

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

County of El Dorado  
Board of Supervisors  
330 Fair Lane  
Placerville, CA 95667

Assessor's Parcel Number: 329-341-04-100

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**COMMON DRIVEWAY, PARKING AND UTILITY EASEMENT AND MAINTENANCE  
AGREEMENT**

This Agreement is entered into as of 7/9, 2013, by and between THE PATTON GROUP LP, a California Limited Partnership, hereinafter referred to as "Grantor," and the COUNTY OF EL DORADO, a political subdivision of the State of California, hereinafter referred to as "Grantee."

WHEREAS, Grantor is the owner of approximately 6.67 acres of real property located in the Diamond Springs area of El Dorado County, California, commonly referred to as 6425 Capitol Avenue, Diamond Springs, California, and also referred to as a portion of APN 329-341-04 (hereinafter referred to as the "Property"), as more particularly described on Exhibit A, attached hereto and incorporated herein.

WHEREAS, pursuant to the Purchase and Sale Agreement and Joint Escrow Instructions, dated December 12, 2012 ("Purchase and Sale Agreement") between Grantor and Grantee, Grantee is acquiring 4.73 acres of the Property, the improvements thereon (inclusive of the commercial building totaling 21,251 rentable square feet, commonly referred to as "Building 2"), and all fixtures and equipment identified via inventory list during escrow.

WHEREAS, in connection with the conveyance of a portion of the Property to Grantee under the Purchase and Sale Agreement, the Property will be split into two parcels, one parcel containing Building 1 (hereinafter referred to as "Grantor's Parcel") and the other parcel containing Building 2 (hereinafter referred to as "Grantee's Parcel").

WHEREAS, the parties have agreed that the parcels will be subject to restrictions the purpose of which are to document the access and parking, including the shared cost for maintenance of the common driveway and utility easement used by and of benefit to both the occupants of Building 1 and Building 2.

WHEREAS, it is the intention of this Agreement for the restrictions, limitations, and covenants to run with the land and bind future owners and successors having or acquiring any right, title, or interest in the Property.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

#### AGREEMENT

##### 1. Driveway Access

(a) **Easement.** Grantor hereby grants to Grantee a perpetual non-exclusive easement in favor of Grantee's Parcel over, in, upon, and across Grantor's Parcel, inclusive of two (2) existing parking spaces, for purposes of vehicular and pedestrian ingress and egress access to and from Grantee's Parcel and public streets adjacent thereto, as shown on the Site Plan attached hereto and incorporated herein by reference as Exhibit B.

(b) **Maintenance.** Grantor's property manager shall act as the initial "Maintenance Director" responsible for maintaining the driveway access easement area in good repair and condition as follows:

- (1) Maintaining, repairing, and resurfacing, when necessary, all paved surfaces, curbs and gutters in good condition with the type of material originally used or such substitute as shall in all respects be equal or superior in quality, use and durability;
- (2) Removing debris and refuse to the extent reasonably necessary to keep the area in clean and orderly condition and allow for vehicular and pedestrian ingress and egress to and from Grantee's Parcel.
- (3) Maintaining, repairing and replacing, when necessary, all traffic directional signs and markers to Grantee's Parcel.

##### (c) Maintenance Costs.

- (1) Except as otherwise provided in subsection (c)(2) below, the owners of the parcel shall equally share and pay for the costs and expenses incurred for performing the maintenance work specified in subsection (a)



("Maintenance Costs"). The Maintenance Director may, at its election, bill such owner for its share of the Maintenance Costs on a monthly, quarterly or annual basis. The owners shall pay within thirty (30) days of receipt of an invoice for their respective share of the Maintenance Costs. If the owner's share of the Maintenance Costs for any single maintenance or repair work item exceeds Five Thousand Dollars (\$5,000.00), the prior written approval of the owner is required, which consent shall not be unreasonably withheld. The Maintenance Director shall be entitled to a reasonable fee for its services rendered to perform the maintenance work on the driveway access easement area. The maintenance fee shall not exceed five percent (5%) of the Maintenance Costs and shall be billed and invoiced separately from the Maintenance Costs. The owner's share of the Maintenance Costs shall include such owner's share of the maintenance fee.

