

AGREEMENT #39:/Q3733

PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

This Purchase and Sale Agreement and Joint Escrow Instructions (“Agreement”), dated September 4, 2014 for reference purposes only, is made and entered into by and between the COUNTY OF EL DORADO, a political subdivision of the State of California (“County” or “Buyer”), and KIMBERLY J. WOSNUK, AS TRUSTEE OF THE KIMBERLY J. WOSNUK SEPARATE PROPERTY REVOCABLE TRUST; CAROL JEAN CALDWELL, AS TRUSTEE OF THE CAROL J. CALDWELL REVOCABLE TRUST DATED NOVEMBER 21, 1996; , and JOHN L. CHAVEZ AND SUSAN M. CHAVEZ, AS TRUSTEES OF THE JOHN L. CHAVEZ AND SUSAN M. CHAVEZ REVOCABLE TRUST (collectively “Seller”). Buyer and Seller may be referred to collectively hereinafter as the “Parties”. The “Effective Date” of this Agreement is the date when it has been fully signed by both Parties.

RECITALS

- A. Seller is, or will be by the Close of Escrow, the owner of approximately 30.73 acres of land located in the Diamond Springs area in El Dorado County, California, a legal description of which is attached hereto and incorporated herein by reference as Exhibit “A” (the “Property”). The Property is also known as Assessor Parcel Numbers 329-240-55-100 and 329-391-10-100.
- B. Seller desires to sell and Buyer desires to acquire the Property for public purposes on the terms and conditions set forth herein.

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

AGREEMENT

- 1. **Purchase and Sale.** Seller agrees to sell to Buyer and Buyer, upon approval by the El Dorado County Board of Supervisors as set forth herein, agrees to acquire from Seller the Property described in Exhibit “A”.
- 2. **Purchase Price.** The estimated purchase price for the Property (“Purchase Price”) shall be approximately **Two Million Six Hundred Twenty Three Thousand Six Hundred Fifty Four Dollars and Four Cents (\$2,623,654.04)**. The estimated Purchase Price stated herein was determined based on a calculation of 1,338,599 square feet which is equivalent to 30.73 acres of land. The total square footage for the Property shall be verified, at Buyer’s cost, by a third party licensed surveyor, who is chosen by Buyer and reasonably acceptable to Seller. The Parties agree that the final purchase price shall be calculated based on \$1.96 per gross square foot of the Property, as shown on the survey, which shall be reasonably acceptable to both Parties. Not later than sixty (60) days after the Effective Date, Buyer and Seller shall agree in writing on the final exact number of square feet in the Property, and the resulting final Purchase Price. The Parties

acknowledge that this is an arms-length transaction, not under threat of condemnation, and that the Purchase Price reflects a fair market value for the Property.

3. **Payment of Purchase Price.** The final Purchase Price for the Property shall be paid as follows:

3.1 **Deposit.** Upon Opening of Escrow, Buyer shall deposit into escrow a check in the amount of Thirty-Five Thousand Dollars and 00/100 (\$35,000.00) (the "Deposit"). The Deposit, together with all interest accrued thereon, is non-refundable to Buyer except in the event that: (i) Buyer terminates this Agreement in accordance with Section 7.1, because any of the conditions described in Paragraph 7.1 below are not waived or satisfied within the prescribed timeframe; (ii) Buyer exercises, in its sole discretion, to disapprove the purchase and terminate this Agreement for any reason or no reason within the Initial Contingency Period, as specified in Paragraph 8.1; or (iii) Escrow fails to close because Seller defaults in its obligation under this Agreement at any time prior to Close of Escrow. The Deposit shall be applied against the final Purchase Price at the Close of Escrow.

3.2 **Cash Balance.** No later than two (2) business days prior to the Closing Date, or such earlier time as is required by Escrow Holder in order for the Close of Escrow to occur by the Closing Date, Buyer will deposit into escrow the balance of the final Purchase Price, plus or minus prorations and other adjustments, if any, as set forth in this Agreement, in cash, by confirmed wire transfer of immediately available funds, or by certified or cashier's check collectible in same day funds. The assessments, if any, shall be assumed by Seller as of the Close of Escrow

4. **Opening of Escrow.** Seller shall open escrow with Inter County Title of Placerville, 596 Main Street, Placerville California ("Escrow Holder") within five (5) business days after both Parties sign this Agreement ("Opening of Escrow"). This Agreement shall, to the extent possible, act as escrow instructions. The Parties shall execute all further escrow instructions required by Escrow Holder. All such further escrow instructions, however, shall be consistent with this Agreement, which shall control.

5. **Close of Escrow**

5.1 **Definition.** For purposes of this Agreement, the "Close of Escrow" or the "Closing" is defined as the date that the Grant Deed from the Seller conveying fee simple title to the Property to Buyer, with the Certificate of Acceptance, is recorded in the Official Records of the County. Seller and Buyer agree to deposit in escrow all instruments, documents, writings, and monies identified or required to close escrow. Escrow shall close when Escrow Holder is in a position to: (a) record the executed Grant Deed to the Property in favor of Buyer; (b) deliver a CLTA policy of title insurance issued to Buyer; and (c) deliver the final Purchase Price to Seller in accordance with Paragraph 2 above.

