

INCORPORATED COUNTY OF LOS ALAMOS ORDINANCE NO. 735

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN COUNTY-OWNED REAL PROPERTY LOCATED IN THE INCORPORATED COUNTY OF LOS ALAMOS GENERALLY DESCRIBED AS LOTS 1C-1, 4C AND 5C-1, 20TH STREET TO RBMM LLC

WHEREAS, the Incorporated County of Los Alamos, New Mexico ("County" or "Seller") is the holder and owner of certain real property generally described as Lots 1C-1, 4C and 5C-1, 20th Street, in Los Alamos, New Mexico, ("Property") and more particularly described in the Purchase, Sale and Development Agreement attached hereto as Attachment A; and

WHEREAS, the Property was obtained by County from the United States as a "land transfer parcel" and is intended to be utilized by County for economic development of the community and to enhance County's self-sufficiency by reducing economic dependence on Los Alamos National Laboratory related revenues; and

WHEREAS, County previously advertised the availability of the Property for development and selected RBMM LLC (hereafter "Purchaser"), for the development of undeveloped County land; and

WHEREAS, County and Council find that the sale of the Property meets County's development goals for the parcels that have been subdivided and as outlined in County's Comprehensive Plan, comports with general principles of law and is fair and equitable; and

WHEREAS, the current appraised fair market value of the Property has been determined by a qualified appraiser to be One Million Seven Hundred and Seventy Thousand and No/100 Dollars (\$1,770,000); and

WHEREAS, County agrees to sell the Property to Purchaser for One Million Seven Hundred Seventy Thousand and No/100 Dollars (\$1,770,000.00) in cash at the closing which shall occur in accordance with the terms and conditions contained in the Purchase, Sale and Development Agreement; and

WHEREAS, under the conditions expressed herein, the Council of the Incorporated County of Los Alamos wishes to enter into a private sale of the land in accordance with NMSA 1978, Section 3-54-1 (B), and this Ordinance is subject to referendum as provided in such Section; and

WHEREAS, this Ordinance was published prior to its adoption pursuant to the provisions of Subsection J of Section 3-1-2, NMSA 1978 and Section 3-17-3, NMSA 1978.

BE IT ORDAINED BY THE GOVERNING BODY OF THE INCORPORATED COUNTY OF LOS ALAMOS as follows:

Section 1. Appraisal. Pursuant to State law, an appraisal was obtained by the County on November 11, 2022. The appraisal was conducted by an independent qualified appraiser. As provided in the appraisal, the Final Value of Lots 1C-1, 4C, and 5C-1 are estimated at \$1,770,000.00.

Section 2. As authorized by NMSA 1978, Section 3-54-1, the County Council hereby authorizes the County Manager, following the required publication and referendum periods, to finalize negotiations with Purchaser and enter into a Purchase, Sale and Development Agreement with Purchaser whereby County will receive a total of One Million Seven Hundred Seventy Thousand and No/100 Dollars (\$1,770,000.00) for the Property, as outlined in the attached Purchase, Sale and Development Agreement.

Section 3. The County Manager is further authorized to finalize and execute the Purchase, Sale and Development Agreement, Quitclaim Deed, and such other closing documents as may be reasonably necessary to complete the transaction authorized herein provided that the closing documents shall be substantially in the form attached hereto and in form acceptable to the County Attorney.

Section 4. The County Manager is directed to publish this Ordinance at least once within one (1) week after adoption of this Ordinance pursuant to Subsection J of Section 3-1-2, NMSA 1978, Subsection A of Section 3-17-3 NMSA 1978, and in accordance with NMSA 1978, Section 3-54-1 (D).

Section 5. This Ordinance shall be effective forty-five (45) days after adoption unless the referendum process is commenced in accordance with the requirements of NMSA 1978, Section 3-54-1.

Section 6. Severability. Should any section, paragraph, clause or provision of this ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 7. Repealer. All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

ADOPTED this 26th day of August, 2025.

**COUNCIL OF THE INCORPORATED COUNTY
OF LOS ALAMOS**

Theresa Cull, Council Chair

ATTEST:

**Michael D. Redondo
Los Alamos County Clerk**

PURCHASE, SALE AND DEVELOPMENT AGREEMENT

This Purchase, Sale, and Development Agreement (“Agreement”), for good and valuable consideration, the adequacy of which is hereby acknowledged, is entered into by and between RBMM LLC, a New Mexico limited liability company d/b/a RBMM Development (“Purchaser”) and Incorporated County of Los Alamos, a New Mexico County (“Seller”), as of the Effective Date (defined below).

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 date that the Title Company acknowledges receipt of a copy of this Agreement (or counterparts) executed by Seller and Purchaser, to be set forth on **Exhibit D** attached hereto.

- (b) Purchaser and Notice Address:
RBMM LLC
c/o Brott Real Estate LLC
1751 Calle Medico, Suite L
Santa Fe, NM 87505
Telephone: (505) 501-8402
E-Mail: russell@thebrottco.com

With a copy via E-Mail, which shall not be deemed notice, to:
Lawrence M. Wells
Attorney at Law
5100 Juan Tabo Blvd. NE, Suite 100
Albuquerque, NM 87111
Telephone (505) 595-3910
E-Mail: lwells@wellslawabq.com

- (c) Seller and Notice Address:
Incorporated County of Los Alamos, a New Mexico County
Attn: Anne W. Laurent, County Manager
1000 Central Avenue, Suite 350
Los Alamos, New Mexico 87544
Telephone: (505) 663-1750
Facsimile: (505) 662-8079
E-Mail: anne.laurent@losalamosnm.gov and lacmanager@losalamosnm.gov

With a copy, which shall not be deemed notice, to:

J. Alvin Leaphart, County Attorney

1000 Central Avenue, Suite 340

Los Alamos, New Mexico 87544

Telephone: 505-662-8020

Facsimile: 505-662-8019

Email: alvin.leaphart@losalamosnm.gov and lacattorney@losalamosnm.gov

- (d) Purchase Price of Property: One Million Seven Hundred Seventy Thousand and No/100ths Dollars (\$1,770,000.00) to be paid in cash at Closing, subject to the closing cost allocations and proration set forth herein.
- (e) Due Diligence Earnest Money: Ten Thousand and No/100ths Dollars (\$10,000.00), to be deposited with the Title Company within three (3) business days after the Effective Date, as further addressed in Article III below.
- (f) Due Diligence Period: The Due Diligence Period shall begin on the Effective Date and continue for one hundred eighty (180) days, subject to any Recognized Environmental Condition Extension (defined below), unless Purchaser exercises an option to extend the Due Diligence Period as provided for in Section 3.1 below.
- (g) Site Plan Approval Period Deposit: Fifteen Thousand and No/100ths Dollars (\$15,000.00) as provided for in Section 5.1 below.
- (h) Site Plan Approval Period: The Site Plan Approval Period shall begin upon the expiration of the Due Diligence Period and continue for one hundred eighty (180) days, unless the period is extended pursuant to Section 5.4, below.
- (i) Permit Period Deposit: Twenty Thousand and No/100ths Dollars (\$20,000.00) as provided for in Section 6.1 below.
- (j) Permit Approval Period: The Permit Approval Period shall begin upon the expiration of the Site Plan Approval Period and continue for ninety (90) days, unless the period is extended pursuant to Section 6.4, below.
- (k) Closing Date: The Closing Date shall be within thirty (30) days after the expiration of the Permit Approval Period unless otherwise extended as provided herein, or at an earlier date agreed upon by both parties.
- (l) Title Company/Escrow Agent and Address:
 - 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: DeniseGT@titleguarantynm.com

- (m) Days: All references to “days” in this Agreement shall mean calendar days unless otherwise stated.

1.2 Property: Subject to the terms of this Agreement, Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller the land comprising approximately 3.0855 acres as more particularly described on **Exhibit A** attached hereto (the “Land”) owned by Seller, including all improvements situated on the Land, together with all easements and rights-of-way relating thereto, and all appurtenances thereunto belonging, and, without warranty, all other rights, title, and interest, if any, of Seller in and to the Land, including any and all oil, gas and other mineral interests in and under said land, water rights and all other rights and incidents thereto not previously reserved or conveyed of record (collectively “Property”).

1.3 Purchaser Cash Payment: The Purchase Price, subject to the proration and closing cost allocations as provided in Section 1.6 shall be paid in cash at Closing by Purchaser to Seller. The Due Diligence Earnest Money, Due Diligence Extension Earnest Money (if any), Site Plan Approval Period Deposit, Site Plan Approval Period Extension Deposit (if any), Permit Period Deposit and Permit Period Extension Deposit (if any), as applicable, shall be applied to the Purchase Price.

1.4 Due Diligence Earnest Money:

(a) The Due Diligence Earnest Money and any Due Diligence Extension Earnest Money (defined below) shall be held in an interest-bearing account, interest to accrue for the benefit of Seller or Purchaser, as applicable, and deposited pursuant to the terms hereof and interest earned thereon shall be a part of the Due Diligence Earnest Money.

