

**PURCHASE, SALE AND DEVELOPMENT AGREEMENT FOR REAL
PROPERTY LOCATED IN THE INCORPORATED COUNTY OF LOS
ALAMOS COMMONLY REFERRED TO AS A-13-2 AND A-12 SITES**

This Purchase, Sale and Development Agreement ("Agreement"), for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, is entered into by and between LAH Investors, LLC, a New Mexico limited liability company ("Purchaser") and Incorporated County of Los Alamos, a New Mexico County ("Seller"), effective the date the Agreement is signed by Purchaser and Seller.

**ARTICLE I
BASIC INFORMATION**

Purchaser and Seller have set out the terms and conditions of their agreement in the body of the Agreement below. For convenience, they provide in this Article I certain terms that reappear throughout the Agreement.

1.1 Certain Basic Terms:

(a) Effective Date: The Effective Date of the Agreement shall be the date the Agreement is fully executed by both the Purchaser and the Seller.

(b) Purchaser and Notice Address:

LAH Investors, LLC, a New Mexico limited liability company.

Attn: Peter Kerwick, Vice President

4056 Cerrillos Road, Suite F-1

Santa Fe, New Mexico 87507

Telephone: (505) 983-7997

Facsimile: (505)983-7421

E-Mail: pkerwick@peterscorp.com

With Copy to:

C. Mott Woolley

The Peters Corporation

4056 Cerillos Road, Suite F-1

Santa Fe, New Mexico 87507

Telephone: (505)231-5087

Facsimile: (505)424-1890

E-Mail: cmwoolley@peterscorp.com

(c) Seller and Notice Address:

Incorporated County of Los Alamos

a New Mexico County

Attn: Harry Burgess, County Manager

1000 Central Avenue, Suite 350

Los Alamos, New Mexico 87544

Telephone: (505)663-1750
Facsimile: (505)662-8079
E-Mail: harry.burgess@lacnm.us

- (d) Purchase Price: TWO MILLION ONE HUNDRED SEVENTY FIVE THOUSAND AND NO 00/100 DOLLARS (\$2,175,000.00), to be paid in cash at closing, subject to the closing cost allocations and proration set forth herein.
- (e) Earnest Money: TWENTY-FIVE THOUSAND AND NO 00/100 DOLLARS (\$25,000.00) to be delivered to the Escrow Agent within five (5) business days from the Effective Date.
- (f) Additional Earnest Money: TWENTY FIVE THOUSAND AND NO 00/100 DOLLARS (\$25,000.00) to be delivered to the Escrow Agent in order for the Purchaser to exercise its one-time option to extend the Closing Date as provided for in Paragraph 5.2 of this Agreement.
- (g) Due Diligence Period: The Due Diligence Period shall begin on the Effective Date, and continue for no more than four hundred fifty (450) days from the Effective Date.
- (h) Closing Date: The Closing Date shall be a date within ninety (90) days after the end of the Due Diligence Period unless extended pursuant to Paragraph 5.2 of this Agreement in which case the Closing Date shall be a date within one hundred eighty (180) days after the end of the Due Diligence Period.
- (i) Title Company: Any funds escrowed pursuant to this Agreement shall be escrowed with the following Escrow Officer upon Title Guaranty, LLC executing an *Acknowledgement by Title Guaranty, LLC* for all escrowed funds received as shown in **Exhibit "B"** to this Agreement.

Title Guaranty, LLC
1200 Trinity Drive
Los Alamos, New Mexico 87544
Phone: (505)662-2241
Fax: (505)662-6891
Escrow Officer: Denise G. Terrazas
E-mail: denisgt@titleguarantynm.com

1.2 Property: Subject to the terms of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, certain real property within a parcel commonly known as the A-13-2 and A-12 Sites as more particularly described on **Exhibit "A"** attached hereto, owned by Seller but none other:

The real property is described in **Exhibit "A"**, together with easements or rights-of-way relating thereto, and all appurtenances thereunto belonging, and, without warranty except as otherwise warranted in the Special Warranty Deed transferring ownership, all rights, title, and interest, if any, of Seller in and to the land lying within any street or roadway adjoining the real property described in Exhibit A or any vacated or hereafter vacated street or alley adjoining said real property;

Purchase, Sale and Development Agreement for Real Property Located in
the Incorporated County of Los Alamos Commonly Referred to as A-13-2 and A-12 Sites

including any and all oil, gas and other mineral interests in and under said land, and all rights incidents thereto, not previously reserved or conveyed of record (collectively "Property"). It is understood and agreed that upon completion of a survey of the Property, the plat of survey shall become a part of Exhibit A and incorporated by reference therein.

1.3 Purchaser Cash Payment: The Purchase Price, subject to the proration and closing cost allocations as provided in Sections 6.1 and Sections 1.5 respectively, shall be paid in cash at Closing by Purchaser to Seller. The Earnest Money shall be applied to the Purchase Price as stated in this Agreement.

1.4 Earnest Money: The Earnest Money, in immediately available federal funds, shall be deposited by Purchaser with the Escrow Agent as provided in Section 1.1(e). In the event that Purchaser fails to timely deposit the Earnest Money with the Escrow Agent, this Agreement shall be of no force and effect. The Earnest Money shall be held in an interest bearing account, interest to accrue for the benefit of Seller or Purchaser as the case may be and all amounts deposited pursuant to the terms hereof and interest earned thereon shall be the "Earnest Money". If this Agreement is terminated by Purchaser during the Due Diligence Period, the Earnest Money shall be paid to Purchaser. In the event this Agreement is not terminated within the Due Diligence Period as permitted under Section 2.8 hereof or as otherwise provided for in this Agreement, the Earnest Money shall be non-refundable except in the event of Seller default for failure or refusal to close as provided in Section 8.2 of this Agreement.

1.5 Closing Costs: Closing costs shall be allocated and paid as follows at Closing:

<u>Cost/Obligation</u>	<u>Responsible Party</u>
Title Commitment required to be delivered pursuant to <u>Section 3.1</u>	Seller
Premium for standard form Title Policy required to be delivered pursuant to <u>Section 3.1</u> in the amount of Purchase Price	Seller
Premium for any upgrade of Title Policy for extended or additional coverage and any endorsements desired by Purchaser, any inspection fee charged by the Title Company, tax certificates, municipal and utility lien certificates,	Purchaser
Costs of Survey and/or any revisions, modifications or re-certifications thereto (if any)	Seller
Costs for UCC Searches (if any)	Seller
Recording Fees	Purchaser
Any deed taxes, documentary stamps, transfer taxes, intangible taxes, mortgage taxes or other similar taxes, fees or assessments	Seller

<u>Cost/Obligation</u>	<u>Responsible Party</u>
Any escrow fee charged by Escrow Agent for holding the Earnest Money or Settlement/Closing Fee	Purchaser ½ Seller ½
Any and all fees associated with Purchaser's lender (if any)	Purchaser

1.6. Time Limit of Offer: The Offer set forth in this Agreement to the Purchaser shall expire at 6:00 p.m., on the tenth (10th) day after the Purchaser receives written notice from the County Attorney for the Incorporated County of Los Alamos that the Ordinance adopted by the County Council of the Incorporated County of Los Alamos authorizing the sale of Property is effective. The Purchaser shall, within ten (10) days of receipt of said notice, execute two (2) originals of this Agreement, in the form approved by Purchaser and Seller not changed in form or substance, and return same to Seller. In the event the Purchaser fails to timely execute the Agreement as prescribed here and return same to Seller, , the Offer set forth in this Agreement shall stand rescinded, and the Agreement shall be of no force and effect. The date the Agreement is fully executed by both parties shall be the Effective Date as defined is Paragraph 1.1, Subpart A.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article I shall survive the Closing Date only for a period of two (2) years.

