

## AGREEMENT OF PURCHASE AND SALE (2015)

This Agreement of Purchase and Sale (this "Agreement") dated March 2, 2015 is by and between: Linda E. Street, Trustee of the Street Family Trust; Wendy S. Wythe, Trustee of the Wendy Susan Wythe Revocable Trust; Douglas and Marchelle Phimister; and David and Melode Weiner (the "Seller") and the AMERICAN RIVER CONSERVANCY, a nonprofit, 501(c)(3) California public benefit corporation (the "Buyer"). Seller and Buyer together may be referred to collectively hereinafter as the "Parties".

### RECITALS

A. The addresses and telephone numbers of the Parties to this Agreement are as follows: Telephone numbers are included for information only.

#### SELLER:

Linda E. Street, Trustee of the  
Street Family Trust  
35675 County Road 31  
Davis, CA 95616-9430  
Tel: (530) 756-1611

Wendy Susan Wythe Revocable Trust  
Wendy S. Wythe, Trustee  
P.O. Box 1047  
Pollock Pines, CA 95726  
Tel: (530) 306-7000  
Email: [wendy@wythedesigns.com](mailto:wendy@wythedesigns.com)

Douglas and Marchelle Phimister  
P.O. Box 298  
Shingle Springs, CA 95682  
Tel and Fax: 530-677-7375

David and Melode Weiner  
3350 Country Club Drive, Suite 202  
Cameron Park, CA 95682  
Tel: (530) 677-9487

#### BUYER:

The American River Conservancy  
Attn: Alan Ehgott, Executive Director  
348 Hwy 49 – P.O. Box 562  
Coloma, CA 95613-0562  
Tel: (530) 621-1224  
Email: [ehgott@arconservancy.org](mailto:ehgott@arconservancy.org)

B. Seller is the owner of that certain real property in El Dorado County, California which consists of one legal parcel and approximately 126.157 acres (APN: 070-011-48). Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller a 22.165 acre undeveloped portion of this parcel. Said real property, together with all timber, water and minerals located thereon and any and all rights appurtenant thereto including but not limited to timber rights, water rights, grazing rights, access rights and mineral rights, shall be referred to in this Agreement as "the Subject Property". The

## EXHIBIT F

Subject Property is more particularly described in the legal description and map attached hereto and incorporated herein by reference as "Exhibit A" and the First American Pro-Forma Policy No. 5004700 attached hereto and incorporated herein by reference as "Exhibit B".

C. It is the intention of Buyer to acquire the Subject Property through direct transfer to the State of California Department of Fish and Wildlife ("DFW") which will own and manage the property in the public's interest as rare plant and wildlife habitat.

D. Seller understands that federal and state laws, regulations and procedures applicable to this Purchase and Sale may involve appraisal review, multiple appraisals, environmental assessments, surveys, hearings, and appeal periods and that there is no certainty that the sale of the Subject Property to Buyer will take place.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Purchase and Sale. Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, the Subject Property subject and pursuant to the terms and conditions set forth herein.

2. Purchase Price. Seller shall convey and Buyer shall acquire the 22.165 acre Subject Property for an all-cash purchase price (the "Purchase Price") equal to the appraised fair market value of four hundred ninety-nine thousand dollars. (\$499,000.00). The Parties acknowledge that they are relying entirely upon the determination made by the appraiser, Myron R. Harrison MAI in his appraisal of record dated October 18, 2014 as to the fair market value of the Subject Property. The appraisal is attached herein by reference as "Exhibit C".

At close of escrow the account of Buyer shall be credited with an administrative fee for services rendered in the securing of appraisals and purchase funding, property division, agency coordination, and escrow procedures, supporting the purchase and sale of the Subject Property equal to fifty-five thousand dollars (\$55,000.00). Seller's proceeds at close of escrow will therefore equal four hundred forty-four thousand dollars (\$444,000) less Seller's share of escrow expense ("Seller's Net Proceeds").