- (2) Grantee shall pay Grantor the sum of Five Hundred Dollars (\$500.00) annually for maintenance of the landscaping and lighting on the driveway access easement area.
- (d) Maintenance or repair work not described herein is not covered by this Agreement unless the owner wishing to undertake the work first obtains the written consent of the other parcel owner.
- (e) In the event any of the following occurs, Grantee shall be appointed as the Maintenance Director and shall assume responsibility for the maintenance work specified in subsection (c)(1) above.
- (1) Grantor ceases to have a property manager act as the Maintenance Director;
  - (2) Grantor sells or conveys all or a portion of Grantor's parcel to another person; or
  - (3) Grantor's property manager fails to perform any of the obligations specified herein, which failure continues for a period of thirty (30) days after receipt of written notice from any owner specifying the particulars of such failure.

In the event Grantee is appointed as the Maintenance Director pursuant herein, Grantee's obligation to pay Grantor under subsection (c)(2) above shall cease, and Grantor shall assume the payment obligation and pay Grantee the amount specified in subsection (c)(2) above.

(f) **Records Examination.** The Maintenance Director shall maintain all records for all Maintenance Costs incurred for a period of three (3) years from the date the maintenance work is completed. The owners or their duly authorized representatives may, upon thirty (30) days prior written notice to the Maintenance Director, access and inspect all records pertaining to Maintenance Costs incurred. The records shall be made available at the Maintenance Director's general offices or at such other location reasonably designated by the Maintenance Director at any time during reasonable business hours.

2. **Parking.** In consideration for the payment by Grantee to Grantor in the sum of One Hundred Dollar (\$100.00) the receipt of which is hereby acknowledged, Grantor hereby grants to Grantee an easement appurtenant to and for the benefit of Grantee's parcel over, in, upon, and across Grantor's Parcel for vehicular parking (use of eight (8) parking spaces) as shown on Exhibit B, for the benefit of Grantee and its permittees ("Parking Easement"); provided that Grantor may terminate such Parking Easement following the fifth (5<sup>th</sup>) anniversary date this Agreement is recorded upon ninety (90) days written notice to Grantee.

3. **Utilities.**

(a) **Easements.** There is hereby granted and reserved over each parcel a nonexclusive, appurtenant, reciprocal easement ("Utility Easement") for the installation, construction, servicing, maintenance, repair and replacement of electrical, gas, fiber optics, telephone, cable television, lighting, storm drain, water, storm and sanitary sewer systems, and other utilities (collectively, "Utilities") servicing the parcels (including, among other things, all of the wiring, inlets, outlets, pipes, conduits, valves, and meters relating thereto and other appropriate facilities) at the easement locations shown on Exhibit B. Each parcel owner shall have the right (but not the obligation) to relocate or realign the Utility Easement located on such owner's parcel and, upon such relocation or realignment, the Utility Easement granted herein shall be deemed to be relocated to the new location of the Utility Easement; provided, however, that before relocating or realigning the Utility Easement, the written approval of the subject owner(s) whose parcel will be affected by any such relocation or realignment, which written approval shall not be unreasonably withheld or delayed by such owner(s), shall first be obtained. Such owner(s)' right of approval shall only extend to that portion of the Utility Easement which is intended to be located on such owner's parcel. An amendment to this Agreement shall be recorded memorializing such relocation or realignment of the Utility

Easement. Furthermore, the owners of any parcels served by such Utilities shall have the right, and are hereby granted and reserved an easement to the full extent necessary therefor, to enter the other parcel or to have utility companies enter thereon, or any portion thereof, to install, construct, connect to and utilize existing utility lines and mains, clean, service, repair, replace and generally maintain such Utilities as and when the same may be necessary. Unless the consent of the owner of the parcel on which such work is to be done is first obtained, such entry shall occur only during non-peak business hours, (before 9:00 a.m. and after 4:00 p.m. Monday- Friday) and after reasonable written notice to the owner of the parcel being entered of not less than three (3) business days; provided, however, that in the case of an emergency the entry may occur without notice and without regard to business hours. Any owner or utility company exercising the rights granted in this section shall be obligated to restore the parcel entered to the same condition as the parcel existed prior to the date of such owner or utility's entry onto the parcel in question. Notwithstanding anything which is or appears to be to the contrary herein, nothing in this Agreement shall be construed to impose any obligation on any owner to install any Utilities at, or for the benefit of, the parcels.

