



## RESOLUTION 07-01-2011

### A RESOLUTION TO AN AGREEMENT TO SELL 1.17 ACRES OF SURPLUS LANDFILL PROPERTY

**WHEREAS**, the governing body of the City of Santaquin, Utah, previously passed resolution 06-01-2011 in which it authorized the acceptance of bids for the sale of 1.17 acres of real property from within the Santaquin City Landfill; and

**WHEREAS**, a bid was accepted from Richard and Cathy Anne Martin for \$51,649.38 for the purchase of this surplus property and have discussed the additional considerations out lined within the attached Real Property Purchase Agreement;

**NOW THEREFORE, BE IT RESOLVED** by the City Council of Santaquin, Utah, enters into the attached agreement for the sale of 1.17 acres of real property from within the Santaquin City Landfill to Richard and Cathy Anne Martin.

(See attached)


ADOPTED AND PASSED by the City Council of Santaquin City, Utah, this 20<sup>th</sup> day of July, 2011.



SANTAQUIN CITY

  
James E. DeGraffenried, Mayor

Attest

  
Susan B. Farnsworth, City Recorder

## Final Seller's Closing Statement

Title West Title Company Spanish Fork Escrow, 4 - Title West Title Company, Escrow Officer: Creed K. Stephenson  
212 South Main Street, Suite 2, Spanish Fork, UT 84660, (801)794-3155

Seller(s) Santaquin City  
Buyer(s) Martin Industrial Properties I, LLC  
Lender(s) Zions First National Bank

Property

Closing Date 7/28/2011

Disbursement Date 7/29/2011

Proration Date 7/29/2011

Debit

Credit

**Sales/Price**

Contract sales price

\$50,766.48

**Title Charges**

Settlement or closing fee to Title West Title Company

\$200.00

Owner's title insurance to Title West Title Company

\$426.00

Owner's title policy limit \$50,766.48

Agent's portion of the total title insurance premium to Title West Title Company \$1,076.24

Underwriter's portion of the total title insurance premium to Stewart Title Guaranty Company \$146.76

Subtotal:

\$626.00

\$50,766.48

Balance due to Seller:

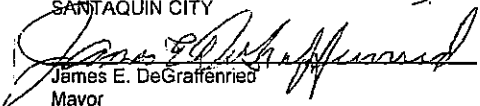
\$50,140.48

Totals:

\$50,766.48

\$50,766.48

SANTAQUIN CITY

  
James E. DeGraffenried  
Mayor

## REAL PROPERTY PURCHASE AGREEMENT

**THIS REAL PROPERTY PURCHASE AGREEMENT** (the "Agreement") is made and entered into by and between the **CITY OF SANTAQUIN, UTAH**, a municipality of the state of Utah ("Seller") and **RICHARD MARTIN and CATHY ANNE MARTIN** ("Buyers"). Seller and Buyers are herein sometimes referred to individually as a "Party" and collectively as the "Parties". The transactions contemplated by this Agreement are herein sometimes collectively referred to as the "Transaction".

In consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Property Purchase.** Seller agrees to sell to Buyers and Buyers agree to purchase from Seller, subject to the terms and conditions contained herein, that certain real property, comprising approximately 1.15 acres, located in Utah County, Utah, being a portion of Utah County as depicted and described in Exhibit "A", which is attached hereto and by this reference incorporated herein, together with all improvements and appurtenances (if any), and all oil, gas and mineral rights owned by Seller, but excluding therefrom any and all water rights (the "Property").

2. **Purchase Price.** Buyers agree to pay to Seller for the Property, the sum of Fifty Thousand Seven Hundred Sixty-Six and 48/100 Dollars (\$50,766.48).

3. **Closing.** This Transaction shall be closed at the offices of First American Title Insurance Company ("Closing Agent") at 578 South State Street, Orem, Utah 84058 or at any other place as the Parties may agree, on or before July 28, 2011. "Closing" shall occur when Seller and Buyers have made all of their respective deliveries described below, to-wit:

a. **Seller's Closing Deliveries.** Seller shall deliver to Buyers (or to the Closing Agent):

(i) a general warranty deed (the "Deed"), fully executed and properly acknowledged by Seller, conveying the Property to Buyers;

(ii) a standard coverage owner's policy of title insurance in the amount of the purchase price of Fifty Thousand Seven Hundred Sixty-Six and 48/100 Dollars (\$50,766.48); and

(iii) any other funds, instruments or documents as may be reasonably requested by Buyers or the Closing Agent or reasonably necessary to affect or carry out the purposes of this Agreement (which funds, instruments or documents are subject to Seller's prior approval, which approval shall not be unreasonably withheld, conditioned or delayed).

b. **Buyer's Closing Deliveries.** Buyers shall deliver to Seller:

(i) the sum of Fifty Thousand Seven Hundred Sixty-Six and 48/100 Dollars (\$50,766.48); and

(ii) any other instruments or documents as may be reasonably requested by Seller or the Closing Agent or reasonably necessary to affect or carry out the purposes of this Agreement (which funds, instruments or documents are subject to Buyers' prior approval, which approval shall not be unreasonably withheld, conditioned or delayed).