(b) If this Agreement is terminated by Purchaser during the initial Due Diligence Period or the Extended Due Diligence Period (defined below), the Due Diligence Earnest Money paid shall be refunded to Purchaser and any Due Diligence Extension Earnest Money shall be delivered to Seller. In the event this Agreement is not terminated within the Due Diligence Period or the Extended Due Diligence Period, the Due Diligence Earnest Money and any Due Diligence Extension Earnest Money shall be non-refundable to Purchaser except pursuant to Article VII (“Condemnation”) and Section 11.2 (“Seller’s failure to close”) of this Agreement.

1.5 Options for Extension: Seller, for good and valuable consideration, adequacy of which is hereby acknowledged, hereby grants to Purchaser, limited options to extend the Due Diligence Period, the Site Plan Approval Period, and the Permit Approval Period as provided in Article III (“Due Diligence and Inspections”), Article V (“Site Plan Approval Period”), and Article VI (“Permit Approval Period”), respectively, subject to the conditions and consideration described in this Agreement.

1.6 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 4.1</u>	Seller

<u>Cost/Obligation</u>	<u>Responsible Party</u>
Premium for standard form Title Policy required to be delivered pursuant to <u>Section 4.3</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
ALTA Survey	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
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

1.7 **Time Limit of Offer:** The Offer set forth in this Agreement to Purchaser shall expire at 5:00 p.m. Mountain Time, on the tenth (10th) day after Purchaser receives written notice from the Economic Development Administrator 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. Purchaser shall, within ten (10) days of receipt of said notice, execute this Agreement, in the form approved by Purchaser and Seller not changed in form or substance, and return same to Seller either in original or a copy delivered as a pdf attachment to an email or by other electronic means, including via DocuSign or other electronic signature service. In the event Purchaser fails to timely execute the Agreement as prescribed herein and return same to Seller, the Parties agree that the offer set forth in this Agreement shall stand rescinded, and the Agreement shall be of no force and effect. Seller shall, within five (5) days of receipt of Purchaser's signed counterpart of this Agreement, execute this Agreement and return same to Purchaser either in original or a copy delivered as a pdf attachment to an email or by other electronic means, including via DocuSign or other electronic signature service. In the event Seller fails to timely execute the Agreement as prescribed herein and return same to Purchaser, the Parties agree that the offer set forth in this Agreement shall stand rescinded, and the Agreement shall be of no force and effect.

ARTICLE II INSPECTIONS, INSURANCE, AND INDEMNITY

2.1 Access: During the Due Diligence Period, Site Plan Approval Period and Permit Approval Period, respectively, and as same may be extended, Purchaser, its agents, employees and contractors 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 by Purchaser, its agents, employees or contractors disturbs the Property in any material respect, Purchaser, its agents, employees or contractors, shall 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.

2.2 Insurance Requirements: Upon execution of this Agreement, Purchaser shall provide to Seller a certificate of insurance showing Seller as an additional insured with a national insurance company acceptable to Seller in its reasonable judgment in the minimum amount of ONE MILLION DOLLARS (\$1,000,000.00) per occurrence and TWO MILLION DOLLARS (\$2,000,000.00) in the aggregate, insuring Seller against any and all liability which may arise from the entry and any activity on the Property of Purchaser, its agents, employees or contractors, during the Due Diligence Period, Site Plan Approval Period, and the Permit Approval Period, respectively, and as same may be extended.

2.3 Indemnity: 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 to the extent caused by the negligence or intentional misconduct of Purchaser, its agents, employees or contractors, upon the Property, as well as 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. Purchaser's indemnity herein shall survive Closing and shall not be limited by the termination provisions provided for in this Agreement.

ARTICLE III DUE DILIGENCE AND INSPECTIONS

3.1 Due Diligence and Extended Due Diligence:

- (a) The Due Diligence Period shall begin on the Effective Date and continue for one hundred eighty (180) days thereafter, unless extended pursuant to Section 3.1(b) below.
- (b) Option to Extend Due Diligence Period: Purchaser shall have the option to extend the Due Diligence Period for two (2) consecutive additional periods of ninety (90) days each beyond the initial Due Diligence Period ("Extended Due Diligence Period") upon written notice to Seller and delivery of an additional Two Thousand Five Hundred and No/100ths Dollars (\$2,500.00) in each instance for the Option to Extend the Due Diligence Period ("Due Diligence Extension Earnest Money") to the Escrow Agent at least three (3) business days before the expiration of the initial Due Diligence Period or first Extended Due Diligence Period, as applicable, which shall be applied to the Purchase Price. The Due Diligence Extension Earnest Money is not refundable to Purchaser except pursuant to Article VII ("Condemnation") and Section 11.2

(“Seller’s failure to close”) of this Agreement. The Due Diligence Extension Earnest Money shall be held in an interest-bearing account, interest to accrue for the benefit of Seller or Purchaser, as provided herein.

- (c) Purchaser acknowledges and agrees that it will be relying on its inspections and investigations in acquiring the Property and that the Due Diligence Period, and Extended Due Diligence Period if applicable, allows 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. Subject to Seller’s express warranties and representations set forth in this Agreement, Purchaser is purchasing the Property **“AS IS, WHERE IS, WITH ALL FAULTS”** as specifically provided in Article XII of this Agreement. Purchaser acknowledges and agrees that the Due Diligence Period, and Extended Due Diligence Period if applicable, allows Purchaser an adequate opportunity to inspect and evaluate County utilities and utility locations,
- (d) Notwithstanding anything to the contrary set forth in this Agreement, in the event that a written report issued during the initial Due Diligence Period in connection with a Phase I Environmental Site Assessment undertaken in accordance with ASTM E1527-21 identifies one or more recognized environmental conditions and/or recommends that Phase II testing be undertaken in connection with same, the initial Due Diligence period shall automatically be extended for a period of sixty (60) days from the date of Purchaser’s written notice to Seller of such environmental condition (“Recognized Environmental Condition Extension”), which notice shall include a copy of the written report identifying such environmental condition. In the event that the Phase I Environmental Site Assessment or the Phase II report recommends that any remediation be undertaken on the Property with respect to such environmental condition, Seller shall cause such remediation to be undertaken at its sole cost and the Recognized Environmental Condition Extension shall automatically be extended through and including the tenth (10th) day after Seller delivers to Purchaser the written report of a licensed environmental engineer certifying that such environmental condition has been remediated in accordance with applicable law.

3.2 Removal of Seller’s Property: Seller will remove all Seller’s property upon the land, including fencing, equipment, and all other property within thirty (30) days of the Effective Date.

3.3 Termination During Due Diligence or Extended Due Diligence Period:

- (a) 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. In the event Purchaser exercises this right of termination, Escrow Agent is hereby irrevocably instructed to refund the Due Diligence Earnest Money and any interest accrued thereon 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. Purchaser, upon such termination, shall promptly deliver to Seller all information and documentation regarding the Property Purchaser obtained from Seller during the Due Diligence Period.
- (b) Extended Due Diligence Period. If the Option to Extend the Due Diligence Period has been purchased, Purchaser may elect, in its sole unfettered discretion, for any reason or no

reason, to terminate this Agreement prior to the end of the Extended Due Diligence Period by giving Seller written notice thereof as herein provided. In the event Purchaser exercises this right of termination, Escrow Agent is hereby irrevocably instructed to refund **only** the Due Diligence Earnest Money and any interest accrued thereon to Purchaser without the necessity of Seller's consent. Escrow Agent is also hereby irrevocably instructed to disburse the Due Diligence Extension Earnest Money and any interest accrued thereon to Seller without the necessity of Purchaser's consent. Upon such termination, neither party shall have any further rights or liabilities hereunder except for those provisions which survive the termination of this Agreement. Purchaser, upon such termination, shall deliver to Seller all information and documentation regarding the Property Purchaser obtained from Seller during the Due Diligence and Extended Due Diligence Periods.

3.4 Seller to Provide Documents: Within three (3) business days of the Effective Date, Seller, at Seller's cost, will deliver to Purchaser the following information and documents contained in this Section, to the extent such information and documents are within Seller's reasonable possession or control ("Property Documents").