- 5.2 Closing Date. The Close of Escrow shall occur within fifteen (15) days after Buyer waives all contingencies, but in no event later than fifteen (15) days after end of the Initial Contingency Period, as it may be extended (“Closing Date”).
- 5.3 Cancellation. If the Close of Escrow does not occur prior to or on the Closing Date because of the default of one of the Parties, the non-defaulting party has the right to cancel escrow by written notice to the defaulting party and to the Escrow Holder. All escrow costs of cancellation, if any, will be paid by the defaulting party. In addition, in the event Escrow fails to Close due to a default by a Seller, Buyer will be entitled to a return of the Deposit, the Applicable Extension Payments and the Non-Applicable Extension Payments, if any.

6. Items to be Delivered at Close of Escrow

- 6.1 By Seller. Seller shall execute and deliver to Escrow Holder for recordation and delivery to Buyer (a) a Grant Deed for the Property conveying fee simple title to the Property to Buyer, including oil, mineral and water rights if currently owned by Seller; and (b) a California Land Title Association (“CLTA”) Owner’s Policy of Title Insurance showing that marketable fee title to the Property is vested in Buyer subject only to the “Permitted Exceptions” (as defined in Section 9.2 below).
- 6.2 By Buyer. Buyer shall deliver to the Escrow Holder for delivery or disbursement at Close of Escrow, funds in an amount equal to those shown in Paragraph 2, plus Buyer’s share of costs, fees and expenses to be borne by Buyer pursuant to this Agreement, together with Buyer’s Certificate of Acceptance to be attached to and recorded with the Grant Deed.

7. Conditions to the Close of Escrow

- 7.1 Conditions Precedent to Buyer’s Obligations. The Close of Escrow and Buyer’s obligations with respect to the transactions contemplated by this Agreement are subject to the following conditions precedent, which must be satisfied (or waived in writing by the Buyer) by the Closing Date:
- a. Title Insurance. The Title Company shall be in a position to provide to Buyer a CLTA Owner’s Policy of Title Insurance insuring Buyer in an amount equal to the Purchase Price showing that the marketable fee title to the Property is vested in Buyer, subject only to the Permitted Exceptions together with any extended coverage and/or endorsements that the Title Company has agreed to issue in writing prior to the end of the Initial Contingency Period. Seller shall pay the cost of the CLTA Title Policy. If Buyer elects to have an American Land Title Association (“ALTA”) Extended Coverage Owner’s Policy of Title Insurance, and/or any endorsements to the title policy, then Buyer shall pay for the cost

difference between the CLTA and the ALTA policy and/or such endorsements.

- b. Inspections and Studies. During the Initial Contingency Period, or as extended: (A) Buyer shall have the right to conduct any and all inspection and evaluations of the Property to Buyer's satisfaction; and (B) Buyer shall have determined that the Property is clean of contamination, toxic and/or hazardous materials, to Buyer's satisfaction. In the event that a Phase II environmental survey is required and finds that remediation is necessary, Buyer may cancel this Agreement at any time prior to the expiration of the Initial Contingency Period (as it may be extended). In the event of such cancellation, Buyer shall be entitled to a refund of the Deposit, but not the Applicable Extension Payments and Non-Applicable Extension Payments, if any. Seller shall not be obligated to perform or bear the financial burden of any remediation work should any such work be required.
- c. CEQA. Before Buyer can commit to purchase the Property, Buyer must comply with the requirements of the California Environmental Quality Act ("CEQA"). This involves an analysis of the environmental consequences of the purchase of the Property, preparation and circulation of a document certifying the results of the analysis and the certification of the document at a public hearing. The decision to finally approve the purchase must take the environmental documentation into account. As a condition to the Close of Escrow, Buyer shall have completed its CEQA analysis of the proposed acquisition of the Property on or before the end of the Initial Contingency Period (as may be extended).
- d. Board of Supervisors Approval. Notwithstanding any provision of this Agreement to the contrary, Close of Escrow is expressly made contingent upon the El Dorado County Board of Supervisors' approval of the purchase of the Property at an open and public hearing upon proper legal notice, after completion of analysis under CEQA and a report from the Planning Commission on consistency of the purchase with the County's General Plan. Buyer retains full and sole discretion to approve or disapprove the purchase of the Property for any reason, or without reason. Notwithstanding any provisions to the contrary, if the County Board of Supervisors takes no action within the Initial Contingency Period (as it may be extended), Buyer may terminate this Agreement by delivering written notice thereof to Seller.
- e. Representations, Warranties and Covenants of Seller. As of the Close of Escrow: (A) Seller's express representations and warranties were true and correct in all material respects when made as of the Effective Date, and Seller will have duly and materially performed each and every obligation to be performed by Seller hereunder in all material respects; and

(B) Seller's express representations and warranties set forth in this Agreement will be true and correct as of the Closing Date in all material respects.

- f. Seller's Deliveries. As of the Close of Escrow, Seller will have delivered all the items described in Paragraph 6.1.

The conditions set forth in this Paragraph 7.1 are solely for the benefit of Buyer and may be waived only by Buyer, with such waiver to be in writing to Seller. In the event any of the foregoing conditions are neither satisfied nor waived by Buyer prior to the prescribed time period, and Buyer terminates this Agreement by delivering written notice thereof to Seller on or before the applicable date listed in such condition, then all rights, obligations, and liabilities of Seller and Buyer under this Agreement shall terminate (except for any provisions that expressly survive the termination of this Agreement), and the refundable Deposit shall be returned to Buyer. Except as otherwise set forth in this Agreement, the Extension Payments, if any, shall not be returned to Buyer.

7.2 Conditions Precedent to Seller's Obligations. The Close of Escrow and Seller's obligations with respect to this transaction are subject to the following conditions precedent: (a) Buyer's delivery to Escrow Holder, on or before the Closing Date, the Purchase Price and the other items described in Paragraph 6.2; and (b) Buyer having duly performed each and every agreement to be performed by Buyer hereunder, and Buyer's representations, warranties, and covenants set forth in this Agreement, continuing to be true and correct as of the Closing date.