**4. Closing Costs and Prorations.**

a. Except as otherwise provided below in this subparagraph a., all general and special taxes and assessments, specifically including Green Belt Rollback Taxes, against the Property for all periods prior to the Closing Date shall be paid by Seller at or prior to Closing. The amount of any such taxes or assessments shall be estimated based on information provided by the Utah County Assessor for the parcel or parcels of which the Property is a part, the "Assessed Parcel". Seller and Buyers shall each pay their own legal expenses in connection with this Transaction.

b. Seller shall provide and pay the cost of a standard coverage owner's policy of title insurance. Unless otherwise agreed by the parties in writing, Seller shall pay one-half and Buyers shall pay one-half of all other closing costs including, but not limited to charges and fees assessed by Closing Agent.

**5. Possession.**

a. Unless otherwise agreed in writing by the Parties, Seller shall deliver possession of the Property to Buyers upon closing.

b. In the event that Seller does not deliver possession of the Property upon closing, together with satisfactory proof of payment of obligations related to the Property, Seller shall pay liquidated damages in the amount of \$500 per day from closing, until such proof and possession are delivered and Buyers shall be entitled to pursue possession of the Property through legal process.

**6. Conveyance; Title Insurance.** As required by paragraph 3.a.(i), Seller shall convey to Buyers, by general warranty deed, good and marketable fee simple title to the Property, free and clear of all mortgages, trust deeds, judgments, mechanics' liens, tax liens and warrants and other financial encumbrances.

**7. Reservation of Utility Easement.** The Parties agree that a portion of the Property shall be subject to an easement for the construction, operation, maintenance and/or use of public utilities, including but not limited to: water (culinary and secondary); sewer; electrical; natural gas; telecommunications; and related appurtenances. Said easement shall pertain to that

portion of the Property described in Exhibit "B" hereto. Buyer agrees to execute all documents necessary to effectuate and record said easement.

**8. Site Development Standards Compliance.** Buyer shall construct sufficient improvements on the Property to fully comply with the Santaquin City Site Development Standards, as contained in Title 10, Santaquin City Land Use Management and Development Code, as the same may be amended from time to time, no later than the earlier of: (a) a Certificate of Occupancy is issued by the City for any structure on the Property; or (b) three (3) years from the execution of this Agreement.

**9. Electrical Service.** In consideration of this Agreement, the parties agree to participate in the installation of electrical service to the Property as follows:

a. Buyer shall obtain all engineering, drawings and permits associated with and as may be necessary to provide 3 phase electrical service to the Property, and shall provide copies of the same to the City.

b. Buyer shall provide all parts and materials necessary for the electrical service described above at Buyer's sole expense.

c. So long as all of the items described in 9.a. and 9.b. above are delivered to Seller on or before August 15, 2011, Seller shall provide the labor and equipment necessary to install conduit from the present source of power located directly across Lark Street from the northeastern corner of the Property, to a point across Lark Street to the northeastern portion of the Utility Easement described in Exhibit "B" and shall install said conduit at its sole expense, including all necessary excavation, installation, backfill and cutting and patching of pavement on Lark Street on or before September 1, 2011. Seller shall install said conduit in compliance with Buyer's drawings and permits. Seller shall not provide any wire or installation of any wire.

d. Seller shall not warrant or otherwise represent in any way that Buyer's designs, drawings or materials are sufficient for the purpose intended. Sole responsibility for the accuracy, quality and sufficiency of the design, drawings, permits and materials provided by Buyer shall rest with Buyer and Buyer shall indemnify Seller for any and all damages which Seller may incur based on Seller's reliance upon the same.

**10. Seller's Disclosures.** No later than July 21, 2011, Seller shall provide to Buyers, at Seller's expense, all of the following (collectively, the "Seller's Disclosures"):

a. Seller hereby discloses and represents to Buyers that Seller has no knowledge of any hazardous materials or substance being stored or present upon the Property and that, except as disclosed in paragraphs 10.d. and 12.m. below, Seller has no knowledge relating to any environmental problems or any building or zoning code violations affecting the Property;

b. A commitment for the policy of title insurance required by paragraph 3.a.(ii) above; and

c. All of the following items that are in the actual possession or control or reasonably accessible to Seller:

- (i) an accurate survey of the Property;
- (ii) any and all leases or other contracts or agreements affecting the Property;
- (iii) copies of all permits, licenses and approvals (if any) from all federal, state and local governmental authorities relating to the Property; and
- (iv) all such other documentation and information relating to the Property in possession of Seller which is specifically identified and requested by Buyers in writing which is reasonably required by Buyers in order to perform their due diligence.

d. Seller specifically discloses and Buyers acknowledge that the Property has been used for a very substantial period of time by the City and others as a landfill, for the disposal of various types of waste products. Accordingly, Buyers should take appropriate measures to determine what if any costs, permits, fees, and/or any other consideration may be required or necessary for Buyer to possess or use the Property as contemplated.