ARTICLE II INSPECTIONS AND DUE DILIGENCE

2.1 Property Information: During the Due Diligence Period, as defined in Section 1.1(g), the Purchaser may make written requests upon the Seller for documents. Upon receipt by the Seller of a request for documents from the Purchaser, the Seller shall determine whether responsive documents are in the possession and control of the Seller. If the requested documents are in the possession and control of the Seller, the Seller shall furnish the requested additional documents to the Purchaser as soon as reasonably possible but no later than fifteen (15) days after Seller receives Purchaser's request for documents unless a later time is agreed to by the Purchaser and Seller in writing. If the requested documents enjoy a legal privilege, or the Purchaser is required by law to maintain the confidentiality of the requested additional documents, the Seller shall provide a written response to Purchaser stating that the Seller has the requested documents citing legal privilege, if any, and/or the legal authority that requires the Seller to maintain the confidentiality of the documents. If the Seller does not have documents Purchaser has requested in its possession and control, the Seller shall provide a written timely response to Purchaser stating same.

2.2 Inspections in General, Insurance Requirements, and Indemnity:

a. During the Due Diligence Period, the Purchaser, its agents, and employees shall have the right to enter upon the Property for the purpose of making all such inspections as Purchaser deems appropriate at Purchaser's sole risk, cost and expense. If any inspection or test disturbs the Property, Purchaser will restore the Property to substantially the same condition as existed prior to the inspection or test. All such entries upon the Property shall be at reasonable times.

b. Purchaser shall provide to Seller a certificate of insurance showing Seller as an additional insured with a national insurance company acceptable to Seller in the minimum amount of ONE MILLION AND NO 00/100 DOLLARS (\$1,000,000.00) per occurrence and TWO MILLION AND NO 00/100 DOLLARS (\$2,000,000.00) in the aggregate, insuring Seller against any and all liability which may arise from Purchaser's entry on the property during the Due Diligence Period, and Purchaser's activity on the Property during the Due Diligence Period.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article II Section 2.1 and Section 2.2 subparts a. and b. shall survive the Closing Date only for a period of two (2) years.

c. Purchaser shall defend, indemnify Seller and hold Seller, agents, members, and employees and the Property harmless from and against such losses, costs, damages, claims, or liabilities, if any, for which Purchaser is responsible for physical damage to persons or property lawfully upon the Property and claims for nonpayment for services and materials ordered by Purchaser, but none other, including but not limited to, mechanic's and materialmen's liens arising out of or in connection with Purchaser's inspection of the Property as allowed herein. The Purchaser's indemnity herein shall survive Closing, and shall not be limited by the default provisions contained in Section 8.1 hereof, or the termination provisions contained in Section 2.8 herein.

d. Purchaser acknowledges and agrees that it is relying on its inspections and investigations in acquiring the Property, and that the Due Diligence period allows the Purchaser an adequate opportunity to inspect the Property and perform any other investigation and analysis to determine whether Purchaser wants to purchase the Property per the terms of this Agreement including purchasing the Property **"AS IS, WHERE IS, WITH ALL FAULTS"** as specifically provided in Section 10.16 of this Agreement, subject to the representations in Section 5.3 (h).

e. Purchaser further acknowledges and agrees that the Due Diligence Period allows the Purchaser an adequate opportunity to determine whether obtaining financing to construct the Project as provided for in the Development Agreement in Article IV of this Agreement is a reasonable likelihood, it being understood and agreed that Purchaser shall have the right to terminate this Agreement in the event the Purchaser is unable to obtain financing upon terms and conditions satisfactory to Purchaser.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article II Section 2.2 subparts c., d., and e. shall survive the Closing Date.

2.3. Construction Financing: During the Due Diligence Period the Purchaser shall undertake to obtain a commitment for construction financing upon terms and conditions satisfactory to Purchaser, sufficient to construct the Project as provided for in the Development Agreement in Article IX of this Agreement, and provide proof of same to Seller prior to the end of the Due Diligence Period, if obtained. If not obtained upon terms and conditions satisfactory to Purchaser, Purchaser shall deliver to Seller a termination of this Agreement.

2.4 Necessary Easements: As soon as reasonably possible and prior to the end of the Due Diligence period, Purchaser shall provide to Seller legal descriptions as well as needed conditions of all easements the Purchaser deems necessary to complete the Project.

2.5 Sufficient Ingress and Egress: As soon as reasonably possible and prior to the end of the Due Diligence period, Purchaser shall provide to Seller legal descriptions and as well as needed conditions of all ingress and egress to the Property the Purchaser deems necessary for completion of the Project.

2.6 Necessary Curb Cuts: As soon as reasonably possible and prior to the end of the Due Diligence period, Purchaser shall identify any needed curb cuts or relocation of curb cuts necessary to provide ingress and egress from the Property from Highway 502 (Trinity Drive) as well as any needed curb cuts necessary to align needed ingress and egress with surrounding streets and intersections.

2.7 Service Contracts: As soon as reasonably possible and prior to the end of the Due Diligence period, Purchaser shall identify any service contracts that exist between the Seller and a Third-Party that provides services to the Property, and shall notify the Seller in writing of any service contract the Purchaser requires the Seller to terminate.

2.8 Termination During Due Diligence Period: Purchaser may elect, in its sole unfettered discretion, for any reason or no reason, to terminate this Agreement prior to the end of the Due Diligence Period by giving Seller written notice thereof as herein provided, including but not limited to Purchaser's rejection of terms and conditions imposed by a lender in response to Purchaser's application for financing. In the event Purchaser exercises this right of termination, Escrow Agent is hereby irrevocably instructed to refund the Earnest Money to Purchaser without the necessity of Seller's consent, and neither party shall have any further rights or liabilities hereunder except for those provisions which survive the termination of this Agreement provided that Purchaser, upon such termination, shall deliver to Seller all information and documentation regarding the Property Purchaser obtained during the Due Diligence Period.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article II Sections 2.3 through 2.8 shall survive the Closing Date only for a period of two (2) years.

ARTICLE III TITLE/SURVEY/ENVIRONMENTAL REVIEW

3.1 Timing of Title/Survey: Within fifteen (15) days after the Escrow Agent's receipt of the Earnest Money, Seller, at Seller's cost, shall provide Purchaser, a current American Land Title Association (ALTA) owner's title commitment for the Property from the Title Company and copies of all documents referenced in exceptions to title shown thereon ("Title Report"). Within thirty (30) days after the Escrow Agent's receipt of the Earnest Money, Seller shall provide Purchaser a current ALTA Survey ("Survey") at Seller's cost and expense. As used in this Paragraph 3.1 "current" shall mean dated no earlier than thirty (30) days from the Effective Date.