The conditions set forth in this Paragraph 7.2 are solely for the benefit of Seller and may be waived only by Seller, with such waiver to be in writing to Buyer.

8. Contingency Period

8.1 Contingency Period. Buyer shall be entitled to two hundred seventy (270) days from Opening of Escrow ("Initial Contingency Period"), or as extended as provided in Section 8.4 below, to conduct any and all physical, economic and environmental inspections, investigations, tests and studies of the Property. Such evaluations may include, but are not limited to the following: phase I and phase II environmental surveys as needed, physical inspection, soils and groundwater tests, soil compaction tests, other engineering feasibility studies, review of any and all governmental regulations, improvement obligations to Buyer's satisfaction, investigation of the suitability of the Property for Buyer's purposes, completion of analysis under the California Environmental Quality Act, and such other due diligence as Buyer desires.

8.2 Right of Entry. During the Initial Contingency Period, or as extended, Buyer shall have the right, from time to time, at its own sole cost, expense, risk, and hazard, and in all such manner as it may reasonably determine, without material damage being imposed upon the Property, to enter upon the Property to make, or cause to be made, engineering findings in respect thereto, including without limitation, surveying, conducting test borings in order to determine subsoil

conditions of ledge, peat or other soft materials, and in general, conducting other soil tests, analyses, and studies of the Property necessary to perform the evaluations described in Paragraph 8.1 above. Buyer shall not make nor cause to be made any invasive or destructive testing without the prior written consent of Seller. Buyer will advise seller in advance of the dates of all tests and investigation and will schedule all test and investigation during normal business hours whenever feasible unless otherwise requested by Seller. Prior to any entry upon the Property, Buyer shall deliver to Seller an insurance certificate together with an additional insured endorsement, which shows Seller as an additional insured on Buyer's commercial general liability insurance policy (or municipal equivalent insurance risk pool certificate), which shall cover all the activities of Buyer and its employees, agents, and consultants on the Property, shall have a per occurrence limit of at least Two Million Dollars (\$2,000,000), and shall be primary and noncontributing with any other insurance available to Seller. Such insurance certificate shall also evidence that Buyer carries the legally required minimum coverage of workers' compensation and employer's liability insurance (or municipal equivalent insurance risk pool certificate) as required by California law. Buyer shall obtain such coverages prior to entering onto the Property, and shall continuously maintain such coverages until this Agreement has been terminated or the Closing has occurred. Buyer shall indemnify Seller for any claims, liabilities, or damages arising from Buyer's exercise of its right of entry hereunder. Buyer will restore the Property at Buyer's sole cost and expense if this transaction does not close. Until restoration is complete, Buyer will take all steps necessary to ensure that any conditions on the Property created by Buyer's testing will not interfere with the normal operation of the Property or create any dangerous, unhealthy, unsightly, or noisy conditions of the Property.

- 8.3 Seller's Documents. Within five (5) business days from Opening of Escrow, Seller shall deliver to Buyer any and all soil tests, infrastructure studies, surveys, engineering studies, and other similar documents in Seller's possession relating to the Property in order to assist Buyer in its feasibility study (collectively, "Seller's Documents").
- 8.4 Extension of Contingency Period. Buyer, in its sole discretion, shall have the right to extend the Initial Contingency Period for up to twelve (12) extensions of thirty (30) calendar days each. Buyer shall notify Seller of its election to extend the Initial Contingency Period, and any extension period, in writing at least two (2) business days prior to the expiration thereof. The Extension Payments described herein shall be due on or before the expiration of each then-current Contingency Period, or the extension shall not be effective.
- a. First Nine Extensions. In the event Buyer exercises its right to extend the Initial Contingency Period, for each of the first nine (9) extensions, Buyer shall make extension payments to escrow in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00) per extension, which shall be applied to the Final Purchase Price upon Close of Escrow ("Applicable Extension Payments"). The Applicable Extension Payments together with all interest

accrued thereon are non-refundable, except in the event that Escrow fails to close because Seller has defaulted in its obligation under this Agreement at any time prior to Close of Escrow or as provided in Section 7.1(e)(A) above, in which case Buyer shall be entitled to a refund of the Applicable Extension Payments.

- b. Final Three Extensions. For the final three (3) extensions, Buyer shall make extension payments to escrow in the amount of Ten Thousand Dollars (\$10,000.00) per extension, which shall not be applied to the final Purchase Price upon Close of Escrow (“Non-Applicable Extension Payments”). The Non-Applicable Extension Payments together with all interest accrued thereon are non-refundable, except in the event that Escrow fails to close because Seller has defaulted in its obligation under this Agreement at any time prior to Close of Escrow as provided in Section 7.1(e)(A) above, in which case Buyer shall be entitled to a refund of the Non-Applicable Extension Payments.