11. **Buyers' Right to Cancel.** Buyers' obligation to purchase under this Agreement is conditioned upon Buyers' approval of the content of all of the Seller's Disclosures referred to in paragraph 10 above, Buyers' satisfactory completion of such evaluations and inspections as Buyers may deem reasonably necessary, ("the Approvals"). The Approvals shall be sought and conducted by persons selected by Buyers, and all costs in connection with the Approvals shall be paid by Buyers. At any time prior to Closing, Buyers and/or their designees shall have the right to enter upon the Property to make such evaluations and inspections as Buyers may deem reasonably necessary. Buyers agree to employ reasonable care in entering onto the Property so as to cause minimum disturbance to the Property and to defend, indemnify and hold Seller free and harmless from and against any loss, cost, claim, damage and/or liability directly or indirectly arising or resulting from Buyers entering upon the Property. Seller agrees to fully cooperate with Buyers, to disclose all information relating to the Property as required by this Agreement, and to execute all applications, authorizations and other documentation, at no cost or risk to Seller, as reasonably requested by Buyers to assist Buyers in obtaining the Approvals. If any of the Approvals have not been obtained or occurred at or prior to Closing, Buyers may either waive the same and proceed to Closing or cancel this Agreement as Buyers' sole remedy and relief.

12. **Seller's Representations, Warranties and Covenants.** Except as otherwise provided herein, Seller represents, warrants and covenants to Buyers that:

a. Seller has full power and authority to enter into this Agreement and complete this Transaction.

b. Seller has good and marketable fee simple title to the Property. Other than as has been or will be disclosed to Buyers, there are no unrecorded agreements, leases, liens or encumbrances that may affect title to the Property to which Seller is a party or of which Seller has knowledge.

c. Upon Seller's execution of this Agreement, it will be binding and enforceable against Seller in accordance with its terms, and upon Seller's execution of the additional documents contemplated by this Agreement, they will be binding and enforceable against Seller in accordance with their terms.

d. Subject to the foregoing, neither the execution and delivery of this Agreement, nor the consummation of this Transaction will constitute a breach under any contract or agreement to which either Seller is a party or by which Seller is bound or affected that affects the Property or any part thereof.

e. Seller has not entered into any agreement or contract with respect to the Property or granted any interest in the Property that is inconsistent with Seller's obligation to convey to Buyers good and marketable fee simple title to the Property in accordance with the requirements of this Agreement. Except as otherwise provided herein, Seller shall not, prior to any termination of this Agreement and without Buyer's prior written consent, enter into or execute any easement, encumbrance, lease, or other agreement with respect to the Property, or execute, record or consent to any declaration of covenants, conditions and restrictions or other similar document with respect to the Property.

f. Seller has not received notice of any pending or threatened condemnation action affecting the Property, any moratorium on building on the Property, or any violation with regard to any applicable law, regulation, ordinance, requirement, covenant, condition or restriction relating to the present use, occupancy or condition of the Property from any person, authority or agency having jurisdiction over the Property.

g. Seller has not received notice of any intended public improvements that will result in any condemnation or taking of all or a portion of any part of the Property, or in any special assessments, levies, taxes or other charges being assessed against any part of the Property that will impose a lien upon the Property. Seller has no knowledge of special assessments pending or threatened against or with respect to the Property on account of or in connection with streets, roads or any other public improvements, including, but not limited to, storm and sanitary sewer, water or other utility lines, curbs, gutters, drainage facilities, sidewalks, lighting and the like, that are not generally applicable to properties in the City.

h. There are no suits, claims, proceedings or investigations pending or, to Seller's actual knowledge, threatened with respect to the Property or that will adversely affect Seller's ability to meet its obligations under this Agreement.

i. Seller has not: (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy, or received notice of the filing of any involuntary petition in bankruptcy against either of the Seller; (iii) received notice of the appointment of a

receiver to take possession of all or substantially all of either of the Seller's assets; (iv) received notice of the attachment or other judicial seizure of all or substantially all the assets of Seller; (v) within twelve (12) months preceding the date of this Agreement, admitted in writing the inability of Seller to pay their debts as they come due; or (vi) made an offer of settlement, extension or composition to the creditors of Seller generally.

j. Seller is not in default under the terms of any written agreement with a third party to which Seller is a party pertaining to the Property, nor has any event occurred that, with notice or passage of time, or both, would constitute a default by Seller under any such agreement, nor has Seller received notice of any default under any agreement or encumbrance to which the Property or any portion thereof is subject.

k. Seller does not have actual knowledge of the existence of any criminal or other investigation concerning Seller or any other person that may result in a forfeiture of all or any portion of the Property.

l. Neither the execution and the delivery of this Agreement nor the consummation of this Transaction is subject to any requirement that Seller obtain any consent, approval or authorization of, or make any declaration or filing with, any governmental authority or third party that has not been obtained or that, in any case or in the aggregate, if not obtained or made would render the execution, delivery or consummation illegal or invalid, or would constitute a default under this Agreement, or result in the creation of any lien, charge or encumbrance upon the Property.

