAT YOU MAY RECEIVE PROMPTLY ANY NOTICE GIVEN PURSUANT TO THIS DEED OF TRUST.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

[SIGNATURES ON NEXT PAGE]

“TRUSTOR”

ATN ASSET HOLDING CO. LLC,
a California limited liability company

By: Anaheim Transportation Network, Inc., a California non-profit corporation

Manager

By: Diana Kotler _____
Its: Executive Director _____

ATTACHMENT NO. 1

LEGAL DESCRIPTION OF PROPERTY

All that certain real property situated in the City of Anaheim, County of Orange, State of California, described as follows:

CLAUDINA PROPERTY

Parcel 1 – 1213 S. Claudina St., Anaheim, CA 92805

Lot 7, except the southerly 75 feet thereof, and the southerly 58.536 feet of Lot 8 of Tract No. 3351, in the City of Anaheim, County of Orange, State of California, as shown on a map recorded in Book 110, Pages 5, 6 and 7 of Miscellaneous Maps, Records of Orange County, California.

Parcel 2 -1227 S. Claudina St., Anaheim, CA 92805

The Southerly 75 feet of Lot 7 and the northerly 80 feet of Lot 6 of Tract No. 3351, in the City of Anaheim, County of Orange, State of California, as per map recorded in Book 110 Pages 5, 6 and 7 of Miscellaneous Maps, in the Office of the County Recorded of said county.

Assessor's Parcel Numbers: 082-461-29; 082-461-38

ACKNOWLEDGMENT

State of California)
County of _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT F

FINAL SITE PLAN APPROVAL

City's Planning Director shall have reviewed and approved the design aspects of any proposed development that does not require discretionary actions, such as approval of a conditional use permit. This review will focus on design issues and solutions that will have the greatest effect on community character and aesthetics, and encourages imaginative solutions and high-quality urban design. City's review shall be of a final plan that includes the following elements, unless the Planning Director specifies in writing that a particular element is not required, or that an additional element is required: Site plans; Floor plans; Elevations; Roof- and ground-mounted equipment plans, including vents and ducts; Sign plans; Landscape plans; Fence and wall plans; Parking, pedestrian and vehicle circulation plans, including access to adjoining public rights-of-way; Exterior lighting plans; Line-of-sight drawings; and such other plans and information as may be required by the Planning Director and/or the Planning Commission. Elements may be submitted in phases, in order to allow for a conceptual approval prior to final approval by the City's Planning Director. Such approval is referenced to in the Agreement as "Final Site Plan Approval."

EXHIBIT G

OPTION AGREEMENT

RECORDING REQUESTED BY:)
)
 WHEN RECORDED RETURN TO AND)
 MAIL TAX STATEMENTS TO:)
)
 The City of Anaheim)
 200 Anaheim Boulevard)
 Anaheim, California 92805)
 Attention: City Clerk)
)

(Space above for Recorder's Use.)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

By: _____

OPTION AGREEMENT

This **OPTION AGREEMENT** ("Option Agreement") is entered into as of July 30, 2019, by and between THE CITY OF ANAHEIM, a California municipal corporation and charter city (the "City") and ATN ASSET HOLDING CO. LLC, a California limited liability company ("ATN").

RECITALS

A. ATN has purchased that certain real property commonly known as 1213 South Claudina Street and 1227 South Claudina Street, Anaheim, California, and more particularly described in Exhibit "A" attached hereto and incorporated herein (the "Property").

B. The Property is subject to the terms and restrictions of a grant deed (the "Grant Deed"). This Option Agreement is made pursuant to that certain Purchase and Sale Agreement and Joint Escrow Instructions dated as of July 30, 2019 (the "PSA"), by and between City and ATN. A copy of the PSA is on file with City as a public record and is deemed incorporated herein by reference.

C. Under this Option Agreement, ATN has agreed to grant to City an option to purchase the Property upon the failure of ATN to commence construction of improvements in accordance with the Final Site Plan Approval (as defined in the PSA).

D. ATN desires to grant to City an option to purchase the Property on the terms and conditions set forth hereinbelow.

NOW, THEREFORE, in consideration of the foregoing, and the mutual covenants and conditions contained herein, the parties hereto agree as follows:

1. Grant of Option. ATN grants to City an option (“Option”) to purchase the Property on the terms and conditions set forth in this Option Agreement. The purchase price payable by City to ATN for the Property shall be identical to the Purchase Price provided by the PSA in connection with the purchase of the Property by the ATN from City; namely, the sum of _____ Dollars (\$ _____), herein referred to as the “Option Price.” The Option Price shall be discharged by delivery to ATN of the original Purchase Money Note (marked “discharged”) by Escrow Holder pursuant to Paragraph 4, below.