9. Title Insurance

- 9.1 Preliminary Title Report. Within five (5) business days of Opening of Escrow, Seller shall deliver to Buyer a current preliminary title report, with copies of all recorded documents that are listed as exceptions as referenced or described therein. All easements are to be color coded and plotted on a plat map. Buyer shall have ninety (90) calendar days following Buyer’s receipt of said documents to review and to notify Seller in writing of any title exceptions contained in the preliminary title report that are not satisfactory to Buyer in its sole and absolute discretion (“Title Objections”).
- 9.2 Cure Period. In the event Buyer notifies Seller within the period described above of any Title Objections, Seller may, on or before ten (10) calendar days after receipt of such notice, deliver written notice to Buyer that Seller has agreed to: (a) cause the Title Objections to be deleted from the preliminary title report, or (b) cause the title insurer to expressly waive or insure over such Title Objections at or prior to the Close of Escrow. If Seller fails to deliver such notice or in such notice elects not to cause all of the Title Objections to be removed, waived, or insured over, then Buyer may by written notice delivered to Seller within ten (10) calendar days after Buyer’s receipt of such notice from Seller (or the expiration of the time period for Seller to give such notice if Seller did not give such notice) to choose, at its sole discretion, to terminate this Agreement or take title subject to any Title Objections that have not been removed, waived, or insured over. If Buyer does not deliver its termination notice to Seller within such time period, then Buyer shall be deemed to have approved all title matters that Buyer previously disapproved in its title objection notice. All title matters approved by Buyer or deemed approved by Buyer under this Section 9.2, together with any other exceptions created by or approved in writing by Buyer, shall constitute the “Permitted Exceptions.”

9.3 Title Insurance. Upon the Close of Escrow, Seller and Buyer shall direct the Title Company to provide Buyer with a CLTA standard owner's policy of title insurance insuring that title to the Property is vested in Buyer subject only to the Permitted Exceptions. Should Buyer require an ALTA owner's policy of title insurance and/or any endorsements to the title policy, that the Buyer has obtained the Title Company's written agreement to issue on or before the end of the Initial Contingency Period (as may be extended), then all the cost differences between the CLTA and the ALTA policy and for any endorsements shall be paid for by Buyer.

10. **Seller's Representations and Warranties.** Seller represents and warrants to Buyer, as of the Effective Date, that:

10.1 Seller owns the Property or will own the Property on or before the Close of Escrow, and to Seller's knowledge, except as disclosed in the following sentence, there are no liens, licenses, encumbrances, easements, encroachments on the Property from adjacent properties, encroachments by improvements on the Property onto adjacent properties, and rights of way of any nature, not disclosed by the public record and/or the title report, and, at Close of Escrow, Seller will have the power to sell, transfer and convey all right, title and interest in the Property. Seller hereby discloses to Buyer, that it is Seller's recollection, that prior to the acquisition in approximately 1996 by Seller (or its predecessors in interest) of the parcel shown as "Parcel No. 1" on Exhibit A, Seller and/or its predecessors in interest accessed "Parcel No. 2" shown on Exhibit A, via a right of access right over the parcel known as APN 329-240-22-100, and Seller does not know if that right of access was verbal, or written, or possibly contained in a recorded document, and Seller advises that if Buyer is interested in such right of access, that Buyer would need to research it and determine whether it still remains in effect, and whether it is still enforceable, and what terms and/or conditions might apply to it.

10.2 Seller has no knowledge of any pending litigation involving the Property.

10.3 As of the date Seller has executed this Agreement, and throughout the Contingency 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 laws or any other similar law or statute of the United States or any state and no such petition shall have been filed against it.

10.4 To the best of Seller's knowledge, and except as may be described in Seller's Documents, the Property is not in violation of any federal, state or local law, ordinance or regulation relating to the environment conditions on, under, or about

the Property, including but not limited to soil and groundwater contamination. Seller shall promptly deliver to Buyer a copy of any written communication that Seller receives from any governmental agency between the Effective Date of this Agreement and the Close of Escrow, that relates to the physical or environmental condition of the Property.

- 10.5 Except as otherwise disclosed herein and/or in Seller's Documents and/or in the following sentence, to the best of Seller's knowledge, there are no Hazardous Materials on the Property and Seller has not caused any release, use, generation, discharge, storage or disposal of any Hazardous Materials on, in, under, or otherwise affecting all or any portion of the Property in violation of applicable law. Seller hereby discloses to Buyer that, as has been the subject of notices and communications from Buyer to Seller and from Seller to Buyer, the Property has been the site of camping and/or dumping by third parties without Seller's permission, and Seller makes no representation or warranty whatsoever as to what effects such camping and/or dumping may have had on the Property including without limitation, whether such third parties may have deposited any Hazardous Materials on or in the Property. As used herein, the term "Hazardous Materials" shall mean any hazardous or toxic substance, material, sewage, or waste which is regulated, controlled or prohibited by statute, rule, regulation, decree or order of any governmental authority, the State of California, or the United States government currently in effect. The term "Hazardous Material" includes, without limitation, any material or substance which is (a) defined as "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117, or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5, sections 25100 et seq., (hazardous waste Control Law); (b) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 ("CPTHSA Act"); (c) defined as "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Material release Response Plans and Inventory Act); (d) defined as "hazardous substance" under Section 25821 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (e) petroleum; (f) asbestos; (g) listed under Article 9 or defined as hazardous or extremely hazardous pursuant to Article 11, of Title 22 of the California Administrative Code, Division 4, Chapter 20; (h) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. 1321); (i) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq. (42 U.S.C. Section 6903); (j) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization act of 1986, 42 U.S.S. Section 9601 et seq. (42 U.S.C. Section 9601) ("CERCLA"); or (k) defined as a "waste" under the California Porter-Cologne Water Quality Control Act, section 13050 of the California Water Code.

- 10.6 In the event Seller, prior to Close of Escrow, becomes aware of any material inaccuracy in disclosures, information or representations previously provided to Buyer of which Buyer is otherwise unaware, Seller shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items.
- 10.7 All warranties, covenants, and other obligations described in this Paragraph 10 of the Agreement shall survive for six (6) months after the delivery of the Grant Deed or the termination of this Agreement, as applicable.