3.2 Title/Survey/Environmental Review and Cure:

a. Purchaser shall review the Title Report and Survey obtained pursuant to Section 3.1 hereof, and Purchaser shall review the environmental status of the Property during the Due Diligence Period. Purchaser shall notify Seller in writing of any title, survey and/or environmental objections prior to expiration of the Due Diligence Period. Seller shall have no obligation to cure any title or survey or environmental objections and Purchaser shall have no obligation to purchase the Property in the event Seller elects not to cure a defect identified by Purchaser.

b. In the event the Purchaser waives objections raised pursuant to Paragraph 3.2(a) and elects to proceed to Closing, the Closing shall occur as contemplated herein and Purchaser shall accept the Property subject to such condition without reduction of Purchase Price.

c. In the event Purchaser does not object to the condition of the title to the Property as shown on the Title Report or Survey within the Due Diligence Period, the condition of the title as shown therein shall be deemed approved and any exceptions to title shown in the Title Report which are approved or deemed approved shall constitute "Permitted Exceptions" for purposes of the Title Policy and the Special Warranty Deed.

d. If the Title Company or surveyor revises the Title Report or Survey after the expiration of the Due Diligence Period and prior to Closing to add or modify exceptions or requirements that adversely and materially affect title to the Property, Purchaser may object to such matter by notice to Seller within ten (10) days after such revised Title Report or Survey is delivered to Purchaser. Seller may, but shall not be obligated to, attempt to cure any title or survey objection by the Closing Date.

e. If Seller elects not to cure any such title or survey objection raised pursuant to Paragraph 3.2(d) or fails to cure any such objection raised pursuant to Paragraph 3.2(d) within fifteen (15) days following Purchaser's notice of objections, then Purchaser may either terminate this Agreement by written notice to Seller given on or before fifteen (15) days after receipt of any notice by Seller that it elects not to cure or cannot cure the required objections. In this event, the Earnest Money shall be refunded immediately to the Purchaser unless the Purchaser waives objections and elects to proceed to closing.

f. In the event the Purchaser waives objections raised pursuant to Paragraph 3.2(d) and elects to proceed to Closing, the Closing shall occur as contemplated herein and Purchaser shall accept the Property subject to such condition without reduction of Purchase Price.

3.3 Title Policy: As soon as possible after the Closing, at Seller's cost and expense, the Title Company shall deliver to Purchaser a standard Owner's Title Insurance Policy (the "Title Policy"), issued by the Title Company dated the date of recording of the Special Warranty Deed in the amount of the Purchase Price, insuring Purchaser as owner of fee simple title to the Property subject only to the Permitted Exceptions. Any endorsements or extended and special coverages to the Title Policy shall be obtained by Purchaser at Purchaser's sole cost and expense.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article III shall survive the Closing Date only for a period of two (2) years.

ARTICLE IV CONDEMNATION

4.1 Condemnation: Risk of loss resulting from any condemnation or eminent domain proceeding which is commenced or has been threatened prior to the Closing, shall remain with Seller. If prior to the Closing, the Property or any portion of the Property shall be subject to a bona fide threat of condemnation or shall become the subject of any proceedings, judicial, administrative or otherwise, with respect to the taking by eminent domain or condemnation, Seller shall immediately notify Purchaser thereof after receipt of actual notice thereof by Seller, but in any event prior to Closing. If a material portion of the Property is subject to eminent domain or condemnation, Purchaser may elect within fifteen (15) days after receipt of such notice, to terminate this Agreement (the "Election Period") and receive an immediate refund of the Earnest Money or to proceed to Closing. If the Closing Date is within the Election Period, then Closing shall be extended to the next business day following the end of the Election Period. If Purchaser does not elect to terminate this Agreement, and in any event if the taking is not material, this Agreement shall remain in full force and effect and the purchase contemplated herein, less any interest taken by eminent domain or condemnation, shall be effected and Purchaser shall accept an assignment from Seller of the condemnation proceeds. For the purposes of this paragraph, "material portion" as to a taking or condemnation means a twenty percent (20%) or greater portion of the Property being condemned or taken.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article IV shall survive the Closing Date only for a period of two (2) years.

ARTICLE V CLOSING

5.1 Closing: The consummation of the transaction contemplated herein ("Closing") shall occur on or before the Closing Date as defined in Paragraph 1.1, subpart (h), or such other time no later than seven (7) days after the Closing Date, as the parties, through their respective agents who are executing this Agreement, may mutually specify in writing for the Closing.

5.2 Purchaser's One-Time Option to Extend Closing Date: Seller, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, hereby grants to Purchaser an option to extend the Closing Date for an additional ninety (90) days beyond the Closing Date as defined in Paragraph 1.1, Subpart (h) upon delivery of TWENTY FIVE THOUSAND AND NO 00/100 DOLLARS (\$25,000.00) as Additional Earnest Money to the Escrow Agent at least ten (10) days before the Closing Date as defined in Paragraph 1.1, Subpart (h). This Additional Earnest Money is separate and distinct from the Earnest Money, and unlike the Earnest Money is not refundable to the Purchaser under any condition.

5.3 Conditions to Purchaser's Obligations to Close: In addition to such other conditions to Closing as are specified throughout this Agreement, the obligation of Purchaser to consummate the transaction contemplated hereunder is contingent upon the following:

- (a) The representations of Seller contained herein shall be true and correct in all material respects as of the Closing Date.
- (b) Seller shall have performed all obligations required to be performed prior Closing per the terms of this Agreement.
- (c) There shall exist no pending or threatened legal action, suit or proceeding with respect to the Property or this Agreement.
- (d) Seller shall deliver to Purchaser the easements that meet the legal description and conditions of the easements identified by Purchaser to Seller per Paragraph 2.4 of the Agreement.
- (e) Seller shall deliver to Purchaser documents showing that Purchaser shall have the right of ingress and egress to the Property as identified in the legal descriptions and conditions needed for ingress and egress submitted by Purchaser to Seller per Paragraph 2.5 of this Agreement.
- (f) Approval by the New Mexico Department of Transportation (NMDOT), if needed, and Seller for necessary curb cuts identified and submitted by Purchaser to Seller per Paragraph 2.6 of this Agreement shall have been obtained.
- (g) No moratoria shall have been imposed, and no moratoria shall be known to be under consideration by a governmental entity or utility provider that would materially and adversely impact the development of the Property or future economic viability of the Project. If such a moratoria shall have been imposed, or it is known that such a moratoria is under consideration by a governmental entity or utility provider the Purchaser may, its sole discretion, terminate this Agreement and receive the Earnest Money Deposit, with interest, or delay Closing for the shorter time period of the following; (i) until the moratoria is lifted; (ii) until the moratoria is dismissed from consideration by the governmental entity or utility provider, or (iii) one hundred eighty (180) days. For a moratoria to be deemed under consideration by a governmental entity or utility provider, the moratoria must appear as a potential item for action on an agenda for a meeting of the governing body of the governmental entity or utility provider, or competent evidence must be produced showing that an agent of the governmental entity or utility provider with legal authority to impose such a moratoria, is in fact, likely to impose such a moratoria.
- (h) The Seller represents that it has provided to the Purchaser all documentation, notices, reports, and records concerning the Property.

If any of the foregoing conditions to Purchaser's obligation to proceed with the Closing have not been satisfied as of the Closing Date, Purchaser may, in its sole discretion, terminate this Agreement by delivering written notice to Seller on or before the Closing Date, in which event the Earnest Money shall be immediately returned to Purchaser, or Purchaser may elect to seek specific performance as provided in paragraph 8.2., or to close, notwithstanding the non-satisfaction of such condition, in which event Purchaser shall be deemed to have waived any such condition.

5.4 Conditions to Seller's Obligations to Close: In addition to such other conditions to Closing as are specified throughout this Agreement, the obligation of Seller to consummate the transaction contemplated hereunder is contingent upon the following:

- (a) The representations of Purchaser contained herein shall be true and correct in all material respects as of the Closing Date.
- (b) Purchaser shall have performed all obligations required to be performed prior Closing per the terms of this Agreement.
- (c) There shall exist no pending or threatened legal action, suit or proceeding with respect to the Property.
- (d) Purchaser shall provide proof of construction financing commitment sufficient to complete the Project.

If any of the foregoing conditions to Seller's obligation to proceed with the Closing have not been satisfied as of the Closing Date, Seller may, in its sole discretion, terminate this Agreement by delivering written notice to Seller on or before the Closing Date, in which event the Earnest Money shall be immediately returned to Purchaser, or elect to close, notwithstanding the non-satisfaction of such condition, in which event Seller shall be deemed to have waived any such condition.