The Option created hereby shall be irrevocable by ATN and shall be binding upon the successors and assigns of ATN. The City shall have the right of specific performance to enforce the terms of this Option Agreement, as well as all such other remedies as may be available to City under one or more of this Option Agreement, the Grant Deed, the PSA, or by virtue of applicable laws. Option Price shall be discharged by delivery to ATN of the original Purchase Money Note, (marked “discharged”) by Escrow Holder pursuant to Paragraph 4, below.

2. Term and Consideration for Option. The term of the Option (“Option Term”) shall commence on the day which is the 180th day following the Closing (as defined in the PSA), but if, and only if, ATN fails to commence construction of the improvements in accordance with the Property Plan Approval (as defined in the PSA) and shall continue for a period of 30 days thereafter (the “Option Period”). The consideration for the Option granted hereunder shall be the agreement by City to sell the Property to ATN pursuant to the PSA.

3. Exercise of Option. The Option may be exercised by City’s delivery to ATN of written notice of such exercise (“Exercise Notice”) during the Option Period.

4. Escrow and Completion of Sale. Within five (5) days after City has exercised the Option, or as soon thereafter as reasonably practicable, an escrow shall be opened with First American Title Insurance Company (“Escrow Holder”) for the conveyance of the Property to City. ATN shall deposit a grant deed conveying fee simple, marketable title to the Property (“Grant Deed”) and the City shall deposit the original Purchase Money Note, (marked “discharged”), in escrow not later than one (1) business day prior to the anticipated close of escrow date. At the close of escrow, Escrow Holder shall record the Grand Deed and deliver the Purchase Money Note to ATN.

5. Title and Costs. Any exceptions to title created on or after ATN’s acquisition of the Property shall be removed by ATN at its sole expense prior to the close of escrow pursuant to this Section 5 unless such exception(s) is(are) accepted by City in its reasonable discretion; provided, however, that City shall accept the following exceptions to title: (i) current taxes not yet delinquent, (ii) matters affecting title existing on the date of ATN’s acquisition of the Property, (iii) liens and encumbrances in favor of City of Anaheim, and (iv) matters shown as printed exceptions in the standard form CLTA owner’s policy of title insurance. The parties shall each be responsible for one-half of the escrow fees, documentary transfer taxes, recording fees and any other costs and expenses of the escrow, and ATN shall be responsible for the cost of a CLTA owner’s policy of title insurance.

6. Indemnity re Hazardous Materials. The ATN shall indemnify, defend, and hold harmless City and its officers, directors, shareholders, partners, employees, agents, and representatives from and against all claims, liabilities, or damages, and including expert witness fees and reasonable attorney’s fees and costs, caused by City’s activities with respect to the presence of Hazardous Materials (as defined in the PSA) occurring after the Closing (as defined in the PSA).

7. Failure to Exercise Option. If the Option is not exercised in the manner provided in Section 3 above before the expiration of the Option Term, the Option shall terminate. Upon receipt of the written request of ATN, City shall cause a quitclaim deed terminating or releasing any and all rights City may have to acquire the Property (“Quitclaim Deed”) to be recorded in the Official Records of Los Angeles County, California.

8. Representations and Warranties of ATN. ATN hereby represents, warrants and covenants to City as follows, which representations and warranties shall survive the exercise of the Option and the Closing:

(a) that this Option Agreement and the other documents to be executed by ATN hereunder, upon execution and delivery thereof by ATN, will have been duly entered into by ATN, and will constitute legal, valid and binding obligations of ATN;

(b) neither this Option Agreement, nor anything provided to be done under this Option Agreement, violates or shall violate any contract, document, understanding, agreement or instrument to which ATN is a party or by which it is bound; and

(c) ATN shall pay, prior to delinquency, any and all real property taxes and assessments which affect the Property.

ATN agrees to indemnify, protect, defend, and hold City and the Property harmless from and against any damage, claim, liability, or expense of any kind whatsoever (including, without limitation, reasonable attorneys’ fees and fees of expert witnesses) arising from or in connection with any breach of the foregoing representations, warranties and covenants. Such representations and warranties of ATN shall be true and correct on and as of the date of this Option Agreement and on and as of the date of the Closing.

9. Representations and Warranties of City. City hereby represents and warrants and covenants to ATN, as follows, which representations and warranties shall survive the Closing:

(a) that this Option Agreement and the other documents to be executed by City hereunder, upon execution and delivery thereof by City, will have been duly entered into by City, and will constitute legal, valid and binding obligations of City, and

(b) neither this Option Agreement, nor anything provided to be done under this Option Agreement, violates or shall violate any contract, document, understanding, agreement or instrument to which City is a party or by which it is bound.