m. Seller represents that the Property has been used as a landfill since prior to the beginning of the employment of any of the present elected or appointed officials or employees of Seller. Seller disclaims any warranty concerning the suitability of the Property for any purpose whatsoever. Although Seller is unaware of any enforcement action that has been initiated, or that is pending that has arisen or may arise in connection with said use of the Property, Seller specifically disclaims any warranty or representation that no Hazardous Materials have been used, stored or kept at the Property in violation of applicable Environmental Laws. Except as disclosed herein, Seller has no knowledge or reason to suspect that the Property has been designated by any governmental or quasi-governmental authority as an area subject to environmental or other regulation that would materially affect the use of the Property as contemplated by Buyers. As used in this Agreement, the term "Hazardous Materials" is defined to include, without limitation, (i) oil hydrocarbons, petroleum, petroleum products or products containing or derived from petroleum; and (ii) any hazardous or toxic waste, substance, material, chemical, gas or particulate matter, as presently defined by or for purposes of any Environmental Laws. As used in this Agreement, the term "Environmental Laws" is defined to include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C.A. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C.A. Section 2601, et seq.; the Federal Water Pollution Control Act, 33 U.S.C.A. Section 1251, et seq.; the Safe Drinking Water Act, 42 U.S.C.A. Section 300f, et seq.; the Clean Air Act, 42 U.S.C.A. Section 7401, et seq.; any successor to those laws (in existence on the date this representation is made or updated); any rules, regulations, ordinances, orders or decrees issued pursuant to those laws; any other federal,



state or local environmental, health or safety statute, ordinance, code, rule, regulation, order or decree as may now or at any later time be in effect regulating, relating to or imposing liability or standards concerning or in connection with hazardous or toxic wastes, substances, materials, chemicals, gases or particulate matter or the emission, discharge, dumping or other release of any substance to the environment; and any common law theory based on nuisance or strict liability.

n. Seller shall, immediately upon receiving notice of any actual or threatened claims or proceedings (i) for the condemnation of the Property or any portion thereof, (ii) arising out of injury or damage to or upon the Property or any portion thereof, (iii) arising out of any violation or threatened violation of applicable laws or regulations relating to or affecting the Property, including but not limited to any violation of an environmental law, or that may result in the liability of the owner or a successor owner of any interest in the Property, (iv) arising out of the imposition of any special assessment, levy or tax, (v) relating to the potential formation of any taxing authority affecting the Property, (vi) that could affect or cloud title to or ownership of the Property, or (vii) that could result in a moratorium against building on the Property, notify Buyers thereof in writing.

The foregoing representations, warranties and covenants shall be true, correct and accurate on and as of the date of this Agreement and on and as of the date of Closing and shall survive the Closing for a period of six (6) months. Prior to Closing, should Seller inform Buyers or should Buyers become aware of facts or information which differs with any representation or warranty of Seller set forth in this Agreement, Seller's representation or warranty shall be deemed to have been modified accordingly. Should Buyers be aware of contrary facts and circumstances before the Closing, but elect to close, Buyers must be deemed to have waived the same. AT THE CLOSING, BUYERS SHALL ACCEPT TITLE TO THE PROPERTY, AND ACCEPT THE PROPERTY, AS IS, WHERE IS, WITH ALL FAULTS EXCLUDING ONLY THOSE WARRANTIES INHERENT WITHIN THE WARRANTY DEED BY WHICH SELLER WILL CONVEY TITLE TO THE PROPERTY TO BUYERS AND REPRESENTATIONS, WARRANTIES AND COVENANTS EXPRESSED IN THIS AGREEMENT, TO THE EXTENT THEY SURVIVE THE CLOSING.

**13. Buyers' Representations and Warranties.** Buyers represent and warrant to Seller that:

a. Buyers are residents of the State of Utah, and have full power and authority to enter into this Agreement and complete this Transaction.

b. This Agreement will be binding and enforceable against Buyers in accordance with its terms, and upon Buyers' execution of the additional documents contemplated by this Agreement, they will be binding and enforceable against Buyers in accordance with their terms.

c. Upon delivery of the Property, Buyers accept responsibility for the use of the Property and any and all associated costs associated with any excavation, building, or use of the Property whatsoever.

d. Buyers shall indemnify the City for any and all claims associated with Buyers possession or use of the Property.

The foregoing representations and warranties shall be true, correct and accurate on and as of the date of this Agreement and on and as of the Closing date. All representations, warranties and covenants by Buyers set forth in this Agreement will survive the consummation of this Agreement, the delivery and recordation of the Deed and the Closing of this Transaction.

**14. Broker's Commissions.** Each Party shall and does hereby indemnify the other Party against, and agrees to hold such other Party harmless from, any claim, demand or suit for any brokerage commission, finder's fee or similar charge with respect to the execution of this Agreement or this Transaction based on any act by or agreement or contract with the indemnifying Party, and for all losses, obligations, costs, expenses and fees (including attorneys' fees) incurred by the other Party on account of or arising from any such claim, demand or suit.