- (a) Copies of all engineering and architectural plans, including those relating to the installation of public utility services for the Property in Seller's possession, those relating to easements, and those relating to topography.
- (b) Copies of all soil reports and engineering reports and copies of any reports or studies (including, without limitation, environmental and physical inspection reports of employees, principals, consultants, or governmental authorities) with respect to the physical condition or operation of the Property.
- (c) Copies of any and all environmental reports, inspection reports, notices or other materials in Seller's possession or control regarding or evidencing the presence, or lack thereof, on the Property or released from the Property of any Hazardous Substances (hereinafter defined). As used herein, "Hazardous Substances" shall mean and include all substances and materials, including petroleum products, which are included under or regulated by any Environmental Law (hereinafter defined). "Environmental Laws" as used herein means without limitation (i) the Resource Conservation and Recovery Act, as amended ("RCRA") (42 U.S.C. § 6901 et seq.), (ii) the Comprehensive Environmental and Reauthorization Act of 1986, as now or hereafter amended ("CERCLA") (42 U.S.C. § 9601 et seq.), (iii) the Clean Water Act, as now or hereafter amended ("CWA") (33 U.S.C. § 1251 et seq.), (iv) the Toxic Substances Control Act, as now or hereafter amended ("CAA") (42 U.S.C. § 7401 et seq.), (v) all regulations promulgated under any of the foregoing, (vi) any local or state law, statute, regulation or ordinance analogous to any of the foregoing, and (viii) any other federal, state or local law (including any common law), statute, regulation, or ordinance regulating, prohibiting, or otherwise restricting the placement, discharge, release, threatened release, generation, treatment, or disposal upon or into any environmental media of any substance, pollutant, or waste which is now or hereafter classified or considered to be hazardous or toxic to human health or the environment.

ARTICLE IV
TITLE/SURVEY/ENVIRONMENTAL REVIEW

4.1 Title Report and Survey:

- (a) Title Report: Within fifteen (15) days after the Effective Date, 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 legible copies of all documents referenced in exceptions to title shown thereon ("Title Report"). As used in this Agreement, "current" shall mean dated no earlier than thirty (30) days from the Effective Date.
- (b) Survey: Within fifteen (15) days after the Effective Date, Seller shall provide Purchaser with a current ALTA Survey of the Property ("Survey") at Seller's cost and expense.

4.2 Title Report, Survey Review and Cure:

- (a) Purchaser shall review the Title Report and Survey obtained pursuant to Section 4.1 hereof during the Due Diligence Period. On or before the expiration of the Due Diligence Period, as same may be extended as provided herein, Purchaser shall notify Seller in writing of any title and/or survey objections. Purchaser's failure to timely object to any such matters shall be deemed to constitute Purchaser's approval thereof. If Purchaser timely objects, Seller shall have the right, but not the obligation, by written notice delivered to Purchaser within ten (10) days after delivery of Purchaser's objections ("Cure Period"), to agree to cure before Closing such title and/or survey objections, or to decline to cure such objections.
- (b) If Seller does not give written notice of its agreement to cure Purchaser's objections within the Cure Period, Purchaser may terminate this Agreement in accordance with Section 3.3(a) ("Termination During Due Diligence Period"). If Purchaser does not terminate this Agreement in accordance with Section 3.3(a), Purchaser shall be deemed to have waived any uncured title and/or survey objections, which shall then become Permitted Exceptions. Permitted Exceptions shall not reduce the Purchase Price.

4.3 Title Policy: As soon as possible after the Closing, 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 Deed (defined below) in the amount of the Purchase Price, insuring Purchaser as owner of fee simple title to the Property subject only to the Permitted Exceptions. The standard coverage of the Title Policy shall be at Seller's sole cost and expense, and any endorsements or extended or special coverages to the Title Policy shall be obtained by Purchaser at Purchaser's sole cost and expense.

ARTICLE V SITE PLAN APPROVAL PERIOD

5.1 Site Plan Approval Deposit. If this Agreement is not earlier terminated, then not later than the first day of the Site Plan Approval Period Purchaser shall deliver the Site Plan Approval Deposit to the Escrow Agent, which shall apply to the Purchase Price. The Site Plan Approval Deposit is not refundable to Purchaser under any circumstance once deposited except pursuant to Article VII (“Condemnation”) and Section 11.2 (“Seller’s failure to close”) of this Agreement. The Site Plan Approval Deposit shall be held in an interest-bearing account, interest to accrue for the benefit of Seller or Purchaser, as provided herein.

5.3 Site Plan Approval Period. The Site Plan Approval Period shall commence on the first day following the expiration of the initial Due Diligence Period or Extended Due Diligence Period, as applicable, and shall expire at 5:00 p.m. Mountain Time one hundred eighty (180) days thereafter, subject to extension as provided below. During the Site Plan Approval Period, Purchaser shall pursue final approval for a complete site plan application that substantially complies with Purchaser’s Concept Plan, attached as **Exhibit B** and incorporated herein for all purposes (“Concept Plan” or “Project”) and is satisfactory to Seller in all other respects. Purchaser must obtain Seller’s prior written approval from the County Manager for any material modification of Purchaser’s Concept Plan attached as **Exhibit B**.

5.4 Option to Extend the Site Plan Approval Period. Purchaser shall have the option to extend the Site Plan Approval Period for an additional one hundred eighty (180) days beyond the initial Site Plan Approval Period (“Extended Site Plan Approval Period”) upon written notice to Seller and delivery to Escrow Agent of an additional Five Thousand and No/100ths Dollars (\$5,000.00) (“Site Plan Approval Extension Deposit”) at least three (3) business days before the expiration of the initial Site Plan Approval Period, which shall be applied to the Purchase Price. The Site Plan Approval Extension Deposit shall be held in an interest-bearing account, interest to accrue for the benefit of Seller or Purchaser, as provided herein. The Site Plan Approval Extension Deposit is not refundable to Purchaser under any circumstance once deposited except pursuant to Article VII (“Condemnation”) and Section 11.2 (“Seller’s failure to close”) of this Agreement.

5.5 Purchaser and Seller Obligations and Rights During the Site Plan Approval Period.

(a) Purchaser shall employ reasonable commercial diligence during the Site Plan Approval Period, as may be extended as provided herein, to secure from the County of Los Alamos Planning and Zoning Commission a final decision approving a complete site plan application that substantially conforms with the Concept Plan attached as **Exhibit B**, as same may be modified with Seller’s written approval, and that is satisfactory to Seller in all other respects, and to secure a final order approving the Site Plan (“Final Site Plan”).

(b) Prior to the expiration of the initial Site Plan Approval Period, Seller shall cause the recording of a final plat consolidating Lots 4C and 5C-1 as described on **Exhibit A** attached hereto (the “Final Plat”), which Final Plat shall vacate the 24’ wide shared access and utility easement that is currently bisected by the existing shared boundary between Lots 4C and 5C-1.

(c) In the event that by the date that is ten (10) days prior to the expiration of the Site Plan Approval Period, as same may be extended, Purchaser has not obtained a Final Site Plan that

substantially conforms with the Concept Plan attached as **Exhibit B**, as same may be modified with Seller's written approval, and that is satisfactory to Seller in all other respects, Purchaser may terminate this Agreement by written notice to Seller and the Title Company, in which event the Escrow Agent is irrevocably instructed to disburse the Due Diligence Earnest Money, the Due Diligence Extension Earnest Money (if applicable), the Site Plan Approval Deposit, and the Site Plan Approval Extension Deposit (if applicable) and any interest accrued thereon to Seller without the necessity of Purchaser's consent, and neither party shall have any further rights or liabilities hereunder except for those provisions which survive the termination of this Agreement. Purchaser, upon such termination, shall promptly deliver to Seller all information and documentation regarding the Property Purchaser obtained from Seller during the Due Diligence Period.

5.6 No Approval by Contract. Purchaser acknowledges and agrees that Seller makes no guarantee nor promise to Purchaser that the County or any of the County departments, boards, or commissions will accept or approve any application for development related to this Agreement, the Property, or Purchaser's proposed project; and that the Concept Plan proposed by Purchaser is not a Site Plan, which requires Planning and Zoning Commission, and potentially County Council, approval, and Seller does not represent nor warrant that the Concept Plan proposed by Purchaser may be approved as a Final Site Plan. This Agreement provides no guarantee nor promise that Purchaser's plan, development, or proposal conforms with law.

5.7 Necessary Easements: As soon as reasonably possible and prior to the end of the Site Plan Approval Period, as may be extended, Purchaser shall provide to Seller legal descriptions, as well as needed conditions of all easements reasonably necessary to complete the Project and to be included in the Final Site Plan. Seller shall review the legal descriptions, as well as needed conditions of all easements reasonably necessary to complete the project to be incorporated in the Final Plat (if applicable), to determine whether legal descriptions, as well as needed conditions for all easements, can be provided to the Seller by the Purchaser. If Seller is unable to provide the requested reasonably necessary easements as described by the Purchaser, the Seller shall notify the Purchaser within fifteen (15) days of the receipt of Purchaser's legal descriptions and needed conditions of all easements. Upon receipt of Seller's notice that it is unable to provide the reasonably necessary easements, Purchaser may elect to terminate this Agreement by giving Seller written notice of termination within fifteen (15) days.

5.8 Sufficient Ingress and Egress: As soon as reasonably possible and prior to the end of the Site Plan Approval Period, as may be extended, Purchaser shall provide to Seller all conditions of ingress and egress that are reasonably necessary for completion of the Project, including but not limited to equipment and personnel necessary for detailed land layout designs, surveys, soil sampling, environmental analysis, and engineering plans. The Seller shall review all conditions of ingress and egress reasonably necessary for completion of the Project. If Seller is unable to provide reasonable conditions of ingress and egress necessary for completion of the Project, the Seller shall notify the Purchaser within fifteen (15) days of the Purchaser providing the requested conditions of ingress and egress reasonably necessary to complete the Project. If Seller is unable to provide ingress and egress reasonably necessary for completion of the Project Purchaser may elect to terminate this Agreement by giving Seller written notice within fifteen (15) days.

