

10/29/01

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT ("Agreement") is entered into by and between UNION PACIFIC RAILROAD COMPANY ("Seller") and TOWN OF ADDISON ("Purchaser").

RECITALS:

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A. Seller is the owner of raw land being approximately 8.3714 acres generally located west of the Addison Road/Arapaho Road Intersection and near the South End of the Addison Airport runway in the Town of Addison, Dallas County, Texas, more particularly described on Exhibit A attached hereto and incorporated herein by reference; and,

B. Upon and subject to the terms and conditions of this Agreement, Purchaser has offered to purchase, and Seller is willing to sell, said real property, and the improvements thereon owned by Seller and used in connection with the operation and maintenance thereof.

THEREFORE, for and in consideration of the premises and the respective covenants, agreements and obligations hereinafter set forth, Seller and Purchaser do hereby agree as follows:

1.

SALE AND PURCHASE

1.01 Upon and subject to the terms and conditions of this Agreement, Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, the following:

(a) The real property described and depicted in Exhibit A attached hereto and the improvements thereon, together with all rights, ways, privileges, rights of ingress or egress, or other interests in, on, or to, any land, street, road, open or proposed, in, across, in front of, abutting or joining and appurtenances of Seller pertaining thereto (the "Real Property");

(b) Except for the Easement Property Lease (as defined in Paragraph 1.03 below), the Landlord's interest in and to all leases and rental agreements with tenants of the Real Property ("Tenant Leases"), and all prepaid rentals (to the extent applicable to a period beyond the Closing Date) security and other deposits ("Tenant Deposits") held in connection with the Tenant Leases;

(c) All of Seller's right, title and interest in and to all service contracts and operating agreements relating to the Real Property or the personal property situated on and used in connection with the Real Property ("Personal Property") ("Service Contracts") (save and except such contracts and agreements directly related to the Easement);

(d) All of Seller's right, title and interest in and to all governmental permits, licenses, certificates and approvals in connection with the ownership and operation of the Real Property (save and except such permits, licenses, certificates and approvals directly related to the Easement); and

(e) All of Seller's right, title and interest in and to all warranties of contractors, manufacturers and suppliers affecting the Real Property or Personal Property (save and except such warranties directly related to the Easement).

1.02 Seller reserves for Seller and Seller's successors the right to a right-of-way for railroad purposes over, on and across the portion of the Real Property upon which the Seller has built its

“shortages in area”, (iii) the exception for ad valorem taxes shall reflect only taxes for the current year “not yet due and payable” and subsequent assessments for prior years due to change in land usage or ownership, (iv) there shall be no exception for “visible and apparent easements”, for “public or private roads” or the like, and (v) there shall be no exception for “rights of parties in possession” although there may be an exception for “rights of tenants under unrecorded written leases as tenants only”.

- (b) List of the Personal Property;
- (c) Copies of all Service Contracts;
- (d) Copies of tax bills for the current and prior year relating to the Real Property;
- (e) Copies of any environmental reports, soils reports, as-built plans and specifications, engineering reports, and handicapped access reports relating to the Real Property in Seller’s possession;
- (f) Current rent-roll for the Real Property (but excluding the Easement Property Lease), certified to be true and correct by Seller, listing the name of each tenant by leased space, the current monthly rental for each tenant, the date of lease termination, and the amount of Tenant Deposits held by Seller in regard to each tenant; and
- (g) Except for the Easement Property Lease, copies of all Tenant Leases, correspondence with tenants in the preceding 12 months, and all information concerning operating expense pass-through billings and reconciliations including base year information for each tenant.

3.03 Purchaser shall have a period of time (the “**Inspection Period**”), commencing the day after the Effective Date (as defined in Paragraph 7.02 below) and ending at 5:00 p.m. “**Local Time**” (defined to mean the standard or daylight savings time then in effect in the county in which the Real Property is located) on the thirtieth (30th) calendar day thereafter, to inspect and examine, at the Purchaser’s sole cost and expense, the items and materials delivered to Purchaser set forth in Paragraph 3.02; conduct feasibility, engineering and other tests and studies that Purchaser may desire; and inspect and examine, and make and take away copies of, all licenses, permits and approvals pertaining to the Real Property, all as-built plans and specifications for the Real Property in Seller’s possession, all Tenant Leases and related documentation, all appraisal reports, all soil reports, building reports and other studies and reports in Seller’s possession, all insurance files and employment files pertaining to the Real Property, and all other documents, contracts, books, records and other materials relating to the Real Property in Seller’s possession to determine if the Real Property is suitable for Purchaser’s purposes.

At any time prior to the expiration of the initial Inspection Period, Purchaser may elect to extend the Inspection Period for an additional thirty (30) days by delivering written notice of such election to Seller on or before the expiration of the initial Inspection Period. At any time prior to the expiration of the Inspection Period as extended pursuant to the preceding sentence, Purchaser may elect to extend the Inspection Period a second time for an additional thirty (30) days by delivering written notice of such election to Seller on or before the expiration of the first extension of the Inspection Period as described herein. Upon any extension of the Inspection Period as provided herein, the term “Inspection Period” shall thereafter mean the Inspection Period as extended by this paragraph.

If this Agreement is terminated for any reason, Purchaser shall return all copies of all licenses, permits, leases, contracts, books, records and any other documents in its possession relating to the Real Property to Seller within five (5) days from the termination of this Agreement.

3.04 During the Inspection Period and thereafter until Closing, Seller shall make all portions of the Real Property available to Purchaser during regular business hours to permit the inspections, examinations, tests and studies that Purchaser may deem appropriate.

