

AGENDA

APCHA Board Special Meeting

February 10, 2020

11:30 AM, **Roaring Fork Meeting Room**

530 East Main, Aspen

Aspen Pitkin County Housing Authority



Strengthening Community Through Workforce Housing

Rules of Decorum - APCHA Board meetings shall be conducted in a fair and impartial manner that allows the business of APCHA to be effectively undertaken. Citizens, APCHA staff and APCHA Board members alike must be allowed to state their positions in a courteous atmosphere that is free of intimidation, profanity, personal affronts, threats of violence, or the use of APCHA as a forum for politics. All remarks shall be directed to the APCHA Board as a whole, not to APCHA staff or to the public in attendance. Members of the public shall not approach the dais without first seeking and obtaining the permission of the Chairperson or presiding officer. Warnings may be given by the Chair at any time that a speaker does not conduct himself or herself in a professional and respectful manner, and anyone whose language or behavior impedes the orderly conduct of an APCHA Board meeting shall, at the discretion of the presiding officer, be barred from speaking further and may be ejected from the meeting.

11:30 Call to Order

Roll Call

11:35 – 12:00 New Business

- Approval of Resolution 02 (Series of 2020), Authorizing the Acquisition of Property Located at 53 Forge Road, Aspen, Colorado

Adjournment

NEXT REGULAR MEETING: FEBRUARY 19, 2020

NOTE: Times are approximate. Agenda items may be heard prior or after the estimated times shown.

MEMORANDUM

TO: APCA Board of Directors
FROM: Mike Kosdrosky, Executive Director
DATE: February 10, 2020
RE: Approve Resolution No. 02 (Series of 2020), Authorizing the Acquisition of Property Located at 53 Forge Road, Aspen, Colorado

Attached is Resolution No. 02 (Series of 2020), requesting authorization to enter into the attached Contract to Buy and Sell Real Estate for 53 Forge Road, Aspen, Colorado.

RECOMMENDATION

APCHA recommends that the Board approve *Resolution No. 02 (Series of 2020), Authorizing the Acquisition of Property located at 53 Forge Road, Aspen, Colorado.*



Strengthening Community Through Workforce Housing

Resolution No. 02
(Series of 2020)

**A RESOLUTION OF THE ASPEN/PITKIN COUNTY HOUSING AUTHORITY BOARD
AUTHORIZING THE ACQUISITION OF PROPERTY LOCATED AT
53 FORGE ROAD, ASPEN, COLORADO**

RECITALS

1. Edward L. Mulcahy, Jr., (“Mulcahy”) is the owner of deed restricted property legally described as Lot 1, Block 1, of Burlingame Ranch Affordable housing Filing No. 1, the address of which is 53 Forge Road, Aspen, CO 81611 (“the Property”).

2. The Property is encumbered by a Master Deed Restriction Agreement for the Occupancy and Resale of Burlingame Ranch Lots, Lots 1, 2, 3, 4, 5, Block 1, Lots 1 and 2, Block 2 (“the Deed Restriction”), recorded on March 7, 2006.

3. At the time of his acquisition of the property on October 3, 2006, Mulcahy executed a Memorandum of Acceptance of the Deed Restriction, whereby he accepted the Deed Restriction.

4. On June 3, 2016, the Pitkin County District Court entered judgment in favor of APCHA and against Mulcahy in *Aspen/Pitkin County Housing Authority v. Mulcahy*, Case No. 2015CV30150-5, finding that Mulcahy had violated the Deed Restriction, and requiring him to list the Property for sale as required by the Deed Restriction.

5. The judgment of the Pitkin County District Court was affirmed by the Colorado Court of Appeals. The Colorado Supreme Court and the U.S. Supreme Court denied Mulcahy’s petitions for writs of certiorari. As a result, the judgment of the District Court is in full force and effect.

6. Subsequently, Mulcahy filed a motion pursuant to CRCP 60(b)(3) to vacate the original judgment. The motion was denied by the District Court. The denial of that motion is now on appeal to the Colorado Court of Appeals.

7. In connection with the above-referenced appeal, Mulcahy filed motions in the Pitkin County District Court, Colorado Court of Appeals, and the Colorado Supreme Court, for a stay of enforcement of the original judgment pending appeal. All three courts denied the motions.



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As a result, the original judgment remains in full force and effect, and Mulcahy now is required to comply with the requirement that he list the Property for sale.

8. Mulcahy has refused to comply with the judgment of the Court and the requirement that he list the Property for sale. As a result, by order dated November 15, 2019, the Pitkin County District Court appointed Cordes & Company as the receiver of the property, directing it to take possession of the Property and to take charge of it for the purpose of fulfilling the obligations of Mulcahy in accordance with the terms and conditions of that order.

9. In accordance with the judgment and order of the District Court, and the requirements of paragraph 4 of the Deed Restriction, the receiver has entered into a listing contract with APCHA for the sale the Property.

10. Paragraph 7 of the Deed Restriction authorizes APCHA, "...in its sole discretion, (i) to acquire any Property or Unit for the purpose of resale thereof to a Qualified Buyer; (ii) following its acquisition of any Property or Unit, to repair, replace, redevelop, remove and maintain such Property or Unit prior to resale to a Qualified Buyer; and/or (iii) amend this Deed Restriction Agreement following the acquisition."

11. APCHA has determined that it is necessary and appropriate to exercise its right to purchase the Property in order to bring the pending litigation with Mulcahy to its conclusion as soon as possible and to take the necessary steps to dispose of the property in accordance with the Deed Restriction and in the best interests of the housing program.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ASPEN/PITKIN COUNTY HOUSING AUTHORITY THAT:

1. The acquisition of the property located at 53 Forge Road, Aspen, CO 81611, is hereby authorized, in accordance with the terms and conditions of the Contract to Buy and Sell Real Estate attached hereto as Exhibit A; and

2. APCHA staff is authorized to amend the purchase contract as it deems reasonably necessary to fulfill the Board's intention that APCHA acquire the Property on reasonable terms consistent with the Deed Restriction and the best interests of APCHA.



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INTRODUCED, READ, AND ADOPTED by the Aspen/Pitkin County Housing Authority Board of Directors, Pitkin County, Colorado, at their special meeting held February 10, 2020.

ASPEN/PITKIN COUNTY HOUSING AUTHORITY

John Ward, Chairperson

ATTEST:

Michael A. Kosdrosky, Secretary

Adopted, passed and approved this 10th day of February 2020 by the APCHA Board of Directors.

John Ward, Chairperson

ATTEST:

Michael A. Kosdrosky, Secretary

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CBS1-5-19) (Mandatory 7-19)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

CONTRACT TO BUY AND SELL REAL ESTATE (RESIDENTIAL)

Date: 2/10/2020

AGREEMENT

1. AGREEMENT. Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set forth in this contract (Contract).

2. PARTIES AND PROPERTY.

2.1. Buyer. Michael A. Kosdrosky, in his official capacity as Executive Director of APCHA (Buyer) will take title to the Property described below as

Joint Tenants Tenants In Common Other n/a

2.2. No Assignability. This Contract IS NOT assignable by Buyer unless otherwise specified in Additional Provisions.

2.3. Seller. Cordes & Company, solely in the capacity of Receiver for Edward L Mulcahy, (Seller) is the current owner of the Property described below.

