

COUNTY OF EL DORADO
LEASE # 149-L1310
TEMPORARY HOUSING - DOT SNOW REMOVAL CREW

THIS LEASE is made by and between the **COUNTY OF EL DORADO**, a political subdivision of the State of California, hereinafter called "LESSEE," and **JOHN J. POWER AND ANNE MARIE POWER**, as separate property, herein after referred to as "LESSOR."

1. PREMISES

LESSOR hereby leases to LESSEE and LESSEE hereby leases from LESSOR, for and in consideration of the rents, covenants and agreement hereinafter set forth, the "Premises" described as follows:

420 Deer Avenue
Tahoma, CA 96142

The Premises is a 1,364 square foot residential house.

2. TERM

The term of this Lease shall commence on December 1, 2012 and terminate on March 31, 2013; subject however, to earlier termination as hereinafter more particularly provided in Section 20.

3. PAYMENT

LESSEE agrees to pay to LESSOR as rent the sum of **One Thousand Five Hundred Dollars (\$1,500.00)** per month for the period of December 1, 2012 to March 31, 2013, payable on the first day of each and every month commencing on or about December 1, 2012 and each and every month thereafter. Rent shall be paid to the order of: **Anne Power, 16 Gold Run Court, Oakley, CA 94561.**

4. OPTION FOR ADDITIONAL TERMS

- (a) LESSEE shall have the option to Lease the subject Premises for one (1) additional month after expiration of the initial term. Such option shall be on the same terms and conditions as provided for herein for the initial term. LESSEE shall notify LESSOR in writing 15 days prior to expiration of initial lease term should LESSEE elect to exercise said option.
- (b) LESSEE shall also have the option to Lease the subject Premises for the same repeating winter months of December 1, 2013 through March 31, 2014, December 1, 2014 through March 31, 2015 and December 1, 2015 through March 31, 2016 on the same terms and conditions as provided for herein for the initial term, inclusive of the option of the additional one month, as provided for in Section 4 above. LESSEE

shall notify LESSOR in writing no later than August 1st of each year of the next rental term should LESSEE elect to exercise said option.

5. USE OF PREMISES

The Premises are leased to LESSEE for the purpose of conducting business and activities permitted by law, including any government operations or uses related thereto, as well as temporary housing for County employees or authorized agents or contractors.

6. PROHIBITED USE

LESSEE shall not commit or permit the commission of any acts on the Premises nor permit the use of the Premises in any way that will:

- (a) Increase the existing fire rates or cancel any fire, casualty, liability or other insurance policy insuring the building or its contents;
- (b) Violate or conflict with any law, statute, ordinance, governmental rule or regulation whether now in force or hereinafter enacted, governing the Premises;
- (c) Obstruct or interfere with the rights of other tenants or occupants of the building or injure or annoy them; and
- (d) Constitute commission of a waste on the Premises.

7. INSURANCE

- 1. LESSOR shall provide proof of a policy of insurance satisfactory to the County of El Dorado's Risk Management Division and documentation evidencing that LESSOR maintains insurance that meets the following requirements:
 - A. Commercial General Liability Insurance of not less than \$500,000 combined single limit per occurrence for bodily injury and property damage.
 - B. Workers' Compensation and Employers' Liability Insurance covering all employees of LESSOR as required by law in the State of California.
 - C. LESSOR shall furnish a certificate of insurance satisfactory to LESSEE as evidence that the insurance required above is being maintained.
 - D. The insurance will be issued by an insurance company acceptable to the County of El Dorado's Risk Management Division or be provided through partial or total self-insurance likewise acceptable to the County of El Dorado's Risk Management Division.
 - E. LESSOR agrees that the insurance required herein shall be in effect at all times during the term of this Lease. In the event said insurance coverage expires at any time or times during the term of this Lease, LESSOR agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Lease, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the County of El Dorado's Risk Management Division and LESSOR agrees that the Lease shall not commence prior to the giving of such approval. In the event LESSOR fails to keep in effect at all times insurance coverage as herein provided, LESSEE may, in addition to any other remedies it may have, terminate this Lease upon the occurrence of such event.