3.05 If Purchaser delivers to Seller, prior to expiration of the Inspection Period, written notice of objections to the results of the inspections conducted or performed by or on behalf of Purchaser pursuant to this Section 3, Seller will have the option, until 5:00 p.m. Local Time on the tenth (10th) day after expiration of the Inspection Period, to cure such objections to the reasonable satisfaction of Purchaser, but shall have no obligation to do so. If Seller is unwilling or unable to cure such objections within such ten (10) day period, for any reason, Purchaser will have until 5:00 p.m. Local Time on the fifth (5th) day (the "**Determination Date**") after the earlier of (a) receipt of notice from Seller that Seller is unable or unwilling to cure Purchaser's objections, or (b) expiration of such ten (10) day period, to either (y) waive such objections in writing, or (z) terminate this Agreement by written notice to Seller. If Purchaser elects to terminate this Agreement pursuant to (z) foregoing, then neither Purchaser nor Seller shall have any further obligation hereunder. If Purchaser fails to deliver written waiver of objections pursuant to (y) foregoing, and fails to notify Seller that Purchaser has elected to terminate this Agreement pursuant to (z) foregoing, prior to 5:00 p.m. Local Time on the Determination Date, then this Agreement shall be deemed to have terminated and neither Seller nor Purchaser shall have any further obligation hereunder.

3.06 Title matters approved by Purchaser or, if objected to, cured by Seller or waived by Purchaser, will be deemed permitted exceptions ("**Permitted Exceptions**").

3.07 Purchaser will repair, at Purchaser's expense, any portion of the Real Property damaged by Purchaser's inspections to the condition thereof existing immediately prior to Purchaser's inspections.

4.

CLOSING

4.01 The date of closing of the transaction contemplated by this Agreement (the "**Closing Date**"), shall be, and the event of closing (the "**Closing**") shall occur, on the thirtieth (30th) day of November, 2001 or such earlier date as Seller and Purchaser mutually agree, in the offices of the Title Company or such other place as Seller and Purchaser mutually agree, at such hour as Seller and Purchaser mutually agree but otherwise at 10:00 a.m. local time where Closing is to occur.

4.02 Seller shall pay the following Closing costs: (i) Seller's attorneys' fees and costs; (ii) the premium for the Owner Policy (but not any amendments thereto, which shall be an expense of Purchaser); (iii) the costs associated with payment in full of existing mortgages and other liens affecting the Real Property; (iv) all costs of documentary stamps or other sales or transfer taxes relating to the conveyance of title to the Real Property to Purchaser; and (v) one-half (1/2) of escrow charges. Purchaser shall pay the following Closing costs: (i) Purchaser's attorneys' fees and costs; (ii) the costs of Purchaser's inspections of the Real Property; (iii) any amendments to the Owner Policy; (iv) the cost of recording the Deed (hereinafter defined); (v) one-half (1/2) of escrow charges, and (vi) the cost of the Easement Property Survey as provided in Paragraph 3.01 above. All other costs and expenses of the transaction contemplated hereby shall be borne by the party incurring the same or as otherwise provided herein.

4.03 Ad valorem and personal property taxes, and assessments for special or local improvements, with respect to the Real Property shall be prorated to the Closing Date. If the Closing

Date occurs before the tax rate is established for the year of Closing, apportionment of taxes shall be made on the basis of taxes levied upon the Real Property for the preceding year and the Purchase Price, and any necessary adjustments shall be made in cash between the parties when the tax bills for the year of Closing are received.

4.04 Rents receivable from tenants of the Real Property attributable to the period of time prior to the Closing Date shall be paid to Seller to the extent collected on or before the Closing Date. Except for rents from the Easement Property Lease, rents attributable to the period of time from and after the Closing Date shall be paid to Purchaser. Rents from the Easement Property Lease shall be and remain the property of Seller during the term of this Agreement and after the Closing. To the extent that rents for the month in which Closing takes place are received by Purchaser after Closing, the same shall be prorated (as of the day prior to the Closing Date) upon receipt thereof, and Seller's pro-rata portion thereof shall be promptly remitted to Seller by Purchaser. Purchaser agrees to use usual collection procedures with respect to the collection of any amounts payable by tenants and attributable to the period of time prior to the Closing Date, but Purchaser shall have no liability for the failure to collect any such amounts and shall not be required to conduct lock-outs or take any other legal action to enforce collection of any such amounts owed to Seller by tenants of the Real Property. All sums collected by Purchaser from and after Closing from each tenant shall be applied first to current amounts owed by such tenant to Purchaser and then to prior delinquencies owed by such tenant to Seller.

4.05 Except for income from the Easement Property Lease, all income from the Real Property (other than rents) attributable to the period of time prior to the Closing Date shall belong to Seller. Income from the Easement Property Lease or Seller's use of the Easement Property shall be and remain the property of Seller during the term of this Agreement and after the Closing. All other income from the Real Property attributable to the period of time from and after the Closing Date shall belong to Purchaser. Purchaser shall remit to Seller any income owing to Seller within thirty (30) days after receipt thereof.