2.4. Property. The Property is the following legally described real estate in the County of Pitkin, Colorado:

LOT 1, BLOCK 1, BURLINGAME RANCH AFFORDABLE HOUSING FILING NO. 1, according to the Plat recorded October 10, 2005 in Plat Book 75 at Page 52 under Reception No. 515999, and according to the Declaration of Covenants, Conditions and Restrictions of Burlingame Ranch Affordable Housing Subdivision recorded October 10, 2005 under Reception No. 516002, and according to the Burlingame Ranch Affordable Housing Design Guidelines recorded October 10, 2005 under Reception No. 516001

known as No. 0053 Forge Road, Aspen, CO 81611,

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto and all interest of Seller in vacated streets and alleys adjacent thereto except as herein excluded (Property).

2.5. Inclusions. The Purchase Price includes the following items (Inclusions):

2.5.1. Inclusions - Attached. If attached to the Property on the date of this Contract, the following items are included unless excluded under Exclusions: lighting, heating, plumbing, ventilating and air conditioning units, TV antennas, inside telephone, network and coaxial (cable) wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories) and garage door openers (including 1 remote controls). If checked, the following are owned by the Seller and included (leased items should be listed under Due Diligence Documents): None Solar Panels Water Softeners Security Systems Satellite Systems (including satellite dishes). If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

2.5.2. Inclusions - Not Attached. If on the Property, whether attached or not, on the date of this Contract, the following items are included unless excluded under Exclusions: storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings and treatments, curtain rods,

67 drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, carbon
68 monoxide alarms, smoke/fire detectors and all keys.

69 **2.5.3. Personal Property - Conveyance.** Any personal property must be conveyed at Closing by
70 Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and
71 encumbrances, except n/a.

72 Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

73 **2.5.4. Other Inclusions.** The following items, whether fixtures or personal property, are also
74 included in the Purchase Price: All appliances, including but not limited to, refrigerator/freezer,
75 stove/oven, microwave, dishwasher, washer/dryer

76 If the box is checked, Buyer and Seller have concurrently entered into a separate
77 agreement for additional personal property outside of this Contract.

78 **2.5.5. Parking and Storage Facilities.** The use or ownership of the following parking
79 facilities: attached garage; and the use or ownership of the following storage facilities:

80 attached garage and any other outside storage facility associated with the property.

81 Note to Buyer: If exact rights to the parking and storage facilities is a concern to Buyer, Buyer should
82 investigate.

83 **2.6. Exclusions.** The following items are excluded (Exclusions): furniture, artwork
84 and other personal items

85 **2.7. Water Rights/Well Rights.**

86 **2.7.1. Deeded Water Rights.** The following legally described water rights:
87 n/a

88 Any deeded water rights will be conveyed by a good and sufficient n/a deed at Closing.

89 **2.7.2. Other Rights Relating to Water.** The following rights relating to water not included in
90 §§ 2.7.1, 2.7.3 and 2.7.4, will be transferred to Buyer at Closing: n/a

91 **2.7.3. Well Rights.** Seller agrees to supply required information to Buyer about the well.
92 Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water
93 Well" used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in
94 Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water
95 Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing
96 well form for the well and pay the cost of registration. If no person will be providing a closing service in
97 connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The
98 Well Permit # is n/a.

99 **2.7.4. Water Stock Certificates.** The water stock certificates to be transferred at Closing are
100 as follows: n/a

101 **2.7.5. Conveyance.** If Buyer is to receive any rights to water pursuant to § 2.7.2 (Other
102 Rights Relating to Water), § 2.7.3 (Well Rights), or § 2.7.4 (Water Stock Certificates), Seller agrees to convey
103 such rights to Buyer by executing the applicable legal instrument at Closing.

104 **3. DATES, DEADLINES AND APPLICABILITY.**

105 **3.1 Dates and Deadlines.**

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Item No.	Reference	Event	Date or Deadline	
1	§ 4.3	Alternative Earnest Money Deadline	<u>n/a</u>	
		Title		
2	§ 8.1, § 8.4	Record Title Deadline	<u>2/14/2020 February 14, 2020</u>	Friday
3	§ 8.2, § 8.4	Record Title Objection Deadline	<u>2/18/2020 February 18, 2020</u>	Tuesday
4	§ 8.3	Off-Record Title Deadline	<u>2/14/2020 February 14, 2020</u>	Friday

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5	§ 8.3	Off-Record Title Objection Deadline	2/18/2020 February 18, 2020	Tuesday
6	§ 8.5	Title Resolution Deadline	2/20/2020 February 20, 2020	Thursday
7	§ 8.6	Right of First Refusal Deadline	n/a	
Owners' Association				
8	§ 7.2	Association Documents Deadline	2/12/2020 February 12, 2020	Wednesday
9	§ 7.4	Association Documents Termination Deadline	n/a	
Seller's Disclosures				
10	§ 10.1	Seller's Property Disclosure Deadline	n/a	
11	§ 10.10	Lead-Based Paint Disclosure Deadline	n/a	
Loan and Credit				
12	§ 5.1	New Loan Application Deadline	n/a	
13	§ 5.2	New Loan Termination Deadline	n/a	
14	§ 5.3	Buyer's Credit Information Deadline	n/a	
15	§ 5.3	Disapproval of Buyer's Credit Information Deadline	n/a	
16	§ 5.4	Existing Loan Deadline	n/a	
17	§ 5.4	Existing Loan Termination Deadline	n/a	
18	§ 5.4	Loan Transfer Approval Deadline	n/a	
19	§ 4.7	Seller or Private Financing Deadline	n/a	
Appraisal				
20	§ 6.2	Appraisal Deadline	n/a	
21	§ 6.2	Appraisal Objection Deadline	n/a	
22	§ 6.2	Appraisal Resolution Deadline	n/a	
Survey				
23	§ 9.1	New ILC or New Survey Deadline	n/a	
24	§ 9.3	New ILC or New Survey Objection Deadline	n/a	
25	§ 9.3	New ILC or New Survey Resolution Deadline	n/a	
Inspection and Due Diligence				
26	§ 10.3	Inspection Objection Deadline	One week prior to closing	
27	§ 10.3	Inspection Termination Deadline	n/a	
28	§ 10.3	Inspection Resolution Deadline	n/a	
29	§ 10.5	Property Insurance Termination Deadline	n/a	
30	§ 10.6	Due Diligence Documents Delivery Deadline	n/a	
31	§ 10.6	Due Diligence Documents Objection Deadline	n/a	
32	§ 10.6	Due Diligence Documents Resolution Deadline	n/a	
33	§ 10.7	Conditional Sale Deadline	n/a	
34	§ 10.10	Lead-Based Paint Termination Deadline	n/a	
Closing and Possession				
35	§ 12.3	Closing Date	2/21/2020 February 21, 2020	Friday
36	§ 17	Possession Date	2/21/2020 February 21, 2020	Friday
37	§ 17	Possession Time	upon funding	

38	§ 28	Acceptance Deadline Date	2/11/2020 February 11, 2020	Tuesday
39	§ 28	Acceptance Deadline Time	n/a	
40	n/a	n/a	n/a	
41	n/a	n/a	n/a	

Note: If **FHA** or **VA** loan boxes are checked in 4.5.3 (Loan Limitations), the **Appraisal** deadlines **DO NOT** apply to **FHA** insured or **VA** guaranteed loans.