Seller's Net Proceeds will be distributed as follows: the Wendy Susan Wythe Revocable Trust will receive 54.884% of Seller's Net Proceeds; David and Melode Weiner will receive 31.581% of Seller's Net Proceeds and Douglass and Marchelle Phimister will receive 13.535% of the Seller's Net Proceeds. Linda E. Street will not receive a cash distribution from the sale of the Subject Property. In lieu of a cash distribution the share of Linda E. Street's percentage ownership of the remainder 103.992 acre parcel shall increase to 67.894%. Following the close of escrow, the Wendy Susan Wythe Revocable Trust shall retain 9.616% ownership of the remainder; David and Melode Weiner shall retain 22.490% ownership of the remainder; and Douglas and Marchelle Phimister ownership of the remainder will be reduced to 0.000%.

3. Deposit. Within fourteen (14) calendar days of the Parties' execution of this Agreement, Buyer shall have deposited with the Escrow Holder (as defined in Section 8 below) for the account of Seller, the amount of one thousand dollars (\$1,000) in cash as the initial deposit (the "Deposit").

The Deposit shall be placed with the Escrow Holder by Buyer. All interest earned on the Deposit shall be attributable to the Purchase Price at closing. In the event the conditions set forth under Section 4 and 5 below are not either satisfied or waived within the specified time periods, the Deposit, together with accrued interest, shall be forfeited by Seller and released to Buyer.

4. Conditions to Closing. Seller's obligation to sell the subject property to Buyer under this Agreement shall be subject to the occurrence or satisfaction of the following conditions within the specified time periods:

- a) the placement by Buyer of all funding into First American Title Company Escrow Account 4057100-JT necessary to close escrow and record the transfer of the Subject Property on or before June 30, 2015.
- b) the approval by both Seller and Buyer within thirty (30) days of this Agreement of the condition and status of the title of the Subject Property which approval shall not be unreasonably withheld. Prior to the signing of this Agreement, Seller has delivered to Buyer the Preliminary Title Report, as defined in Section 9, for Buyer's use and information.
- c) a determination by Buyer that no toxic or hazardous materials or substances as determined by all applicable federal, state and local statutes, laws, ordinances, regulations or policies are present on the Subject Property and that there is no condition at, on, under or related to the Subject Property presently or potentially posing a significant hazard to human health or the environment.
- d) if any of the conditions set forth at (a) – (c) above are not met within the specified time period, either Party may terminate its obligation to buy or sell the Subject Property, as the case may be by providing written notice to the other party, in which event this Agreement will terminate.

5. Right of First Refusal. Seller has the right to offer the property for sale on the open market. If Seller receives a purchase offer in excess of \$499,000 from a 3<sup>rd</sup> party, then Seller will provide a written copy of that 3<sup>rd</sup> party offer to Buyer (the American River Conservancy), and provide Buyer with a fourteen (14) day period in which to place all purchase funding into escrow necessary to match the 3<sup>rd</sup> party offer and close escrow. If Buyer is unable to match the 3<sup>rd</sup> party offer within this fourteen day period, then all further obligations under this Agreement shall terminate and Seller shall release the Deposit, together with accrued interest, to Buyer.

6. Termination. In the event that Buyer determines in its sole discretion that it will be unable for any reason to Purchase the Subject Property from Seller, Buyer may terminate any and all of its obligations under this Agreement, including the acceptance of the Subject Property from Seller, by giving Seller written notice of such termination, in which event the Deposit, together with accrued interest, shall be released to Seller. Thereafter, neither party shall have any further obligations under this Agreement.