- F. The certificate of insurance must include a provision stating that the insurer will not cancel the insured's coverage without 30-day prior written notice to LESSEE.
- G. Any deductibles or self-insured retentions must be declared to, and approved, by LESSEE. At the option of LESSEE, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects LESSEE, its officers, officials and employees; or LESSOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- H. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to LESSEE, its officers, officials, employees, or volunteers.
- I. The insurance companies shall have no recourse against LESSEE, its officers, officials, or employees for payment of any premiums or assessments under any policy issued by any insurance company.
- J. LESSOR'S obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Lease.
- K. In the event LESSOR cannot provide an occurrence policy, LESSOR shall provide insurance covering claims made as a result of performance of this Lease for not less than three (3) years following completion of this Lease.
- L. The certificate of insurance shall meet such additional standards as may be determined by LESSEE, either independently or in consultation with the County of El Dorado's Risk Management Division, as essential for protection of LESSEE.
- M. LESSOR shall provide property insurance on all real property owned by LESSOR covered by this Lease under a standard "all risk" policy. The policy shall insure for not less than ninety percent (90%) of the replacement value of the property.

8. INDEMNIFICATION

LESSOR shall indemnify, defend, and hold harmless LESSEE, its officers, agents, and employees, from and against any claims, actions, suits, costs, expenses (including reasonable attorney's fees) and other cost of defense incurred or liabilities, whether for damage to or loss of property, or injury to or death of person, which in any way arise from or are connected with the acts or omissions of LESSOR or its officers, agents, employees, contractors, subcontractors, or business invitees, or LESSOR'S use of the Premises, unless such damage, loss, injury, or death shall be caused by the sole, or active negligence of LESSEE, or the willful misconduct of LESSEE, as expressly provided by statute.

LESSEE shall indemnify, defend, and hold harmless LESSOR, its officers, agents, and employees, from and against any claims, actions, suits, costs, expenses (including reasonable attorney's fees) and other cost of defense incurred or liabilities, whether for damage to or loss of property, or injury to or death of person, which in any way arise from or are connected with the acts or omissions of LESSEE or its officers, agents, employees, contractors, subcontractors, or business invitees, or LESSEE'S use of the Premises to the extent such loss, damage, injury, or liability is not covered by the insurance required as provided for in Section 7.

"INSURANCE" above, unless such damage, loss, injury or death shall be caused by the sole,

or active negligence of LESSOR, or the willful misconduct of LESSOR.

The duties of LESSOR or LESSEE to indemnify and save each other harmless include the duties to defend as set forth in California Civil Code Section 2778. The provisions of this Section shall survive the termination of the Lease for any event occurring prior to the termination.

9. ALTERATIONS

LESSEE shall not make or permit any other person to make any alterations to the Premises without the written consent of LESSOR first obtained. Should LESSOR consent to the making of any alterations to the Premises by LESSEE, subsequent to execution of this Lease, said alterations shall be made at the sole cost and expense of LESSEE by a contractor or other person selected by LESSEE and approved in writing by LESSOR before work commences. Any and all alterations, with the exception of previously approved relocatable walls and other alterations readily removable without significant damage to the building Premises, interior or exterior, shall on expiration or sooner termination of this Lease, become the property of LESSOR and remain on the Premises.

10. MAINTENANCE AND REPAIRS

LESSEE shall, at all times during the term of this Lease and any renewal or extension thereof, maintain, at LESSEE'S sole cost and expense, the Premises, in a good, clean, and safe condition, and shall on expiration or sooner termination of this Lease surrender the Premises to LESSOR in as good condition and repair as they are in on the date of this Lease, reasonable wear and tear and damage by the elements excepted.

11. INVENTORY

Any furnishing and/or equipment to be furnished by LESSOR shall be inventoried and reduced to writing and attached hereto as Exhibit "A" and by reference, made a part hereof. Upon verification by LESSOR and LESSEE, said inventory shall be signed concurrently with execution of this Lease. LESSEE shall surrender all furnishings and equipment in good condition and repair as they are in on the date of this Lease, routine wear and tear excepted.

12. INSPECTION BY LESSOR

LESSEE shall permit LESSOR or LESSOR'S agent, representative, or employees to enter the Premises at all reasonable times for the purpose of inspecting the Premises to determine whether LESSEE is complying with the terms of the Lease and for the purpose of doing other lawful acts that may be necessary to protect LESSOR'S interest in the Premises under this Lease.