11. Buyer's Representations and Warranties. Buyer represents and warrants to Seller, as of the Effective Date, that:

- 11.1 Buyer has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and the person or persons executing this Agreement on behalf of Buyer have authority to so execute this Agreement and to bind Buyer thereby.
- 11.2 This Agreement has been duly executed and delivered by Buyer and constitutes the legal, valid and binding obligations of Buyer in accordance with its terms.
- 11.3 All warranties, covenants, and other obligations described in this Paragraph 11 of the Agreement shall survive for six (6) months after the delivery of the Grant Deed, or the earlier termination of this Agreement, as applicable.

12. Seller's Pre-Closing Covenants. So long as this Agreement remains in full force and effect:

- 12.1 Without the prior written consent of Buyer, and except as provided in Section 12.4 below, Seller will not convey any interest in the Property and will not subject the Property to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters after the Effective Date which will not be eliminated prior to the Close of Escrow, other than as may be required by any applicable government or quasi-governmental authority or by a provider of utility services and except as be otherwise provided for in this Agreement.
- 12.2 Seller will not make any material alterations to the Property without Buyer's consent, which consent will not be unreasonably withheld or delayed.
- 12.3 Seller will keep and perform all of the obligations to be performed by Seller under any contracts entered into by Seller providing for the provision of goods or services to or with respect to the Property or the operation thereof. After the Effective Date, Seller will not enter into any contract or agreement providing for the provision of goods or services to or with respect to the Property or the operation thereof unless such contracts or agreements can be terminated by the Closing Date, without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed. Seller will not enter into any leases for any

portion of the Property without Buyer's written consent, which consent will not be unreasonably withheld or delayed.

- 12.4 Seller discloses to Buyer that certain of the parties that constitute Seller hold record title to the parcel shown as "Parcel No. 1" on Exhibit A in their individual names, rather than in their capacities as trustees of their respective revocable trusts. Seller covenants and agrees that, not less than thirty (30) days before the end of the Initial Contingency Period, Seller shall record a deed that conveys Parcel No. 1 to themselves as trustees of their respective revocable trusts, so that the owners of record of Parcel No. 1 will be consistent with the owners of record of Parcel No. 2, which collectively constitute the Seller under this Agreement.

13. Remedies upon Default; Liquidated Damages.

- 13.1 Remedies Upon Default. Default by Seller. In the event the Closing and the consummation of the transaction contemplated by this Agreement do not occur as a result of a material default by Seller, then Buyer may either (i) terminate this Agreement by delivery of notice of termination to Seller, whereupon the Deposit, the Extension Payments if any, and any other monies delivered to Escrow Holder by Buyer and any interest accrued thereon while in Escrow shall be immediately returned to Buyer, Seller shall pay any title and/or escrow fees charged by Escrow Holder in connection with canceling Escrow, and, except for any indemnity or other provisions in this Agreement that specifically survive its termination, neither party shall have any further rights or obligations hereunder; or (ii) continue this Agreement and bring an action against Seller for specific performance of this Agreement not later than sixty (60) days following the Closing Date specified in Section 5.2 above. In any action against Seller, Buyer shall not be entitled to seek or be awarded any consequential damages, punitive damages or any damages based on claims for lost profits.
- 13.2 Default by Buyer; LIQUIDATED DAMAGES. Buyer will be deemed to be in default under this Agreement if Buyer fails to comply with or perform the obligation required on its part within the time limits and in the manner required in this Agreement. If, as a result of a default by Buyer, the Closing does not occur, then Escrow Holder shall deliver to Seller the Deposit and the Extension Payments if any, together with all interest accrued thereon, as Seller's full and complete liquidated damages and its sole and exclusive remedy for Buyer's default if the transaction is not consummated because of a default by Buyer, and the Deposit and the Extension Payments if any, together with the interest accrued thereon shall be paid to and retained by Seller as liquidated damages. Seller agrees to waive all other remedies against Buyer which Seller might otherwise have in law or at equity by reason of such default by Buyer; provided, however, the foregoing shall not limit those obligations of Buyer which expressly survive the termination of this Agreement as expressly provided hereunder. **THE PARTIES HAVE AGREED THAT SELLER'S ACTUAL DAMAGES, IN THE EVENT ESCROW FAILS TO CLOSE SOLELY DUE TO A DEFAULT BY BUYER, WOULD BE EXTREMELY DIFFICULT OR**

IMPRACTICABLE TO DETERMINE. THEREFORE, BY PLACING THEIR INITIALS BELOW, THE PARTIES ACKNOWLEDGE THAT THE AMOUNT OF THE DEPOSIT AND THE EXTENSION PAYMENTS IF ANY, TO BE PAID TO SELLER HAS BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF SELLER'S DAMAGES AND AS SELLER'S EXCLUSIVE REMEDY AGAINST BUYER, AND THAT PAYMENT OF SUCH AMOUNT TO SELLER AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTION 3275 OR 3369, BUT INSTEAD, IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO SECTION 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE. NOTHING CONTAINED HEREIN SHALL IN ANY MANNER LIMIT THE AMOUNT OF DAMAGES OBTAINABLE PURSUANT TO AN ACTION UNDER ANY HOLD HARMLESS, DEFENSE OR INDEMNIFICATION PROVISION SET FORTH IN THIS AGREEMENT OR REASONABLE ATTORNEYS' FEES RECOVERABLE PURSUANT TO ANY ACTION UNDER A HOLD HARMLESS, DEFENSE OR INDEMNIFICATION SET FORTH IN THIS AGREEMENT.