7. Condition of the Subject Property.

Buyer expressly acknowledges that prior to close of escrow, it or its agents will have inspected the Subject Property, including its environmental condition, observed the physical characteristics and

condition of the Subject property and investigated the legal status thereof. Buyer further acknowledges that neither Seller, nor any of Seller's employees, agents or representatives, have made any expressed or implied representations or warranties, or any agreements, by or on behalf of Seller as to any matters concerning the Subject Property, the present use thereof or the suitability of its intended use of the Subject Property, including, without limitation, exact acreage and boundary lines, existence or location of easements and rights of way, access, historical or present mining activities; water supply and drainage, the suitability of the topography; the availability of utilities (including, without limitation, water, sewer, electricity, gas, phone, and cable services); the present and future zoning, subdivision, building law, rules and regulations and any and all other land use matters; the condition of the soil, subsoil, or groundwater, the purpose(s) to which the Subject Property is suited; drainage; flooding; access to public roads; of proposed routes of roads or extensions thereof.

8. Escrow. The parties have opened escrow account #4057100-JT with First American Title Company, 670 Placerville Drive #1A, Placerville, California, CA 95667, telephone no. (530) 622-3260, fax no. (888) 320-4278, attn: Janice Thompson, escrow officer (the "Escrow Holder") for the purpose of closing escrow and recording the transfer of the Subject Property from Seller to the United States of America, Bureau of Land Management. The Parties agree that time is of the essence in closing this escrow and shall cooperate in arranging for the closing of escrow between the Seller and Buyer. The Parties shall deliver signed escrow instructions prior to the close of escrow. The instructions shall not modify or amend this Agreement provided however, that the parties shall execute any additional instructions requested by escrow in a manner consistent with the Agreement.

9. Title. Seller shall convey to United States of America, Bureau of Land Management the Subject Property subject only to: (a) the approval by El Dorado County; (b) such easements, encumbrances and reservations as appear in the preliminary title report #4057100 (the "Preliminary Title Report"), issued by the Escrow Holder for title insurance purposes attached hereto and incorporated herein by reference as "Exhibit A"; (c) existing rights-of-way, granted by Federal or State law and/or rights-of-way of record or in use, for roads, utilities, canals, ditches, pipelines, etc., on, over or across the Subject Property; (d) the lien, if any, for non-delinquent real property taxes; and, (e) the standard printed exceptions on the form of title insurance policy issued.

The close of escrow shall be conditioned upon the Seller's review and satisfaction that it will maintain and preserve an equivalent easement capacity for road and utility purposes to support the future subdivision and development of the remainder property.

10. Title Insurance. Seller shall provide to the United States of America, Bureau of Land Management a USA ALTA policy of title insurance insuring that title to the Subject Property is vested in the United States of America, Bureau of Land Management upon close of escrow subject to the standard exclusions contained in said policy. The premium for the title insurance policy shall be paid as shown in Section 13.

11. Representations and Warrantees. Seller and Buyer make the following representations and warrantees:

(a) at the close of escrow, Seller represents and warrants that it will own and will have the power to

sell, transfer and convey all right, title and interest in the Subject Property.

(b) Buyer represents and warrants that it has full power and authority to enter into this Agreement and the person(s) signing this Agreement for Buyer have full power and authority to sign for Buyer and to bind it to this Agreement. At Seller's request, Buyer shall provide Seller with its articles of incorporation and by-laws, and a corporate resolution and/or other necessary documentation evidencing such power and authority.

(c) Seller represents and warrants that as of the date Seller has executed this Agreement, and throughout the escrow period and at closing, Seller has no intention of filing for protection under the bankruptcy laws of the United States, and Seller shall not have made an assignment for the benefit of creditors or admitted in writing its inability to pay its debts as they mature or have been adjudicated bankrupt or have filed a petition in voluntary bankruptcy or a petition or answer seeking reorganization or an arrangement with creditors under federal bankruptcy law or any other similar law or statute of the United States or any state and no such petition shall have been filed against it.

(d) Seller represents and warrants for itself and for its successors and assigns, that Seller shall not, at any time prior to close of escrow hereunder, subdivide the Subject Property.

(e) Seller represents and warrants that it shall not log, cut, remove or destroy any oak, other tree or plant species on the Subject Property, as of the date the Parties have executed this Agreement.