13. SERVICES FURNISHED BY LESSOR

LESSOR is responsible for the payment of all local, state, and federal taxes associated with or attributable to the property subject to this Lease, the operation of this Lease and the income flowing to LESSOR through this Lease. LESSOR shall, at LESSOR'S own cost and expense, maintain the exterior walls, exterior windows, automobile parking areas, exterior lighting, sidewalks, retaining walls, ramps, plumbing, electrical, landscaped areas, air conditioning and heating equipment and ductwork, and roof and structural supports of the building of which the Premises are a part, in good order and repair, excepting any repairs caused by the negligent or willful act of LESSEE or LESSEE'S agents or servants.

14. UTILITIES

The monthly cost of the following utilities shall be paid as follows:

- (a) Water and sewer suitable for the intended use of the Premises shall be provided and paid by LESSOR.
- (b) The monthly cost of gas and/or electric utilities for the term shall be reimbursed to LESSOR by LESSEE upon receipt of invoice for same.
- (c) The monthly cost of garbage removal for the term shall be reimbursed to LESSOR by LESSEE upon receipt of invoice for same.
- (e) The monthly cost of the existing telephone service for the term shall be reimbursed to LESSOR by LESSEE upon receipt of invoice of same.
- (f) The monthly cost of existing cable television for the term shall be reimbursed to LESSOR by LESSEE upon receipt of invoice of same.

15. AIR CONDITIONING AND HEATING

LESSOR has provided, and shall maintain, or cause to be maintained, in the building of which the Premises are a part, an air conditioning and heating system.

16. DESTRUCTION OF PREMISES

Should said Premises, or the building of which they are a part, be damaged or destroyed by any cause not the fault of LESSEE, LESSOR shall at LESSOR'S sole cost and expense promptly repair the same and the rent payable under this Lease shall be abated for the time and to the extent LESSEE is prevented from occupying the Premises in their entirety; provided, however, that should the cost of repairing the damage or destruction exceed twenty-five (25%) percent of the full replacement cost of the Premises, LESSEE may choose, in lieu of LESSOR making the repairs required by this Section to terminate this Lease by giving LESSOR ten (10) days

written notice of such termination.

17. CONDEMNATION OF PREMISES

Should all or any part of the Premises be taken by any public or quasi-public agency or entity under the power of eminent domain during the term of the Lease:

- (a) Either LESSOR or LESSEE may terminate this Lease by giving the other thirty (30) days written notice of termination; provided, however, that LESSEE cannot terminate this Lease unless the portion of the Premises taken by eminent domain is so extensive as to render the remainder of the Premises useless for the purposes intended by this Lease.
- (b) Any and all damages and compensation awarded or paid because of the taking, except for amounts paid LESSEE for moving expenses or for damage to any personal property or trade fixtures owned by LESSEE, shall belong to LESSOR, and LESSEE shall have no claim against LESSOR or the entity exercising eminent domain power for the value of the unexpired term of this Lease.
- (c) Should any portion of the building containing the Premises, other than the Premises, be taken by eminent domain, LESSOR or LESSEE may, at its option, terminate this Lease.

18. ASSIGNMENT OR SUBLEASING

LESSEE shall not sub-lease, encumber, assign, or otherwise transfer its rights or interests under this Lease, without the express written consent of LESSOR first had and received, provided said consent by LESSOR shall not be unreasonably withheld.

19. ACTS CONSTITUTING BREACHES BY LESSEE

LESSEE shall be guilty of a material default and breach of this Lease should:

- (a) Any rent be unpaid when due and remain unpaid for fifteen (15) days after written notice to pay such rent or to surrender possession of the Premises has been given to LESSEE by LESSOR;
- (b) LESSEE default in the performance of or breach any provision, covenant, or condition of this Lease other than one for the payment of rent and such default or breach is not cured within fifteen (15) days after written notice thereof is given by LESSOR to LESSEE; or
- (c) LESSEE breaches this Lease and abandons the Premises prior to the expiration of the term of this Lease.