ARTICLE VI PERMIT APPROVAL PERIOD

6.1 Permit Approval Deposit. If this Agreement is not earlier terminated, then not later than the first day of the Permit Approval Period Purchaser shall deliver the Permit Approval Deposit to the Escrow Agent, which shall apply to the Purchase Price. The Permit Approval Deposit is not refundable to Purchaser under any circumstance once deposited except pursuant to Article VII (“Condemnation”) and Section 11.2 (“Seller’s failure to close”) of this Agreement. The Permit Approval Deposit shall be held in an interest-bearing account, interest to accrue for the benefit of Seller or Purchaser, as provided herein.

6.2 Permit Approval Period. Purchaser shall have a period of time (“Permit Approval Period”), commencing at the expiration of the Site Plan Approval Period, or Extended Site Plan Approval Period, as may be extended, and expiring at 5:00 p.m. Mountain Time, ninety (90) days later, in which to secure all necessary permits (the “Permits”) in order to commence construction as detailed in the Final Site Plan and Final Plat approved by the County, which Permits shall be deemed to include a representation from Seller that the Site Plan, Final Plat and approved Permits for construction are consistent with the Development Code and that no other permits, waivers or permissions shall be required of Purchaser to build the Project.

6.3 Proof of Financing. Within five (5) days of beginning of the Permit Approval Period, Purchaser shall provide Seller reasonable evidence of sufficient financing for the Project.

6.4 Option to Extend the Permit Approval Period. Pursuant to Section 1.5 of the Agreement Purchaser shall have the option to extend the Permit Approval Period for an additional ninety (90) days beyond the initial Permit Approval Period (“Extended Permit Approval Period”) upon written notice to Seller and delivery to Escrow Agent of an additional Five Thousand and No/100ths Dollars (\$5,000.00) (“Permit Approval Extension Deposit”) at least three (3) business days before the expiration of the initial Permit Approval Period, which shall be applied to the Purchase Price. The Permit Approval Extension Deposit is not refundable to Purchaser under any circumstance once deposited except pursuant to Article VII (“Condemnation”) and Section 11.2 (“Seller’s failure to close”) of this Agreement. The Permit Approval Extension Deposit shall be held in an interest-bearing account, interest to accrue for the benefit of Seller or Purchaser, as provided herein.

6.5 Failure to Obtain Permits. In the event that by the date that is ten (10) days prior to the expiration of the Permit Approval Period, as same may be extended, Purchaser has not obtained all Permits, Purchaser may terminate this Agreement by written notice to Seller and the Title Company, in which event the Escrow Agent is irrevocably instructed to disburse the Due Diligence Earnest Money, the Due Diligence Extension Earnest Money (if applicable), the Site Plan Approval Deposit, and the Site Plan Approval Extension Deposit (if applicable), the Permit Approval Deposit and the Permit Approval Extension Deposit (if applicable) any interest accrued thereon to Seller without the necessity of Purchaser’s consent, and neither party shall have any further rights or liabilities hereunder except for those provisions which survive the termination of this Agreement. Purchaser, upon such termination, shall promptly deliver to Seller all information and documentation regarding the Property Purchaser obtained from Seller during the Due Diligence Period.

ARTICLE VII CONDEMNATION

7.1 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 Due Diligence Earnest Money and such of the Due Diligence Extension Earnest Money, Site Plan Approval Deposit, Site Plan Approval Extension Deposit, Permit Approval Deposit and Permit Approval Extension Deposit as have been deposited with the Escrow Agent, or may elect by written notice to Seller 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 during the Election Period, this Agreement shall remain in full force and effect and the purchase contemplated herein, less any interest taken by eminent domain or condemnation, and Purchaser shall accept an assignment from Seller of the condemnation proceeds. For the purposes of this Section, "material portion" as to a taking or condemnation means any portion of the Property that will interfere with Purchaser's use of the Property as reflected in the **Exhibit B**, as same may be modified with Seller's written approval, in the reasonable judgment of Purchaser.

7.2 Intentionally Omitted

ARTICLE VIII CLOSING

8.1 Closing: The consummation of the transaction contemplated herein ("Closing") shall occur on the Closing Date as defined in Section 1.1(k), or such other time if the parties, through their respective agents who are executing this Agreement, may mutually agree and specify in writing.

8.2 Purchaser's Closing Conditions: The following shall be conditions precedent to Purchaser's obligation to Close this Agreement. If any of the following conditions precedent to Purchaser's obligation to Close are not satisfied in all material respects on or before the Closing Date, Purchaser may, at its option (a) exercise all remedies provided for in Article XI (Remedies for Failure to Close Only); or (b) elect to close, notwithstanding the non-satisfaction of such condition, in which event Purchaser shall be deemed to have waived any such condition.

- (a) The representations and warranties 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 to 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 Section 5.7 of the Agreement;
- (e) Unless Seller has notified Purchaser that Seller is unable to provide the reasonably necessary easements per Section 5.7 of this Agreement or that Purchaser is unable to provide reasonably sufficient ingress and egress as provided for in Section 5.8 of this Agreement, Seller shall deliver to Purchaser documents showing that Purchaser shall have the reasonably necessary easements and reasonable right of ingress and egress to the Property provided for in Sections 5.7 and 5.8 of this Agreement;
- (f) In the event that Seller elects to cure Purchaser's objections pursuant to Section 4.2, Seller shall have cured such objections; and
- (g) Purchaser and Seller have agreed upon the form and substance of the Access and Open Space Easement Agreement (defined in Section 12.2 of this Agreement), including without limitation the exact dimensions of the Access and Open Space Easement (defined in Section 12.2 of this Agreement), and the Access and Open Space Easement Agreement shall be ready for signatures and recording at closing.

8.3 Seller's Closing Conditions: The following shall be conditions precedent to Seller's obligation to Close this Agreement. If any of the following conditions precedent to Seller's obligation to Close are not satisfied in all material respects on or before the Closing Date, Seller may, at its option (a) exercise all remedies provided for in Article XI (Remedies for Failure to Close Only); or (b) elect to close, notwithstanding the non-satisfaction of such condition, in which event Seller shall be deemed to have waived any such condition.

- (a) The representations and warranties 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 to 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 have provided to County proof of sufficient financing for the Project in accordance with Section 6.3;
- (e) Purchaser shall have provided to County construction cost estimates based upon current pricing and evidence that it has engaged a general contractor to for the Project;
- (f) Purchaser shall have received final approval from the County Planning and Zoning Commission or County Council, as appropriate, for a Final Site Plan, which substantially conforms with the Concept Plan attached as **Exhibit B**, as same may be modified with Seller's written approval; and

- (g) Purchaser shall have received all necessary permits for the construction of the Project in accordance with Section 6.2.
- (h) Purchaser and Seller have agreed upon the form and substance of the Access and Open Space Easement Agreement, including without limitation the exact dimensions of the Access and Open Space Easement, and the Access and Open Space Easement Agreement shall be ready for signatures and recording at closing.

8.4 Seller's Deliveries in Escrow: Not later than 11:00 AM Mountain Time on the Closing Date, Seller shall deliver to the Escrow Agent the items listed below with copies of same delivered to Purchaser::

- (a) Deed: Special Warranty Deed in the New Mexico statutory form (the "Deed"), subject only to the Permitted Exceptions;
- (b) 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;
- (c) 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;
- (d) Additional Documents: The Access and Open Space Easement Agreement, and any additional documents that Escrow Agent, 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;
- (e) Closing Statement: A Closing Statement prepared by the Escrow Agent accurately reflecting the Purchase Price, cost allocations and proration as herein provided for; and
- (f) Appurtenances: An assignment in recordable form of Seller's right, title, and interests, if any such rights, title and interests are vested in 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.

8.5 Purchaser's Deliveries in Escrow: Not later than 11:00 AM Mountain Time on the Closing Date, Purchaser shall deliver in escrow to the Escrow Agent the following:

- (a) Purchase Price: The Purchase Price, less the Due Diligence Earnest Money, Site Plan Approval Deposit, Permit Approval Deposit and such of the Due Diligence Extension Earnest Money, Site Plan Approval Extension Deposit and Permit Approval Extension Deposit as have been deposited with the Escrow Agent, which shall be delivered to Seller by Escrow Agent, plus or minus applicable prorations. The Purchase Price shall

be deposited by Purchaser with the Escrow Agent in immediate, same-day federal funds for credit into the Escrow Agent's escrow account;

- (b) Additional Documents: The Access and Open Space Easement Agreement, and 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; and

8.6 Title Policy: The Title Policy (as described in Section 4.3 hereof) shall be delivered to Purchaser as soon as possible after the Closing.