3.2. Applicability of Terms. Any box checked in this Contract means the corresponding provision applies. If any deadline blank in 3.1 (Dates and Deadlines) is left blank or completed with the abbreviation "N/A", or the word "Deleted," such deadline is not applicable and the corresponding provision containing the deadline is deleted. If no box is checked in a provision that contains a selection of "None", such provision means that "None" applies.

The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract.

4. PURCHASE PRICE AND TERMS.

4.1. Price and Terms. The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price	\$995,000.00	
2	§ 4.3	Earnest Money		
3	§ 4.5	New Loan		
4	§ 4.6	Assumption Balance		
5	§ 4.7	Private Financing		
6	§ 4.7	Seller Financing		
7	n/a	n/a		
8	n/a	n/a		
9	§ 4.4	Cash at Closing		\$995,000.00
10		TOTAL	\$995,000.00	\$995,000.00

4.2. Seller Concession. At Closing, Seller will credit to Buyer \$ n/a (Seller Concession). The Seller Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender and is included in the Closing Statement or Closing Disclosure at Closing. Examples of allowable items to be paid for by the Seller Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract.

4.3. Earnest Money. The Earnest Money set forth in this Section, in the form of a n/a, will be payable to and held by n/a (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction will be transferred to such fund.

4.3.1. Alternative Earnest Money Deadline. The deadline for delivering the Earnest

265 Money, if other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money**
266 **Deadline**.

267 **4.3.2. Return of Earnest Money.** If Buyer has a Right to Terminate and timely
268 terminates, Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is
269 terminated as set forth in 25 and, except as provided in 24 (Earnest Money Dispute), if the Earnest Money has
270 not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to
271 Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within
272 three days of Seller's receipt of such form.

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275 **4.4. Form of Funds; Time of Payment; Available Funds.**

276 **4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan
277 proceeds, Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws,
278 including electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good
279 Funds).

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281 **4.4.2. Time of Payment; Available Funds.** All funds, including the Purchase Price to be
282 paid by Buyer, must be paid before or at Closing or as otherwise agreed in writing between the parties to allow
283 disbursement by Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT**. Buyer
284 represents that Buyer, as of the date of this Contract, **Does** **Does Not** have funds that are immediately
285 verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

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287 **4.5. New Loan.** (Omitted as inapplicable)

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289 **4.6. Assumption.** (Omitted as inapplicable)

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291 **4.7. Seller or Private Financing.** (Omitted as inapplicable)

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TRANSACTION PROVISIONS

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298 **5. FINANCING CONDITIONS AND OBLIGATIONS.** (Omitted as inapplicable)

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300 **5.3. Credit Information and Buyer's New Senior Loan.** (Omitted as inapplicable)

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302 **5.4. Existing Loan Review.** (Omitted as inapplicable)

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304 **6. APPRAISAL PROVISIONS.**

305 **6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified
306 appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised
307 Value). The Appraisal may also set forth certain lender requirements, replacements, removals or repairs
308 necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.

309 **6.2. Appraisal Condition.** The applicable appraisal provision set forth below applies to the respective
310 loan type set forth in 4.5.3, or if a cash transaction (i.e. no financing), 6.2.1 applies.

311 **6.2.1. Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value
312 is less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline**
313 Buyer may, on or before **Appraisal Objection Deadline**:

314 **6.2.1.1. Notice to Terminate.** Notify Seller in writing, pursuant to 25.1, that this
315 Contract is terminated; or

316 **6.2.1.2. Appraisal Objection.** Deliver to Seller a written objection accompanied by
317 either a copy of the Appraisal or written notice from lender that confirms the Appraised Value is less than the
318 Purchase Price (Lender Verification).

319 **6.2.1.3. Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or
320 before **Appraisal Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement
321 thereof on or before **Appraisal Resolution Deadline**, this Contract will terminate on the **Appraisal Resolution**
322 **Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such termination,
323 i.e., on or before expiration of **Appraisal Resolution Deadline**.

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329 **6.2.2. FHA.** It is expressly agreed that, notwithstanding any other provisions of this Contract,
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331 the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to
332 incur any penalty by forfeiture of Earnest Money deposits or otherwise unless the purchaser (Buyer) has been
333 given, in accordance with HUD/FHA or VA requirements, a written statement issued by the Federal Housing
334 Commissioner, Department of Veterans Affairs, or a Direct Endorsement lender, setting forth the appraised
335 value of the Property of not less than \$ n/a. The purchaser (Buyer) shall have the privilege and option of
336 proceeding with the consummation of this Contract without regard to the amount of the appraised valuation.
337 The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and
338 Urban Development will insure. HUD does not warrant the value nor the condition of the Property. The
339 purchaser (Buyer) should satisfy himself/herself that the price and condition of the Property are acceptable.
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342 **6.2.3. VA.** It is expressly agreed that, notwithstanding any other provisions of this Contract,
343 the purchaser (Buyer) shall not incur any penalty by forfeiture of Earnest Money or otherwise or be obligated to
344 complete the purchase of the Property described herein, if the Contract Purchase Price or cost exceeds the
345 reasonable value of the Property established by the Department of Veterans Affairs. The purchaser (Buyer)
346 shall, however, have the privilege and option of proceeding with the consummation of this Contract without
347 regard to the amount of the reasonable value established by the Department of Veterans Affairs.
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349 **6.3. Lender Property Requirements.** If the lender imposes any written requirements, replacements,
350 removals or repairs, including any specified in the Appraisal (Lender Requirements) to be made to the Property
351 (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, this Contract
352 terminates on the earlier of three days following Seller's receipt of the Lender Requirements, or Closing, unless
353 prior to termination: (1) the parties enter into a written agreement to satisfy the Lender Requirements; (2) the
354 Lender Requirements have been completed; or (3) the satisfaction of the Lender Requirements is waived in
355 writing by Buyer.
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358 **6.4. Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be
359 timely paid by Buyer Seller. The cost of the Appraisal may include any and all fees paid to the appraiser,
360 appraisal management company, lender's agent or all three.
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363 **7. OWNERS' ASSOCIATION.** This Section is applicable if the Property is located within a Common
364 Interest Community and subject to the declaration (Association).
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366 **7.1. Common Interest Community Disclosure. THE PROPERTY IS LOCATED WITHIN A**
367 **COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY.**
368 **THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS'**
369 **ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND**
370 **REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS**
371 **WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN**
372 **OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE**
373 **ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL**
374 **IT TO PAY THE DEBT. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS OF THE**
375 **COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN**
376 **ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND**
377 **THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON**
378 **INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE**
379 **ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY**
380 **AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.**
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383 **7.2. Association Documents to Buyer.** Seller is obligated to provide to Buyer the Association
384 Documents (defined below), at Seller's expense, on or before **Association Documents Deadline**. Seller
385 authorizes the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's
386 obligation to provide the Association Documents is fulfilled upon Buyer's receipt of the Association Documents,
387 regardless of who provides such documents.
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390 **7.3. Association Documents.** Association documents (Association Documents) consist of the
391 following:
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393 **7.3.1.** All Association declarations, articles of incorporation, bylaws, articles of
394 organization, operating agreements, rules and regulations, party wall agreements and the Association's
395 responsible governance policies adopted under 38-33.3-209.5, C.R.S.;