4.06 Operating expenses payable by the owner of the Real Property and utility charges for the Real Property which have accrued prior to the Closing Date (and those operating expenses and utility charges in connection with the Easement Property which accrue after the Closing Date) shall be paid by Seller, and, except for operating expenses and utility charges in connection with the Easement Property, all such operating expenses and utility charges attributable to and accruing on the Closing Date and thereafter shall be paid by Purchaser. To the extent any such expenses and charges are not determinable as of the Closing Date, the same shall be paid promptly upon receipt of an invoice therefor by the party obligated for payment thereof. Seller shall transfer to Purchaser all utility deposits, bonds or other security which have been deposited with any utility company providing service to the Real Property, and Seller shall receive a credit therefor at Closing.

4.07 At Closing, Seller shall deliver to Purchaser the following items and documents which, with respect to the latter, shall be duly executed and, where appropriate, acknowledged, together with any and all items or instruments necessary or appropriate thereto:

- (a) General Warranty Deed in the form of Exhibit B hereto ("Deed"), conveying title to the Real Property to Purchaser subject only to the Easement and the Permitted Exceptions;
- (b) Bill of Sale in the form of Exhibit C hereto with attached list of the Personal Property;
- (c) Assignment of Tenant Leases in the form of Exhibit D hereto ("Assignment of Tenant Leases");

- (d) Non-foreign affidavit in the form of Exhibit F attached hereto;
- (e) Tenant Estoppel Certificates (hereinafter defined) and Seller's Estoppel Certificates (hereinafter defined), if any, as provided in Paragraph 9.03 hereof;
- (f) Cash, or a credit against the Purchase Price, in the amount of all Tenant Deposits;
- (g) Rent-roll for the Real Property, dated as of the close of business on the day prior to the Closing Date, containing the information shown in the rent-roll delivered to Purchaser pursuant to Paragraph 3.02 hereof, certified to be true and correct by Seller;
- (h) Owner Policy, insuring title to the Real Property in Purchaser, subject only to the Permitted Exceptions;
- (i) Original, executed Tenant Leases (to be delivered to Purchaser at the Real Property premises);
- (j) Affidavits required by the Title Company to issue the Owner Policy;
- (k) Evidence acceptable to the Title Company as to the authority of the person or persons acting for Seller to the transactions contemplated by this Agreement and the execution and delivery of closing documents to be delivered by Seller at Closing; and,
- (l) Keys and combinations to locks and other security devices located on the Real Property (to be delivered to Purchaser at the Real Property premises).

4.08 At Closing, Purchaser shall deliver to Seller the following items and documents, which, with respect to the latter shall be duly executed and, where appropriate, acknowledged, together with any and all documents or instruments necessary or appropriate thereto:

- (a) The Purchase Price (subject to Closing adjustments as provided in this Agreement), in cash, by cashier's check, or by wire transfer of good funds to Seller's designated depository bank; and
- (b) Evidence acceptable to the Title Company as to the authority of the person or persons acting for Purchaser to the transactions contemplated by this Agreement and the execution and delivery of closing documents to be delivered by Purchaser to Seller at Closing.

4.09 Possession of the Real Property shall be delivered to Purchaser at Closing, subject only to the rights of tenants in possession under the Tenant Leases and the Permitted Exceptions.

5.

OPERATION PRIOR TO CLOSING, CASUALTY AND CONDEMNATION

5.01 Seller shall maintain, repair, manage and operate the Real Property from and after the Effective Date (as defined in Paragraph 7.02) and until Closing in the same manner as Seller has, in the ordinary course of business in the past, maintained, repaired, managed and operated the Real Property. From and after the Effective Date and until the earlier of the Closing or termination of this Agreement, Seller shall not enter into any additional leases or any renewals or expansions of existing leases (except for the Easement Property Lease) without the prior written consent of Purchaser. In connection with brokerage commission and tenant improvements expenses associated with any such additional lease, or renewal or expansion of any existing lease, such expenses shall be prorated over the

term of such agreement and Seller shall receive a credit for such expenses allocable to the period from and after Closing.

5.02 In the event of damage to or destruction of all or any part of the Real Property ("**Casualty Damage**") prior to the Closing Date:

(a) Seller shall promptly notify Purchaser of such Casualty Damage and Closing shall be extended on a day-by-day basis for a period of up to thirty (30) days following the date of such Casualty Damage, during which time Seller shall use all reasonable efforts to determine the cost of repairing such Casualty Damage and provide Purchaser with (i) an independent estimate of the cost of repair of such Casualty Damage (the "**Cost Estimate**") made by a reputable general contractor in the area of the Real Property who regularly performs the type of repair work required and is reasonably acceptable to Purchaser, and (ii) evidence of the availability of insurance proceeds ("**Insurance Information**") which (combined with any deductible amount payable by Seller) will be sufficient to cover the cost of such Casualty Damage. If, for any reason whatsoever, Seller does not deliver the Cost Estimate and the Insurance Information to Purchaser within such thirty (30) day period, and if Purchaser does not waive such requirement, then, without notice to, or further consent by, either Seller or Purchaser, this Agreement shall automatically terminate unless the Closing Date shall be further extended by the mutual written agreement of Seller and Purchaser; and, upon any such termination, and neither Seller nor Purchaser shall have any further obligation under this Agreement.

(b) If Seller provides the Cost Estimate and the Insurance Information to Purchaser within such thirty (30) day period, and the Cost Estimate is not greater than TEN THOUSAND AND NO/100 Dollars (\$10,000.00), Seller shall assign all of Seller's rights to the available insurance proceeds to Purchaser at Closing and pay to Purchaser at Closing any applicable deductible amount in respect of such insurance (as well as any insurance proceeds received by Seller in respect of such Casualty Damage) and Closing shall occur on the Closing Date, extended as provided above in Paragraph 6.02(a). If the available insurance proceeds plus such deductible amount will not, in the reasonable opinion of Purchaser be adequate to repair such Casualty Damage to the condition existing immediately prior to the occurrence of such Casualty Damage, then Purchaser may refuse such assignment of insurance proceeds and such funds and terminate this Agreement upon written notice to Seller given on or before Closing, in which event neither Seller nor Purchaser shall have any further obligation under this Agreement.