Seller's Initials

Buyer's Initials

- 14. "As-Is" Condition of Property; Release of Seller.** Buyer represents and warrants to Seller as of the Effective Date and as of the Closing that: (i) Buyer is (or prior to the expiration of the Initial Contingency Period as may be extended, will be) specifically familiar with the Property; (ii) Buyer has (or prior to the expiration of the Initial Contingency Period as may be extended, will have) inspected and examined all aspects of the Property and its current condition which Buyer believes are relevant to Buyer's decision to purchase the Property; (iii) Buyer has (or prior to the expiration of the Initial Contingency Period as may be extended, will have) satisfied itself as to all matters relating to the Property; (v) prior to the expiration of the Initial Contingency Period as may be extended, Buyer will have completed its review and inspection of all documents with respect to the Property provided to Buyer by Seller; (vi) except for the limited warranties set forth in Section 10 above, Seller is not making, has not made and expressly disclaims any representation, warranty, or other assurance whatsoever with respect to the Property or any condition or feature thereof, including without limitation, any representation, warranty or assurance regarding the validity or accuracy of any documents delivered by Seller to Buyer or made available for Buyer's review and inspection, other than documents prepared by Seller; (vii) Buyer shall verify the accuracy and reliability of any such documents with the third parties who prepared the same; (viii) in purchasing the Property pursuant to this Agreement, Buyer is relying solely on its own investigation and inspection of the Property and assumes the risk that adverse physical, environmental, developmental or other conditions related to the Property may not have been revealed by Buyer's investigation; and (ix) the Property will be conveyed to and accepted by Buyer at Closing in its "AS IS, WITH ALL FAULTS BASIS" condition. Buyer acknowledges and agrees that, Buyer is not relying upon any representation made by any agent of Seller; and no agent had, or has, authority to make any representation

concerning the Property or any matter or condition relating thereto. The provisions of this Section 14 shall survive the Closing and the delivery and recordation of the grant deed conveying the Property from Seller to Buyer. Except for matters arising from Seller's fraud or intentional misrepresentation, Buyer hereby waives, releases and forever discharges Seller and its owners, officers, employees, agents and assigns, from any and all claims, actions, liabilities, damages and expenses whatsoever, direct or indirect, which Buyer now has or which may arise in connection with the Property or the transactions contemplated hereby; provided, however, that such waiver and release shall not apply to Seller's obligations under this Agreement. Without limiting the foregoing, Buyer hereby expressly waives the benefit of the provisions of California Civil Code Section 1542, which provides as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

Buyer's Initials

15. Expenses and Fees

- 15.1 Seller will pay:
- a. The premium for the CLTA title insurance policy;
 - b. ½ of all escrow fees and other recording charges;
 - c. All city, county and state documentary transfer taxes;
 - d. Any delinquent real estate taxes;
 - e. Real estate brokerage fee of 2.5% of the Purchase Price to Buyer's broker, Cornish & Carey Commercial Newmark Knight Frank at the Close of Escrow;
 - f. Real estate brokerage fee of 2.5% of the Purchase Price to Seller's broker, Coldwell Banker Residential Brokerage at the Close of Escrow; and
 - g. Seller's share of prorations.
- 15.2 Buyer will pay:
- a. ½ of all escrow fees and other recording charges;
 - b. All costs and requirements for any extended coverage and/or endorsements to the title policy arranged by Buyer; and
 - c. Buyer's share of prorations.
- 15.3 Except as otherwise set forth herein, Buyer and Seller will each pay all legal and professional fees and fees of other consultants incurred by Buyer and Seller respectively. All other normal costs and expense of the Escrow will be allocated between Buyer and Seller in accordance with the customary practice in the county in which the Property is located.

16. Prorations

- 16.1 Taxes and Assessments. All non-delinquent real estate taxes and assessments on the Property will be prorated as of the Close of Escrow based on the actual current tax bill. If the Close of Escrow occurs before the real estate taxes are fixed for the tax year in which the Close of Escrow occurs, the apportionment of real estate taxes will be made on the basis of the real estate taxes for the immediately preceding tax year applied to the latest assessed valuation. All delinquent taxes and all delinquent assessments, if any, on the Property will be paid at the Close of Escrow from funds accruing to Seller. All supplemental taxes billed after the close of Escrow for periods prior to the Close of Escrow will be paid promptly by Seller. Seller expressly reserves: (a) the right (but shall have no obligation) to commence, prosecute and complete any and all contests and appeals that may be available with respect to real estate taxes and assessments pertaining to the Property which are allocable to the period prior to the Close of Escrow; and (b) any and all refunds and proceeds that may be payable as a result of any such contests or appeals of real estate taxes and assessments, and such refunds and proceeds shall not constitute a portion of the Property to be conveyed hereunder. Any tax refunds received by Buyer which are allocable to the period prior to the Close of Escrow will be paid by Buyer to Seller. Pursuant to California Revenue and Taxation Code section 4986(a)(6), as of Close of Escrow, property taxes shall be cancelled prospectively.
- 16.2 Utilities. Seller will notify all utility companies servicing the Property if any, of the sale of the Property to Buyer and will request that such companies send Seller a final bill for the period ending on the last day before the Close of Escrow. Buyer will notify the utility companies that all utility bills for the period commencing on the Close of Escrow are to be sent to Buyer. In addition to the final Purchase Price, Buyer will pay to Seller an amount equal to the total of all utility deposits held by utility companies and Seller will assign to Buyer all of Seller's right, title and interest in any such utility deposits; provided, however, Seller reserves the right to receive a return of such utility deposits and in such event, Buyer will arrange for substitute deposits with the utility companies as may be required. If following the Close of Escrow either Buyer or Seller receives a bill for utilities, or other services approved in writing or ordered by such party and provided to the Property for the period in which the Close of Escrow occurred, Buyer and Seller will equitably prorate the bill as of the Close of Escrow.
- 16.3 Method of Proration; Survival. All prorations will be made as of the date of Close of Escrow based on 365-day year or a 30-day month, as applicable. The obligations of Seller and Buyer to prorate and adjust revenues and expenses of the Property shall survive the Close of Escrow.