12. Breach of Representations, Warranties and Covenants. All representations, warranties and covenants made by the Parties as a part of this Agreement ("Representations", "Warranties" and "Covenants") are material and are relied upon by the other party. All Covenants which by their terms or, by their nature are to be performed after the close of escrow, and all Representations and Warranties, shall all be deemed to have been made or affirmed as of the close of escrow and shall survive the close of escrow.

If, before the close of escrow, either party discovers any information or facts that would materially change the Representations, and Warranties and/or performance of the Covenants, said party shall immediately give written notice to the other party of those facts and information. If any of the Representations and Warranties cease to be true during the term of this Agreement or either party has breached any Covenants, the breaching party shall promptly cure, at its sole cost and expense, each and every breach or default of any Representation, Warranty and/or Covenant set forth in this Agreement upon receipt of notice thereof by the other party. The non-breaching party shall have the right, but no obligation, to cure or cause to be cured any such breach or default, at the breaching party's sole cost and expense if, in the non-breaching party's reasonable judgment, the breaching party has failed to promptly or completely cure the same. The reasonable costs of such cure attempted or effected by the non-breaching party shall be reimbursed by the breaching party at close of escrow.

13. Expenses, Title Insurance and Fees. All escrow, recording, title insurance premium and closing fees shall be paid as follows: Buyer shall pay 50%, David and Melode Weiner shall pay 19.175% and Wendy Wythe shall pay 30.825% at closing. David and Melode Weiner shall pay 38.349% and Wendy Wythe shall pay 61.651% of any documentary tax arising out of the conveyance

of the Subject Property. Buyer and Seller shall pay their respective shares of prorated real property taxes.

14. Notices. Any notice, demand, approval, consent, or other communication (collectively "Notice") required or desired to be given under this Agreement in writing shall be given in the manner set forth below, addressed to the Party to be served at the addresses set forth in Recital A, or at such other address for which that Party may have given notice under the provisions of this Section. Any Notice given by: (a) mail shall be deemed to have been given when deposited in the United States mail, first class and postage prepaid; (b) overnight common carrier courier service shall be deemed to be given on the business day (not including Saturday or Sunday) immediately following the date it was deposited with such common carrier; (c) delivery in person or by messenger shall be deemed to have been given upon delivery in person or by messenger; or (d) electronic facsimile shall be deemed to have been given on the earlier of: 1) the date and at the time as the sending party (or such party's agent) shall have received from the receiving party (or such party's agent) oral confirmation of the receipt of such transmission; or 2) one hour after the completion of transmission of the entire communication.

15. Attorney's Fees. If any legal action is brought by either party to enforce any provision of this Agreement, the prevailing party shall be entitled to recover from the other party reasonable attorney's fees and court costs in such amounts as shall be allowed by the court.

16. Remedies Upon Default. In the event Buyer defaults in the performance of any of Buyer's obligations under this Agreement, Seller shall, in addition to any and all other remedies provided in this Agreement or by law or equity, have the right to recover damages for breach of contract or any other remedy provided in this Agreement, or by law or equity. If Seller defaults in the performance of any of Seller's obligations under this Agreement, Buyer shall have the right to recover damages for breach of contract or any other remedy provided under this Agreement or by law or equity.

17. Tax Deferred Exchange. In the event Seller wishes to enter into a tax deferred exchange for the Subject Property, the Buyer agrees to cooperate with Seller in connection with such exchange, including the execution of such documents as may be reasonably necessary to effectuate such exchange. Notwithstanding such obligation to cooperate however: (a) Buyer shall not be obligated to delay the closing; (b) all additional costs in connection with the exchange will be borne by Seller; and (c) Buyer shall not be obligated to execute any note, contract or other document providing for any liability which would survive the exchange.

18. Time is of the Essence. Time is of the essence of this Agreement.

19. Binding on Successors. This Agreement shall be binding not only upon the Parties but also upon their heirs, personal representatives, assigns, and other successors in interest.