**15. Risk of Loss.** The risk of loss will be upon Seller until Closing. Seller shall, at Seller's sole cost, take reasonable steps to protect the Property from damage and deterioration prior to Closing. In the event of any loss or damage to or condemnation of the Property prior to Closing, Buyers may either waive such loss, damage or condemnation and proceed to close this Transaction, or cancel this Agreement. If Buyers waive any loss or damage to or condemnation of the Property and proceeds to close this Transaction, Seller shall, at and as a condition precedent to Closing, pay to Buyers the amount of any insurance or condemnation proceeds attributable to the Property that have been received by the Seller and assign to Buyers as of Closing all rights or claims to proceeds payable thereafter.

**16. Default and Remedies.** Except as otherwise provided in this Agreement, if any Party fails to perform any of its obligations under this Agreement or if any Party's representations or warranties contained in this Agreement shall be untrue, inaccurate or incomplete at any time, and that failure continues for ten (10) days after receipt by such Party (the "defaulting Party") of written notice from the other Party, such defaulting Party shall be in default and the other Party may assert its remedies for the defaulting Party's default: (i) without waiving any rights or remedies, proceed to consummate this Transaction; (ii) cancel this Agreement; (iii) bring an appropriate action for specific performance of this Agreement; and/or (iv) pursue any other remedy available under this Agreement, at law or in equity.

**17. Entire Agreement; Amendments.** This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof, and all prior negotiations, understandings, representations, inducements and agreements, whether oral or written and whether made by a Party hereto or by any one acting on behalf of a Party, shall be deemed to be merged in this Agreement and shall be of no further force or effect. No amendment, modification, or change in this Agreement shall be valid or binding unless reduced to writing and signed by all of the Parties hereto.

18. **Expenses of Enforcement.** In any proceeding to enforce, interpret, rescind or terminate this Agreement or in pursuing any remedy provided hereunder or by applicable law, the prevailing Party shall be entitled to recover from the other Party(ies) all costs and expenses, including a reasonable attorney's fee, whether such proceeding or remedy is pursued by filing suit or otherwise, and regardless of whether such costs, fees and/or expenses are incurred in connection with any bankruptcy proceeding.

19. **Notices.** Except as otherwise required by law, any notice given in connection with this Agreement must be in writing and must be given by personal delivery, overnight courier service, confirmed facsimile, or United States certified or registered mail, return receipt requested, postage prepaid, addressed to Seller or Buyers as follows (or at another address or facsimile number as Seller or Buyer or the person receiving copies may designate in writing):

Buyer: Richard Martin  
4464 West 6000 South  
Spanish Fork, Utah 84660

Cathy Anne Martin  
4464 West 6000 South  
Spanish Fork, Utah 84660

Seller: Santaquin City  
Attention: City Manager  
45 West 100 South  
Santaquin, Utah 84655

With a copy to: Nielsen & Senior  
Attention: Brett B. Rich  
5217 South State Street, Suite 400  
Salt Lake City, Utah 84107  
Facsimile number: (801) 327-8222

Notice is deemed to have been given on the date on which notice is delivered, if notice is given by personal delivery or confirmed facsimile, on the date of delivery to the overnight courier service, if that service is used, and on the date of deposit in the mail, if mailed. Notice is deemed to have been received on the date on which the notice is actually received or delivery is refused.

20. **Survival.** Except as otherwise provided herein, all of the covenants, agreements, representations and warranties set forth in this Agreement survive the Closing, and do not merge into any deed, assignment or other instrument executed or delivered under this Agreement.

21. **Waiver.** The failure to enforce at any time any provision of this Agreement or to require the performance of any provision hereof shall not constitute a waiver of any such provision or affect either the validity of this Agreement or any part hereof or the right of either

Party hereto to thereafter enforce each and every provision of this Agreement in accordance with the terms of this Agreement.

**22. Time of Essence; Dates of Performance.** Time is expressly declared to be of the essence of this Agreement. In the event that any date for performance by either Party of any obligation hereunder required to be performed by such Party falls on a Saturday, Sunday or nationally established holiday, the time for performance of such obligation shall be deemed extended until the next business day following such date.

**23. Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all such counterparts, when taken together, shall be deemed to constitute one and the same instrument.

**24. Facsimile Transmission.** Facsimile transmission of this Agreement, signed by a Party, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original hereof.

**25. Succession and Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties named herein and their respective successors and permitted assigns. Any third party acquiring an interest in the Property after the Closing shall be a permitted assignee of Buyer and any third party obtaining an interest in the Property prior to Closing shall be a permitted assignee of Seller. Otherwise, neither Party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other Party.

**26. Further Acts.** The Parties hereby agree for themselves, and for their successors and assigns, to execute any instruments and to perform any act which may be necessary or proper to carry out the purposes of this Agreement.

**27. Governing Law.** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Utah without giving effect to any choice or conflict of law provision or rule (whether of the State of Utah or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Utah.