17. Disbursements and Other Actions by Escrow Holder. At the Close of Escrow, Escrow Holder will promptly undertake all of the following:

- 17.1 Funds. Disburse all funds deposited with Escrow Holder by Buyer in payment of the final Purchase Price for the Property as follows:
- a. Deliver to Seller the final Purchase Price, less the amount of all items, costs and prorations chargeable to the account of Seller; and
 - b. Disburse the remaining balance, if any, of the funds deposited by Buyer to Buyer, less amounts chargeable to Buyer.
- 17.2 Recording. Cause the Grant Deed (with documentary transfer tax information to be affixed) and Buyer's Certificate of Acceptance to be recorded with the County Recorder for the county in which the Property is located and obtain conformed copies therefor for distribution to Buyer and Seller.
- 17.3 Title Policy. Direct the Title Company to issue Title Policy to Buyer.
- 17.4 Delivery of Documents to Buyer or Seller. Deliver to Buyer documents (or copies thereof) deposited into Escrow by Seller. Deliver to Seller any other documents (or copies thereof) deposited into Escrow by Buyer.

18. Possession and Occupancy; Risk of Loss; Casualty or Condemnation. Buyer shall be entitled to the possession of the Property immediately following the Close of Escrow. All risk of loss or damage to the Property shall pass from Seller to Buyer at the Closing. In the event of a casualty that causes material damage to the Property prior to Closing or condemnation proceeding commenced prior to Closing, Buyer shall deliver to Seller within five (5) days after Buyer's notice of such casualty or condemnation, written notice of Buyer's election to either: (a) terminate this Agreement, in which event the parties shall split escrow costs incurred to date and neither party shall have any further rights or obligations hereunder, except for those expressly stated as surviving termination of the Agreement, and Seller shall be entitled to all insurance proceeds, compensation, awards and other payments or relief resulting from such casualty or condemnation proceedings; or (b) continue to proceed under this Agreement to close Escrow without adjustment to the Purchase Price or any of the other provisions of this Agreement, in which event upon the Closing, Seller shall assign to Buyer any insurance proceeds, compensation, award, or other payments or relief resulting from such casualty or condemnation proceedings to the extent allocable to the Property. If Buyer fails to deliver such election in writing within five (5) days, it shall be deemed to have elected to proceed under clause (b) immediately preceding.

19. Real Estate Broker. Solely upon the Closing as contemplated herein, Seller agrees to pay a brokerage commission: (A) in the amount of 2.5% of the Purchase Price to Cornish & Carey Commercial Newmark Knight Frank, who is Buyer's broker; and (B) in the amount of 2.5% of the Purchase Price to Jim Walker of Coldwell Banker Residential Brokerage, who is Seller's broker. Each of Buyer and Seller warrants and represents to the other that, except for its broker listed in the preceding sentence, such party has not retained, nor is such party obligated to, any person for brokerage, finder's or similar

services in connection with the transactions contemplated by this Agreement, and that no commission, finder's fee or other brokerage or agent's compensation can be properly claimed by any person or entity based upon the acts of such party with regard to the transactions which are the subject matter of this Agreement. Each party shall indemnify, defend and hold harmless the other party from and against all claims, demands, liabilities, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees, costs of expert witnesses, court costs and other litigation expenses) arising from or related to such party's breach of the foregoing representation and warranty, and Buyer acknowledges and agrees that Buyer's indemnity obligations in this sentence specifically cover any claims against Seller and/or the Property brought by Gallaway Commercial, Inc.

20. Time is of the Essence. Time is of the essence of this Agreement. This Agreement may not be extended, modified, altered, or changed except in writing signed by Buyer and Seller. In the event that any date specified in this Agreement falls on Saturday, Sunday or a Holiday (as defined in Section 6700 of the California Government Code) (each a "Non-Business Day"), such date shall be deemed to occur on the next business day. For purposes of this Agreement, a "business day" shall mean a day other than a Non-Business Day.

21. Notices. Any notice, demand, approval, consent, or other communication required or desired to be given under this Agreement shall be given in writing in the manner set forth below, addressed to the party to be served at the addresses written below, or at such other address for which that party may have given notice under the provisions of this Section. Any notice, demand, approval, consent, or other communication given by (a) mail shall be deemed to have been given four business days after it is 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) 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 or email shall be deemed to have been given on the date of transmission of the entire communication, provided that (i) such transmission occurs during 8:00 a.m. and 5:00 p.m., California time, on business days, and (ii) the sending party sends a hard copy of the original transmitted document(s) not later than the first (1st) business day following the electronic transmission, by one of the methods described in subsections (a), (b) or (c) above.