(b) Relocation of Utility Easements. The owner(s) of a parcel encumbered by any Utility Easement may, at its sole cost and expense, relocate the Utility Easement on its Parcel (and any utility facilities installed thereon); provided, however, that such relocation (i) may be performed only after the owner(s) has given the other owner(s) thirty (30) days written notice of its intention to relocate such facilities; (ii) shall not interfere with or diminish the utility services to the other parcels (however, temporary interferences with and diminutions in utility services shall be permitted if they occur during the non-business hours (before 9:00 a.m. and after 5:00 p.m. Monday-Saturday and Sundays) of the affected owner, and that owner has been so notified as provided above; (iii) shall not reduce or unreasonably impair the usefulness or function of the facilities in question; (iv) shall be located underground, unless not reasonably possible; and (v) if shared utility facilities are involved, shall be in accordance with plans approved by the other affected owners. If an owner(s) installs a Utility on its parcel(s), that owner(s) shall size that Utility to accommodate the needs of all of the parcels.

(c) Maintenance of Utility Easements and Utilities. Each owner shall maintain repair and/or replace (or cause the appropriate utility company to the same) the portions of the Utilities and Utility Easements located on such owner's parcel, at such owner's sole cost and expense; provided that if a utility benefits only one parcel, the benefited owner of such parcel shall pay all costs and expenses of maintaining, repairing and replacing that utility even if such utility is located on another owner's parcel.

4. Signs. Grantee may install at least one (1) pylon or monument sign on Grantor's Parcel in the approximate location shown on Exhibit B (as such location may be changed



from time-to-time in order to comply with applicable governmental rules and regulations). Grantee shall have the right to amend this Agreement to reflect the changed location of such signs. If Grantee elects to amend this Agreement for such purpose, each owner(s) hereby agrees to execute and cause to be acknowledged for recordation any such document(s) or instrument(s) reasonably requested by Grantee to memorialize such amendment so long as the document(s) or instrument(s) does not otherwise create any additional obligations or burdens on, or otherwise unreasonably adversely affect, that owner or its parcel. No signs, structures, landscaping, or improvements shall be placed or maintained on Grantor's Parcel that will obstruct or impair the visibility of any sign from adjacent streets and roads. Grantee shall maintain the sign in good and repair.

5. **Binding on Successors.** This Agreement and the rights granted herein shall run with the land and shall bind and inure to the benefit of the parties hereto and their respective heirs, successors in interest, lessees, and assigns.

6. **Default.** In the event of a violation or breach of this Agreement, the non-breaching party shall promptly notify the breaching party in writing of such violation and demand corrective action sufficient to cure the violation. Should the breaching party fail to take steps to begin curing the violation within thirty (30) days of receipt of the non-breaching party's written notice or fails to continue to diligently take steps to cure the violation until finally cured, the non-breaching party may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Agreement, to enjoin the violation by temporary or permanent injunction, to terminate this Agreement, and/or to recover any damages to which it may be entitled for violation of the terms of this Agreement. The prevailing party in any such legal proceedings shall be entitled to reasonable attorneys' fees, costs and other expenses.

7. **Notice.** All communications and notices required or to be given by the parties shall be in writing and shall be deemed served on the earlier of the date when actually delivered to the Party or three (3) days after being deposited in the United States mail, postage prepaid and addressed as follows, unless and until either or such Parties notifies the other in accordance with this paragraph of a change of address:

COUNTY:

TPG:

Handwritten signature or initials in black ink, appearing to be 'JLP'.

8. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

**COUNTY OF EL DORADO**

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

\_\_\_\_\_  
Ron Briggs, Chair  
Board of Supervisors


ATTEST:

James S. Mitrisin  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

**THE PATTON GROUP LP**

Date: 7/9/2013

  
The Patton Group LP  
A CALIFORNIA LIMITED PARTNERSHIP  
By Patton 1999 Revocable Trust  
General Partner