

# FILE

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## PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is made on SEP 26 2000, between the PHILOMATHEAN CLUB LTD., a non-profit corporation, hereinafter SELLER, and the CITY OF STOCKTON, a municipal corporation, hereinafter BUYER.

WHEREAS, SELLER owns a parcel of land upon which is situated a structure known as the Philomathean Club located at 1000 North Hunter in the City of Stockton, San Joaquin County, California, more particularly described in Exhibit A attached hereto; and

WHEREAS, SELLER is desirous of selling said premises to BUYER so that the structure and the premises can be maintained as an historic site in the City of Stockton; and

WHEREAS, BUYER is desirous of purchasing the property and renovating the same to enhance its historical value and for its use as a City of Stockton facility;

NOW, THEREFORE, the parties hereto agree as follows:

### Warranty of Authority

1. SELLER warrants that it is a non-profit corporation organized and existing under the laws of the State of California with its principal place of business in San Joaquin County and through its officers is authorized to execute this agreement and transfer a substantive amount of its assets pursuant to approval by majority vote of the membership of the Philomathean Club Ltd.

### Agreement to Sell and Purchase

2. SELLER agrees to sell and BUYER agrees to purchase the premises located at 1000 North Hunter Street located in the City of Stockton, San Joaquin County, California, more particularly described in Exhibit A attached hereto.

### Purchase Price

3. The purchase price for the premises is Twenty-five Thousand Dollars (\$25,000), all due and payable in cash or by check at the close of escrow.

### Escrow

4. The sale shall be consummated through an escrow established with Alliance Title located at 2291 West March Lane, Suite D-100 in the City of Stockton, California. Escrow shall be considered open when both parties deposit fully executed escrow instructions with escrow holder and close of escrow shall be on or before October 31, 2000.

### **Escrow Instructions**

5. Within fifteen (15) days after execution of this agreement, each party shall execute and deliver to the escrow holder its written instructions consistent with the terms of this agreement and shall provide the escrow holder with such other information, documents, and instruments as the escrow holder may reasonably require to enable it to close the transactions on the closing date.

### **Vesting of Title**

6. On the close of escrow, title shall vest in the CITY OF STOCKTON, a municipal corporation.

### **Status of Title**

7. SELLER shall by grant deed convey to BUYER a fee simple interest free and clear of all title defects, liens, encumbrances, deeds of trust, and mortgages.

### **Procurement of Title Policy**

8. BUYER, in its discretion, shall procure a California Land Title Association standard policy of title insurance in the amount of Twenty-five Thousand Dollars (\$25,000) to be paid by BUYER showing vested title in the name of CITY OF STOCKTON, a municipal corporation.

### **Proration of Taxes, Insurance, and Interest**

9. Real property taxes, interest on assessments assumed by BUYER, rents, insurance premiums on hazard insurance assigned to BUYER, and interest on any indebtedness secured by any deed of trust to remain on the property shall all be prorated as of the closing date on the basis of a 30-day month. All security deposits and prepaid rents held by SELLER shall be credited to BUYER. Any balance in any tax and insurance impound account shall be credited to SELLER. Assessments of record shall be paid by SELLER.

### **Closing Costs**

10. BUYER shall pay the escrow fee for this transaction.

### **Notices**

11. All notices and demands shall be given in writing by registered or certified mail, postage prepaid, and return receipt requested. Notice shall be considered given when received. Notices shall be addressed as shown below for each party, except that, if any party gives notice of a change of name or address, notices to that party shall thereafter be given as shown in that notice.

**TO SELLER:**

The Philomathean Club  
1000 N. Hunter Street  
Stockton CA 95202

Beverly McCarthy  
215 W. Stadium Drive  
Stockton CA 95204

**TO BUYER:**

City of Stockton  
Attn: City Manager's Office  
425 N. El Dorado Street  
Stockton CA 95202-1997

**Broker's Commission**

12. No real estate broker's commission shall be paid on this transaction.

**Recordation**

13. This agreement shall be recorded with the San Joaquin County Recorder's Office.

**Approval of Condition of Title/Preliminary Report**

14. In the event BUYER exercises its option to purchase title insurance as set forth in paragraph 8, Alliance Title is to be able to issue its standard California Land Title Association owner's policy of title insurance dated as of the closing date, on its usual form, with liability not less than the purchase price, covering the property, showing title vested in BUYER, and showing as exceptions only current real property taxes, not yet delinquent, and the exceptions to title that BUYER has approved.