5.5 Seller's Deliveries in Escrow: Ten (10) days before the Closing Date, Seller shall deliver in escrow to the Escrow Agent with copies of same delivered to in escrow to the Escrow Agent the purchaser the following:

- (a) Transfer Documents:
 - (i) Deed: A New Mexico Special Warranty Deed (the "Deed") for review and approval by Purchaser whereby Seller conveys to Purchaser the Property with special warranty covenants. If the Deed is approved, Purchaser shall deliver it to Escrow Agent for execution by Seller.
 - (ii) FIRPTA: A Foreign Investment in Real Property Tax Act affidavit executed by Seller reciting under penalty of perjury that Seller is not a foreign person;
 - (iii) Authority: Evidence of the existence, organization and authority of Seller and of the authority of the persons executing documents on behalf of Seller

reasonably satisfactory to Purchaser, the Escrow Agent and the Title Company;

- (iv) Additional Documents: Any additional documents that Escrow Agent or the Title Company or Purchaser may reasonably require for the proper consummation of the transaction contemplated by this Agreement including the Title Company's standard lien and possession affidavit;
- (v) Closing Statement: A Closing Statement prepared by the Escrow Agent accurately reflecting the Purchase Price, cost allocations and proration as herein provided for;
- (vi) Appurtenances: An assignment in recordable form of Seller's right, title, and interests, if any such rights, title and interests are vested in the Seller, to all appurtenances, plans, property contracts, entitlements, intangibles and all other portions of the Property not constituting real property to Purchaser; provided, however, that by accepting such assignment, Purchaser shall not assume any obligations under any instrument or right assigned, unless Purchaser has expressly assumed such obligations in writing. Seller will not amend or modify any of the above items included in the Property without Purchaser's prior written consent; and
- (vii) Service Contracts: Evidence of termination of any service contracts that the Purchaser has requested Seller to terminate in writing pursuant to Paragraph 2.7 of this Agreement.

5.6 Purchaser's Deliveries in Escrow: On or before the Closing Date, Purchaser shall deliver in escrow to the Escrow Agent the following:

(a) Purchase Price: The Purchase Price, less the Earnest Money and Additional Earnest Money if Additional Earnest has been paid, that is applied to the Purchase Price, which shall be delivered to Seller by Escrow Agent, plus or minus applicable proration. The Purchase Price shall be deposited by Purchaser with the Escrow Agent in immediate, same-day federal funds wired for credit into the Escrow Agent's escrow account;

(b) Additional Documents: Any additional documents that Escrow Agent or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement;

(c) Authority: Evidence of the existence, organization and authority of Purchaser and of the authority of the persons executing documents on behalf of Purchaser reasonably satisfactory to Seller, the Escrow Agent and the Title Company.

5.7 Title Policy: The Title Policy (as described in Section 3.1 hereof) shall be delivered to Purchaser as soon as possible after the Closing as provided in Section 3.3 hereof.

5.8 Possession: Seller shall deliver possession of the Property to Purchaser at the Closing, subject only to the Permitted Exceptions.

5.9 Close of Escrow: Upon satisfaction or completion of the foregoing conditions and deliveries, the parties shall direct the Escrow Agent to immediately record and deliver the documents described above to the appropriate parties and make disbursements according to the closing statement executed by Seller and Purchaser.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article V shall survive the Closing Date only for a period of two (2) years.

ARTICLE VI PRORATION

6.1 Proration: The items in this Paragraph 6.1 shall be prorated between Seller and Purchaser as of the Closing Date with Seller receiving credit for all Closing Date income and Seller paying the following Property related expenses through the Closing Date.

- (a) Taxes and Assessments: General real estate taxes imposed by governmental authority ("Taxes") not yet due and payable shall be prorated. If the Closing occurs prior to the receipt by Seller of the tax bill for the calendar year or other applicable tax period in which the Closing occurs, Purchaser and Seller shall prorate Taxes for such calendar year or other applicable tax period based upon the most recent ascertainable assessed values and tax rates. Upon receipt of the tax bill for the year of Closing, the Escrow Agent shall make any adjustments to the Closing proration, based upon the actual tax bill.

6.2 Commissions: Seller and Purchaser represent to the other that they have not dealt with any real estate broker, sales person or finder in connection with this transaction.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article VI shall survive the Closing Date only for a period of two (2) years.

ARTICLE VII REPRESENTATIONS AND WARRANTIES

7.1 Seller's Representations and Warranties: As a material inducement to Purchaser to execute this Agreement and consummate this transaction, Seller represents and warrants to Purchaser that:

- (a) Organization and Authority: Seller has been duly organized and validly exists as an Incorporated County in good standing in the State of New Mexico. Seller has the full right and authority and will have obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby prior to Closing. This Agreement has been, and all of the documents to be delivered by Seller at the Closing will be, authorized and

properly executed and constitutes, or will constitute, as appropriate, the valid and binding obligation of Seller, enforceable in accordance with their terms.

- (b) Conflicts and Pending Action: There is no agreement to which Seller is a party or, to Seller's knowledge, binding on Seller which is in conflict with this Agreement. There is no action or proceeding pending or, to Seller's knowledge, threatened against Seller or the Property, including condemnation proceedings, which challenges or impairs Seller's ability to execute or perform its obligations under this Agreement.
- (c) Litigation: There is no litigation or arbitration or other legal or administrative suit, action, proceeding of any kind pending, or to the best of Seller's knowledge, threatened or under investigation against or involving the Property, or any part thereof.
- (d) Environmental, Historical, and the Archeological: The Seller has searched its records for records containing information regarding the generation, location, transportation, storage, treatment, discharge, disposal, or release of any toxic or hazardous waste or any pollutant upon or under the Property subject to regulation under the Resource Conservation and Recovery Act (as amended by the Hazardous and Solid Waste Amendments of 1984), the Comprehensive Environmental Response, Compensation and Liability Act (as amended by the Superfund amendments and Reauthorization Act of 1986), or any other applicable State or Federal environmental protection law or regulation, as well as for records containing information regarding human burial sites or historical and/or archeological artifacts that may interfere with the use of the Property and have furnished any record found containing such information to the Purchaser. Nothing in this provision relieves the Purchaser of its duty to perform its own investigations and inspections of the Property during the Due Diligence period for purpose of the Purchaser determining whether Purchaser desires to purchase the Property "**AS IS, WHERE IS, WITH ALL FAULTS**" as specifically provided in Section 10.16 of this Agreement.
- (e) Bills: Seller has paid or will pay in full all bills and invoices for labor and material of any kind arising from the Seller's ownership, operation, management, repair, maintenance or leasing of the Property, and there are no actual or potential mechanic's liens outstanding or available to any party in connection with the Seller's ownership, operation, management, repair, maintenance or leasing of the Property.
- (f) Possessory Rights: There are no purchase contracts, options or any other agreements of any kind, oral or written, by which any person or entity other than Seller will have acquired or will have any basis to assert any right, title or interest in, or right to possession, use, enjoyment or proceeds of, any part or all of the Property, except as to rights created under the Leases or Service Contracts or as otherwise disclosed in this Agreement, the Commitments, or in the deliveries made

by Seller pursuant to this Agreement. It is understood and agreed that if such leases or contracts or rights do not meet with Purchaser's approval, their existence shall entitle Purchaser to terminate this Agreement and receive back the Earnest Deposit and interest.

- (g) Violations of Law: Seller has received no notice of violation of any applicable Federal, state or local law, statute, ordinance, order, requirement, rule or regulation, or of any covenant, condition, restriction or easement affecting the Property, or this Agreement and Seller does not have any actual notice of any such violation.
- (h) Ownership: Seller is the owner of the Property and as of Closing Seller will own all such Property free and clear of all liens, financial encumbrances, leases, covenants, conditions, restrictions, rights-of-way, easements, encroachments and other matters affecting title, excepting only the Permitted Exceptions. Seller further represents and warrants to Purchaser that no other party has any rights in and to the Property.
- (i) Parties in Possession: To the best of Seller's knowledge, there are no parties other than Seller in possession of any portion of the Property.
- (j) In the event of any material adverse change in any of Seller's representations and warranties in this Article or elsewhere in this Agreement, Seller shall promptly notify Purchaser of such change.