(c) If Seller provides the Cost Estimate and the Insurance Information to Purchaser within such thirty (30) day period, and the Cost Estimate is equal to or greater than TEN THOUSAND AND NO/100 Dollars (\$10,000.00), Purchaser shall have the election, exercisable within ten (10) days following delivery of the Cost Estimate and the Insurance Information to Purchaser, to terminate this Agreement by written notice to Seller, whereupon neither Seller nor Purchaser shall have any further obligation under this Agreement. If Purchaser does not elect to so terminate this Agreement, Seller and Purchaser shall promptly proceed to Closing and the purchase and sale of the Real Property shall be consummated as provided in this Agreement, in which event Seller shall assign to Purchaser Seller's rights to the insurance proceeds payable in respect of the Casualty Damage and pay to Purchaser the amount of the applicable deductible in respect of such insurance, and deliver to Purchaser any insurance proceeds received by Seller in respect of such Casualty Damage.

5.03 In the event of condemnation or sale in lieu of condemnation of all or any portion of the Real Property prior to the Closing, either Seller or Purchaser shall have the option, to be exercised within ten (10) days after receipt of notice of such condemnation or sale, of terminating this Agreement or electing to have this Agreement remain in full force and effect. In the event both parties elect not to terminate the obligations under this Agreement, Seller shall assign to Purchaser any and all claims for

the proceeds of such condemnation or sale to the extent the same are applicable to the Real Property, and Purchaser shall take title to the Real Property with the assignment of such proceeds and subject to such condemnation and without reduction of the Purchase Price. Should either party elect to terminate its obligations under this Agreement under the provisions of this Paragraph 6.03, neither Seller nor Purchaser shall have any further obligation under this Agreement.

6.
DEFAULT

6.01 If Purchaser fails to purchase the Real Property in accordance with the terms and conditions of this Agreement, or otherwise defaults in the performance of Purchaser's obligations pursuant to this Agreement, for any reason whatsoever, other than Seller's default or as otherwise permitted by this Agreement, Seller, as Seller's sole and exclusive remedy, may terminate this Agreement, and neither Purchaser nor Seller shall have any further obligation under this Agreement.

6.02 If any representation or warranty of Seller set forth in this Agreement shall prove to be untrue or incorrect in any material respect, or Seller fails to convey the Real Property in accordance with the terms and conditions of this Agreement, or otherwise defaults in the performance of Seller's obligations pursuant to this Agreement, for any reason whatsoever, other than Purchaser's default or as otherwise permitted by this Agreement, Purchaser, as Purchaser's sole and exclusive remedy, may select and pursue any one of the following remedies: (i) seek specific performance of Seller's obligations under this Agreement; (ii) terminate this Agreement and neither Seller nor Purchaser shall have any further obligation under this Agreement; or (iii) purchase the Real Property notwithstanding such default pursuant to the terms of this Agreement, in which event such default by Seller shall be deemed waived by Purchaser without further claim against Seller.

7.
EXECUTION OF AGREEMENT AND EFFECTIVE DATE

7.01 This Agreement (or counterparts hereof) must be executed by Seller and Purchaser and delivered to the Title Company no later than 5:00 p.m. Local Time on or before the third (3rd) day following the date this Agreement is executed by the first of Seller or Purchaser to execute this Agreement, or this Agreement shall, without notice to or further consent by either Seller or Purchaser, be null, void and of no further force or effect whatsoever. Immediately upon receipt by the Title Company of this Agreement (or a counterpart hereof) executed by Purchaser and Seller, the Title Company shall execute and deliver a copy of such fully executed Agreement (with counterpart execution pages) to Seller and Purchaser at their respective addresses for notice in this Agreement.

7.02 The effective date of this Agreement shall be the date on which the Title Company acknowledges receipt of a fully executed copy (or executed counterparts) of this Agreement by its execution of the form of "Acceptance By Title Company" attached hereto (the "Effective Date").

8.
**REPRESENTATIONS, WARRANTIES,
AND COVENANTS OF SELLER**

8.01 Seller represents and warrants, such representations and warranties to survive Closing, and covenants to Purchaser as follows:

(a) Seller is the sole owner of the Real Property and has the full right, power and authority to execute this Agreement and carry out the terms and obligations set forth in this Agreement, and all requisite action necessary to authorize Seller to enter into this Agreement and to carry out Seller's obligations hereunder has been taken.

(b) Seller is not bound by any agreement, license, permit or other restriction, or any judgment, order, statute, rule, regulation, writ, injunction or decree which would prevent sale of the Real Property to Purchaser; and no order of any court or any registration with, or approval, order or authorization by, or payment of any fee to, any governmental authority or other entity or person is required for the sale of the Real Property to Purchaser pursuant to this Agreement.

(c) There are no leases, tenancies, licenses or other rights of occupancy or use for any portion of the Real Property other than as set forth in the rent roll and that there are no commission due and owing or to become due and owing with respect to Tenant Leases.