**Preliminary Title Report**

15. BUYER, at its expense, may order a preliminary report and legible copies of the documents reported as exceptions in it ("title documents"). BUYER shall notify SELLER in writing within fifteen (15) business days after receipt of the report and the title documents of BUYER's disapproval of any exception in those documents.

**Warranty of Status of Title**

16. As a covenant that will survive the close of escrow, SELLER warrants that SELLER is the sole owner of the property, free and clear of all liens, claims, encumbrances, easements, encroachments on the property from adjacent properties, encroachments by improvements or vegetation on the property onto adjacent property, or rights of way of any sort.

**SELLER's Warranties Regarding Assessments**

17. SELLER warrants and represents that the premises is not and at the close of escrow shall not be the subject of any proposed assessments or assessment liens, other than those specifically excepted in this agreement, by reason of any work or improvement completed or installed at or before the close of escrow.

**Warranty Against Easements Not of Record**

18. SELLER warrants to BUYER that the title conveyed to BUYER will not be encumbered by any easements, licenses, or other rights not disclosed by the public record.

**New Leases**

19. After the execution of this agreement, SELLER shall not enter into any lease or option to lease or consent to without BUYER's prior written consent.

**"As Is" Clause; No Warranties Given by Seller**

20. Except as otherwise expressly provided in herein, SELLER disclaims the making of any representations or warranties, express or implied, regarding the property or matters affecting the property, including, without limitation, the physical condition of the premises, title to or the boundaries of the property, pest control matters, soil condition, hazardous waste, toxic substance or other environmental matters, compliance with building, health, safety, land use, and zoning laws, regulations and orders. BUYER acknowledges that the premises may contain possible hazardous waste including, but not limited to asbestos.

**Continuation of Name of Premises**

21. BUYER agrees that during the BUYER's ownership of the property, the name of the structure situated on the premises shall be called the "PHILOMATHEAN CLUB HOUSE."

**Responsibility For Maintenance and Supervision**

22. BUYER agrees that it, at its sole cost, shall be responsible for all future maintenance, janitorial service, operations, repairs and replacement costs, including the cost associated with meeting building code requirements. In addition, BUYER agrees that it shall provide any supervision necessary associated with the premises itself or any activities conducted thereon.

BUYER will complete all repairs to the premises within thirty (30) months of the close of escrow. Said repairs shall include, but not be limited to, those set forth in the estimates attached hereto as Exhibit B. Since BUYER is unable at the present time to determine what sequence the repairs must be made to protect the integrity of the structure and to meet building code requirements by

December 31, 2000, BUYER shall first perform whatever temporary or permanent repairs it determines are necessary to prevent water intrusion to avoid further damage to the structure. In the event BUYER shall be delayed because it is required to publicly bid the temporary or permanent work to prevent water intrusion, the parties will in good faith negotiate to extend the December 31, 2000, date for a reasonable period to accomplish the work intended. Thereafter, BUYER shall complete all permanent repairs necessary within the thirty (30)-month period as stated above.

### **Taxes and Insurance**

23. BUYER, as owner of the premises, agrees to be responsible for all future taxes regarding the premises. BUYER further agrees to provide general liability insurance and coverage against fire and other covered calamity, whether through an independent insurer, a joint powers arrangement, or through BUYER's self insurance program.

### **SELLER's Insurance**

24. Seller agrees to carry its own general liability insurance as a user/tenant of the property in such limits as may be designated by BUYER and shall name BUYER as additional insured on any such policy of insurance.

### **SELLER's Use of Premises**

25. Subject to BUYER's right to use the entire premises at all other times, for so long as the Philomathean Club shall exist, SELLER shall be allowed to use the premises rent free for holding organizational events and meetings. By July 1 of each year SELLER shall provide BUYER with a list of prescheduled events and meetings. In addition, SELLER shall also be able to use the premises for any nonscheduled activity or meeting as long as such does not conflict with BUYER's operation of the premises and so long as SELLER gives BUYER reasonable advanced notice of its intention to do so.

### **Use of Library Room**

26. SELLER, in addition, shall be allowed to use rent free up to one-half ( $\frac{1}{2}$ ) of the existing basement area for storage and shall have free exclusive use of the existing Library Room.

### **Continued Existence of Philomathean Club**

27. For purposes of the provisions of paragraphs 25 and 26, the existence of the Philomathean Club shall be defined as having ten (10) active members or more.

### **Retention of Furnishings**

28. SELLER shall designate which of the furnishings and artwork currently at the premises will remain the property of SELLER and remain on the premises at the

option of SELLER. Furnishings, such as tables, chairs and kitchen equipment and supplies shall become the property of BUYER and BUYER will be responsible for the repair and/or replacement of the same as needed.

