

RETURN TO:  
Real Estate Division  
Department of Public Works  
P.O. Box 4186, Civic Center Branch  
San Rafael, CA 94913-4186  
Attention: Terry Toner

Project: Cal Park Hill Tunnel Rehabilitation  
and Multi-Use Pathway  
Address: Larkspur Court Apartments  
Larkspur, CA 94939  
APN: Not Assigned  
Federal ID: STPLEE 5927 (038)

## RIGHT-OF-WAY CONTRACT

THIS CONTRACT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2008, by and between the COUNTY OF MARIN, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and Teachers Insurance and Annuity Association of America, a Delaware Corporation, hereinafter referred to as "OWNER".

### WITNESSETH:

#### RECITALS

A. Teachers Insurance and Annuity Association of America, a Delaware Corporation, are the owners of that certain real property situate in the City of Larkspur, County of Marin, State of California and commonly known as Larkspur Court Apartments, Larkspur, California 94939; also known as Lot 1, as shown upon that certain Map entitled "Map of Larkspur Courts Condominiums," filed for record May 9, 1989 in Volume 20 of Maps, at Page 65, Marin County Records.

B. COUNTY desires to acquire a permanent easement for grouted steel tiebacks over a portion of OWNER'S property, which is more particularly described on Exhibit "A" and depicted on Exhibit "B," attached hereto and made a part hereof, (PROPERTY.) However, OWNER has requested that COUNTY purchase said PROPERTY in fee simple title and COUNTY hereby agrees to purchase said PROPERTY in fee simple title upon the terms and conditions herein below.

NOW, THEREFORE, IT IS MUTUALLY UNDERSTOOD AND AGREED as follows:

1. OWNER shall convey the PROPERTY described in Exhibit "A" by depositing in an escrow designated by COUNTY a Quit Claim Deed suitable for recordation upon the following terms and conditions:

- a) COUNTY shall deposit in escrow the sum of Three Thousand and no/100 Dollars (\$3,000.00) payable contemporaneously with delivery of said deed as consideration for the PROPERTY.
- b) The PROPERTY shall be conveyed to COUNTY free and clear of all liens and encumbrances, taxes and assessments, penalties and costs, leases and licenses (recorded or unrecorded), easements, rights-of-way, bonds and any and all restrictions of record other than items numbered 4, through 10, in Preliminary Report No.264787E AP dated as of October 8, 2007, issued by California Land Title of Marin, attached hereto as Exhibit "C."
- c) COUNTY shall pay all escrow and recording fees incurred in this transaction including the cost of title insurance, if desired by COUNTY. Evidence of title shall be a standard policy of title insurance issued by the title company that acts as escrow.

2. COUNTY acknowledges that the PROPERTY is being purchased "as is" and OWNER makes no representation or warranties concerning said PROPERTY.

3. It is agreed and confirmed by the parties hereto that notwithstanding other provisions of this agreement, the right of possession and use of the property by the COUNTY, including the right to remove and dispose of any landscaping and improvements within the fee area shall commence on the date that COUNTY deposits the funds specified in paragraph 1.a) herein into escrow at California Land Title of Marin, Escrow No. 264787E AP, and the amount specified in paragraph 1.a) includes, but is not limited to, full payment for such possession and use, including damages, if any, from said date.

4. If this property is secured by a mortgage, deed of trust, or other financial instrument, OWNER is responsible for payment of any demand under authority of said mortgage, deed of trust or other financial instrument out of OWNER'S proceeds. Such amounts may include, but not be limited to, payments against principal, processing costs or fees, if any. Any demand in excess of the amount set forth in Paragraph 1 a) shall be

the responsibility of OWNER to resolve with the mortgage, deed of trust holder or holder of any other financial instrument.

5. Any notice or demand which either the OWNER or COUNTY desire to serve upon the other may be served either personally or by depositing the notice or demand in the United States Post Office, postage prepaid, addressed as follows:

OWNER: Teachers Insurance and Annuity Association of America  
c/o Tim Bower, Legacy Partners Residential, Inc.  
4000 East Third Avenue, Suite 600  
Foster City, CA 94404-4810

COUNTY: County of Marin  
Department of Public Works  
Real Estate Department  
P.O. Box 4186  
San Rafael, CA 94913-4186  
Attn: Terry Toner

6. The parties to this contract agree the interests to be conveyed by OWNER do not consist of the residence of OWNER. Therefore, OWNER agrees he is not eligible to receive relocation assistance or benefits under the Uniform Relocation Assistance Act.

7. Real Estate commissions will not be paid by COUNTY under this contract.

8. The parties have set forth the whole of their agreement herein. The performance of this agreement constitutes the entire consideration for the conveyance to COUNTY of said interests in real property and shall relieve COUNTY of all further obligations or claims on this account or on account of the location, grade or construction of the proposed public improvement. OWNER, or OWNERS' representative(s), has/have examined the draft plans showing the location and the proposed manner of construction of the COUNTY improvement for which the property interests referred to herein are conveyed. Said draft plans have been reviewed by OWNER or OWNERS' representative(s) with a representative of COUNTY and OWNER and acknowledges that a full and complete explanation of the draft plans has been provided.

End of Contract  
Signature Page Follows

COUNTY OF MARIN, a Political Subdivision of the  
State of California

\_\_\_\_\_  
Steve Kinsey  
President, Board of Supervisors

Approved as to form:

ATTEST:

\_\_\_\_\_  
Chief Deputy County Counsel

\_\_\_\_\_  
Deputy Clerk

OWNER: TEACHERS INSURANCE & ANNUITY ASSOCIATION OF AMERICA, A  
DELAWARE CORPORATION

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

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

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

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