(d) Each of the Tenant Leases is valid and subsisting and in full force and effect, and, except as otherwise set forth on the rent roll, the tenant thereunder is in actual possession of the leased unit or space and, except as otherwise set forth on the rent roll, is not in default in its obligation to pay rent or its other monetary obligations.

(e) Except as set forth on the rent roll, no tenant has asserted any claim of which Seller has written notice which could adversely affect the right of the landlord to collect rent from such tenant and no notice of default or breach on the part of landlord under any of the Tenant Leases has been received by Seller from the tenant thereunder.

(f) Except as set forth on the rent roll, no security deposits have been paid by tenants under the Tenant Leases which have not heretofore been returned to the tenants; and the amount of the deposits to be transferred to Purchaser at the Closing shall include the full amount of security deposits for the return of which Purchaser or any subsequent owner of the Property could be held accountable or responsible after the Closing Date.

(g) The Tenant Leases available for review by Purchaser are true and correct copies of the actual leases in Seller's possession and are the complete written documentation of the agreement between the Seller, as landlord, and the tenant; there are no material oral agreements or undisclosed material written agreements between Seller, as landlord, and any tenant which have not been fully disclosed in writing to Purchaser.

(h) The continued maintenance and operation of the Real Property is not now, and on the Closing Date will not be, dependent on facilities located at any other property (other than public utilities and public streets), and the continued maintenance and operation of any other property is not dependent on facilities located on the Real Property premises.

(i) There is no condemnation proceeding threatened or pending with regard to or affecting the Real Property.

(j) All water, sewer, gas, electricity, oil, telephone and other utilities required for the ownership and operation of the Real Property either enter the Real Property through adjoining public streets or pass through adjoining private land in accordance with legal, valid and enforceable easements which will inure to the benefit of Purchaser. All utilities are installed and operating and all installation and connection charges have been paid for in full.

(k) Improvements on the Real Property and the present use, occupancy and operation of the Real Property comply in all materials respects with applicable zoning requirements and do not depend on further ordinance, variance, exception or approval for their continuing legality. Seller has received no notice of any violation of any recorded restriction, condition, agreement, or any violation of any building, health, safety, environmental, pollution control, fire or other law or regulation respecting the Real Property, the Personal Property, the Easement Property, and no written notice of any such violation has been issued by any governmental authority.

(l) Seller has received no notice, and has no knowledge, of any litigation, or governmental or private proceeding concerning Seller or the Real Property, the Easement Property or any unfulfilled requirements of any insurance company concerning the Real Property.

(m) Seller has received no notice of any contemplated increase in tax rate or assessed value or other matter which would increase the taxes for the Real Property. Purchaser acknowledges that Seller has completed significant and substantial improvements to the Real Property, which may cause an increase in the assessed value of the Real Property.

(n) All Service Agreements which Purchaser determines to cancel shall be cancelable by Purchaser immediately after Closing without charge or penalty to Purchaser. There are no management, service, equipment, supply, security, maintenance, concession or other agreements with respect to or affecting the Real Property, except for the Service Agreements.

(o) Seller shall not remove any property subject to this Agreement from the premises on the Real Property except in the ordinary course of business in connection with replacement of the same with items of like quality.

(p) Seller shall maintain through the Closing Date the existing casualty and liability insurance relating to the Real Property.

(q) Except as may be shown in any environmental report delivered to Purchaser, Seller has no knowledge of any facts or conditions which violate applicable environmental laws, rules or regulations (including, without limitation, laws, rules or regulations regarding hazardous wastes and asbestos) of any governmental or quasi-governmental body or agency having jurisdiction over the Real Property. Seller has not received any written notice from any governmental or quasi-governmental agency, or any person or entity, regarding a violation of any applicable environmental law, rule or regulation (including, without limitation, hazardous wastes and asbestos). (r) Seller recognizes and acknowledges that Purchaser is purchasing the Real Property in part to extend, construct, reconstruct, build, repair, replace, widen, maintain, modify, control, open, and/or use a public street and right-of-way (together with any and all uses incidental thereto, including, without limitation, the installation, repair, maintenance, and replacement of water lines, sanitary sewer lines, drainage, and other utilities) (together, "Public Street Uses") over, in, upon, under and across that portion of the Real Property as shown and described in "Exhibit C" attached hereto and incorporated herein. Seller agrees, represents and warrants that

(i) neither Seller, nor Seller's successors or assigns, shall interfere with the Purchaser's use of the Real Property, and

(ii) Purchaser shall have the right to cross over and use the Easement Area,

for or in connection with the Public Street Uses.

9.
**REPRESENTATIONS AND WARRANTIES
OF PURCHASER; CONDITIONS PRECEDENT**

9.01 Purchaser represents and warrants to Seller, as of the date hereof and as of the Closing Date, that Purchaser has the full right and authority to purchase the Real Property from Seller as provided in this Agreement and to carry out Purchaser's obligations under this Agreement, and all requisite action necessary to authorize Purchaser to enter into this Agreement and to carry out Purchaser's obligations hereunder has been taken.