7.2 Purchaser's Representations and Warranties: As a material inducement to Seller to execute this Agreement and consummate this transaction, Purchaser represents and warrants to Seller that:

- (a) Organization and Authority: Purchaser has been a duly organized and is a valid existing entity in good standing in the state of New Mexico. Purchaser has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Purchaser at the Closing will be, authorized and properly executed and constitutes, or will constitute, as appropriate, the valid and binding obligation of Purchaser, enforceable in accordance with their terms.
- (b) Conflicts and Pending Action: There is no agreement to which Purchaser is a party or to Purchaser's knowledge binding on Purchaser which is in conflict with this Agreement. There is no action or proceeding pending or, to Purchaser's knowledge, threatened against Purchaser which challenges or impairs Purchaser's ability to execute or perform its obligations under this Agreement.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article VII Sections 7.1 and 7.2 (a), and (b) shall survive the Closing Date only for a period of two (2) years.

- (c) Purchaser warrants that it is relying solely on its inspections and its investigations of to determine whether Purchaser desires to purchase "**AS IS, WHERE IS, WITH ALL FAULTS**" as specifically provided in Section 10.16 of this Agreement.
- (d) In the event of any material adverse change in any of Purchaser's representations and warranties in this Article or elsewhere in this Agreement, Purchaser shall promptly notify Seller of such change.
- (e) In the event Purchaser terminates this Agreement, Purchaser shall provide Seller timely written notice that states the reason or reasons – if any- for such termination. If the reason or reasons provided in the notice derive from adverse information regarding the Property discovered by the Purchaser during the Due Diligence period, Purchaser agrees to provide that adverse information to the Seller.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article VII 7.2 (c), (d) and (e) shall survive the Closing Date.

ARTICLE VIII **REMEMDIES FOR FAILURE TO CLOSE ONLY**

8.1 Default By Purchaser For Failure to Close: In the event that Purchaser fails or refuses to Close the purchase of the Property except as allowed by this Agreement, Purchaser agrees that Seller shall have the right to have the Escrow Agent deliver the Earnest Money to Seller as liquidated damages to compensate Seller for time spent, labor and services performed, and the loss of its bargain as a result of Purchaser's failure or refusal to Close. Purchaser and Seller agree that it would be impracticable or extremely difficult to affix damages in the event of Purchaser's failure or refusal to Close, and that the Earnest Money, together with the interest thereon, represents a reasonable estimate of Seller's damages for Purchaser's failure or refusal to Close, except as allowed in this Agreement. Under such circumstances, Seller agrees to accept the Earnest Money as Seller's total damages and relief for Purchaser's failure or refusal to Close, except when such failure or refusal to close is expressly allowed by this Agreement. In the event that Purchaser shall fail or refuse to Close, Seller expressly waives the right to sue for damages for Purchaser's failure or refusal to Close or to seek specific performance. In the event that Purchaser does so default by failing or refusing to Close, this Agreement shall be terminated and Purchaser shall have no further right, title, or interest in the Property.

8.2 Default By Seller for Failure to Close: Purchaser and Seller agree that it would be impracticable or extremely difficult to affix damages in the event Seller fails or refuses to Close, and that the below remedies are sufficient remedies to redress and compensate the Purchaser for Seller's failure or refusal to Close under conditions not allowed by this Agreement. In the event Seller shall fail or refuse to Close the purchase of the Property, except when such failure or refusal to close is expressly allowed by this Agreement. Purchaser shall be entitled to seek any and all remedies at law and equity, however damages shall be limited to actual costs incurred. In the event

Purchaser elects to bring an action, it shall commence such action, if at all, within ninety (90) days after the scheduled Closing date hereunder.

8.3 The above default and damages provisions only apply to claims and damages that arise and result from a default for the failure of the Seller or Purchaser to Close. Unless otherwise specifically limited elsewhere in the Agreement, Seller and Purchaser shall retain all rights and remedies provided in law and equity to seek redress of any other default or breach of this Agreement.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article VIII shall survive the Closing Date only for a period of two (2) years.

ARTICLE IX

DEVELOPMENT AGREEMENT

9.1 In the event the Purchaser purchases the Property, but only in that event, the Purchaser shall develop the Property pursuant to the terms and conditions prescribed in this Article.

9.2 The Purchaser shall build a Class A market rate apartment community that materially and substantially meets the specifications, design, character and quality represented in the Proposal made in response to RFP Number 17-44 by SH Acquisitions LLC, that was submitted to the Seller on or about May 3, 2017, hereinafter referred to as "Project" and that comply with ordinances and codes of the Incorporated County of Los Alamos in effect as of the Effective Date of this Agreement as well as all applicable state and federal laws and regulations.

9.3 A copy of the Proposal made in response to RFP Number 17-44 by SH Acquisitions LLC, that was submitted to the Seller on or about May 3, 2017 and the specifications, design, character and quality represented in the Proposal are adopted here as material terms of Article IX as if fully stated here in Article IX.

9.4 Purchaser acknowledges and agrees that a condition precedent to the Seller issuing any building permit for the Project is that the plans, specifications and documentation submitted by Purchaser to Seller in support of Purchaser's application for any building permit for the Project shall show that the construction to occur under the requested building permit will materially and substantially meet the specifications, design, character and quality of the Project. Seller's issuance of any requested building permit for the Project shall not be unreasonably withheld or delayed, and when issued, shall serve as Seller's affirmation that the Project substantially meets the specifications, design, character, and quality called for in this Article IX.

9.5 The Purchaser shall complete the Project no later than one thousand two hundred seventy-five (1,275) days from the Closing Date, hereinafter referred to as the Project Completion Date.

- (a) If the Purchaser fails to complete the Project by the Project Completion Date, the Purchaser shall continue to diligently work to complete the Project, and Purchaser shall complete the Project.

- (b) Purchaser and Seller acknowledge and agree: (i) that it would be impracticable or extremely difficult to affix damages for delay related damages to the Seller caused by the Purchaser's failure or refusal to complete the Project by the Project Completion Date; (ii) in order to avoid difficulty and uncertainty in affixing damages for delay related damages, the parties have bargained for the below amount as liquidated damages for delay related damages caused by the Purchaser's failure or refusal to complete the Project by the Project Completion Date; and (iii) the amount of liquidated damages for delay related damages to the Seller caused by the Purchaser's failure or refusal to complete the Project by the Project Completion Date shall be calculated at a rate of FIVE HUNDRED FIFTY AND NO 00/100 DOLLARS (\$550.00) per day. The \$550.00 per day penalty shall be payable quarterly until the Project is complete, or the passage of five years, whichever first occurs. Completion of the Project shall occur when Certificates of Occupancy are issued by the Seller for each and every home and structure that comprises the Project. Seller's issuance of these Certificates of Occupancy shall not be unreasonably withheld or delayed. Seller agrees and acknowledges that should damages be awarded by verdict and/or judgment against the Purchaser in favor of Seller for delay related damages the damages assessed for delay related damages shall be limited by the liquidated damages for delay related damages provided herein, and, if such verdict or judgment does not take into account the amounts delivered to Seller by the Escrow Agent, as above provided, then said verdict and/or judgment shall be reduced by an amount equal to the amount delivered to Seller by the Escrow Agent as above provided.
- (c) The Project Completion Date shall be extended by the number of days any delay is caused by force majeure or governmental actions that delay completion of the project for more than ninety (90) days excluding delays related to ordinary regulatory activities.
- (d) Completion of the Project shall occur when Certificates of Occupancy are issued by the Seller for each and every home and structure that comprises the Project. Seller's issuance of these Certificates of Occupancy shall not be unreasonably withheld or delayed.

