

**STATE OF NEW MEXICO
COUNTY OF LOS ALAMOS**

**PURCHASE AND SALE AGREEMENT
FOR REAL PROPERTY**

1. **PARTIES/PURCHASE.** This purchase and sale agreement ("Agreement"), effective as of the date set forth below, is made by and between **RUSS NM LLC** ("Seller"), who agree to sell to the **Incorporated County of Los Alamos** ("Buyer"), who agrees to buy from Seller the real property described below, on the terms and conditions contained herein.

2. **PROPERTIES.** The real property, home, structures, and existing fixtures, ("Property") as described below:

Property 1 – 1183 Diamond Dr:

TRACT G, WESTERN AREA NO. 1 AS SHOWN ON THE SUBDIVISION RECORDED ON SEPTEMBER 20, 1965, IN PLAT BOOK 1, PAGE 66, RECORDS OF LOS ALAMOS COUNTY, NEW MEXICO, AS DOCUMENT NO 4776, IN PLAT BOOK 1, PAGE 66, RECORDS OF LOS ALAMOS COUNTY, NEW MEXICO.

Property 2 – 1377 Diamond Dr:

TRACT H, LOT 1 OF WESTERN AREA NO. 1, AS SHOWN ON PLAT ENTITLED SUBDIVISION OF TRACT H WESTERN AREA NO. 1..." RECORDED ON MAY 4TH, 1970 IN BOOK 2, PAGE 35, RECORDS OF LOS ALAMOS COUNTY, NEW MEXICO.

Property 3 – 1399 Diamond Dr:

TRACT 1 WESTERN AREA NO 1, AS THE SAME IS SHOWN AND DEDICATED ON THE PLAT THEREOF, FILED IN THE OFFICE OF THE COUNTY CLERK OF LOS ALAMOS COUNTY, NEW MEXICO ON SEPTEMBER 20, 1965 IN PLAT BOOK 1, PAGE 66.

3. **PURCHASE PRICE.** For good and valuable consideration received, Buyer shall pay a total purchase price for the Property of **NINE MILLION EIGHT HUNDRED AND FIFTY THOUSAND DOLLARS AND NO CENTS** (\$9,850,000.00 US) at the time of Closing.

4. **PROPERTY CONDITION.** Seller provides and Buyer accepts that the Property, dwelling, structures, and fixtures are purchased in the current “as is” condition as of the date of this Agreement, and Seller shall not be required to cause, make, or otherwise be required to perform any repairs, maintenance, or improvement on or to the Property. Seller agrees that they shall not remove, alter, or replace any existing fixtures in and on the Property and dwelling.

5. **REPRESENTATIONS:** Seller represents that as of the Closing Date there will be no liens, assessments, encumbrances, or security interests against the Property which will not be satisfied out of the sales proceeds. If any representation in this Agreement is untrue on the Closing Date, this Agreement may be terminated by Buyer. All representations contained in this Agreement will survive closing.

6. **CLOSING DATE AND CLOSING COSTS.** Closing date shall occur on or before December 19, 2024 or on such other date as the parties may mutually agree to in writing, for the delivery and execution of the necessary documents to complete this transaction at the Title Company, along with submittal of funds by cash or certified check. The parties agree that Title Guaranty (Los Alamos) will be the Title Company. However, the actual date of Closing shall be the date title is conveyed to Buyer by recordation of the deed or other title document. Closing shall take place at the offices of Title Company. Buyer shall pay all closing costs.

7. **POST CLOSING.** Prior to Closing, Buyer will engage the Title Company, Title Guaranty, to make such searches of the public records as may be necessary to enable it to issue the title policy, whereupon, if such searches are satisfactory, the Title Company shall upon closing (i) file the Deed of record, (ii) deliver the Deed and title insurance policy to Buyer, (iii) deliver such other documents as applicable to the proper party and (iv) disburse the funds as shown on the closing statements. The documents and funds shall be delivered pursuant to an agreement of the parties or an order of court specifying the disposition thereof.

8. **PRORATIONS AND TRUST FUNDS.** Any rent, property taxes, interest, hazard, flood, and/or mortgage insurance, water, sewer, and garbage charges, propane, and propane tank rental, if applicable, and association fees, if any, are to be prorated to the date of Closing. Prorations will be determined based on information available as of Closing and shall be binding on the parties. Any contract service agreement (*e.g.*, alarm system, propane and propane tank rental, private refuse collection, etc.) shall be handled directly between Buyer and Seller.

9. **TITLE INSURANCE AND CONVEYANCE.**

A. Seller shall convey the property to Buyer by Special Warranty Deed at closing subject to restrictions, reservations, encumbrances, and easements shown of record and shown as exceptions in the title insurance commitment accepted by Buyer in accordance with the terms of this Agreement. Should the Buyer elect to delete the standard exceptions, the pre-printed exceptions contained in the title insurance commitment shall not be included in the deed. At Buyer's request, any personal property included as part of the sale shall be conveyed by a separate bill of sale.