20. Entire Agreement; Modification; Waiver. This Agreement constitutes the entire agreement between Buyer and Seller pertaining to the subject matter contained in it and supercedes all prior and contemporaneous agreements, representations, and understandings. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by all the parties. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a

waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing of the party making the waiver.

21. Severability. Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.

22. Expiration. This Agreement shall expire unless a copy hereof with Seller's written acceptance is delivered to Buyer on or before March 15, 2015.

IN WITNESS of the foregoing provisions the Parties have entered into this Agreement as of the date first set above.

SELLER:  
Linda E. Street, Trustee of the  
Street Family Trust

BUYER:  
The American River Conservancy, a non-profit  
501(c)(3) California public benefit corporation.

Linda E. Street TRUSTEE  
By: \_\_\_\_\_

By: Alan Ehrgott  
Alan Ehrgott

Date: March 3, 2015

Title: Executive Director

Wendy S. Wythe, Trustee of the  
Wendy Susan Wythe Revocable Trust

Date: 03/02/2015

By: Wendy S. Wythe, Trustee  
Date: \_\_\_\_\_

Douglas Phimister

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

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

Marchelle Phimister

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

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

FROM :  
Mar 02 16 05:28p Cain Weiner

FAX NO. :

Mar. 03 2015 10:31AM P6

7

waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing of the party making the waiver.

21. Severability. Each provision of this Agreement is severable from any and all other provisions of this Agreement. Should any provision(s) of this Agreement be for any reason unenforceable, the balance shall nonetheless be of full force and effect.

22. Expiration. This Agreement shall expire unless a copy hereof with Seller's written acceptance is delivered to Buyer on or before March 15, 2015.

IN WITNESS of the foregoing provisions the Parties have entered into this Agreement as of the date first set above.

SELLER:  
Linda E. Street, Trustee of the  
Street Family Trust

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

Wendy S. Wythe, Trustee of the  
Wendy Susan Wythe Revocable Trust

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

Douglas Phimister

By: *Douglas Phimister*  
Date: 3/2/15

Marchelle Phimister

By: *Marchelle Phimister*  
Date: 3/2/15

BUYER:  
The American River Conservancy, a non-profit  
501(c)(3) California public benefit corporation.

By: *Alan Engert*  
Alan Engert

Title: Executive Director

Date: 03/02/2015



Melode Weiner

By: Melode Weiner

Date: 3/3/15

David Weiner

By: David Weiner

Date: 3-3-2015



September 16, 2015

Linda E. Street, Trustee of the  
Street Family Trust  
35675 County Road 31  
Davis, CA 95616-9430

Wendy Susan Wythe Revocable Trust  
Wendy S. Wythe, Trustee  
P.O. Box 1047  
Pollock Pines, CA 95726

Douglas and Marchelle Phimister  
P.O. Box 298  
Shingle Springs, CA 95682

David and Melode Weiner  
3350 Country Club Drive, Suite 202  
Cameron Park, CA 95682

Re: AMENDMENT TO THE PURCHASE AND SALE AGREEMENT (2015)  
(Portion of Krell Ranch, El Dorado County APN: 070-011-48; 22.165 acres)

Dear Linda, Wendy, Douglas and Marchell, David and Melode:

We refer to that certain Purchase and Sale Agreement dated January 27, 2015 (the "Agreement") between Linda E. Street, Trustee of the Street Family Trust, Wendy Susan Wythe Trust, Wendy S. Wythe, Trustee, Douglas and Marchelle Phimister, and David and Melode Weiner (collectively "Seller") and the American River Conservancy, a California nonprofit, public benefit corporation ("Buyer") pertaining to that certain subject property described within the Agreement. This letter will serve as an amendment to the Agreement.

In consideration of the mutual promises contained herein, the Parties agree to amend the Agreement as set forth below:

1. Escrow shall close on or before December 31, 2015.
2. The subject 22.165 acres shall be transferred in escrow directly to El Dorado County.