City agrees to indemnify, protect, defend, and hold ATN and the Property harmless from and against any damage, claim, liability, or expense of any kind whatsoever (including, without limitation, reasonable attorneys’ fees and fees of expert witnesses) arising from or in connection with any breach of the foregoing representations, warranties and covenants. Such representations and warranties of City, and any other representations and warranties of City contained elsewhere in this Option Agreement shall be true and correct on and as of the date of this Option Agreement and on and as of the date of the Closing.

10. General Provisions.

10.1 Paragraph Headings. The paragraph headings used in this Option Agreement are for purposes of convenience only. They shall not be construed to limit or extend the meaning of any part of this Option Agreement.

10.2 Notices. Any notice, demand, approval, consent, or other communication required or desired to be given under this Option Agreement shall be in writing and shall be either personally served, sent by telecopy, mailed in the United States mails, certified, return receipt requested, postage prepaid, or sent by other commercially acceptable means, addressed to the party to be served with the copies indicated below, at the last address given by that party to the other under the provisions of this section. All communications shall be deemed delivered at the earlier of actual receipt, the next business day after deposit with Federal Express or other overnight delivery service or two (2) business days following mailing as aforesaid, or if telecopied, when sent, provided a copy is mailed or delivered as provided herein:

To ATN: ATN Asset Holding Co. LLC
Anaheim Transportation Network, Inc.
Manager
1354 South Anaheim Boulevard
Anaheim, CA 92805
Attention: Diana Kotler, Executive Director

With a copy to: Cummins & White, LLP
2424 SE Bristol St., Suite 300
Newport Beach, CA 92660
Attention: Fred M. Whitaker, P.C.

To City: City Clerk
City of Anaheim
200 S. Anaheim Boulevard, 2nd Floor
Anaheim, California 92805
Fax No. (714) 765-4105

With a copy to: John E. Woodhead IV
Director of Community and Economic Development
201 S. Anaheim Boulevard, 10th Floor
Anaheim, California 92805
Fax No. (714) 765-4630

City Attorney
City of Anaheim
200 S. Anaheim Boulevard, 3rd Floor
Anaheim, California 92805
Fax No. (714) 765-4630

Thomas P. Clark, Jr.
Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660

10.3 Binding Effect. The terms, covenants and conditions of this Option Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and transferees.

10.4 Entire Agreement. This Option Agreement sets forth the entire agreement between the parties hereto respecting the Option, and supersedes all prior negotiations and agreements, written or oral, concerning or relating to the subject matter of this Option Agreement.

10.5 Interpretation. This Option Agreement shall be governed by the laws of the State of California and any question arising hereunder shall be construed or determined according to such laws. The parties agree that a further guide to construction shall be the understanding that the Property shall have been conveyed by City to the ATN for development in conformity with the PSA and not for speculation in land. This Option Agreement shall further be interpreted in conformity with, and to harmonize with, the PSA. This Option Agreement shall be deemed to have been prepared equally by both parties, one of which (the ATN) is a party experienced and sophisticated in connection with agreements concerning the conveyance and development of property.

10.6 Time of the Essence. Time is of the essence of each and every provision of this Option Agreement.

10.7 Counterparts. This Option Agreement may be signed by the parties hereto in duplicate counterparts which together shall constitute one and the same agreement between the parties and shall become effective at such time as both of the parties shall have signed such counterparts.

10.8 Attorneys' Fees. If either party commences an action against the other to enforce any of the terms hereof or because of the breach by either party of any of the terms hereof, the losing party shall pay to the prevailing party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, including appeal of and/or enforcement of a judgment.

10.9 Computation of Time. All periods of time referred to in this Option Agreement shall include all Saturdays, Sundays and state or national holidays, unless the period of time is specified as business days (which shall not include Saturdays, Sundays and state or national holidays), provided that if the date or last date to perform any act or give any notice with respect to this Option Agreement shall fall on a Saturday, Sunday or state or national holiday, such act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or state or national holiday.

10.10 Definition of Terms. Terms not otherwise defined in this Option Agreement are defined in the PSA.

IN WITNESS WHEREOF, this Option Agreement is executed by the parties hereto on the date first above written.

ATN:

ATN ASSET HOLDING CO. LLC,
a California limited liability company

By: Anaheim Transportation Network, Inc.

a California non-profit corporation

Manager

By: Diana Kotler

Its: Executive Director _____

CITY:

CITY OF ANAHEIM

a California municipal corporation and charter city

By: _____

John E. Woodhead IV,

Executive Director or Authorized Designee

ATTEST:

THERESA BASS, AUTHORITY SECRETARY

Theresa Bass

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

By: _____

STRADLING YOCCA CARLSON & RAUTH

EXHIBIT "A" TO OPTION AGREEMENT

LEGAL DESCRIPTION

[To be inserted]