**28. Submission to Jurisdiction.** Each of the Parties submits to the jurisdiction of the Fourth Judicial District Court of the State of Utah in any action or proceeding arising out of or relating to this Agreement and agrees that all claims in respect of the action or proceeding may be heard and determined in any such court. Each of the Parties waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety, or other security that might be required of any other Party with respect thereto. Each Party agrees that a final judgment in any action or proceeding so brought shall be conclusive and may be enforced by suit on the judgment or in any other manner provided by law or at equity.

**29. Interpretation.** In the event an ambiguity or question of intent or interpretation arises, no presumption or burden of proof shall arise favoring or disfavoring either Party by

virtue of the authorship of any of the provisions of this Agreement. This Agreement has been divided into paragraphs and subparagraphs for convenience only and the paragraph headings contained herein are for purposes of reference only, which shall not limit, expand, or otherwise affect the interpretation of any provision hereof. Whenever the context requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include the masculine, feminine and neuter gender, and the term "person" shall include any individual, firm, partnership (general or limited), joint venture, corporation, limited liability company, trust, association, or other entity or association or any combination thereof.

30. Authority of Signers. Each person executing this Agreement hereby warrants his or her authority to do so, on behalf of the entity for which he or she signs, and to bind such entity.

IN WITNESS WHEREOF, the Parties have executed this Agreement for Purchase and Sale on the dates set forth opposite their respective names below.

SELLER:

SANTAQUIN CITY

DATE: July 28, 2011.

*James E. DeGraffenried*  
JAMES E. DEGRAFFENRIED, Mayor

ATTEST:

*[Signature]*  
SUSAN B. FARNSWORTH, Recorder  
Linda Midgley, Deputy Recorder



BUYERS:

DATE: 7-28, 2011.

*[Signature]*  
RICHARD MARTIN

DATE: 7-28, 2011.

*Cathy Anne Martin*  
CATHY ANNE MARTIN

STATE OF UTAH

ss:

COUNTY OF UTAH

On this \_\_\_\_ day of \_\_\_\_\_, 2011, personally appeared before me, Richard Martin, who after being duly sworn, stated that he executed the foregoing document.

\_\_\_\_\_  
Notary Public

STATE OF UTAH  
ss:

COUNTY OF UTAH

On this \_\_\_\_ day of \_\_\_\_\_, 2011, personally appeared before me, Cathy Anne Martin, who after being duly sworn, stated that she executed the foregoing document.

\_\_\_\_\_  
Notary Public

ADDENDUM NO. 1  
TO  
REAL ESTATE PURCHASE CONTRACT

THIS IS AN  ADDENDUM  COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of Richard Martin and Cathy Anne Martin including all prior addenda and counteroffers, between Richard Martin and Cathy Anne Martin Buyer, and Santaquin City as Seller, regarding the Property located at Santaquin City. The following terms are hereby incorporated as part of the REPC:

1. Buyers shall take title to the property as "Martin Industrial Properties I, LLC."

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same.  Seller  Buyer shall have until 7/28/11 4:30 pm  AM  PM Mountain Time on 7/28/11 4:30 pm (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

[Signature] 7-28-11 4:30 pm Cathy Anne Martin 7/28/11 4:30 pm  
 Buyer  Seller Signature (Date) (Time)  Buyer  Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION.

CHECK ONE:

ACCEPTANCE:  Seller  Buyer hereby accepts the terms of this ADDENDUM.

COUNTEROFFER;  Seller  Buyer presents as a counteroffer the terms of attached ADDENDUM NO. \_\_\_\_\_

[Signature] July 28, 2011 \_\_\_\_\_  
(Signature) (Date) (Time) (Signature) (Date) (Time)

REJECTION:  Seller  Buyer rejects the foregoing ADDENDUM.

\_\_\_\_\_  
(Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 17, 1995. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.



AFTER RECORDING,  
RETURN TO:  
SANTAQUIN CITY  
45 WEST 100 SOUTH  
SANTAQUIN, UT 84655  
(801)-754-3211

**NON-EXCLUSIVE ACCESS EASEMENT**

**(Santaquin City to Martin Industrial Properties I, LLC)**

THIS ACCESS EASEMENT ("Easement") is made and entered into the 28<sup>th</sup> day of July, 2011 by Santaquin City, a third class City in the State of Utah ("Grantor") as follows:

- A. Martin Industrial Properties I, LLC is in the process of acquiring property from Santaquin City. Said property being described in Exhibit "A" ("Parcel")
- B. The Parcel is to be developed by Martin Industrial Properties I, LLC in accordance with the Santaquin City Land Use and Development Management Code and is proposed to include two access points onto Lark Lane.
- C. Santaquin City owns property between the Parcel and the prescriptive Lark Lane right-of-way which Martin Industrial Properties I, LLC is proposing to utilize for access the Parcel.
- D. In order for Martin Industrial Properties I, LLC to access the Property across lands owned by Santaquin City, the Grantor hereby executes this non-exclusive access easement.

Grantor hereby grants the following two non-exclusive access easements, as described in Exhibits B1 and B2 to Martin Industrial Properties I, LLC. Said easements are further depicted in Exhibit C:

SUBJECT TO all easements, restrictions and rights-of-way currently of record.