348 HIGHWAY 49 • P.O. BOX 562 • COLOMA, CA 95613  
PH. (530) 621-1224 • FAX (530) 621-4818 • [www.arconservancy.org](http://www.arconservancy.org)

3. The American River Conservancy will act as facilitator to the transaction and shall receive a fee for services rendered in the amount of fifty-five thousand dollars (\$55,000) as stated in Paragraph 2, Page 2.

Accept as amended by this agreement, the Purchase and Sale Agreement remains unchanged.

If acceptable, please sign the enclosed, two (2) original copies of this Amendment and return one (1) signed original to me at the American River Conservancy for Buyer's records.

Very truly yours  
THE AMERICAN RIVER CONSERVANCY



Alan Ehr Gott, Executive Director

SELLER:

Linda E. Street, Trustee of the  
Street Family Trust

By: Linda E. Street, TEE

Date: Nov 4, 2015

Wendy Susan Wythe Revocable Trust  
Wendy S. Wythe, Trustee

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

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

Douglas Phimister

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

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

Marchelle Phimister

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

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

David Weiner

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

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

Melode Weiner

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

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

3. The American River Conservancy will act as facilitator to the transaction and shall receive a fee for services rendered in the amount of fifty-five thousand dollars (\$55,000) as stated in Paragraph 2, Page 2.

Accept as amended by this agreement, the Purchase and Sale Agreement remains unchanged.

If acceptable, please sign the enclosed, two (2) original copies of this Amendment and return one (1) signed original to me at the American River Conservancy for Buyer's records.

Very truly yours  
THE AMERICAN RIVER CONSERVANCY



Alan Ehrgott, Executive Director

**SELLER:**

Linda E. Street, Trustee of the  
Street Family Trust

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

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

Wendy Susan Wythe Revocable Trust  
Wendy S. Wythe, Trustee

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

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

Douglas Phimister

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

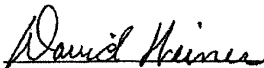
Date: \_\_\_\_\_

Marchelle Phimister

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

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

David Weiner

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

Date: 9-17-2015

Melode Weiner

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

Date: 9-17-2015

3. The American River Conservancy will act as facilitator to the transaction and shall receive a fee for services rendered in the amount of fifty-five thousand dollars (\$55,000) as stated in Paragraph 2, Page 2.

Accept as amended by this agreement, the Purchase and Sale Agreement remains unchanged.

If acceptable, please sign the enclosed, two (2) original copies of this Amendment and return one (1) signed original to me at the American River Conservancy for Buyer's records.

Very truly yours  
THE AMERICAN RIVER CONSERVANCY



Alan Ehrgott, Executive Director

SELLER:

Linda E. Street, Trustee of the  
Street Family Trust

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

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

Wendy Susan Wythe Revocable Trust  
Wendy S. Wythe, Trustee

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

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

Douglas Phimister

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

Date: 9/25/2015

Marchelle Phimister

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

Date: 9/25/2015

David Weiner

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

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

Melode Weiner


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

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

3. The American River Conservancy will act as facilitator to the transaction and shall receive a fee for services rendered in the amount of fifty-five thousand dollars (\$55,000) as stated in Paragraph 2, Page 2.

Accept as amended by this agreement, the Purchase and Sale Agreement remains unchanged.

If acceptable, please sign the enclosed, two (2) original copies of this Amendment and return one (1) signed original to me at the American River Conservancy for Buyer's records.

Very truly yours  
THE AMERICAN RIVER CONSERVANCY  
  
Alan Ehrgott, Executive Director

**SELLER:**

Linda E. Street, Trustee of the  
Street Family Trust

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

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

Wendy Susan Wythe Revocable Trust  
Wendy S. Wythe, Trustee

By: Wendy S. Wythe, Trustee

Date: 9-25-2015

Douglas Phimister

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

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

Marchelle Phimister

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

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

David Weiner

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

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

Melode Weiner

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

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