9.02 Purchaser's obligation to consummate the purchase and sale of the Real Property on the Closing Date shall be subject to the satisfaction of the following conditions precedent, any one or more of which may be waived in writing by Purchaser, in whole or in part, on or as of the Closing Date:

(a) Seller shall have fully and completely kept, observed, performed, satisfied and complied with all terms, covenants, conditions, agreements, requirements, restrictions and provisions required by this Agreement to be kept, observed, performed, satisfied or complied with by Seller before, on or as of the Closing Date;

(b) The representations and warranties of Seller in this Agreement shall be true and correct on and as of the Closing Date, in the same manner and with the same effect as though such representations and warranties had been made on and as of the Closing Date;

(c) No matters affecting title to the Real Property shall have been filed or recorded between the Effective Date and recordation of the Deed;

(d) On the Closing Date, the Real Property shall be in substantially the same condition as it was on the last day of the Inspection Period; and

(e) Seller shall have obtained and delivered to Purchaser original executed Tenant Estoppel Certificates (the "**Tenant Estoppel Certificates**") executed by all tenants under the Tenant Leases in substantially the form required by Purchaser dated within twenty (20) days prior to the Closing. If such condition has not been satisfied because certain tenants have failed to execute and deliver Tenant Estoppel Certificates to Seller, then, at the Closing, Purchaser, in its sole discretion, may elect to accept Tenant Estoppel Certificates for such tenants executed by Seller (each a "**Seller's Estoppel Certificate**"). The certifications made in each Seller's Estoppel Certificate shall (i) be to the best of Seller's knowledge and (ii) survive the Closing (unless replaced by delivery to Purchaser of a Tenant Estoppel Certificate from the applicable tenant).

If any of the foregoing conditions have not been satisfied or performed or waived in writing by Purchaser on or as of the Closing Date, Purchaser shall have the right, at Purchaser's option, either (i) to terminate this Agreement by giving written notice to Seller on or before the Closing Date, in which event Purchaser shall have no further obligations hereunder and this Agreement shall become null and void; or (ii) if such failure of condition constitutes a breach of representation or warranty by Seller, constitutes a failure by Seller to perform any of the terms, covenants, conditions, agreements, requirements, restrictions or provisions of this Agreement, or otherwise constitutes a default by Seller under this Agreement, to exercise such rights and remedies as provided for in Paragraph 7.02.

MISCELLANEOUS

10.01 Seller shall not assign, transfer or otherwise convey, and shall not have the right or power to assign, transfer or otherwise convey, this Agreement or any of Seller's rights, duties, or obligations hereunder without the prior written consent of Purchaser. This Agreement and the terms and provisions hereof apply to, are binding upon and inure to the benefit of the parties hereto, and their respective permitted successors and permitted assigns.

10.02 Time is of the essence of this Agreement.

10.03 All notices, requests, demands, elections, offers, acceptances and other communications (collectively, "Communications") required or permitted to be delivered hereunder shall be in writing. Communications shall be delivered in one of the following ways: (i) by facsimile to the number, if any, specified below; (ii) by hand delivery, marked for same day delivery, to the address specified below; (iii) by deposit of the Communication, marked for next day delivery, with Federal Express, or other reputable overnight courier, to the address specified below; or (iv) by deposit of the Communication, sent certified mail, return receipt requested, in an official depository for the United States Mail, to the address specified below. Communications sent by facsimile shall be deemed delivered when received at the specified transmittal number. Hand-delivered Communications shall be deemed delivered when received at the specified address. Communications sent by overnight courier shall be deemed delivered the day following deposit with such overnight courier (when deposited in time for next day delivery), unless actual receipt is required by the terms of this Agreement. Communications sent by the United States certified mail, return receipt requested, shall be deemed delivered on the day of such deposit, unless actual receipt is required by the terms of this Agreement. Communications shall be sent to the party to whom given at the address or number set forth below, with a copy of such Communication given to such party's attorney at the address or number set forth below:

If to Seller:

Union Pacific Railroad Company
Real Estate Department
1800 Farnam Street
Omaha, Nebraska 68102
Attention: _____

With a copy to:

Telephone No. _____
Facsimile No. _____

If to Purchaser:

Town of Addison
Office of The City Manager
5300 Belt Line Road
Dallas, Texas 75001-9010
Telephone No. (972) 450-7027
Facsimile No. (972) 450-7043

With a copy to:

John Hill
901 Main Street, Suite 4000
Dallas, Texas 75202-3793
Telephone No. (214) 672-2170
Facsimile No. (214) 672-2370

Each of the above-listed addressees may change its address and number for notice purposes under this paragraph by delivering to the other addressees a written notice of change of address and number in a manner specified in this paragraph for delivery of Communications. However, no such change of

address or number shall be effective against another addressee until written notice of such change is actually received by such addressee.

10.04 This Agreement supersedes all prior discussions and agreement among Seller, and Purchaser with respect to the purchase and sale of the Property and other matters contained herein, and this Agreement contains the sole and entire understanding among Seller and Purchaser with respect thereto. This Agreement may not be varied, amended, or superseded except by written agreement between Purchaser and Seller.

10.05 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and venue for any cause of action hereunder shall be in a court of competent jurisdiction in the county in which the Property is located.

10.06 This Agreement may be executed in multiple counterparts, and by facsimile signature. Each counterpart hereof shall constitute an original hereof, and all such counterparts taken together shall constitute one and the same agreement.

10.07 Any portion of this Agreement not otherwise consummated at Closing will survive Closing as a continuing agreement between Seller and Purchaser.

10.08 Any reference to "day" or "days" in this Agreement shall, unless the context clearly requires otherwise, mean calendar days. Any reference to "business days" shall mean calendar days excluding Saturdays, Sundays and federally-recognized holidays. Any time period provided for hereunder which ends on a day which is not a business day shall be deemed to be extended to, and to end on, the next business day succeeding such day.