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

8.8 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.

ARTICLE IX PRORATION AND COMMISSIONS

9.1 Proration: The items in this Section shall be prorated between Seller and Purchaser as of the Closing Date with Seller having the benefit and burden of any prorated items prior to the Closing Date, and Purchaser having the benefit and burden of any prorated items from and after the Closing Date.

9.2 Taxes and Assessments: General real estate taxes imposed by governmental authority ("Taxes") not yet due and payable shall be prorated. Any special assessments regarding the Property shall be paid in full by Seller at or before Closing. 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.

9.3 Commissions: Seller represents to Purchaser that it has not dealt with any real estate broker, salesperson or finder in connection with this transaction. Purchaser represents to Seller that it has not dealt with any real estate broker, salesperson or finder in connection with this transaction. Purchaser shall indemnify and hold Seller harmless against the claim of any real estate broker, salesperson or finder claiming by through or under Purchaser in connection with this transaction.

ARTICLE X
REPRESENTATIONS, WARRANTIES AND DISCLAIMER

10.1 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 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 conflicts with this Agreement. There is no action or proceeding pending or, to Seller's knowledge, threatened against Seller or the Property which challenges or impairs Seller's ability to execute or perform its obligations under this Agreement. There is no condemnation action or proceeding pending or, to Seller's knowledge, threatened against the Property or any part thereof.
- (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) Bills: Seller has paid or will pay in full all bills and invoices for labor and material of any kind arising from 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 Seller's ownership, operation, management, repair, maintenance or leasing of the Property.
- (d) Possessory Rights: There are no purchase contracts, options or any other agreements of any kind, oral or written (other than this Agreement), 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.
- (e) 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, including without limitation Environmental Laws, or of any covenant, condition, restriction or easement affecting the Property, or this Agreement, and to the best of Seller's knowledge no such violation exists with respect to the Property.
- (g) 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.

- (h) Parties in Possession: There are no parties other than Seller in possession of any portion of the Property.
- (i) Representation Change. In the event that Seller learns that any of Seller's representations or warranties in this Section 10.1 or elsewhere in this Agreement are no longer true and correct in all material respects, Seller shall promptly notify Purchaser of such change.
- (j) Authority for Sale. Seller represents that the Property is being sold pursuant to NMSA 1978, § 3-54-1 subject to the referendum requirements therein contained, as authorized by Section 14-31(6) of Code of Ordinances of the Incorporated County of Los Alamos.
- (k) Hazardous Substances. To the best of Seller's knowledge there are no Hazardous Substances on or under the surface of the Property, or any part thereof.

Notwithstanding anything herein to the contrary, (i) if Purchaser discovers prior to Closing that one or more of Seller's representations or warranties in this Section 10.1 or elsewhere in this Agreement are no longer true and correct in all material respects, Purchaser shall be entitled to exercise its rights under the provisions of Section 11.2 as its sole remedy; and (ii) from and after the Closing, Seller shall not have any liability for any failure of any representation or warranty being inaccurate if and to the extent that such inaccuracy is known by Purchaser or Purchaser has received materials or documentation which would reveal such inaccuracy prior to Closing and Purchaser nevertheless proceeds to consummate the Closing.

10.2 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.
- (c) Representation Change. In the event that Purchaser learns that any of Purchaser's representations or warranties in this Section 10.2 or elsewhere in this Agreement are

no longer true and correct in all material respects, Purchaser shall promptly notify Seller of such change.

10.3 Disclaimer. SUBJECT TO THE EXPRESS WARRANTIES AND REPRESENTATIONS OF SELLER IN THIS AGREEMENT AND THE WARRANTY OF TITLE IN THE DEED, (I) 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. 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 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, AND (II) 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.

ARTICLE XI

REMEDIES FOR FAILURE TO CLOSE ONLY

11.1 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, Seller's sole and exclusive remedy shall be to terminate this Agreement by written notice to Purchaser and Escrow Agent, in which event the Due Diligence Earnest Money, Site Plan Approval Deposit and Permit Approval Deposit and such of the Due Diligence Extension Earnest Money, Site Plan Approval Extension Deposit and Permit Approval Extension Deposit as have been deposited with the Escrow Agent, together with interest thereon, shall be disbursed by the Escrow Agent 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, Deposits, and all other funds escrowed for the Options to Extend, as applicable, to Seller, together with interest thereon represents a reasonable estimate of Seller's damages for Purchaser's failure or refusal to Close, and Seller agrees to accept such amount as Seller's total damages and relief for Purchaser's failure or refusal to Close. Upon such termination by Seller, Escrow Agent is hereby irrevocably instructed to distribute the Due Diligence Earnest Money, Site Plan Approval Deposit and Permit Approval Deposit and such of the Due Diligence Extension Earnest Money, Site Plan Approval Extension Deposit and Permit Approval Extension Deposit as have been deposited with the Escrow Agent, together with interest thereon, to Seller without the necessity of Purchaser's consent and neither party shall have any further rights or liabilities hereunder except for those provisions which survive the termination of 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.

11.2 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 remedies identified in this Section 11.2 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 either (i) terminate this Agreement by written notice to Seller and Escrow Agent, in which event Escrow Agent shall disburse to Purchaser the Due Diligence Earnest Money, Site Plan Approval Deposit and Permit Approval Deposit and such of the Due Diligence Extension Earnest Money, Site Plan Approval Extension Deposit and Permit Approval Extension Deposit as have been deposited with the Escrow Agent, together with interest thereon, without the necessity of Seller's consent, and recover from Seller all costs and expenses incurred by Purchaser in connection with this Agreement and the Project and the transaction contemplated hereby, including without limitation costs and expenses incurred in connection with Purchaser's investigation of the Property, planning of the Project and reasonable attorneys' fees and expenses incurred in connection therewith, following which neither party shall have any further rights or liabilities hereunder except for those provisions which survive the termination of this Agreement, or (ii) seek specific performance of this Agreement.

11.3 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 in Article XII of 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.

ARTICLE XII DEVELOPMENT AGREEMENT

12.1 In the event Purchaser purchases the Property as provided herein, and after Closing, Purchaser shall develop the Project pursuant to the terms and conditions prescribed in this Article, and the parties shall have the rights and obligations with regard to such development set forth in this Article, which shall survive Closing. The construction to occur within the Project shall materially and substantially conform with the Concept Plan attached as **Exhibit B**, as same may be modified with Seller's written approval, and the approved Final Site Plan.

12.2 Public Improvements:

In addition to constructing the Project, the Purchaser shall construct the following Public Improvements as more particularly described in Exhibit C in exchange for the County agreeing to reimburse the Purchaser for the reasonable costs of construction of the Public Improvements in an amount not to exceed **THREE MILLION SIX HUNDRED THIRTY THOUSAND AND FIFTY-FIVE DOLLARS AND FORTY-THREE CENTS (\$3,630,055.43)** as provided in the *Scope of Work for Public Improvements and Conceptual Engineers Opinion of Probable Costs Dated May 9, 2025* attached as Exhibit C.

(a) Roads, Traffic, and Lighting: Purchaser shall coordinate with Los Alamos County and the New Mexico Department of Transportation (NMDOT) to complete a Traffic Impact Analysis to

include a signal warrant analysis for the intersection of Trinity Drive (NM-502) and 20th Street. Conditioned upon approval of the signal warrant analysis by NMDOT and the County, the Purchaser shall cause the design and installation of a traffic signal at the intersection in accordance with NMDOT requirements, and in coordination with Los Alamos County Public Works Standards and Los Alamos County Utilities Construction Standards. Within thirty (30) days after substantial completion of traffic signal and a colored stamped crosswalk, Purchaser shall coordinate all applications and submissions for approvals that may be required of the New Mexico Department of Transportation, Los Alamos County, and any other governmental entity. In addition, the Purchaser shall perform necessary road restriping at Trinity Drive and 20th Street, install a colored stamped crosswalk across Trinity Drive from 20th Street, install a cul-de-sac island, provide for expanded parallel parking, and install two new site entrances on 20th Street.

(b) Canyon Rim Trail: Purchaser shall construct the segment of the 10-foot-wide Canyon Rim Trail within the Seller-provided 20' wide "Access and Open Space Easement" (herein so called) within Lot 1C-1 and across Trinity Drive (NM-502), providing a connection to the Urban Trail on northwest corner of the intersection. Trail design and construction shall be provided in accordance with Los Alamos County Public Works Design and Construction Standards, and other applicable standards. The exact dimensions of the Access and Open Space Easement will be agreed to by the Purchaser and Seller as part of the Site Plan Approval Period with the agreement documenting same (the "Access and Open Space Easement Agreement") to be recorded at closing. The offsite construction of the Canyon Rim Trail east of Lot 1C-1 is a prioritized project by the County and will be constructed pending successful right-of-way acquisitions and available funding. This work includes, but is not limited to, clearing, grubbing, and site excavation as well as construction of a retaining wall with integrated fall protection adjacent to the Canyon Rim Trail. The Access and Open Space Easement Agreement will provide that upon completion of the Canyon Rim Trail the Seller shall be responsible for the maintenance and repair of the Canyon Rim Trail, including without limitation snow removal, and the Purchaser shall be responsible for the surrounding landscaping within the Access and Open Space Easement area.