B. Buyer is responsible for all costs of title insurance.

10. **POSSESSION.** Seller agrees that physical possession of the Property shall be delivered to Buyer at closing. The Property shall be delivered in its present condition, **AS IS**, unless otherwise required by this Agreement.

11. **CASUALTY PROVISIONS.** Prior to Closing, risk of loss or damage to the Property or any improvements located thereon, whether by fire, windstorm or other peril (including water damage) shall be on the Seller, and in the event of loss, Buyer shall have the option (to be exercised by written notice to Seller within five (5) days after receipt of notice of loss) of canceling this Agreement, or closing with the Property "as is" and receiving assignment at closing of Seller's portion of the insurance proceeds, if any, necessary to restore the Property to its present condition. If Buyer fails to timely notify Seller of its election, Buyer shall be deemed to have elected to close.

12. **DEFAULT.** (a) If Buyer fails to comply with this contract, Buyer will be in default, and Seller may enforce specific performance, seek such other relief as may be provided by law, or both. If, due to factors beyond Seller's control, Seller fails within the time allowed to make any non-casualty repairs or deliver evidence of clean title, Buyer may either (1) extend the time for performance up to fifteen (15) days and the Closing Date will be extended as necessary or (2) terminate this contract as the sole remedy. (b) If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer may either (1) enforce specific performance, seek such other relief as may be provided by law, or both, or (2) terminate this Agreement thereby releasing both parties from this Agreement.

13. **NOTICE.** Any notice, demand, request, approval, or other communication (a "notice") which, under the terms of this Agreement or under any statute, must or may be given by the parties, must be in writing and shall either be hand-delivered, transmitted by facsimile or telex, email, sent by overnight courier, or sent by United States Mail, registered or certified, return receipt requested and postage prepaid, addressed to the respective parties at the following addresses:

To Seller: RUSS NM LLC
4 Hazel Avenue
Colorado Springs, Colorado 80906

To Buyer: Inc. County of Los Alamos
Attn. County Manager
1000 Central Avenue, Suite 350
Los Alamos, New Mexico 87544

Notices, demands, requests, and exercises served in the above manner shall be considered sufficiently given or served for all purposes under this Agreement (a) upon actual receipt, if hand-delivered, (b) upon confirmation of transmission, if sent by facsimile or email, (c) the next day, if sent by U.S. Express Mail or overnight courier service, or (d) three (3) days after postmark, if sent by U.S. Mail.

14. **DISCLOSURES AND DUE DILIGENCE PERIOD.** The Seller has provided Buyer all material information about the Property in its possession and disclosed all current conditions of which Seller is actually aware. The material information provided by Seller to Buyer

for 1183 Diamond Drive includes a Phase 1 Environmental Survey, ALTA Survey, Asbestos Survey, Rent Roll, and lease agreements for the current tenants. The material information provided by Seller to Buyer for 1377 Diamond Drive is an ALTA Survey. The material information provided by Seller to Buyer for 1399 Diamond Drive is an ALTA Survey, and a “No Further Action Status Letter” from the New Mexico Environmental Department dated September 17, 2017. If prior to Closing, seller becomes aware of any changes to provided documents or aware of any additional material information, Seller will disclose the information immediately.

15. BUYERS DUE DILIGENCE PERIOD. Buyer shall have until December 10, 2024 to investigate status of Title and Condition of Property including materials provided by Seller. For any reason during the Due Diligence Period, Buyer shall have right to terminate Agreement upon written notice from the Buyer before the completion of such Due Diligence Period. After completion of the Due Diligence Period without termination of Agreement, the parties agree as follows:

A. The sale of the Property is and will be made on an “as is, where is” basis and Seller has not made, does not make and specifically negate and disclaim any representations, warranties or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past, present, future or otherwise, of, as to, concerning or with respect to the Property.

B. Buyer has or will complete all physical and financial examinations relating to the acquisition of the Property hereunder and will acquire the same solely on the basis of such examinations and the title insurance protection afforded by the title policy and not on any information provided or to be provided by Seller.

C. Any information provided or to be provided with respect to the Property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and make no representations as to the accuracy or completeness of such information.

D. Seller shall not be liable for any negligent misrepresentation or any failure to investigate the Property nor shall Seller be bound in any manner by any verbal or written statements, representations, appraisals, environmental assessment reports or other information pertaining to the Property or the operation thereof, furnished by Seller or by any real estate broker, agent, representative, employee, servant or other person acting on Seller’ behalf.

16. **ACCESS TO PROPERTY.** Seller agrees to provide reasonable access to Buyer and its inspectors as provided in this Agreement. Buyer shall maintain applicable insurance for any harms that may occur or arise from Buyer's or its agent's entry on the Property, except for those harms arising out of the fault or neglect of Seller. Seller will cooperate with Buyer in Due Diligence related investigations, including access to the Property. Buyer shall have the right to make physical investigations but will repair or replace any damaged caused by such investigation.