10.09 Failure by any party to complain of any action, non-action or breach of any other party shall not constitute a waiver of any aggrieved party's rights hereunder. Waiver by any party of any right arising from any breach by the other party shall not constitute a waiver of any other right arising from a subsequent breach of the same obligation or for any other default, past, present or future. No waiver shall be effective unless in writing signed by the party granting the waiver.

10.10 Damage to Property. From the Effective Date through the Closing Date, Seller agrees to give Purchaser prompt notice of any fire or other casualty affecting the Real Property or the Personal Property or of any actual or threatened taking or condemnation of all or any portion of the Real Property.

(a) If prior to the Closing there shall occur:

(1) damage to the Real Property caused by fire or other casualty which would cost \$50,000.000 or more to repair; or

(2) the taking or condemnation of all or any portion of the Real Property as would materially interfere with the use thereof;

then in any such event, Purchaser may at its option terminate this Agreement by notice to Seller within fourteen (14) days after Purchaser has received the notice referred to above or at the Closing, whichever is earlier. If Purchaser does not elect to terminate this Agreement, then the Closing shall take place as provided herein and there shall be assigned to Purchaser at the Closing, all interest of Seller in and to any insurance

proceeds (subject to Seller supplying Purchaser with satisfactory evidence that such assignment will not impair Seller's insurance) or condemnation awards which may be payable to Seller on account of such event less any sums which Seller shall have incurred with the consent of Purchaser prior to the Closing to repair any of the damage. If such assignment would impair Seller's insurance, then Seller shall be obligated to pay Purchaser, at Closing, an amount equal to any insurance proceeds which would be payable to Seller on account of such event less any sums which Seller shall have incurred with the consent of Purchaser prior to the Closing to repair any of the damage.

(b) If prior to the Closing there shall occur:

(1) damage to the Real Property caused by fire or other casualty which would cost less than \$50,000.00 to repair; or

(2) the taking or condemnation of a portion of the Real Property which would not materially interfere with the use thereof;

then, in any such event, Purchaser shall have no right to terminate its obligations under this Agreement, but there shall be assigned to Purchaser at Closing all interest of Seller in and to any insurance proceeds (subject to Seller supplying Purchaser with satisfactory evidence that such assignment will not impair Seller's insurance) or condemnation awards

which may be payable to Seller on account of such event less any sums which Seller shall have incurred with the consent of Purchase prior to the Closing to repair any of the damage. If such assignment would impair Seller's insurance, then Seller shall be obligated to pay Purchaser, at Closing, an amount equal to any insurance proceeds which would be payable to Seller on account of such event less any sums which Seller shall have incurred with the consent of Purchaser prior to the Closing to repair any of the damage.

IN WITNESS WHEREOF, Purchaser and Seller have executed this Agreement on the date set opposite their respective signatures hereinbelow.

SELLER:

Date Executed By Seller:

UNION PACIFIC RAILROAD COMPANY

October ____, 2001

By: _____

Name: _____

Title: _____

PURCHASER:

Date Executed By Purchaser:

TOWN OF ADDISON, TEXAS

October ____, 2001

By: _____

Name: _____

Ron Whitehead

Title: City Manager

ACCEPTANCE BY TITLE COMPANY

_____, referred to in the foregoing Agreement as the Title Company, hereby acknowledges receipt of a fully executed copy (or executed counterparts) of the foregoing Agreement.

Date Executed by
Title Company:

October _____, 2001

By: _____

Name: _____

Title: _____

Address: _____

Telephone No.: (____) _____

Facsimile No.: (____) _____

EXHIBIT A TO REAL ESTATE SALES AGREEMENT

**REAL PROPERTY AND EASEMENT PROPERTY DESCRIPTIONS
AND SURVEY**

See documents attached hereto.

EXHIBIT B TO REAL ESTATE SALES AGREEMENT

GENERAL WARRANTY DEED

STATE OF TEXAS §
 § **KNOW ALL BY THESE PRESENTS:**
COUNTY OF DALLAS §

THAT Union Pacific Railroad Company, a Utah Corporation (“Grantor”), for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid to Grantor by Town of Addison, a Texas Municipal Corporation (“Grantee”), whose current address is 5300 Belt Line Road, Dallas, Texas 75254, the receipt and sufficiency whereof are hereby acknowledged, has GRANTED, SOLD AND CONVEYED, and by these presents does hereby GRANT, SELL AND CONVEY unto Grantee, all of that certain real property situated in Dallas County, Texas, more particularly described in Exhibit A attached hereto and incorporated herein by reference, together with all buildings, improvements and fixtures located thereon, and all rights, ways, privileges and appurtenances pertaining thereto (collectively, the “Property”);

SUBJECT, HOWEVER, TO taxes for the year 2001 and subsequent years; and,

SUBJECT, MOREOVER, TO the matters set forth in Exhibit B attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the Property, subject to the aforesaid encumbrances, unto Grantee, Grantee’s successors and assigns, forever; and Grantor does hereby bind Grantor and Grantor’s successors and assigns to WARRANT AND FOREVER DEFEND all and singular the Property, subject to the aforesaid encumbrances, unto Grantee, Grantee’s successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this _____ day of _____, 2001.

GRANTOR:

UNION PACIFIC RAILROAD COMPANY

By: _____
Name: _____
Title: _____

1800 Farnam Street
Omaha, Nebraska 68102

State of Utah §
 §
County of _____ §

Before Me, the undersigned Notary Public, this instrument was acknowledged on this ____ day of _____, 2001 by _____ of Union Pacific Railroad Company, a Utah corporation, on behalf of said corporation.