9.6 As additional mutual consideration to induce Purchaser and Seller to enter this Agreement, the Purchaser agrees to construct certain street and utility improvements that are not located on the Property, but are necessary for the development of the Property, which are hereinafter referred to as "Off Site Improvements."

(a) A preliminary description of the needed Off-Site Improvements along with estimated cost of same are attached to this Agreement as **Exhibit "C."**

(b) As soon as reasonably possible and within the Due Diligence period Seller shall procure and bear the costs of engineering and designing the Off-Site Improvements including costs of studies and financial analysis needed to reasonably determine the scope of the Off-Site

Improvements as well as reasonably determine the estimated actual costs of constructing the Off-Site Improvements.

(c) As soon as reasonably possible and within the Due Diligence period Seller shall provide to Purchaser for consideration and review, proposed construction plans for the Off-Site Improvements along with the results of any studies and financial analysis obtained or employed by the Seller to determine scope of the necessary Off-Site Improvements and the estimated actual costs of constructing the Off-Site Improvements. Seller shall also provide Purchaser a statement showing the remaining funds available to Seller to fund the construction of the Off-Site Improvements.

(d) Upon acceptance by the Purchaser of the proposed construction plans as well as the estimated actual costs and Seller's funding limitations, or upon acceptance of modified construction plans agreed to by Purchaser and Seller as well as the Purchaser's acceptance of the estimated actual costs and Seller's funding limitation, the Purchaser shall begin construction of the Off-Site Improvements.

(e) In amount not to exceed the Seller's funding limitations, the Seller shall reimburse the Purchaser for the actual costs of constructing the Off-Site Improvements. If the actual costs to construct the Off-Site Improvements exceed the Seller's funding limitations, the Purchaser shall bear all remaining costs and shall complete construction of the Off-Site Improvements.

(f) Purchaser shall submit detailed invoices to Seller showing Developer's actual costs incurred for constructing the Off-Site Improvements, and Seller shall pay the Developer those actual costs within fifteen (15) days of receipt of the invoice.

(g) The Seller's total funding limitations for engineering and designing the Off-Site Improvements including costs of studies and financial analysis needed to reasonably determine the scope of the Off-Site Improvements; costs necessary reasonably determine the estimated actual costs of constructing the Off-Site Improvements, as well as the actual costs of construction of the Off-Site Improvements is ONE MILLION DOLLARS (\$1,000,000.00).

(h) The Seller's total funding limitations for engineering and designing the Off-Site Improvements including costs of studies and financial analysis needed to reasonably determine the scope of the Off-Site Improvements; costs necessary to reasonably determine the estimated actual costs of constructing the Off-Site Improvements, as well as the actual costs of construction of the Off-Site Improvements, or any other funding limitation prescribed in this Agreement, can only be increased through an Amendment to this Agreement approved by the County Council of the Incorporated County of Los Alamos.

(i) If the Seller and Purchaser agree that a traffic control device is needed or required for the development of the Property, the Purchaser shall be responsible for obtaining all appropriate permits for the traffic control device as well as the design, engineering, construction of the traffic control device. In an amount not to exceed TWO HUNDRED THOUSAND AND NO 00/100 DOLLARS (\$200,000.00) the Seller shall be reimburse the Purchaser for one-half the actual costs of designing, engineering, and constructing the traffic control. Purchaser shall submit detailed

invoices to Seller showing Purchaser's actual costs incurred for designing, engineering, and constructing the traffic control device, and Seller shall pay the Purchaser those actual costs within fifteen (15) days of receipt of the invoice. The funding limit prescribed here is in addition to, and not a part of, the funding limits prescribed in Paragraph 9.5, subpart (g). If the actual costs to design, engineer and construct the traffic control device exceeds the Seller's funding limitations prescribed here, the Purchaser shall bear all remaining costs and shall complete the design, engineering, and construction of the traffic control device.

(j) The Purchaser acknowledges and agrees that the construction of the Off-Site Improvements, as well as the optional construction of a traffic control device if said optional construction of a traffic control device is undertaken, are part of the Project as defined in Paragraph 9.1, and that construction of the Off-Site Improvements, as well as construction of the optional traffic control device if said optional construction of a traffic control device is undertaken, shall be completed by the Project Completion Date prescribed in Paragraph 9.5. Failure to complete construction of the Off-Site Improvements, as well as the optional construction of a traffic control device if said optional construction of a traffic control device is undertaken, by the Project Completion Date prescribed in Paragraph 9.5 constitutes a failure to complete the Project by the Project Completion Date, and subjects to Purchaser to the payment obligations as well as all other obligations prescribed in Paragraph 9.5.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article IX shall survive the Closing Date.

ARTICLE X

MISCELLANEOUS

10.1 Parties Bound: This Agreement may only be assigned without the written consent of the Seller to an affiliate or subsidiary of the Purchaser if and only if the affiliate or subsidiary is directly controlled by Gerald Peters. The prior written consent of Seller shall be required for any other assignment. If so assigned, and as a condition of assignment, all the terms and conditions of this Agreement shall extend to and be binding upon the assignee. Notwithstanding the foregoing, Purchaser has the right to assign its rights hereunder to a lender providing construction financing for the Project as defined in the Development Agreement. In the event of such an assignment, Purchaser shall not be released from any obligations under this Agreement. The Seller may not assign this Agreement without the prior written consent of the Purchaser. Any prohibited assignment shall be void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the parties. Purchaser shall provide written notice to Seller no less than ten (10) days prior to Closing of any permitted assignment hereunder.

10.2 Headings: The article and paragraph headings of this Agreement are of convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

10.3 Invalidity And Waiver: If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible and so long as each party obtains the principal benefits for which it bargained, the remainder of this Agreement shall be deemed valid and operative, and

effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such party's right to enforce against the other party the same or any other such term or provision in the future.

10.4 Governing Law: This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with the law of the state of New Mexico, and the Parties agree and consent that the venue for any cause of action arising from this Agreement shall only be the First Judicial District Court of Los Alamos.

10.5 Mediation The parties agree that in the event a dispute arises regarding any of the duties, rights or obligations of any of the parties or regarding any provision in the Agreement, except default for failure to close as provided for in Article VIII of the Agreement, the parties shall first attend a mediation before a mutually agreed upon mediator, to attempt to resolve any disputes prior to filing any cause of action in law or equity. The party seeking mediation shall notify the other party, in writing, of its request to mediate, and said mediation shall occur within thirty (30) days of said notice unless mutually agreed otherwise by the parties in writing and the costs thereof shall be split equally by the parties.

10.6 Contractual Liability: The parties agree that this is a valid written contract for purposes of NMSA 1978, Section 37-1-23.

10.7 No Third Party Beneficiary: This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions, or remedies to any person or entity as a third party beneficiary, decree, or otherwise.

10.8 Entirety and Amendments: This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings relating to the Property. This Agreement may be amended or supplemented only by an instrument in writing executed by both Parties.

10.9 Time: Time is of the essence in the performance of this Agreement.

10.10 Attorney's Fees: Should either party employ attorneys to enforce any of the provisions hereof, the party against whom any final judgment is entered, including but not limited to, judgment on appeal to the New Mexico Supreme Court, shall pay, to the extent allowed by law, the prevailing party's reasonable costs, charges, and expenses, including reasonable attorneys' fees, expended or incurred in connection therewith.