RESERVING TO GRANTOR AND ITS ASSIGNS the discretion to relocate or withdraw such non-exclusive easements at the time the Property can be accessed directly from public right-of-way along Lark Lane.

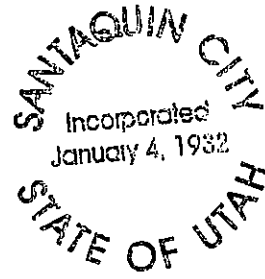
DATED this 28 day of July 2011.

SANTAQUIN CITY

By:   
James E. DeGraffened, Mayor

ATTEST:

  
\_\_\_\_\_  
SUSAN B. FARNSWORTH, Recorder  
Linda Midgley, Deputy Recorder



STATE OF UTAH )  
  : ss.  
COUNTY OF UTAH )

On this \_\_\_ day of July 2011, personally appeared before me JAMES E. DEGRAFFENRIED, the signer of the foregoing instrument and who duly acknowledged to me that he executed the same as authorized by the Santaquin City Council.

\_\_\_\_\_  
Notary Public

## EXHIBIT A

BEING THAT LAND SITUATED IN SECTION 34, TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, CITY OF SANTAQUIN, COUNTY OF UTAH, STATE OF UTAH, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STATE HIGHWAY 6, ALSO BEING THE SOUTH LINE OF THE PARCEL OF LAND RECORDED AS ENTRY NUMBER 16790-1961 IN THE UTAH COUNTY RECORDER'S OFFICE, SAID POINT BEING LOCATED  $N0^{\circ} 35' 53''W$  ALONG THE SECTION LINE 728.71 FEET AND WEST 1516.38 FEET FROM THE SOUTHEAST CORNER OF SECTION 34, TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE  $N55^{\circ} 38' 00''W$  138.36 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID STATE HIGHWAY 6, ALSO BEING THE SOUTH LINE OF SAID PARCEL OF LAND RECORDED AS ENTRY NUMBER 16790-1961; THENCE ALONG THE FOLLOWING SIX (6) COURSES: (1) NORTH 18.92 FEET; (2)  $N53^{\circ} 32' 16''W$  141.30 FEET; (3)  $N24^{\circ} 56' 16''W$  112.88 FEET; (4)  $N2^{\circ} 38' 56''E$  26.87 FEET; (5)  $S83^{\circ} 36' 00''E$  275.92 FEET; (6) SOUTH 279.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 49,900.85 SQ FT OR 1.15 ACRES, MORE OR LESS.

**EXHIBIT B1**  
**(East Non-Exclusive Access Easement)**

BEING THAT LAND SITUATED IN SECTION 34, TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, CITY OF SANTAQUIN, COUNTY OF UTAH, STATE OF UTAH, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF LARK LANE ROAD, SAID POINT ALSO BEING ON THE NORTH LINE OF THAT PARCEL OF LAND RECORDED AS ENTRY NUMBER 16790-1961 IN THE UTAH COUNTY RECORDER'S OFFICE, SAID POINT BEING LOCATED N0° 35' 53"W ALONG THE SECTION LINE 1026.64 FEET AND WEST 1543.40 FEET FROM THE SOUTHEAST CORNER OF SECTION 34 , TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE N83° 36' 00"W 40.00 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE, ALSO BEING THE NORTH LINE OF SAID PARCEL RECORDED AS ENTRY NUMBER 16790-1961; THENCE ALONG THE FOLLOWING THREE (3) COURSES: (1) S06° 24' 00"W 15.00 FEET; (2) S83° 36' 00"E 40.00 FEET; (3) N06° 24' 00"E 15.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 600 SQ FT, MORE OR LESS.

**EXHIBIT B2**  
**(West Non-Exclusive Access Easement)**

BEING THAT LAND SITUATED IN SECTION 34, TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, CITY OF SANTAQUIN, COUNTY OF UTAH, STATE OF UTAH, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF LARK LANE ROAD, SAID POINT ALSO BEING ON THE NORTH LINE OF THAT PARCEL OF LAND RECORDED AS ENTRY NUMBER 16790-1961 IN THE UTAH COUNTY RECORDER'S OFFICE, SAID POINT BEING LOCATED  $N0^{\circ} 35' 53''W$  ALONG THE SECTION LINE 1041.90 FEET AND WEST 1679.31 FEET FROM THE SOUTHEAST CORNER OF SECTION 34, TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE  $N83^{\circ} 36' 00''W$  40.00 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE, ALSO BEING THE NORTH LINE OF SAID PARCEL RECORDED AS ENTRY NUMBER 16790-1961; THENCE ALONG THE FOLLOWING THREE (3) COURSES: (1)  $S06^{\circ} 24' 00''W$  15.00 FEET; (2)  $S83^{\circ} 36' 00''E$  40.00 FEET; (3)  $N06^{\circ} 24' 00''E$  15.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 600 SQ FT, MORE OR LESS.