(c) Other Public Improvements on Public Property: Purchaser shall complete all other public improvements within Public Property as provided for in Exhibit C including, but not limited to earthwork, roads, utilities, stormwater infrastructure, landscaping, and other miscellaneous auxiliary and soft costs detailed in Exhibit C.

(d) Reimbursement to Purchaser: After work on the Public Improvements commences, the Purchaser shall submit timely requests for reimbursement at least quarterly to the County with documentation demonstrating work on the Public Improvement has been completed in a timely and satisfactory manner along with an itemized invoice with supporting documentation demonstrating the costs of the work performed. Upon the Seller being satisfied that work for the Public Improvements has been completed in a timely and satisfactory manner, and that the itemized invoice and supporting documentation demonstrates the actual and reasonable costs for the work performed, the County shall reimburse the Purchaser for the itemized costs within THIRTY (30) days of receipt of the request for reimbursement.

(e) Purchaser shall comply with the requirements of Sections 16-6(c) Downtown Los Alamos (DTLA) zone district as described in the Los Alamos Development Code. For the avoidance of doubt, Purchaser shall not be required to comply with the requirements of Sections 16-6(c) Downtown Los Alamos (DTLA) zone district as described in the Los Alamos Development Code with respect to construction of the segment of the Canyon Rim Trail on Lot 1C-1 or with respect to the traffic signal and crosswalk at the intersection of 20th Street and Trinity Drive (NM-502). Requirements for these items have been detailed above in Sections 12.2(a) and 12.2(b).

(f) Escrow Requirements Not Applicable. Due to the reimbursement provisions set forth in Section 12.2 (d) above, the escrow requirements of Section 16-89 of the Los Alamos Development Code shall not be applicable to the design and installation of the traffic signal and crosswalk and the design and construction of the Canyon Rim Trail as described in such sections.

12.3 Completion Date: Purchaser shall complete the Project no later than sixty-three (63) months from the Closing Date, hereinafter referred to as the "Project Completion Date," subject to Force Majeure Events (hereinafter defined)

ARTICLE XIII **MISCELLANEOUS**

13.1 Parties Bound; Assignment: Purchaser shall not assign its rights under this Agreement without the prior written consent of the County Manager, which consent shall not be unreasonably withheld, conditioned or delayed. If Purchaser's rights under this Agreement are so assigned, the assignee shall assume in writing all obligations of Purchaser under this Agreement. Any purported assignment in violation of the foregoing shall be void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties. Purchaser shall provide written notice to Seller no less than ten (10) days prior to Closing of any permitted assignment hereunder.

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

13.3 Severability: 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.

13.4 No Implied Waivers: 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.

13.5 Governing Law: This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with the laws 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.

13.6 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, 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. If necessary to avoid delay that may result in a bar of any legal action pursuant to this Agreement, the parties may file an action in District Court and stay that action pending the outcome of mediation.

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

13.8 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.

13.9 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.

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

13.11 Notices: All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth in Section 1.1(b) and 1.1(c). Any such notice 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) delivery using a nationally recognized overnight courier, in which case notice shall be deemed delivered upon actual date of receipt, or, (c) sent by email, in which case notice shall be deemed delivered upon transmission of such notice, provided that a copy of such notice shall be sent not later than the next business day after email transmission by one of the other means of notice provided herein unless the recipient waives in writing the delivery of the copy (which waiver may be by email), 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.

13.12 Construction: The parties acknowledge that the parties and their counsel have participated in the negotiation of this Agreement and that the 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. This Agreement reflects negotiated terms between the parties, and each party has participated in the preparation of this Agreement with the opportunity to be represented by counsel, such that neither party shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

13.13 Calculation Of Time Periods; Business Days: 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 nor legal holiday (a "business day").

13.14 Execution in Counterparts; Delivery of Signed Copies: 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 (1) Agreement. Delivery of a signed copy or counterpart of this

Agreement or any amendment hereto by email or other electronic means (such as DocuSign) will have the same effect as delivery of a signed original.

13.15 Intentionally Omitted

13.16 County Manager's Authority to Extend: The County Manager shall have the sole authority and discretion to extend the expiration of any deadline provided in this Agreement, except for the Project Completion Date, provided that Purchaser has exercised all extensions applicable to such deadline expressly provided herein and the requested extension is reasonable, for a total length of time not to exceed one hundred eighty (180) days upon Purchaser's written request and a deposit of an additional five thousand and no/100ths Dollars (\$5,000.00) at least three (3) business days before the expiration of applicable deadline, which shall apply to the Purchase Price. Such monies are not refundable to Purchaser under any circumstance once deposited except pursuant to Article VII ("Condemnation") and Section 11.2 ("Seller's failure to close") of this Agreement. In the event that Purchaser may seek extension(s) that exceed one hundred eighty (180) days or to extend the Project Completion Date, then such approval by County Council is required.

13.17 Survival: The terms, conditions, representations, warranties, and covenants made by Purchaser and Seller in this Agreement shall survive four (4) years after the Closing Date, unless otherwise provided in this Agreement.

13.18 Venue, Forum Non-Conveniens, Exclusive State Jurisdiction: Purchaser and Seller knowingly, voluntarily, intentionally, and irrevocably agree that any and all legal proceedings related to this Agreement, or to any rights or any relationship between the parties arising therefrom, shall be solely and exclusively initiated, filed, tried, and maintained in the First Judicial District Court of Los Alamos County of the State of New Mexico. Purchaser and Seller each expressly and irrevocably waive any right otherwise provided by any applicable law to remove the matter to any other state or federal venue, consents to the jurisdiction of the First Judicial District Court of the State of New Mexico in any such legal proceeding, waives any objection it may have to the laying of the jurisdiction of any such legal proceeding. Purchaser and Seller also agree that this term is a material inducement for each to enter this Agreement, and that both Purchaser and Seller warrant and represent that each have had the opportunity to review this term with legal counsel.

13.19 Choice of Law: This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with the laws of the State of New Mexico.

13.20 Waiver of Jury Trial: In the event of any action or proceeding, (including without limitation, any claim, counterclaim, cross-claim or third party claim) arising out of or, relating to this Agreement, or the transaction contemplated by this Agreement, Purchaser and Seller KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVE ANY RIGHT TO A JURY TRIAL, and agree that a court shall determine and adjudicate all issues of law and fact with a jury trial being expressly waived. Purchaser and Seller also agree that this waiver of a jury trial was a material inducement for each to enter this Agreement, and that both Purchaser and Seller warrant and represent that each have had the opportunity to review this jury waiver with legal counsel.

13.21 Attorney Fees and Costs of Litigation: In the event of a claim being brought in law or equity arising from this Agreement the prevailing party shall be entitled to recover its costs and expenses,

including but not limited to reasonable attorneys' fees incurred in prosecuting or defending any claim in law or equity arising from this Agreement.

13.22 Force Majeure: No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make previously owed payments to the other Party hereunder) when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)"): acts of God; flood, fire, earthquake or explosion; war, invasion, hostilities (whether war is declared or not); terrorist threats or acts, riot or other civil unrest; government order or law; actions, embargoes or blockades in effect on or after the date of this Agreement; action by any governmental authority; national or regional emergency; strikes, labor stoppages or slowdowns or other industrial disturbances; emergency state; delay in delivery or inability to obtain materials due to supply chain disruptions or other causes concerning materials not within the control of the party so obligated; delay (beyond normal time periods) in obtaining necessary governmental permits or approvals (including permits and certificates of occupancy); delay caused shortages of labor resulting in the inability to fully staff construction crews; delays in construction caused by weather which exceed what have been considered normal weather interruptions in the locale of the Project over the period of five (5) years prior to the Effective Date; shortage of adequate medical supplies and equipment; disruption of power or transportation; accidents; governmental preemption in connection with a national emergency; governmental order or regulation or government-mandated closure due to pandemic (including without limitation COVID 19 or any other pandemic) or other causes; and other similar events beyond the reasonable control of the Impacted Party. A Force Majeure event does not include an act of negligence or intentional wrongdoing by either Party. The Party claiming a Force Majeure shall not be entitled to suspend performance of its obligations in any greater scope or for any longer duration than the delay caused by the Force Majeure Event. The Impacted Party shall use reasonable diligence to mitigate the effects of any Force Majeure Event and to resume the performance delayed by the Force Majeure Event as soon as is practicable in the exercise of reasonable diligence. The Impacted Party shall notify the other Party ("Non-Affected Party") in writing ("Notice of Force Majeure Event") as soon as reasonably practicable specifying the cause of the Force Majeure Event, the obligations under this Agreement affected by the Force Majeure Event, and a good faith estimate (if information as to the anticipated continuation of the Force Majeure Event is reasonably available to the Impacted Party) of the time required to restore full performance. If a Force Majeure Event causes delay in the design or construction of the Project, representatives of Purchaser and Seller shall make themselves reasonably available to meet and confer with one another regarding the delay so that Seller may be apprised on a continuing basis of the nature and extent of Force Majeure Delays impacting the completion of the Project. Except for those obligations under this Agreement affected by the Force Majeure Event identified in the Notice of Force Majeure Event, the Affected Party shall not be relieved of its responsibility to fully perform as to all other commitments in the Agreement.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