397 **7.3.2.** Minutes of: (1) the annual owners` or members` meeting and (2) any executive
398 boards` or managers` meetings; such minutes include those provided under the most current annual disclosure
399 required under 38-33.3-209.4, C.R.S. (Annual Disclosure) and minutes of meetings, if any, subsequent to the
400 minutes disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent
401 minutes, if any (7.3.1 and 7.3.2, collectively, Governing Documents); and
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403 **7.3.3.** List of all Association insurance policies as provided in the Association`s last Annual
404 Disclosure, including, but not limited to, property, general liability, association director and officer professional
405 liability and fidelity policies. The list must include the company names, policy limits, policy deductibles,
406 additional named insureds and expiration dates of the policies listed (Association Insurance Documents);
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408 **7.3.4.** A list by unit type of the Association`s assessments, including both regular and
409 special assessments as disclosed in the Association`s last Annual Disclosure;
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411 **7.3.5.** The Association`s most recent financial documents which consist of: (1) the
412 Association`s operating budget for the current fiscal year, (2) the Association`s most recent annual financial
413 statements, including any amounts held in reserve for the fiscal year immediately preceding the Association`s
414 last Annual Disclosure, (3) the results of the Association`s most recent available financial audit or review, (4)
415 list of the fees and charges (regardless of name of title of such fees or charges) that the Association`s
416 community association manager or Association will charge in connection with the Closing including, but not
417 limited to, any fee incident to the issuance of the Association`s statement of assessments (Status Letter), any
418 rush or update fee charged for the Status Letter, any record change fee or ownership record transfer fees
419 (Record Change Fee), fees to access documents, (5) list of all assessments required to be paid in advance,
420 reserves or working capital due at Closing and (6) reserve study, if any (7.3.4 and 7.3.5, collectively, Financial
421 Documents);
422

423 **7.3.6.** Any written notice from the Association to Seller of a "construction defect action"
424 under 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or
425 disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller`s obligation
426 to disclose adverse material facts as required under 10.2 (Disclosure of Adverse Material Facts; Subsequent
427 Disclosure; Present Condition) including any problems or defects in the common elements or limited common
428 elements of the Association property.
429

430 **7.4. Conditional on Buyer`s Review.** Buyer has the right to review the Association Documents.
431 Buyer has the Right to Terminate under 25.1, on or before **Association Documents Termination Deadline**,
432 based on any unsatisfactory provision in any of the Association Documents, in Buyer`s sole subjective
433 discretion. Should Buyer receive the Association Documents after **Association Documents Deadline**, Buyer,
434 at Buyer`s option, has the Right to Terminate under 25.1 by Buyer`s Notice to Terminate received by Seller on
435 or before ten days after Buyer`s receipt of the Association Documents. If Buyer does not receive the
436 Association Documents, or if Buyer`s Notice to Terminate would otherwise be required to be received by Seller
437 after **Closing Date**, Buyer`s Notice to Terminate must be received by Seller on or before Closing. If Seller does
438 not receive Buyer`s Notice to Terminate within such time, Buyer accepts the provisions of the Association
439 Documents as satisfactory and Buyer waives any Right to Terminate under this provision, notwithstanding the
440 provisions of 8.6 (Right of First Refusal or Contract Approval).
441
442
443
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445

446 **8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.**

447 **8.1. Evidence of Record Title.**

448 **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the
449 title insurance company to furnish the owner`s title insurance policy at Seller`s expense. On or before **Record**
450 **Title Deadline**, Seller must furnish to Buyer, a current commitment for an owner`s title insurance policy (Title
451 Commitment), in an amount equal to the Purchase Price, or if this box is checked, an **Abstract of Title**
452 certified to a current date. Seller will cause the title insurance policy to be issued and delivered to Buyer as
453 soon as practicable at or after Closing.
454

455 **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the
456 title insurance company to furnish the owner`s title insurance policy at Buyer`s expense. On or before **Record**
457 **Title Deadline**, Buyer must furnish to Seller, a current commitment for owner`s title insurance policy (Title
458 Commitment), in an amount equal to the Purchase Price.
459

460 If neither box in 8.1.1 or 8.1.2 is checked, 8.1.1 applies.
461
462

463 **8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment Will Will Not
464 contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete
465 or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements,
466 (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time
467 of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed
468 tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by Buyer
469 Seller One-Half by Buyer and One-Half by Seller Other n/a.
470

471
472 Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or
473 delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require
474 a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance
475 Commitment is not satisfactory to Buyer, Buyer has a right to object under 8.5 (Right to Object to Title,
476 Resolution).
477

478 **8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats,
479 declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other
480 documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in
481 the Title Commitment furnished to Buyer (collectively, Title Documents).
482

483 **8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**,
484 copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of
485 the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the
486 documents required in this Section will be at the expense of the party or parties obligated to pay for the
487 owner's title insurance policy.
488

489 **8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title
490 covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title**
491 **Deadline**.
492

493 **8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title
494 Commitment and any of the Title Documents as set forth in 8.5 (Right to Object to Title, Resolution) on or
495 before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or
496 content of Title Commitment or Abstract of Title, notwithstanding 13, or any other unsatisfactory title condition,
497 in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are not
498 received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title
499 Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title
500 Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such
501 documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2)
502 any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title
503 Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this 8.2
504 (Record Title), any title objection by Buyer is governed by the provisions set forth in 8.5 (Right to Object to
505 Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required
506 by 8.1 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title
507 Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the
508 Abstract of Title, Title Commitment and Title Documents as satisfactory.
509

510 **8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true
511 copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all
512 easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or
513 other title matters (including, without limitation, rights of first refusal and options) not shown by public records,
514 of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New**
515 **Survey** governed under 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate if
516 any third party has any right in the Property not shown by public records (e.g., unrecorded easement, boundary
517 line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any unsatisfactory
518 condition (whether disclosed by Seller or revealed by such inspection, notwithstanding 8.2 (Record Title) and
519 13 (Transfer of Title)), in Buyer's sole subjective discretion, must be received by Seller on or before
520 **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title**
521 **Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such
522 Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection pursuant to this
523
524
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526
527
528

529 8.3 (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in 8.5 (Right to Object
530 to Title, Resolution). If Seller does not receive Buyer`s Notice to Terminate or Notice of Title Objection by the
531 applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if any,
532 of third parties not shown by public records of which Buyer has actual knowledge.
533

534 **8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL**
535 **OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES**
536 **ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS**
537 **MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF**
538 **SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO**
539 **DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS**
540 **SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY**
541 **CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE**
542 **PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY**
543 **COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**
544