### **Subsequent Sale of Premises**

29. In the event BUYER resells the premises at anytime while the Philomathean Club still is in existence as defined in paragraph 27, SELLER shall be entitled to a share of one-third (1/3) of the net proceeds from such sale. Any subsequent purchasers or assigns shall be subject to the conditions set forth in this agreement. Net proceeds shall be defined as the sales price less any costs associated with the sale including commissions, title fees, title reports or any other related escrow fees or costs.

### **Historical Designation**

30. BUYER agrees that it will seek an historical designation for the premises as soon as is practical, either preceding or subsequent to repairs being made to the structure in accordance with this agreement.

### **No Condemnation**

31. To the best of the SELLER's knowledge, there are no pending or threatened condemnation or similar proceedings affecting the property, or any portion thereof, nor does the SELLER have any knowledge that any such action is contemplated.

### **No Proceedings**

32. To the best of SELLER's knowledge, there are no legal actions, suits, or other legal or administrative proceedings, including condemnation cases, pending or threatened against or affecting the property. The SELLER has not received and is not aware of any notice from any public agency or entity with respect to any current or future proceeding against or basis for any future proceeding against or affecting the property or any part of the property, or concerning any existing or potential, past, present or future hazardous materials at the property.

The SELLER represents and warrants that as of the date of this agreement and as of the closing, the property is not in violation of any law, ordinance or regulation of any governmental authority relating to the environmental conditions on, under or about the property, including, but not limited to, soil and groundwater conditions.

### **No Default**

33. The SELLER hereby covenants, represents, and warrants that, to the best of its knowledge and belief, it has received no notice of any default under any contract, transaction, agreement, encumbrance, or instrument pertaining to the property,

which has remained uncured as of the date of this agreement. The obligation to notify BUYER of notices of default shall extend to the closing.

**Approval**

34. This agreement is subject to final approval of the City Council of the City of Stockton.

**Benefit to the parties**

35. Each and every term of this agreement shall bind and inure to the benefit of the parties and their respective successors, heirs, executors, administrators and assigns.

**"SELLERS"**

PHILOMATHEAN CLUB LTD

By: Beverly Fitch Mc Carthy  
Printed Name: BEVERLY FITCH Mc CARTHY  
Title: President

**"BUYERS"**

CITY OF STOCKTON

By: Gary A. Podesto  
Printed Name: GARY A. PODESTO  
Title: Mayor

ATTEST:

For Josephine C. Weber  
KATHERINE GONG MEISSNER,  
City Clerk for the City of Stockton

APPROVED AS TO FORM:

RICHARD K. DENHALTER  
City Attorney

By: [Signature]  
Deputy City Attorney

**LEGAL DESCRIPTION**

All that certain real property situate in the City of Stockton, County of San Joaquin, State of California, described as follows:

Lots 2, 4, 6, 14, the South four feet of the West one-third of Lot 15 and all of Lot 16 in Block 134, EAST OF CENTER STREET, in the City of Stockton, according to the Official Map or Plat thereof.



Project No.:		Project Name: Philomathean Club Building 1000 N. Hunter Street		Prepared by: BN		Date: 9/29/99		Sheet 1 of 1	
				Checked by:		Date:			
ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT COST	ITEM COST	TOTAL			
1	Install new accessibility complying ramp and handrail	LS				\$2,500			
2	Repair existing AC compressor fence	LS				\$500			
3	New rear entrance door, frame and hardware	LS				\$750			
4	Men's rest room modifications to meet accessibility standards	LS				\$8,390			
	Demolition of walls	LS			\$250				
	New stud walls w/gyp board	LS			\$750				
	Toilets	EA	1	\$500.00	\$500				
	Lavatory and fixture	EA	1	\$300.00	\$300				
	Toilet accessories	LS			\$750				
	Doors and hardware	EA	2	\$500.00	\$1,000				
	Tile flooring	SF	80	\$12.00	\$960				
	Painting	SF	470	\$1.00	\$470				
	Tile wainscoting	SF	180	\$12.00	\$2,160				
	Lights	EA	2	\$250.00	\$500				
	Install floor drain	LS			\$750				
	Womens's rest room modifications to meet accessibility standards	LS				\$15,980			
	Demolition of walls	LS			\$250				
	New stud walls w/gyp board	LS			\$750				
	Toilets	EA	2	\$500.00	\$1,000				
	Lavatory and fixture	EA	1	\$300.00	\$300				
	Toilet accessories	LS			\$750				
	Doors and hardware	EA	2	\$500.00	\$1,000				
	Tile flooring	SF	190	\$12.00	\$2,280				
	Painting	SF	500	\$1.00	\$500				
	Tile wainscoting	SF	450	\$12.00	\$5,400				
	Lights	EA	5	\$250.00	\$1,250				
	Install floor drain and plumbing for new toilet	LS			\$2,500				
5	Raise handrail at stair case	LS				\$2,750			
	Install guardrail at front porch	LS				\$2,500			
6	Painting	LS				\$1,750			
	Interior - second floor ceiling at stair landing repair and paint	SF	200	\$2.50	\$500				
	Exterior - east window frames	EA	5	\$250.00	\$1,250				
7	New carpet	LS				\$5,000			
8	Dry-rot repair - exterior eave	LS				\$2,000			
9	Parking lot	LS				\$20,000			
10	HVAC system	LS				TBD			
11	Structural upgrade based on engineer's report	LS				\$74,000			
12	Remove dead bolt lock at front exit door	LS				\$100			
Total Estimate						\$136,220			