Notary Public, State of Utah
Printed name:

Commission Expires

Exhibit A
Property Description

A

Exhibit B

Grantor reserves for Grantor and Grantor's successors the right to a right-of-way for railroad purposes over, on and across the portion of the Property, upon which the Grantor has built its railroad (the "Easement Property") more specifically described in Attachment 1 attached to this Exhibit B and incorporated herein, together with all and singular the rights and appurtenances thereto in any way belonging (collectively the "Easement") to have and to hold the Easement so long as and until Grantor or Grantor's successors cease the use of the Easement Property for railroad purposes for a continuous period of not less than 365 consecutive days.

Improvement and maintenance of the Easement Property and the railroad will be at the sole expense of Grantor. Grantor has the right to eliminate any encroachments into the Easement property. Grantor must maintain the Easement Property in a neat and clean condition. Grantor has the right to construct, install, maintain, replace, and remove the railroad under or across any portion of the Easement Property. All matters concerning the railroad and their configuration, construction, installation, maintenance, replacement, and removal are at Grantor's sole discretion within the Easement Property, subject, however, to applicable laws, rules, or regulations. Grantor has the right to remove or relocate any fences within the Easement Property or along or near its boundary lines if reasonably necessary to construct, install, maintain, replace, or remove the railroad, subject to replacement of the fences to their original condition on the completion of the work.

Provided, however, that notwithstanding the foregoing, Grantor:

- (i) shall not interfere with Grantee's use of the Property (including, without limitation, the Easement Property), and
- (ii) acknowledges Grantee's right to cross over and use the Easement Area,

for or in connection with the extension, construction, reconstruction, building, repairing, replacing, widening, maintenance, modification, control, opening, and/or use a public street and right-of-way (together with any and all uses incidental thereto, including, without limitation, the installation, repair, maintenance, and replacement of water lines, sanitary sewer lines, drainage, and other utilities) over, in, upon, under and across that portion of the Property as shown and described in Attachment 2 to this Exhibit B which is attached hereto and incorporated herein.

477-4644

EXHIBIT C TO REAL ESTATE SALES AGREEMENT

BILL OF SALE

IN CONSIDERATION of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid to Union Pacific Railroad Company, a Utah corporation ("**Seller**"), the receipt of which is hereby acknowledged, Seller does hereby GRANT, CONVEY AND WARRANT to the Town of Addison, a Texas Municipal Corporation ("**Purchaser**"), all equipment, machinery, furniture, fittings, fixtures, and articles of personal property (collectively, the "**Personal Property**") owned by Seller and situated on or used in connection with those certain premises situated on the real property described in Exhibit A attached hereto and incorporated herein (the "**Premises**"), including, without limitation the personal property described in Exhibit B attached hereto and incorporated herein by reference;

TO HAVE AND TO HOLD the Personal Property unto Purchaser and Purchaser's successors and assigns, forever; and Seller does hereby bind Seller and Seller's successors to WARRANT AND FOREVER DEFEND the same unto Purchaser and Purchaser's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

EXECUTED to be effective as of the _____ day of _____, 2001.

SELLER:

UNION PACIFIC RAILROAD COMPANY

By: _____

Name: _____

Title: _____

Exhibit B and all such terms and agreements are expressly set forth in the Leases; (vii) there are no prepaid rentals or security deposits under the Leases except as set forth in **Exhibit B**; (viii) there are no rent-free periods or rent concessions under the Leases except as set forth in **Exhibit B**; (ix) there are no amendments to the Leases except as stated in **Exhibit B**; (x) there are no lease commissions due or which will become due under the Leases except as set forth in **Exhibit B**; and (xi) Assignor shall warrant and forever defend the title to the Leases against the lawful claims and demands of all persons whomsoever.

4. **Indemnification.** Assignor hereby indemnifies and holds harmless Assignee from and against any and all claims, suits, costs and expenses, including reasonable attorneys' fees, arising prior to the date hereof with respect to the Leases and Deposits, or in connection with any security deposits paid to Assignor prior to the date hereof but not delivered to Assignee herewith.

5. **Further Assurances.** Assignor shall from time to time, upon request by Assignee, provide Assignee with such information and documentation, take such actions, and execute, acknowledge and deliver such documents and instruments as Assignee may reasonably require to better evidence the transfers, assignments, confirmations and assurances covered by this Assignment or intended so to be.

6. **Successors and Assigns.** The agreements, covenants, warranties and representations herein set forth shall be binding upon, and inure to the benefit of, Assignor and Assignee and their respective successors and assigns.

EXECUTED to be effective as of the ____ day of _____, 2001.

ASSIGNOR:

UNION PACIFIC RAILROAD COMPANY

By: _____

Name: _____

Title: _____

ASSIGNEE:

TOWN OF ADDISON

By: _____

Name: _____

Title: _____

State of Utah §
 §
County of _____ §

Before Me, the undersigned Notary Public, this instrument was acknowledged on this ____ day of _____, 2001 by _____, _____ of Union Pacific Railroad Company, a Utah corporation, on behalf of said corporation.

Notary Public, State of Utah
Printed name:

Commission Expires

State of Texas §
 §
County of Dallas §

Before Me, the undersigned Notary Public, this instrument was acknowledged on this ____ day of _____, 2001 by _____, _____ of Town of Addison, a Texas Municipal corporation, on behalf of said corporation.

Notary Public, State of Texas
Printed name:

Commission Expires

SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of _____, 2001, by

_____. Notary Public, State of _____.

Notary Public in and for

The State of _____

Notary's Printed Name: _____