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

PURCHASER:

**RBMM LLC, A NEW MEXICO LIMITED LIABILITY
COMPANY D/B/A RBMM DEVELOPMENT**

BY:_____

ITS: _____

DATED THIS ____ DAY OF _____ 2025

SELLER:

ATTEST

INCORPORATED COUNTY OF LOS ALAMOS

**MICHAEL D. REDONDO,
COUNTY CLERK**

By:_____
**ANNE W. LAURENT, IN HER CAPACITY AS COUNTY
MANAGER AND AS AUTHORIZED AGENT OF THE
INCORPORATED COUNTY OF LOS ALAMOS
DATED THIS ____ DAY OF _____ 2025**

Approved as to form:

**J. ALVIN LEAPHART
COUNTY ATTORNEY**

EXHIBIT A

Lots 1C-1 and 5C-1 as shown and designated on the Plat filed in the office of the County Clerk of Los Alamos County, New Mexico on April 13, 2021, in Plat Book 193, Page 608

and

Lot 4C as shown and designated on the Plat filed in the office of the County Clerk of Los Alamos County, New Mexico on July 19, 2017, in Plat Book 177, Page 122

THE TABLE

LINE	LENGTH	BEARING
L1	8.66	S87°21'20"W
L2	15.37	S87°21'20"W
L3	29.37	N88°57'22"E
L4	52.84	N88°57'20"W
L5	18.00	N88°57'20"W
L6	29.38	S45°35'43"E
L7	87.81	S45°35'43"E

CURVE DATA

CURVE	LENGTH	RADIUS	CHORD	BEARING	CORD
C1	17.04	84.0	17.04	S88°30'11"W	17.04
C2	14.29	449.39	14.29	S88°30'11"W	14.29
C3	17.83	75.00	17.83	N88°57'20"W	17.83
C4	17.83	75.00	17.83	N88°57'20"W	17.83
C5	17.83	75.00	17.83	N88°57'20"W	17.83
C6	116.04	40.00	180°00'00"	N88°57'20"W	116.04

CONVEYING PROPERTY
LOT 90 & 91 IN THE
EASTERN AREA NO. 3
PLAT OF THE PLEAS

MONUMENT LEGEND

- 1"=40'
- 1"=100'
- 1"=200'
- 1"=400'
- 1"=800'
- 1"=1600'
- 1"=3200'
- 1"=6400'
- 1"=12800'
- 1"=25600'
- 1"=51200'
- 1"=102400'
- 1"=204800'
- 1"=409600'
- 1"=819200'
- 1"=1638400'
- 1"=3276800'
- 1"=6553600'
- 1"=13107200'
- 1"=26214400'
- 1"=52428800'
- 1"=104857600'
- 1"=209715200'
- 1"=419430400'
- 1"=838860800'
- 1"=1677721600'
- 1"=3355443200'
- 1"=6710886400'
- 1"=13421772800'
- 1"=26843545600'
- 1"=53687091200'
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- 1"=214748364800'
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- 1"=1298074214633706907

EXHIBIT C

SCOPE OF WORK FOR PUBLIC IMPROVEMENTS AND CONCEPTUAL ENGINEER'S OPINION OF PROBABLE COSTS DATED MAY 9, 2025

I. Earthwork

Includes clearing, grubbing, site excavation and grading, and construction of a retaining wall with integrated fall protection adjacent to the Canyon Rim Trail. This work addresses the area's steep topography, ensuring pedestrian safety and trail continuity.

II. Infrastructure

a. Roads, Traffic, and Lighting

Encompasses roadway re-striping (Trinity Drive and 20th Street), a new traffic signal at Trinity/20th, colored stamped crosswalks for improved pedestrian safety, a cul-de-sac island, expanded parallel parking, and two new site entrances on 20th Street. This section accounts for removal of conflicting curb, gutter, and pavement, relocation of pull boxes, and paving of the Canyon Rim Trail.

b. Water

Installs a new hydrant on 20th Street along with domestic, fire, and irrigation water services to each parcel.

c. Sanitary Sewer

Provides new sanitary sewer service lines to each development parcel, ensuring reliable infrastructure for mixed-use buildings.

d. Storm Drainage

Relocates an existing storm sewer inlet as required to accommodate new construction and prevent future conflicts.

III. Landscaping

Enhances the public right-of-way, Canyon Rim Trail, and adjacent park with streetscape landscaping, contributing to the active, attractive streetscapes and civic spaces.

IV. Auxiliary Items

Covers dry utility connections, stormwater pollution prevention, contractor mobilization, and traffic control throughout construction to maintain public safety and minimize disruption.

IV. Soft Costs

Includes fees for traffic study, engineering and landscape design, construction-project management, materials testing, surveying, staking, and County inspection—ensuring project quality and compliance with County strategic and regulatory goals.

**COMMUNITY DESIGN SOLUTIONS, LLC**

9384 Valley View Drive NW, Suite 100
 Albuquerque, NM 87114
 PHONE: (505)366-4187

Project Name: 20th Street Roadway and Park Improvements
CDS Project No: 740225
Sheet Title: Conceptual Engineers Opinion of Probable Costs
Creation Date: 5/9/25
Comments: 1. This is a conceptual cost estimate to provide rough order of magnitude pricing. The estimate was prepared using a project exhibit, which has been attached to this estimate and direction from the client. 2. Unit costs are based on the current City of Albuquerque unit cost guide (with adjustments for higher costs in Los Alamos), analysis of contractor bids from similar projects, and professional experience.

ITEM	DESCRIPTION	UNIT COST	PAY UNIT	EST. QNTY.	EXTENDED COST
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EARTHWORK**EARTHWORK**

1	CLEAR & GRUB SITE	\$5,400.00	AC	0.55	\$2,970.00
2	CUT, EXCAVATE, BACKFILL & COMPACT SOIL	\$15.00	CY	2662	\$39,930.00
3	5' TALL BLOCK RETAINING WALL (CANTILEVER OR SEGMENTAL)	\$190.00	LF	350	\$66,500.00
4	FALL PROTECTION RAILING FOR RETAINING WALL (VIEWRAIL OR SIMILAR)	\$300.00	LF	350	\$105,000.00

Notes: 1. Assumes a dirt balance with an average of 3ft of cut over the Canyon Rim Park and Trail areas.

SUBTOTAL EARTHWORK: \$214,400.00
SUBTOTAL EARTHWORK: \$214,400.00

INFRASTRUCTURE**ROADS, TRAFFIC, AND LIGHTING**

1	SUBGRADE PREP, 12" THICK, 95% COMPACTION	\$6.53	SY	758	\$4,948.63
2	AGGREGATE BASE COURSE, 4" THICK	\$18.26	SY	758	\$13,844.78
3	ASPHALT, 1.5" OF NMDOT SP-IV	\$21.90	SY	902	\$19,763.97
4	SUBGRADE PREP, 8" THICK, 95% COMPACTION	\$6.44	SY	580	\$3,732.30
5	ASPHALT TACK COAT	\$0.78	SY	451	\$351.96
6	SIDEWALK, 4" THICK CONCRETE, 10' WIDE	\$156.00	SY	567	\$88,400.00
7	WHEELCHAIR ACCESS RAMP, 4" THICK CONCRETE	\$9,000.00	EA	8	\$72,000.00
8	CONCRETE VALLEY GUTTER & CURB	\$280.50	SY	75	\$21,037.50
9	CONCRETE CURB AND GUTTER	\$78.00	LF	605	\$47,190.00
10	ASPHALT TRAIL, SUPERPAVE, 2" THICK	\$33.92	SY	580	\$19,670.70
11	ASPHALT PAVEMENT, SAWCUT, REMOVE & DISPOSE	\$22.82	SY	357	\$8,149.01
12	CONCRETE CURB AND GUTTER, REMOVE & DISPOSE	\$15.33	LF	620	\$9,504.60
13	REINFORCED CONCRETE PAVEMENT, 6" THICK, COLORED STAMPED CONCRETE, INCLUDING SUBGRADE COMPACTION	\$330.00	SY	981	\$323,766.67
14	REINFORCED CONCRETE PAVEMENT, 6" THICK	\$225.00	SY	307	\$69,115.04
15	ROADWAY SIGNAGE AND STRIPING	\$7,500.00	LS	1	\$7,500.00
16	TRAFFIC SIGNAL AND APPURTENANCES, COMPLETE IN PLACE	\$534,000.00	EA	1	\$534,000.00
17	PULL BOX RELOCATION	\$3,000.00	EA	7	\$21,000.00
18	REMOVE AND DISPOSE 4" THICK CONCRETE SIDEWALK	\$20.87	SY	967	\$20,169.50
19	REMOVE AND DISPOSE CONCRETE VALLEY GUTTER	\$31.50	SY	75	\$2,362.50
	GRADING >2FT BELOW AREAS TO BE PAVED	\$6.00	SY	758	\$4,550.46