545 A tax certificate from the respective county treasurer listing any special taxing districts that effect the
546 Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is
547 located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer`s sole subjective
548 discretion, Buyer may object, on or before **Record Title Objection Deadline**. If the Tax Certificate shows that
549 the Property is included in a special taxing district and is received by Buyer after the **Record Title Deadline**,
550 Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to the Property`s
551 inclusion in a special taxing district as unsatisfactory to Buyer.
552

553 **8.5. Right to Object to Title, Resolution.** Buyer`s right to object, in Buyer`s sole subjective
554 discretion, to any title matters includes those matters set forth in 8.2 (Record Title), 8.3 (Off-Record Title), 8.4
555 (Special Taxing District) and 13 (Transfer of Title). If Buyer objects to any title matter, on or before the
556 applicable deadline, Buyer has the following options:
557

558 **8.5.1. Title Objection, Resolution.** If Seller receives Buyer`s written notice objecting to any
559 title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not
560 agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on
561 the expiration of **Title Resolution Deadline**, unless Seller receives Buyer`s written withdrawal of Buyer`s
562 Notice of Title Objection (i.e., Buyer`s written notice to waive objection to such items and waives the Right to
563 Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title
564 Deadline or the Off-Record Title Deadline, or both, are extended pursuant to 8.2 (Record Title), 8.3 (Off-Record
565 Title) or 8.4 (Special Taxing Districts), the Title Resolution Deadline also will be automatically extended to the
566 earlier of Closing or fifteen days after Buyer`s receipt of the applicable documents; or
567

568 **8.5.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under
569 25.1, on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer`s sole
570 subjective discretion.
571

572 **8.6. Right of First Refusal or Contract Approval.** If there is a right of first refusal on the Property
573 or a right to approve this Contract, Seller must promptly submit this Contract according to the terms and
574 conditions of such right. If the holder of the right of first refusal exercises such right or the holder of a right to
575 approve disapproves this Contract, this Contract will terminate. If the right of first refusal is waived explicitly or
576 expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly
577 notify Buyer in writing of the foregoing. If expiration or waiver of the right of first refusal or approval of this
578 Contract has not occurred on or before **Right of First Refusal Deadline**, this Contract will then terminate.
579

580 **8.7. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and
581 should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the
582 title, ownership and use of the Property, including, without limitation, boundary lines and encroachments,
583 set-back requirements, area, zoning, building code violations, unrecorded easements and claims of
584 easements, leases and other unrecorded agreements, water on or under the Property, and various laws and
585 governmental regulations concerning land use, development and environmental matters.
586

587 **8.7.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE**
588 **PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND**
589 **TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE**
590

595 MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS,
596 OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE
597 PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE
598 PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.
599

600 8.7.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE
601 PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE
602 AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE
603 COUNTY CLERK AND RECORDER.
604

605 8.7.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR
606 ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING,
607 WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES,
608 PRODUCING WELLS, REWORKING OF CURRENT WELLS AND GAS GATHERING AND PROCESSING
609 FACILITIES.
610

611 8.7.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL
612 INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY,
613 INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE
614 COLORADO OIL AND GAS CONSERVATION COMMISSION.
615

616 8.7.5. Title Insurance Exclusions. Matters set forth in this Section and others, may be
617 excepted, excluded from, or not covered by the owner's title insurance policy.
618

619 8.8. Consult an Attorney. Buyer is advised to timely consult legal counsel with respect to all such
620 matters as there are strict time limits provided in this Contract (e.g., **Record Title Objection Deadline** and
621 **Off-Record Title Objection Deadline**).
622

623 9. NEW ILC, NEW SURVEY.

624 9.1. New ILC or New Survey. If the box is checked, a: 1) **New Improvement Location Certificate**
625 **(New ILC)**; or, 2) **New Survey** in the form of n/a; is required and the following will apply:
626

627 9.1.1. Ordering of New ILC or New Survey. **Seller** **Buyer** will order the New ILC or New
628 Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form,
629 certified and updated as of a date after the date of this Contract.
630

631 9.1.2. Payment for New ILC or New Survey. The cost of the New ILC or New Survey will be
632 paid, on or before Closing, by: **Seller** **Buyer** or: n/a
633

634 9.1.3. Delivery of New ILC or New Survey. Buyer, Seller, the issuer of the Title Commitment (or
635 the provider of the opinion of title if an Abstract of Title) and n/a will receive a New ILC or New Survey on or
636 before **New ILC or New Survey Deadline**.
637

638 9.1.4. Certification of New ILC or New Survey. The New ILC or New Survey will be certified by
639 the surveyor to all those who are to receive the New ILC or New Survey.
640

641 9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection. Buyer may select a
642 New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or
643 change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion,
644 waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.
645

646 9.3. New ILC or New Survey Objection. Buyer has the right to review and object to the **New ILC** or
647 **New Survey**. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in
648 Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**,
649 notwithstanding 8.3 or 13:
650

651 9.3.1. Notice to Terminate. Notify Seller in writing, pursuant to 25.1, that this Contract is
652 terminated; or
653

654 9.3.2. New ILC or New Survey Objection. Deliver to Seller a written description of any matter that
655 was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires
656 Seller to correct.
657

658 9.3.3. New ILC or New Survey Resolution. If a **New ILC or New Survey Objection** is received
659 by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed
660 in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will
661 terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's

661 written withdrawal of the New ILC or New Survey Objection before such termination, i.e., on or before
662 expiration of **New ILC or New Survey Resolution Deadline**.

663 **DISCLOSURE, INSPECTION AND DUE DILIGENCE**

664 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE, AND**
665 **SOURCE OF WATER.**

666
667 **10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller
668 agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's
669 Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date
670 of this Contract.

671
672 **10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller
673 must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract.
674 Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an
675 adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer.
676 Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days
677 after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges
678 that Seller is conveying the Property to Buyer in an "**As Is**" condition, "**Where Is**" and "**With All Faults.**"

679
680 **10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right
681 to have inspections (by one or more third parties, personally or both) of the Property and Inclusions
682 (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the
683 roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of
684 the Property, (2) the physical condition of the Inclusions, (3) service to the Property (including utilities and
685 communication services), systems and components of the Property (e.g., heating and plumbing), (4) any
686 proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise
687 (whether on or off the Property) and its effect or expected effect on the Property or its occupants is
688 unsatisfactory, in Buyer's sole subjective discretion, Buyer may:

689
690 **10.3.1. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to
691 Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct; or

692
693 **10.3.2. Terminate.** On or before the **Inspection Termination Deadline**, notify Seller in writing,
694 pursuant to 25.1, that this Contract is terminated due to any unsatisfactory condition. **Inspection Termination**
695 **Deadline will be on the earlier of Inspection Resolution Deadline or the date specified in 3.1 for**
696 **Inspection Termination Deadline.**

697
698 **10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before
699 **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on
700 or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline**
701 unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination, i.e., on
702 or before expiration of **Inspection Resolution Deadline**.

703
704 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other
705 written agreement between the parties, is responsible for payment for all inspections, tests, surveys,
706 engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that
707 occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any
708 kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold
709 Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any
710 such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by
711 Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including
712 Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the
713 termination of this Contract. This 10.4 does not apply to items performed pursuant to an Inspection Resolution.