20. NON-APPROPRIATION

LESSOR acknowledges that LESSEE’S funding for this Lease is in large part dependent upon receipt of certain state, federal and other funds by LESSEE. LESSEE may terminate this Lease upon thirty (30) days notice if funds are not budgeted for the leasehold of these Premises, or if funding is suspended, delayed, or allocated appropriations are reduced, eliminated, or reallocated by the County of El Dorado.

21. LESSOR’S LIABILITY

In the event of a transfer of LESSOR’S title or interest to the property during the term of this Lease, LESSEE agrees that the grantee of such a transfer will be substituted as LESSOR under this Agreement, provided that all deposits are transferred to the grantee. LESSOR shall be released from all future liability under this Lease, but shall not be released from the obligation to indemnify LESSEE under Section 8 above for acts or omissions occurring prior to the transfer unless so released by LESSEE in writing.

22. NOTICES

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Lease or by law to be served on or given to either party hereto by the other party hereto shall be in writing and shall be deemed duly served and given when personally delivered to the party, LESSOR or LESSEE, to whom it is directed or any managing employee of such party or, in lieu of such personal service, when deposited in the United States mail, first-class postage prepaid, addressed to:

LESSOR: John J. Power and Anne Marie Power
16 Gold Run Court
Oakley, CA 94561

Telephone: (925) 625-3144

LESSEE: County Of El Dorado
Department of Transportation
2850 Fairlane Court
Placerville, California 95667

Attention: Kimberly Kerr, Interim Director of Transportation
Telephone: (530) 621-7533

Either party, LESSOR or LESSEE, may change its address for purposes of this Section by giving written notice of the change to the other party in the manner provided in this Section.

23. BINDING ON HEIRS AND SUCCESSORS

This Lease shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties, LESSOR and LESSEE, hereto.

24. TIME OF ESSENCE

Time is expressly declared to be the essence of this Lease.

25. WAIVER

The waiver of any breach of any of the provisions of this Lease by LESSOR shall not constitute a continuing waiver or a waiver of any subsequent breach by LESSEE either of the same, or of any other provision of this Lease.

26. SOLE AND ONLY AGREEMENT

This instrument constitutes the sole and only agreement between LESSOR and LESSEE respecting the Premises and correctly sets forth the obligations of LESSOR and LESSEE to each other as of its date. Any agreements or representations respecting the Premises or their leasing by LESSOR to LESSEE not expressly set forth in this instrument are null and void.

27. SEVERABILITY

If any provision, clause, or part of this Lease, or the application thereof under certain circumstances, is held invalid, the remainder of this Lease or the application of such provisions, clauses, or parts under other circumstances shall not be affected thereby.

28. CALIFORNIA FORUM AND LAW

Any dispute resolution action arising out of this Lease, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

29. ATTORNEY'S FEES

Should any litigation be commenced between LESSOR and LESSEE concerning the Premises, this Lease, or the rights and duties of either LESSOR or LESSEE in relation thereto, the party, LESSOR or LESSEE, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorney's fees in the litigation which shall be determined by the court in such litigation or in a separate action brought for that purpose.

30. LEASE ADMINISTRATION

The County officer or employee with responsibility for administering this Lease is Kimberly A. Kerr, Interim Director of Transportation, or successor.

DEPARTMENT CONCURRENCE:

Dated: _____

Signed: _____

**Kimberly A. Kerr, Interim Director
Department of Transportation**

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first below written.

LESSORS: JOHN J. POWER AND ANNE MARIE POWER

Dated: _____

Signed: _____

John J. Power, Owner

Dated: _____

Signed: _____

Anne Marie Power, Owner

LESSEE: COUNTY OF EL DORADO

Dated: _____

Signed: _____

Chair

Board of Supervisors

**Attest: Terri Daly,
Acting Clerk of the Board**

Dated: _____

By: _____

Deputy Clerk

EXHIBIT "A"

INVENTORY LIST

**3 – TV'S
1 – DVD
1 – STEREO
1 – MICROWAVE**

FULL SET OF POTTERY BARN DISHES

WHITE BEDDING FOR ALL BEDS. (KING, QUEEN, DOUBLE, TWINS)

BAR STOOLS (2 POTTERY BARN)

COFFEE TABLE

3 END TABLES