VERTICAL LOADING

1. Replace all moisture damaged wood beams, columns, joists and sheathing . . . . . \$15,000
2. Re-attach exterior emergency stairway post to planter wall . . . . . \$250
3. Replace/repair notched roof joist at exterior stairs and replace/repair door . . . . . \$1,250

LATERAL LOADING

4. Caulk major cracks on exterior east wall foundation with non-shrink grout . . . . . \$1,000
5. Provide additional shear walls by eliminating some front windows . . . . . \$7,500
6. Provide rigid frame on the west side of the building . . . . . \$25,000
7. Remove and replace dry rot at:
  - a) the northern exterior porch support posts . . . . . \$2,500
  - b) northern exterior wall by entry . . . . . \$1,500
  - c) second floor fire escape sill . . . . . \$250
  - d) upper front exterior balcony . . . . . \$750
8. Provide proper exterior support and anchorage of northern interior stairway . . . . . \$2,500
9. Provide proper support and anchorage of southern fire escape structure . . . . . \$1,000
10. Remove existing brick chimney and construct new chimney in accordance with today's standards . . . . . \$15,500

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TOTAL . . . . . \$74,000

COPY

**AMENDMENT TO PURCHASE AND SALE AGREEMENT**  
**(PHILOMATHEAN CLUB LTD)**

THIS AMENDMENT TO AGREEMENT is made and entered into on OCT 31 2000  
\_\_\_\_\_, by and between the PHILOMATHEAN CLUB LTD,, a non-profit corporation, hereinafter SELLER, and the CITY OF STOCKTON, a municipal corporation, hereinafter BUYER.

**RECITALS**

WHEREAS, SELLER and BUYER entered into a agreement dated September 26, 2000, for the purchase of a structure known as the Philomathean Club located 1000 North Hunter Street in the City of Stockton; and

WHEREAS, during the escrow process it was determined that a San Joaquin Area Flood Control Agency (SJAFCA) lien (approximately \$3,900) exists on the property; and

WHEREAS, SELLER and BUYER now desire to amend said agreement to include the SJAFCA lien as part of the purchase price of the property located at 1000 North Hunter Street;

NOW, THEREFORE, in consideration of the succeeding mutual covenants, the parties agree as follows:

1. Section 7 of the Purchase and Sale Agreement is hereby amended as follows:

Status of Title

7. SELLER shall by grant deed convey to BUYER a fee simple interest free and clear of all title defects, liens (including the lien assessed by the San Joaquin Area Flood Control Agency (SJAFCA)), encumbrances, deeds of trust, and mortgages.

BUYER shall, in addition to the payment of the purchase price, pay to SELLER \$3,900 to extinguish the SJAFCA lien.

2. All other terms and conditions of the contract dated September 26, 2000, shall remain in full force and effect.

IN WITNESS THEREOF, the parties hereto have executed this Amendment to Agreement on the day and year first above written.

PHILOMATHEAN CLUB LTD.

By: Beverly Fitch McCarthy

Printed Name: Beverly Fitch McCarthy

Title: President

"SELLER"

ATTEST:

*for* KATHERINE GONG MEISSNER  
CITY CLERK

By: [Signature]

APPROVED AS TO FORM:

RICHARD K. DENHALTER  
CITY ATTORNEY

By: [Signature]  
Deputy City Attorney

CITY OF STOCKTON, a municipal  
corporation

By: [Signature]  
GARY A. PODESTO, Mayor

"BUYER"