714
715 **10.5. Insurability.** Buyer has the right to review and object to the availability, terms and conditions of
716 and premium for property insurance (Property Insurance). Buyer has the Right to Terminate under 25.1, on or
717 before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the Property
718 Insurance, in Buyer's sole subjective discretion.

719
720 **10.6. Due Diligence.**

727 **10.6.1. Due Diligence Documents.** If the respective box is checked, Seller agrees to deliver
728 copies of the following documents and information pertaining to the Property (Due Diligence Documents) to
729 Buyer on or before **Due Diligence Documents Delivery Deadline:**

730 **10.6.1.1.** All current leases, including any amendments or other occupancy
731 agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the
732 Property that survive Closing are as follows (Leases): n/a

733 **10.6.1.2.** Other documents and information:

734 n/a

735
736
737 **10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and
738 object to Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are
739 unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents**
740 **Objection Deadline:**

741 **10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to 25.1, that this
742 Contract is terminated; or

743 **10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description
744 of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

745 **10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents
746 Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and
747 Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution**
748 **Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller
749 receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination, i.e., on
750 or before expiration of **Due Diligence Documents Resolution Deadline**.

751 **10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of
752 that certain property owned by Buyer and commonly known as n/a. Buyer has the Right to Terminate under
753 25.1 effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if
754 such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller
755 does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any
756 Right to Terminate under this provision.

757 **10.8. Source of Potable Water (Residential Land and Residential Improvements Only).** Buyer
758 **Does** **Does Not** acknowledge receipt of a copy of Seller's Property Disclosure or Source of
759 Water Addendum disclosing the source of potable water for the Property. There is **No Well**. Buyer **Does**
760 **Does Not** acknowledge receipt of a copy of the current well permit.

761 **Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE**
762 **GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED**
763 **SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**

764 **10.9. Existing Leases; Modification of Existing Leases; New Leases. [Intentionally Deleted]**

765 **10.10. Lead-Based Paint**

766 **10.10.1. Lead-Based Paint Disclosure.** Unless exempt, if the Property includes one or
767 more residential dwellings constructed or a building permit was issued prior to January 1, 1978, for the benefit
768 of Buyer, Seller and all required real estate licensees must sign and deliver to Buyer a completed Lead-Based
769 Paint Disclosure (Sales) form on or before the **Lead-Based Paint Disclosure Deadline**. If Buyer does not
770 timely receive the Lead-Based Paint Disclosure, Buyer may waive the failure to timely receive the Lead-Based
771 Paint Disclosure, or Buyer may exercise Buyer's Right to Terminate under 25.1 by Seller's receipt of Buyer's
772 Notice to Terminate on or before the expiration of the **Lead-Based Paint Termination Deadline**.

773 **10.10.2. Lead-Based Paint Assessment.** If Buyer elects to conduct or obtain a risk
774 assessment or inspection of the Property for the presence of Lead-Based Paint or Lead-Based Paint hazards,
775 Buyer has a Right to Terminate under 25.1 by Seller's receipt of Buyer's Notice to Terminate on or before the
776 expiration of the **Lead-Based Paint Termination Deadline**. If Buyer's Notice to Terminate would otherwise be
777 required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller
778 on or before Closing. Buyer may elect to waive Buyer's right to conduct or obtain a risk assessment or
779 inspection of the Property for the presence of Lead-Based Paint or Lead-Based Paint hazards. If Seller does
780 not receive Buyer's Notice to Terminate within such time, Buyer accepts the condition of the Property relative
781 to any Lead-Based Paint as satisfactory and Buyer waives any Right to Terminate under this provision.

793 **10.11. Carbon Monoxide Alarms. Note:** If the improvements on the Property have a fuel-fired
794 heater or appliance, a fireplace, or an attached garage and include one or more rooms lawfully used for
795 sleeping purposes (Bedroom), the parties acknowledge that Colorado law requires that Seller assure the
796 Property has an operational carbon monoxide alarm installed within fifteen feet of the entrance to each
797 Bedroom or in a location as required by the applicable building code.

798
799 **10.12. Methamphetamine Disclosure.** If Seller knows that methamphetamine was ever
800 manufactured, processed, cooked, disposed of, used or stored at the Property, Seller is required to disclose
801 such fact. No disclosure is required if the Property was remediated in accordance with state standards and
802 other requirements are fulfilled pursuant to 25-18.5-102, C.R.S., Buyer further acknowledges that Buyer has
803 the right to engage a certified hygienist or industrial hygienist to test whether the Property has ever been used
804 as a methamphetamine laboratory. Buyer has the Right to Terminate under 25.1, upon Seller's receipt of
805 Buyer's written Notice to Terminate, notwithstanding any other provision of this Contract, based on Buyer's test
806 results that indicate the Property has been contaminated with methamphetamine, but has not been remediated
807 to meet the standards established by rules of the State Board of Health promulgated pursuant to 25-18.5-102,
808 C.R.S. Buyer must promptly give written notice to Seller of the results of the test.
809
810
811

812
813 **11. TENANT ESTOPPEL STATEMENTS. [Intentionally Deleted]**
814

815
816

CLOSING PROVISIONS

817

818 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

819 **12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing
820 Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and
821 Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer acknowledges Buyer's
822 lender is required to provide the Closing Company, in a timely manner, all required loan documents and
823 financial information concerning Buyer's loan. Buyer and Seller will furnish any additional information and
824 documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller
825 will sign and complete all customary or reasonably-required documents at or before Closing.
826

827 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions Are Are
828 **Not** executed with this Contract.
829

830 **12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the
831 date specified as the **Closing Date** or by mutual agreement at an earlier date. The hour and place of Closing
832 will be as designated by by Buyer.
833

834 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality and extent of
835 service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title
836 companies).
837

838
839 **13. TRANSFER OF TITLE.** Subject to Buyer's compliance with the terms and provisions of this Contract,
840 including the tender of any payment due at Closing, Seller must execute and deliver the following good and
841 sufficient deed to Buyer, at Closing:

842 special warranty deed general warranty deed bargain and sale deed quit claim deed personal
843 representative's deed n/a deed. Seller, provided another deed is not selected, must execute and deliver a
844 good and sufficient special warranty deed to Buyer, at Closing.
845

846 Unless otherwise specified in §30 (Additional Provisions), if title will be conveyed using a special
847 warranty deed or a general warranty deed, title will be conveyed "subject to statutory exceptions" as defined in
848 §38-30-113(5)(a), C.R.S.
849
850

851 **14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts
852 owed on any liens or encumbrances securing a monetary sum, including, but not limited to, any governmental
853 liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not
854 and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or
855 from any other source.
856
857
858

859 **15. CLOSING COSTS, CLOSING FEE, ASSOCIATION FEES AND TAXES.**

860 **15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs
861 and all other items required to be paid at Closing, except as otherwise provided herein.