10.11 Notices:

- (a) All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth in Paragraph 1.1. Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered upon actual date of receipt, or, (b) sent by overnight delivery for next business day delivery using a nationally recognized overnight courier, in which case notice shall be deemed

delivered upon actual date of receipt, or, (c) sent by facsimile, in which case notice shall be deemed delivered upon transmission of such notice and evidence of receipt of said transmission, with a hard copy mailed the same business day, or (d) sent by personal delivery, in which case notice shall be deemed delivered upon receipt. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. As regards notice by email transmission, the parties agree that an email transmission shall be a proper form of notice under this agreement, provided, the sender require that the email recipient acknowledge receipt of the email and upon such acknowledgment the notice shall be deemed to have been delivered; if acknowledgment of receipt of email is not forthcoming on the day the email was sent, the attempt to give notice via email shall be disregarded and the party seeking to give notice shall do so by one of the methods enumerated above in this Article 10.11.

- (b) Unless a party delivers notice to the other party of a breach of representations, warranty or covenant that survives Closing for a period of only two (2) years within (2) two years of the Closing Date that representation, warranty or covenant shall be of no further force and effect.

10.12 Construction: The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

10.13 Calculation Of Time Periods: Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday for national banks in the location where the Property is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

10.14 Execution in Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange telephonic facsimile or electronic counterparts of the signature pages.

10.15 Section 1031 Exchange: At either party's request (with notice thereof and copies of all documents for execution by either party to be given to the other party not less than five (5) business days prior to Closing), either party will execute such documents and perform such other acts as the other party reasonably requests in cooperation with such party's effort to have the sale of the Property to Purchaser considered to be part of a so-called "like-kind exchange" under applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"), provided:

- (a) All such documents shall be prepared by or at the direction and expense of the party making such request;

Purchase, Sale and Development Agreement for Real Property Located in
the Incorporated County of Los Alamos Commonly Referred to as A-13-2 and A-12 Sites

- (b) Neither Party shall incur any expense or be required to assume any obligations in connection with the performance of this Section; and
- (c) Any such requested conduct will not delay the closing of the transaction beyond the specified Closing Date.

By this Agreement or acquiescence to the exchange, neither party shall (1) have its rights under this Agreement affected or diminished in any manner, or (2) be responsible for compliance with or be deemed to have warranted to the other that the exchange in fact complies with the Code.

10.16 Disclaimer: EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE DOCUMENTS EXECUTED AT CLOSING, IT IS UNDERSTOOD AND AGREED THAT THE PROPERTY IS BEING SOLD AND CONVEYED HEREUNDER "**AS IS, WHERE IS, WITH ALL FAULTS**", WITH NO RIGHT OF SETOFF OR REDUCTION IN THE PURCHASE PRICE AND WITHOUT ANY REPRESENTATION OR WARRANTY BY SELLER EXCEPT AS EXPRESSLY SET FORTH HEREIN. SELLER HAS NOT MADE AND IS NOT MAKING, EXCEPT AS HEREIN MADE IN WRITING, ANY OTHER EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE PROPERTY, FITNESS FOR ANY PARTICULAR PURPOSE OF THE PROPERTY, ACCURACY OF DIMENSIONS, AND RELATING IN ANY WAY TO HAZARDOUS MATERIALS OR ANY ENVIRONMENTAL MATTERS, SUITABILITY OF SOIL OR GEOLOGY, OR ABSENCE OF DEFECTS OR HAZARDOUS OR TOXIC MATERIALS OR WASTES; AND PURCHASER ACKNOWLEDGES AND REPRESENTS THAT PURCHASER IS ENTERING INTO THIS AGREEMENT WITHOUT RELYING UPON ANY SUCH STATEMENT, REPRESENTATION OR WARRANTY MADE BY SELLER OR BY SELLER'S AGENT OR BY ANY OTHER PERSON AND, EXCEPT AS HEREIN EXPRESSLY SET FORTH IN WRITING, IS ACQUIRING THE PROPERTY BASED SOLELY UPON PURCHASER'S OWN INSPECTIONS, INVESTIGATIONS AND FINANCIAL ANALYSIS. PURCHASER ACKNOWLEDGES IT HAS HAD AN ADEQUATE OPPORTUNITY TO INSPECT THE PROPERTY AND PROPERTY INFORMATION AND HAS CONSULTED WITH SUCH EXPERTS AND PROFESSIONALS AS IT DEEMS APPROPRIATE.

The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in Article X shall survive the Closing Date.

(document continued on next page)

IN WITNESS WHEREOF, the parties have entered into this Purchase and Sale Agreement effective as of the date first written above.

LAH INVESTORS, LLC
BY ITS MANAGING MEMBER:
SANTA FE PROPERTIES REAL ESTATE CO., INC.
A NEW MEXICO CORPORATION

BY: Alan W. Brown
ALAN W. BROWN, TREASURER
DATED THIS 8th DAY OF January, 2018

ATTEST

Naomi D. Maestas
NAOMI D. MAESTAS,
COUNTY CLERK



INCORPORATED COUNTY OF LOS ALAMOS

BY: [Signature]
HARRY BURGESS, IN HIS CAPACITY AS COUNTY
MANAGER AND AS AN AUTHORIZED AGENT OF THE
INCORPORATED COUNTY OF LOS ALAMOS
DATED THIS 4th DAY OF January, 2018

Approved as to form:

[Signature]
J. ALVIN LEAPHART
COUNTY ATTORNEY

**UNANIMOUS WRITTEN CONSENT OF
THE BOARD OF DIRECTORS OF
SANTA FE PROPERTIES REAL ESTATE CO., INC.**

The undersigned, being the sole Director of Santa Fe Properties Real Estate Co., Inc., a New Mexico corporation, hereinafter referred to as the "Corporation," hereby consents, pursuant to the New Mexico Business Corporation Act, NMSA 1978, Section 53-11-43 (1993 Repl. Pamp.), to taking the following action in lieu of a meeting and hereby waives any notice whatsoever required to be given in connection therewith.

The Corporation is the Managing Member of LAH Investors, LLC, a New Mexico limited liability company ("LAH"); and

Corporation, acting in its capacity as Managing Member of LAH, including designated officers, President, Vice President, and/or Treasurer, shall have the power of the Managing Member and either may sign all contracts and documents on behalf of LAH and perform such other duties commonly incident to the office of President, Vice President and/or Treasurer.

IT IS HEREBY RESOLVED that the Board of Directors of the Corporation authorizes and directs Alan W. Brown, Treasurer for Corporation and LAH, to take such steps, to perform such acts, and to sign such documents as may be necessary, including, without limitation, all contracts and documents on behalf of the LAH. Execution of documents by Alan W. Brown, Treasurer for Corporation and LAH, and on behalf of LAH, shall be binding against the entity for which such execution is effected.

DIRECTOR

Dated: December 28, 2017



Gerald P. Peters

GERALD ^{GP} PETERS GALLERY®

1005 PASEO DE PERALTA, SANTA FE, NM 87501
TEL 505 954-5700 • FAX 505 954-5754 • WWW.GPGALLERY.COM

January 8, 2018

To Whom It May Concern,

I, Ana Archuleta, do hereby confirm that I witnessed the signature by Gerald Peters on the Unanimous Written Consent of Santa Fe Properties Real Estate dated December 28, 2017, for the matter regarding the purchases of land in Los Alamos, New Mexico by LAH Investors, LLC.

Sincerely,



Ana Archuleta

Notary:



Keren James

Commission Expires:

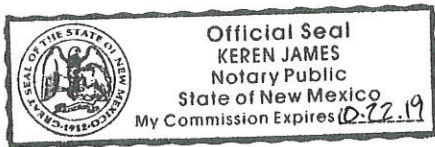


EXHIBIT "A"

TRACT A-13-2

Plat of Tract A-13-2, as certified by Josh A. Romero, N.M.P.L.S. No. 18375, and approved by the Incorporated County of Los Alamos Council on March 31, 2014, and held in the Los Alamos County Clerk's Office, Document No. 220243, Book 166, Page 128, Envelope 131, Drawer B-5.