Notes:	1. The paving quantities assume 2-1.5" lifts of asphalt over 4" of aggregate base course and 12" of compacted native subgrade for the roadway, and 2" of asphalt over 8" of compacted native subgrade for the trail. 2. Assumes only the intersection of 20th St and Trinity Drive has colored stamped concrete and that no median will be installed in Trinity Drive. 3. Assumes new sidewalk (10ft wide) to be installed only adjacent to the new parallel parking stalls on 20th Street and in the southwest where the existing site entrance is to be demolished. Does not assume the right of way between back of curb and the property boundary is fully paved (unlike what is shown on the attached exhibit). 4. Assumes installation of 2 new ADA crossings on 20th Street. 5. Assumes no existing streetlights need to be relocated and no additional streetlights are required.
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SUBTOTAL ROADS, TRAFFIC, AND LIGHTING: \$1,291,057.62

WATER

1	6" WATERLINE PIPE, INCLUDING TRENCH, W/O FITTINGS	\$82.50	LF	35	\$2,887.50
2	8" WATERLINE PIPE, INCLUDING TRENCH, W/O FITTINGS	\$112.50	LF	70	\$7,875.00
3	6" GATE VALVE	\$3,000.00	EA	1	\$3,000.00
4	8" GATE VALVE	\$4,200.00	EA	5	\$21,000.00
5	VALVE BOX	\$2,250.00	EA	6	\$13,500.00
6	FIRE HYDRANT	\$9,000.00	EA	1	\$9,000.00
7	NON PRESSURIZED WATERLINE CONNECTION	\$4,500.00	EA	3	\$13,500.00
8	MECHANICAL JOINT RESTRAINT GLANDS	\$142.00	EA	9	\$1,278.00
9	DUCTILE IRON FITTINGS FOR WATERLINE	\$7.50	LB	675	\$5,062.50
10	JOINT RESTRAINT HARNESSSES FOR WATERLINE FITTINGS	\$171.00	EA	3	\$513.00
11	4" WATER SERVICE, METER YOKE, BYPASS, AND VALVES, COMPLETE IN PLACE (METER TO BE FURNISHED BY UTILITY PROVIDER). DOES NOT INCLUDE ANY CONNECTION / NEW SERVICE FEES.	\$5,000.00	EA	2	\$10,000.00
12	PRECAST METER VAULT FOR 4" SERVICE	\$30,000.00	EA	2	\$60,000.00
13	2" WATER SERVICE FOR IRRIGATION	\$2,000.00	EA	3	\$6,000.00

Notes: 1. Assumes one irrigation meter for each building; an irrigation meter for the landscape within the public right of way; a 4" water service per NM APWA standard drawing 2370 for each building; 1 new fire hydrant; and an 8" fire line for each building. Cost estimate does not include backflow preventors and hotboxes for the fire and irrigation services.

SUBTOTAL WATER: \$153,616.00

SANITARY SEWER

1	TRENCH AND BACKFILL FOR 4-15" SANITARY SEWER <8' DEEP	\$45.00	LF	70	\$3,150.00
2	8" SANITARY SEWER PIPE	\$45.00	LF	70	\$3,150.00
3	CONNECTION TO EXISTING MANHOLE	\$2,700.00	EA	2	\$5,400.00

SUBTOTAL SANITARY SEWER: \$11,700.00

STORM DRAINAGE

1	REMOVE AND DISPOSE EXISTING CURB INLET	\$3,000.00	EA	1	\$3,000.00
2	INSTALL NEW NM APWA TYPE D INLET	\$15,000.00	EA	1	\$15,000.00

Notes: 1. Assumes no additional storm inlets are required.

SUBTOTAL STORM DRAINAGE: \$18,000.00

SUBTOTAL INFRASTRUCTURE: \$1,474,373.62

LANDSCAPING

LANDSCAPING

1	CANYON RIM PARK LANDSCAPING, INCLUDING IRRIGATION, COMPLETE IN PLACE (By Developer)	\$7.50	SF	11215	\$0.00
2	CANYON RIM TRAIL LANDSCAPING, INCLUDING IRRIGATION, COMPLETE IN PLACE	\$7.50	SF	7394	\$55,455.00
3	ROADWAY LANDSCAPING, INCLUDING IRRIGATION, COMPLETE IN PLACE	\$7.50	SF	4055	\$30,412.50
4	PLAYGROUND, INCLUDING PLAY EQUIPMENT SHADE STRUCTURE, BENCHES, DOGI POT, PICNIC TABLES, AND CONCRETE, COMPLETE IN PLACE (Developer to pay remaining value above \$250,000.00)	\$360,000.00	LS	1	\$250,000.00

Notes: 1. Assumes no new landscaping along the north edge of 20th Street, which is already landscaped.

SUBTOTAL LANDSCAPING: \$335,867.50

AUXILIARY ITEMS

DRY UTILITIES

1	ELECTRIC SERVICE, INLCUDING TRANSFORMER	\$250,000.00	EA	1	\$250,000.00
2	GAS SERVICE	\$10,000.00	EA	2	\$20,000.00
3	COMMUNICATIONS SERVICES	\$10,000.00	EA	2	\$20,000.00
4	RELOCATE EXISTING TRANSFORMER	\$10,000.00	EA	1	\$10,000.00

Notes: 1. Pricing for dry utiltiy services is based on limited data compared to pricing for the other sections. For more accurate pricing, the client is advised to coordinate with the Los Alamos Utility Department or a contractor.

SUBTOTAL DRY UTILITIES: \$300,000.00

MISCELLANEOUS

1	SWPPP IMPLEMENTATION (By Developer)	\$0.00	LS	1	\$0.00
2	MOBILIZATION	\$120,000.00	LS	1	\$120,000.00
3	TRAFFIC CONTROL	\$40,000.00	LS	1	\$40,000.00

SUBTOTAL MISCELLANEOUS: \$160,000.00

SUBTOTAL AUXILIARY ITEMS: \$460,000.00

SOFT COSTS

PLANNING, ENGINEERING, SURVEYING, TESTING, APPROVALS

*% of ONSITE Infrastructure

1	GEOTECHNICAL INVESTIGATION (By Developer)	\$0.00	EA	1	\$0.00
2	PLATTING (By Developer)	\$0.00	LS	1	\$0.00
3	TRAFFIC STUDY	\$20,000.00	EA	1	\$20,000.00
4	ENGINEERING AND LANDSCAPING DESIGN	5.00%	%	-	\$124,232.06
5	CONSTRUCTION/PROJECT MANAGEMENT	3.50%	%	-	\$86,962.44
6	CONSTRUCTION OBSERVATION	3.50%	%	-	\$86,962.44
7	MATERIAL TESTING	3.50%	%	-	\$86,962.44
8	CITY INFRASTRUCTURE INSPECTION FEE (% of infrastructure cost)	5.00%	%	-	\$124,232.06
9	CONSTRUCTION STAKING	3.50%	%	-	\$86,962.44

SUBTOTAL SOFT COSTS: \$616,313.87

COMPOSITE SUBTOTAL: \$3,100,954.99

NMGR TAX: 7.0625% \$219,004.95
CONTINGENCY 10.0% \$310,095.50

TOTAL: \$3,630,055.43

EXHIBIT D

ACKNOWLEDGMENT BY ESCROW HOLDER

The Escrow Holder hereby agrees to perform its obligations under this Agreement, acknowledges receipt of a copy of this Agreement executed by Seller and Purchaser as of the Effective Date set forth below, and agrees, upon receipt, to acknowledge in writing to the Parties receipt of any and all earnest money and all deposits provided for in this Agreement.

Escrow Agent shall hold and dispose of all earnest money and all deposits 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 all earnest money and all deposits made by Purchaser in accordance with this Agreement. In the event that Escrow Agent shall be in doubt as to its duties or obligations with regard to the earnest money or other deposits made by Purchaser, or in the event that Escrow Agent receives conflicting instructions from Purchaser and Seller with respect to the earnest money and other deposits, Escrow Agent shall not be required to disburse such sums and may, at its option, continue to hold the earnest money and other deposits 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 and other deposits made by Purchaser in accordance with the laws of the state of New Mexico.

Escrow Agent shall not be responsible for any interest on the earnest money and other deposits made by Purchaser except as is actually earned, or for the loss of any interest resulting from the withdrawal of such sums prior to the date interest is posted thereon if such withdrawal is upon instruction of either Seller or Purchaser.

Title Guaranty, LLC

By: _____

Name: _____

Title: _____

“EFFECTIVE DATE:” _____, 2025