862 **15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by
863 Buyer Seller **One-Half by Buyer and One-Half by Seller**
864 **Other** n/a

865 **15.3. Status Letter and Record Change Fees.** At least fourteen days prior to **Closing Date**,
866 Seller agrees to promptly request the Association to deliver to Buyer a current Status Letter. Any fees incident
867 to the issuance of Association's Status Letter must be paid by **None** **Buyer** **Seller** **One-Half by**
868 **Buyer and One-Half by Seller.** Any Record Change Fee must be paid by **None** **Buyer** **Seller**
869 **One-Half by Buyer and One-Half by Seller .**

870 **15.4. Local Transfer Tax.** **The Local Transfer Tax** of n/a % of the Purchase Price must
871 be paid at Closing by **None** **Buyer** **Seller** **One-Half by Buyer and One-Half by Seller.**

872 **15.5. Private Transfer Fee.** Private transfer fees and other fees due to a transfer of the Property,
873 payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at
874 Closing by **None** **Buyer** **Seller** **One-Half by Buyer and One-Half by Seller.** The Private Transfer
875 fee, whether one or more, is for the following association(s): n/a in the total amount of % of the Purchase Price
876 or \$.

877 **15.6. Water Transfer Fees.** The Water Transfer Fees can change. The fees, as of the date of
878 this Contract, do not exceed \$n/a for:

879 Water Stock/Certificates Water District
880 Augmentation Membership Small Domestic Water Company n/a and must be paid at Closing by
881 **None** **Buyer** **Seller** **One-Half by Buyer and One-Half by Seller**

882 **15.7. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction
883 must be paid when due by **None** **Buyer** **Seller** **One-Half by Buyer and One-Half by Seller.**

884 **15.8. FIRPTA and Colorado Withholding.**

885 **15.8.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of
886 the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not
887 occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this
888 Section is checked, Seller represents that Seller **IS** a foreign person for purposes of U.S. income taxation. If
889 the box in this Section is not checked, Seller represents that Seller is not a foreign person for purposes of U.S.
890 income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably
891 requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes
892 Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax
893 advisor to determine if withholding applies or if an exemption exists.

894 **15.8.2. Colorado Withholding.** The Colorado Department of Revenue may require a
895 portion of the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after
896 Closing, if not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any
897 reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing
898 Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to
899 determine if withholding applies or if an exemption exists.

900 **16. PRORATIONS AND ASSOCIATION ASSESSMENTS.** The following will be prorated to the **Closing**
901 **Date**, except as otherwise provided:

902 **16.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any and
903 general real estate taxes for the year of Closing, based on **Taxes for the Calendar Year Immediately**
904 **Preceding Closing** **Most Recent Mill Levy and Most Recent Assessed Valuation**, adjusted by any
905 applicable qualifying seniors property tax exemption, qualifying disabled veteran exemption or **Other** n/a.

906 **16.2. Rents.** Rents based on **Rents Actually Received** **Accrued**. At Closing, Seller will
907 transfer or credit to Buyer the security deposits for all Leases assigned, or any remainder after lawful
908 deductions and notify all tenants in writing of such transfer and of the transferee's name and address. Seller
909 must assign to Buyer all Leases in effect at Closing and Buyer must assume Seller's obligations under such
910 Leases.

925 **16.3. Association Assessments.** Current regular Association assessments and dues
926 (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the
927 regular Association Assessments for deferred maintenance by the Association will not be credited to Seller
928 except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be
929 obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special
930 assessment assessed prior to **Closing Date** by the Association will be the obligation of Buyer Seller.
931 Except however, any special assessment by the Association for improvements that have been installed as of
932 the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller.
933 Seller represents there are no unpaid regular or special assessments against the Property except the current
934 regular assessments and *n/a*. Association Assessments are subject to change as provided in the Governing
935 Documents.
936

937 **16.4. Other Prorations.** Water and sewer charges, propane, interest on continuing loan and *n/a*.
938

939 **16.5. Final Settlement.** Unless otherwise agreed in writing, these prorations are final.
940

941 **17. POSSESSION.** Possession of the Property will be delivered to Buyer on **Possession Date** at
942 **Possession Time**, subject to the Leases as set forth in 10.6.1.1.
943

944 If Seller, after Closing, fails to deliver possession as specified, Seller will be subject to eviction and
945 will be additionally liable to Buyer for payment of \$ 500 per day (or any part of a day notwithstanding § 18.1)
946 from **Possession Date** and **Possession Time** until possession is delivered.
947

948 Buyer represents that Buyer will occupy the Property as Buyer's principal residence unless the
949 following box is checked, then Buyer Does Not represent that Buyer will occupy the Property as Buyer's
950 principal residence.
951

952 If the box is checked, Buyer and Seller agree to execute a Post-Closing Occupancy Agreement.
953

GENERAL PROVISIONS

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959 **18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.**

960 **18.1. Day.** As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United
961 States Mountain Time (Standard or Daylight Savings, as applicable).
962

963 **18.2. Computation of Period of Days, Deadline.** In computing a period of days (e.g., three days after
964 MEC), when the ending date is not specified, the first day is excluded and the last day is included. If any
965 deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline Will
966 Will Not be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be
967 checked, the deadline will not be extended.
968
969

970
971 **19. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION;
972 AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be
973 delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.
974

975 **19.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other
976 perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the
977 total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be
978 paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to
979 repair the Property before **Closing Date**. Buyer has the Right to Terminate under 25.1, on or before **Closing
980 Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer
981 elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all
982 insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the
983 Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may
984 not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing,
985 the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the
986 option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's
987 insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the
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990

991 parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller
992 has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of
993 any deductible that applies to the insurance claim.
994

995 **19.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and
996 communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or
997 plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is
998 earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size,
999 age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such
1000 Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by
1001 Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or
1002 replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under 25.1,
1003 on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or
1004 replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives
1005 such a credit, Seller's right for any claim against the Association, if any, will survive Closing.
1006

1007 **19.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending
1008 condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly
1009 notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under 25.1, on or
1010 before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer
1011 elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is
1012 entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of
1013 the Property or Inclusions but such credit will not include relocation benefits or expenses, or exceed the
1014 Purchase Price.
1015

1016 **19.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to
1017 walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions
1018 complies with this Contract.
1019

1020 **19.5. Home Warranty.** Seller and Buyer are aware of the existence of pre-owned home warranty
1021 programs that may be purchased and may cover the repair or replacement of such Inclusions.
1022

1023 **20. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller
1024 acknowledge that the respective broker has advised that this Contract has important legal consequences and
1025 has recommended the examination of title and consultation with legal and tax or other counsel before signing
1026 this Contract.
1027

1028 **21. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines
1029 in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including
1030 Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as
1031 provided in this Contract or waived, the non-defaulting party has the following remedies:
1032

1033 **21.1. If Buyer is in Default:**

1034 **21.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest
1035 Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest
1036 Money is not a penalty and the Parties agree the amount is fair and reasonable. Seller may recover such
1037 additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force
1038 and effect and Seller has the right to specific performance or damages, or both.
1039

1040 **21.1.2. Liquidated Damages, Applicable. This 21.1.2 applies unless the box in 21.1.1. is**
1041 **checked.** Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to
1042 Seller and retained by Seller. It is agreed that the Earnest Money specified in 4.1 is LIQUIDATED DAMAGES
1043 and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in 10.4, 22,
1044 23 and 24), said payment of Earnest Money is SELLER'S ONLY REMEDY for Buyer's failure to perform the
1045 obligations of this Contract. Seller expressly waives the remedies of specific performance and additional
1046 damages.
1047