SELLER: Carol J. Caldwell
2410 Northwest Pacific Street
Newport, Oregon 97365
Fax: (541) 265-4788
Email: yocjc@gmail.com

[see next page for additional seller-notice contact information]

with a copy to: Murphy Austin Adams Schoenfeld LLP
 Attn: Keeva Coe
 304 S Street
 Sacramento, CA 95811
 Direct Fax: (916) 329-3020
 Email: kcoe@murphyaustin.com

BUYER: County of El Dorado
 Board of Supervisors
 Attn: Clerk of the Board
 330 Fair Lane
 Placerville, CA 95667
 Fax: (530) 622-3645
 Email: jim.mitrising@edcgov.us

with a copy to: County of El Dorado
 Chief Administrative Office
 Attn: Russ Fackrell
 330 Fair Lane
 Placerville, CA 95667
 Fax: (530) 295-2506
 Email: russell.fackrell@edcgov.us

22. **Binding Effect.** Subject to Section 32 below, this Agreement shall be binding on and inure to the benefit of the Parties to this Agreement, their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Agreement.
23. **Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to conflicts of laws rules. Any action brought to enforce the provisions of this Agreement shall be brought in the Superior Court of the County of El Dorado.
24. **Headings; Drafting.** The headings of the articles and sections of this Agreement are inserted for convenience only. They do not constitute part of this Agreement and shall not be used in its construction. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Each of the parties hereto agree that this Agreement is the product of joint draftsmanship and negotiation and that should any of the terms be determined by a court, or in any type of quasi-judicial or other proceeding, to be vague, ambiguous and/or unintelligible, that the same sentences, phrases, clauses or other wordage or language of any kind shall not be construed against the drafting party in accordance with California Civil Code Section 1654, and that each such party to this Agreement waives the effect of such statute.

25. **Waiver**. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.
26. **Severability**. In the event that any provision of this Agreement shall be adjudicated void, illegal, invalid, or unenforceable, the remaining terms and provisions of this Agreement shall remain in full force and effect.
27. **Entire Agreement**. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof. No amendment, supplement, modification, or waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby.
28. **Warranty of Authority**. The Parties to this Agreement warrant and represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties the obligations set forth herein.
29. **County Contract Administrator**. The County officer or employee with responsibility for administering this Agreement is Russell Fackrell, Facilities Manager, Chief Administrative Office, or successor.
30. **Third Party Beneficiaries**. This Agreement is made and entered into for the sole benefit and protection of the parties hereto. No condition, covenant, waiver or release contained herein made or given by Seller or Buyer is intended to run to the benefit of any person not a party to this Agreement unless otherwise expressly set forth herein.
31. **Cooperation with Exchange**. In the event that at the Closing, any of the parties that constitutes Seller and/or Buyer is under contract with a "qualified intermediary" for the purpose of effecting a tax-deferred exchange in accordance with Section 1031 of the Internal Revenue Code of 1986, as amended, each shall cooperate with such exchange and perform any acts reasonably necessary to assist in such exchange, provided that (a) Buyer shall not be required to accept title to any property other than the Property, (b) neither party shall be required to expend any additional amounts of money above those amounts required pursuant to this Agreement, or extend the Closing, and (c) each party shall indemnify and hold the other harmless from and against expenses, costs and damages of any kind (including attorneys' and experts' fees) suffered by either by reason of such exchange.
32. **Successors and Assigns**. Buyer, in its sole discretion, has the right to assign this Agreement solely to a title-holding entity that is acquiring the Property for the sole purpose of using the Property as a County facility, without Seller's permission, but upon delivery to Seller a copy of a written assignment and assumption agreement wherein the assignee assumes all of the buyer's obligations under this Agreement. All other assignments by Buyer shall be null and void unless Buyer obtains Seller's prior written consent, which consent may be granted or withheld in Seller's sole discretion. Subject to

the forgoing, this Agreement shall be binding and shall insure to the benefit of the grantees, transferees, successors and assignees of the Parties.

- 33. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original including copies sent to a party by facsimile transmission or in portable document format (pdf), but which together shall constitute one and the same instrument.

IN WITNESS HEREOF, the Parties hereto have signed this Agreement as of the dates written below.

BUYER:

**COUNTY OF EL DORADO,
a political subdivision of the State of California**

By: _____ Date: _____, 2014
Norma Santiago, Chair
El Dorado County Board of Supervisors

ATTEST:
James S. Mitrison
Clerk of the Board

By: _____ Date: _____, 2014
Printed Name: _____
Its: Deputy Clerk

[Signatures Continue on the Following Page]

[Additional Signatures to Purchase and Sale Agreement and Joint Escrow Instructions]

SELLER:

_____ Date: _____, 2014
Kimberly J. Wosnuk , As Trustee of the
Kimberly J. Wosnuk Separate Property Revocable Trust

_____ Date: _____, 2014
Carol Jean Caldwell, As Trustee of the
Carol J. Caldwell Revocable Trust dated November 21, 1996

_____ Date: _____, 2014
John L. Chavez, As Trustee of the
John L. Chavez and Susan M. Chavez Revocable Trust

_____ Date: _____, 2014
Susan M. Chavez, As Trustee of the
John L. Chavez and Susan M. Chavez Revocable Trust

DRAFT

Exhibit A

Legal Description

All that certain real property situated in the County of El Dorado, State of California, more particularly described as follows:

PARCEL NO. 1:

Lot 10, as shown on the Official Map of Park West Subdivision Unit No. 2, filed in the office of the County Recorder of said County on October 4, 1989 in Map Book G, Page 140.

Assessor's Parcel No. 329-391-10

PARCEL NO. 2:

Tract A, as shown on that certain Record of Survey filed in the office of the County Recorder of said County on June 14, 2007 in Book 30 of Record of Surveys, Page 31.

Assessor's Parcel No. 329-240-55

DRAFT

PV-225477-CR