Transcribed Legal Description for Tract A-13-2:

A parcel of land formerly Tract A-13-2, situated within Eastern Area No. 3, Los Alamos, Los Alamos County, New Mexico more particularly described as:

Beginning at the point for control monument No. A-0009 "Pajarito School" with the Los Alamos National Laboratory Permanent Monument Record, Thence S. 1" 45' 32" E., a distance of 8248.17 ft.

Thence south 0" 50' 24" W., a distance of 83.01 ft. to the northeast corner and the true point of beginning;

Thence S. 36" 38' 36" E., a distance of 43.46 ft.;

Thence S. 36" 38' 36" E., a distance of 372.66 ft.;

Thence S. 36" 40' 04" E., a distance of 170.48 ft.;

Thence S. 19" 38' 45" W., a distance of 160.10 ft.;

Thence S. 81" 19' 33" W., a distance of 219.38 ft.;

Thence N. 75" 21' 11" W., a distance of 428.31 ft.;

Thence N. 12" 12' 03" W., a distance of 221.49 ft.;

Thence N. 13" 13' 09" W., a distance of 224.19 ft.;

Thence N. 87" 03' 30" E., a distance of 265.31 ft.;

Thence a distance of 140.86 ft. along a curve to the left having a radius of 467.69 ft. and a chord of N. 46" 14' 27" e. a distance of 28.41 ft. To the point of beginning. Tract contains 7.52 acres +/-.

(Exhibit A is continued onto the next page)

EXHIBIT "A" (cont'd)

TRACT A-12

Plat of Tract A-12, as certified by Michael D. Heimbuck, P.L.S. No. 8732, and held in the Los Alamos County Clerk's Office, Document No. 160545, Book 106, Envelope 237-B-4, Page 741.

Transcribed Legal Description for Tract A-12:

A parcel of land situate in Section 16, Township 19 North, Range 6 East of the New Mexico P.M., County of Los Alamos, State of New Mexico. Being more particularly described as follows:

Beginning at a point on the Southerly Right-of-Way line of 35th Street as shown on the plot recorded for Eastern Area No.3, Los Alamos, New Mexico as filed in the office of the County Clerk of Los Alamos County, State of New Mexico, in Book 1 of Page 74 of the Records of Plots, said point also being the Northeasterly angle point of Trace E of said Eastern Area No. 3, thence 116.12 feet continuing along said Southerly Right-of-Way line of 35th Street, along the arc of a 467.69 foot radius curve to the right having a central angle of 14°13'30" and subtending a chord bearing N55°43'31"E a distance of 115.82 feet to an angle point on the Westerly line of tract line of Tract F of said Eastern Area No. 3; thence departing said Southerly Right-of-Way line of 35th Street and along the Southerly line of said Tract F the following seven (7) courses: (1) thence S79°11'29"E a distance of 122.67 feet; (2) thence N64°37'53"E a distance of 152.14 feet; (3) thence N77°53'14"E a distance of 314.38 feet; (4) thence S34°25'56"E a distance of 176.81 feet; (5) thence S63°53'51"E a distance of 162.62 feet; (6) thence S63°27'22"E a distance of 87.88 feet; (7) thence S18°43'43"E a distance of 45.05 feet; thence S78°31'32"W departing said Southerly line a distance of 120.85 feet; thence N82°11'52"W a distance of 80.31 feet; thence S62°19'22"W a distance of 106.02 feet; thence N47°06'13"W a distance of 87.75 feet; thence N04°18'23"W a distance of 89.91 feet; thence N19°13'56"W a distance of 50.66 feet; thence N76°25'18"W a distance of 60.54 feet; thence S71°48'04"W a distance of 21.97 feet; thence S48°09'03"W a distance of 173.23 feet; thence S25°51'14"W a distance of 51.09 feet; thence S42°46'56"W a distance of 45.96 feet; thence S56°45'45"W a distance of 90.57 feet; thence S11°51'31"W a distance of 124.54 feet to a point of the Northeasterly line of said Trace E; thence N36°38'58" W continuing along said Northeasterly line a distance of 415.95 feet to the Point of Beginning.

Said parcel contains 196.545 square feet (4.5120 acres) more or less.

EXHIBIT B

ACKNOWLEDGMENT BY ESCROW HOLDER

The Escrow Holder hereby agrees to perform its obligations under this Agreement and acknowledges receipt of the Earnest Money of _____ DOLLARS (\$ _____ .00), and a fully executed counterpart of this Agreement.

Escrow Agent shall hold and dispose of the Earnest Money in accordance with the terms of this Agreement. Seller and Purchaser agree that the duties of the Escrow Agent hereunder are purely ministerial in nature and shall be expressly limited to the safekeeping and disposition of the Earnest Money in accordance with this Agreement. Escrow Agent shall incur no liability in connection with the safekeeping or disposition of the Earnest Money for any reason other than Escrow Agent's tortious acts or omissions. In the event that Escrow Agent shall be in doubt as to its duties or obligations with regard to the Earnest Money, or in the event that Escrow Agent receives conflicting instructions from Purchaser and Seller with respect to the Earnest Money, Escrow Agent shall not be required to disburse the Earnest Money and may, at its option, continue to hold the Earnest Money until both Purchaser and Seller agree as to its disposition or until a final judgment is entered by a court of competent jurisdiction directing its disposition, or Escrow Agent may interplead the Earnest Money in accordance with the laws of the state of New Mexico.

Escrow Agent shall not be responsible for any interest on the Earnest Money except as is actually earned, or for the loss of any interest resulting from the withdrawal of the Earnest Money prior to the date interest is posted thereon if such withdrawal is upon instruction of either the Seller or Purchaser.

By: _____
Name: _____
Title: _____

DATE: _____, 2017

EXHIBIT C

Purchase, Sale and Development Agreement for Real Property Located in
the Incorporated County of Los Alamos Commonly Referred to as A-13-2 and A-12 Sites

DRAFT

"THE HILL" RESIDENTIAL
LOS ALAMOS, NM
CONCEPTUAL OFFSITE COST ESTIMATE
SUMMARY
TABLE 1
8/23/2017

ITEM NO.	DESCRIPTION	UNIT	APPROX. QUANTITY	UNIT PRICE	EST. PRICE
1	INTERSECTION IMPROVEMENTS (SEE TABLE 2 FOR DETAILS)	L.S.	1	\$751,118.91	\$751,118.91
2	OFFSITE WATER IMPROVEMENTS (SEE TABLE 3 FOR DETAILS)	L.S.	1	\$51,765.30	\$51,765.30
3	OFFSITE SEWER IMPROVEMENTS (SEE TABLE 4 FOR DETAILS)	L.S.	1	\$20,173.33	\$20,173.33
4	OFFSITE ELECTRIC SERVICE IMPROVEMENTS (SEE TABLE 5 FOR DETAILS)	L.S.	1	\$17,470.52	\$17,470.52
5	OFFSITE GAS SERVICE IMPROVEMENTS (SEE TABLE 6 FOR DETAILS)	L.S.	1	\$42,247.88	\$42,247.88
CONSTRUCTION SUBTOTAL (ITEM NUMBERS 1-5)					\$882,775.93
6	GEOTECHNICAL REPORT	L.S.	1	\$11,500.00	\$11,500.00
7	SUBSURFACE UTILITY INVESTIGATIONS	L.S.	1	\$8,000.00	\$8,000.00
SUBTOTAL					\$902,275.93
8	CONTINGENCIES @ 20%	L.S.	1	\$180,455.19	\$180,455.19
SUBTOTAL					\$1,082,731.12
NMGR @ 7.3125%					\$79,174.71
TOTAL					\$1,161,905.83