EXHIBIT C

To Genola

15' x 40'  
West Access  
Easement

15' x 40'  
East Access  
Easement

Lark Lane

Existing  
Landfill  
Property

MARTIN  
PROPERTY  
1.15 ACRES  
49,900-85 SQ FT

10' Utility  
Easement  
East and  
North Side

Existing  
Landfill  
Property

Highway 6

Separation Boundary

To Santaquin

Santaquin City

Martin Property



Scale 1:1,400  
Revised 7-28-11

After Recording Mail To:

Richard Martin  
4464 West 6000 South  
Spanish Fork, Utah 84660

## WARRANTY DEED

SANTAQUIN CITY, a municipality and political subdivision of the State of Utah, GRANTOR, hereby conveys and warrants to Martin Industrial Properties I, LLC, a Utah limited liability company, GRANTEE, of 4464 West 6000 South, Spanish Fork, Utah 84660, for the sum of Ten and no 100 Dollars, the following described tract of land in Utah County, State of Utah, to wit:

BEING THAT LAND SITUATED IN SECTION 34, TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, CITY OF SANTAQUIN, COUNTY OF UTAH, STATE OF UTAH, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY LINE OF STATE HIGHWAY 6, ALSO BEING THE SOUTH LINE OF THE PARCEL OF LAND RECORDED AS ENTRY NUMBER 16790-1961 IN THE UTAH COUNTY RECORDER'S OFFICE, SAID POINT BEING LOCATED N0° 35' 53"W ALONG THE SECTION LINE 728.71 FEET AND WEST 1516.38 FEET FROM THE SOUTHEAST CORNER OF SECTION 34, TOWNSHIP 9 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE N55° 38' 00"W 138.36 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID STATE HIGHWAY 6, ALSO BEING THE SOUTH LINE OF SAID PARCEL OF LAND RECORDED AS ENTRY NUMBER 16790-1961; THENCE ALONG THE FOLLOWING SIX (6) COURSES: (1) NORTH 18.92 FEET; (2) N53° 32' 16"W 141.30 FEET; (3) N24° 56' 16"W 112.88 FEET; (4) N2° 38' 56"E 26.87 FEET; (5) S83° 36' 00"E 275.92 FEET; (6) SOUTH 279.44 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING THAT PORTION, IF ANY, LYING WITHIN THE BOUNDS OF THE STATE HIGHWAY 6 RIGHT OF WAY.

SUBJECT TO all easements, restrictions and rights-of-way currently of record.

SUBJECT TO general property taxes accruing after January 1, 2011.

RESERVING TO GRANTOR AND ITS ASSIGNS an easement for the installation, construction, replacement, operation and maintenance of public utilities on, over, under and across that portion of the above described parcel that is described below:

BEING THAT LAND SITUATED IN SECTION 34, TOWNSHIP 9 SOUTH,  
RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, CITY OF  
SANTAQUIN, COUNTY OF UTAH, STATE OF UTAH, AND BEING MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY LINE OF  
STATE HIGHWAY 6, ALSO BEING THE SOUTH LINE OF THE PARCEL  
OF LAND RECORDED AS ENTRY NUMBER 16790-1961 IN THE UTAH  
COUNTY RECORDER'S OFFICE, SAID POINT BEING LOCATED N0° 35'  
53"W ALONG THE SECTION LINE 728.71 FEET AND WEST 1516.38 FEET  
FROM THE SOUTHEAST CORNER OF SECTION 34 , TOWNSHIP 9  
SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE  
N55° 38' 00"W 12.11 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF  
SAID STATE HIGHWAY 6, ALSO BEING THE SOUTH LINE OF SAID  
PARCEL OF LAND RECORDED AS ENTRY NUMBER 16790-1961;  
THENCE ALONG THE FOLLOWING SEVEN (7) COURSES: (1) NORTH  
248.56 FEET; (2) N83° 36' 00"W 30.19 FEET; (3) NORTH 15.09 FEET; (4)  
N83° 36' 00"W 236.14 FEET; (5) N02° 38' 56"E 10.02 FEET; (6) S83° 36' 00"E  
275.92 FEET; (7) SOUTH 279.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 5,879.55 SQ FT OR .13 ACRES, MORE OR LESS.

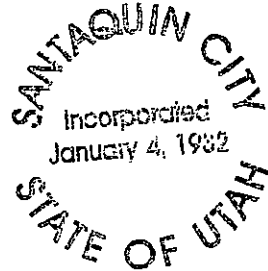
DATED this 28 day of July 2011.

SANTAQUIN CITY

By James E. DeGraffenried  
James E. DeGraffenried, Mayor

ATTEST:

Susan B. Farnsworth  
SUSAN B. FARNSWORTH, Recorder  
Linda Midgley, Deputy Recorder



STATE OF UTAH     )  
                                       : ss.  
COUNTY OF UTAH     )

On this \_\_\_\_ day of July 2011, personally appeared before me JAMES E. DEGRAFFENRIED,  
the signer of the foregoing instrument and who duly acknowledged to me that he executed the same as  
authorized by the Santaquin City Council.

\_\_\_\_\_