17. **PRE-CLOSING INSPECTION.** Buyer shall have the right to re-inspect the Property (personally, or by a designated individual) within two (2) days prior to the Closing date for the limited purpose of permitting the Buyer to be assured that the Property is in the same condition as of the date of this Agreement.

18. **FEDERAL TAX REQUIREMENT.** If Seller are "foreign persons", as defined by applicable law, or if Seller fail to deliver an affidavit that Seller are not "foreign persons", then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. IRS regulations require filing written reports if cash in excess of specified amounts are received in the transaction.

19. **DATE OF AGREEMENT.** For the purpose of calculating times for performance, the "date of this Agreement" shall be the date on which the last signature or initials of the parties are affixed to this Agreement.

20. **ATTORNEYS' FEES.** In the event of any action, suit or other proceeding arising out of or related to this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all costs and fees as allowed by law.

21. **NO IMPLIED WAIVERS.** The failure of one party to enforce any provision of this Agreement is not a waiver by that party of the provisions or of the right thereafter to enforce any other provision(s).

22. **ASSIGNMENT:** This Agreement may not be assigned by either party without the consent of the other.

23. **ENTIRE AGREEMENTS:** This Agreement incorporates all prior agreements between the parties. This Agreement contains the entire and final agreement of the parties and cannot be changed except by their mutual written consent. Neither party has relied upon any statement or representation made by the other party or any sales representative bringing the parties together. Neither party shall be bound by any terms, conditions, oral statements, warranties, or representations not herein contained. Each party acknowledges that he/she has read and understands this Agreement. The provisions of this Agreement shall apply to and bind the heirs, executors, administrators, successors, and assigns of the respective parties hereto. When herein used, the singular includes the plural and the masculine includes the feminine as the context may require.

24. **SEVERABILITY.** All of the provisions of this Agreement are hereby declared to be severable and a finding by any court of competent jurisdiction that any provision of this Agreement is void, unlawful, or unenforceable shall not affect the validity or enforceability of any other provision of this Agreement provided it is possible to accomplish the purpose of this Agreement, namely the conveyance of the subject Property following the finding by the court.

25. **NO BROKER OR AGENTS:** The parties represent that neither party has employed the services of a real estate broker or agent in connection with the Property, or that if such agents have been employed, that the party employing said agent shall pay any and all expenses outside the closing of this Agreement.

26. **SURVIVAL CLAUSE.** The rights and obligations contained in this Agreement shall not merge at Closing; rather, they shall survive the Closing and bind the parties hereto.

27. **GOVERNING LAW.** Buyer and Seller 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 Circuit of the State of New Mexico. Buyer 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 Circuit 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.

28. **LEGAL RECOGNITION OF ELECTRONIC SIGNATURES.** Pursuant to NMSA 1978, § 14-16-7, this Agreement and other documents related hereto may be signed by electronic signature.

29. **EXECUTION IN COUNTERPARTS.** This Agreement may be executed in counterparts by each of the signatories to this Agreement.

30. **1031 EXCHANGE.** Buyer is aware and acknowledges that Seller may perform an IRC Section 1031 tax-deferred exchange. Seller requests Buyer's cooperation in such an exchange and agrees to hold Buyer harmless from any and all claims, costs, liabilities, or delays in time resulting from such an exchange. Buyer agrees to an assignment of this Agreement by Seller in order to facilitate an exchange.

TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THIS AGREEMENT.

EXECUTED the _____ day of _____ 2024, (THE EFFECTIVE DATE).

BUYER

By: _____
Anne W. Laurent, County Manager
Inc. County of Los Alamos

Date: _____

SELLER

By: _____
Russell Ross, Managing Member
RUSS NM LLC

Date: _____

**STATE OF NEW MEXICO
COUNTY OF LOS ALAMOS**

SPECIAL WARRANTY DEED

NOW COMES, Russ NM LLC, by and through its Managing Member, Russell Ross, for consideration paid, grants to the **Incorporated County of Los Alamos**, New Mexico, a political subdivision of the State of New Mexico, the following described real estate in Los Alamos County, New Mexico:

Property: (insert property legal descriptions)

With Special Warranty Covenants subject to patent reservations, restrictions, covenants, and easements of record.

Executed this the _____ day of _____ 2024.

Russell Ross as Managing Member of
Russ NM LLC

Purchase and Sale Agreement for Real Property
between the Incorporated County of Los Alamos and RUSS NM LLC
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Attachment A

ACKNOWLEDGMENT

State of New Mexico
County of Los Alamos

This record was acknowledged before me on this the _____ day of _____
2024, by **Russell Ross.**

_____ (Signature of notarial officer)

Stamp

NOTARY PUBLIC