1048 **21.2. If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all
1049 Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be
1050 proper. Alternatively, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the
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1057 right to specific performance or damages, or both.
1058

1059 **22. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event
1060 of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must
1061 award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and
1062 expenses, including attorney fees, legal fees and
1063 expenses.
1064

1065 **23. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not
1066 resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties
1067 meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot
1068 impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to
1069 the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the
1070 cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute
1071 is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the
1072 other at that party's last known address (physical or electronic as provided in 27). Nothing in this Section
1073 prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the
1074 date of written notice requesting mediation. This Section will not alter any date in this Contract, unless
1075 otherwise agreed.
1076
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1078

1079 **24. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must
1080 release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In
1081 the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the
1082 Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any
1083 proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of
1084 competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and
1085 legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money
1086 Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the
1087 case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the
1088 parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money
1089 Holder does receive a copy of the Lawsuit and has not interpleaded the monies at the time of any Order, Earnest
1090 Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the
1091 obligation of 23 (Mediation). This Section will survive cancellation or termination of this Contract.
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1098 **25. TERMINATION.**

1099 **25.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to
1100 Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to
1101 Terminate), provided such written notice was received on or before the applicable deadline specified in this
1102 Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right
1103 to Terminate accepts the specified matter, document or condition as satisfactory and waives the Right to
1104 Terminate under such provision.
1105

1106 **25.2. Effect of Termination.** In the event this Contract is terminated, all Earnest Money received
1107 hereunder will be returned to Buyer and the parties are relieved of all obligations hereunder, subject to 10.4,
1108 22, 23 and 24.
1109
1110

1111 **26. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS.** This Contract, its exhibits and
1112 specified addenda, constitute the entire agreement between the parties relating to the subject hereof and any
1113 prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this
1114 Contract. No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or
1115 enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its
1116 terms, exists or is intended to be performed after termination or Closing survives the same. Any successor to a
1117 party receives the predecessor's benefits and obligations of this Contract.
1118
1119
1120

1121 **27. NOTICE, DELIVERY AND CHOICE OF LAW.**
1122

1123 **27.1. Physical Delivery and Notice.** Any document, or notice to Buyer or Seller must be in writing,
1124 except as provided in 27.2 and is effective when physically received by such party, any individual named in this
1125 Contract to receive documents or notices for such party, Broker, or Brokerage Firm of Broker working with such
1126 party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm).
1127

1128 **27.2. Electronic Notice.** As an alternative to physical delivery, any notice, may be delivered in
1129 electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for
1130 such party, Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after
1131 Closing must be received by the party, not Broker or Brokerage Firm) at the electronic address of the recipient
1132 by facsimile, email or .
1133

1134 **27.3. Electronic Delivery.** Electronic Delivery of documents and notice may be delivered by: (1) email
1135 at the email address of the recipient, (2) a link or access to a website or server provided the recipient receives
1136 the information necessary to access the documents, or (3) facsimile at the facsimile number (Fax No.) of the
1137 recipient.
1138

1139 **27.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed
1140 in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a
1141 contract in Colorado for real property located in Colorado.
1142

1143 **28. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing,
1144 by Buyer and Seller, as evidenced by their signatures below and the offering party receives notice of such
1145 acceptance pursuant to 27 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If
1146 accepted, this document will become a contract between Seller and Buyer. A copy of this Contract may be
1147 executed by each party, separately and when each party has executed a copy thereof, such copies taken
1148 together are deemed to be a full and complete contract between the parties.
1149

1150 **29. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith
1151 including, but not limited to, exercising the rights and obligations set forth in the provisions of **Financing**
1152 **Conditions and Obligations; Title Insurance, Record Title and Off-Record Title; New ILC, New Survey;**
1153 **and Property Disclosure, Inspection, Indemnity, Insurability, Due Diligence and Source of Water.**
1154

1155 ADDITIONAL PROVISIONS AND ATTACHMENTS

1156 **30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the
1157 Colorado Real Estate Commission.)
1158 **a. APCHA, as noted in 2.1 Buyer, is defined as the Aspen/Pitkin County Housing Authority.**
1159 **b. Paragraph 2.2 may be assignable to the City of Aspen or Pitkin County.**
1160 **c. Pursuant to C.R.S. 12.61.103 et sec., the APCHA, its officers and employees are not "real**
1161 **estate brokers" as defined by law and are not regulated by the Colorado Real Estate**
1162 **Commission. Accordingly, it is understood and agreed by and between all parties to this**
1163 **contract, listing or other agreements hereinafter entered into pertaining to this transaction,**
1164 **listing or agreement, that the term "broker", while being used to reference APCHA, is not**
1165 **meant to refer to APCHA as acting on behalf of either the Buyer or the Seller or as agent for**
1166 **either party, but rather as a governmental agency carrying out its governmental purpose in**
1167 **administering and enforcing its duties as a multi-jurisdictional housing authority pursuant to**
1168 **Colorado Law. It should be further understood that all activities performed by the broker(s) are**
1169 **done as employees of APCHA.**
1170 **d. Buyer hereby acknowledges that the Declaration of Covenants, By-Laws, Articles of**
1171 **Incorporation are provided at www.apcha.org and a copy of the Deed Restriction is provided**
1172 **with this contract.**
1173 **e. The Buyer will conduct an inspection of the property the day before closing. If any damages**
1174 **of the property or noted, the proceeds will be held in escrow until such time the property is**
1175 **deemed acceptable as to normal wear and tear and that all appliances are in present, in good**
1176 **working order, and the home has been vacated.**
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31. OTHER DOCUMENTS.

31.1. The following documents **are a part** of this Contract:

Addendum to Contract to Buy and Sell Real Estate (Residential) dated February 10, 2020 between Aspen/Pitkin County Housing Authority (Buyer) and Cordes & Company, solely in the capacity of Receiver for Edward L. Mulcahy Jr. (Seller) and Aspen/Pitkin County Housing Authority (Brokerage firm)

31.1.1. Post-Closing Occupancy Agreement. If the Post-Closing Occupancy Agreement box is checked in § 17 the Post-Closing Occupancy Agreement is a part of this Contract.

31.2. The following documents have been provided but are **not** a part of this Contract:

n/a

SIGNATURES

_____ Date: _____

Buyer: ***Michael A. Kosdrosky, in his official capacity as Executive Director of APCA***

[NOTE: If this offer is being countered or rejected, do not sign this document.

_____ Date: _____

Seller: ***Cordes & Company, solely in the capacity of Receiver for Edward L. Mulcahy,***

END OF CONTRACT TO BUY AND SELL REAL ESTATE

32. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Buyer)

Broker **Does** **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Although Broker is not a party to the Contract, Broker agrees to cooperate, upon request, with any mediation requested under § 23.

Broker is working with Buyer as a **Buyer's Agent** **Transaction-Broker** in this transaction. This is a **Change of Status**

Customer. Broker has no brokerage relationship with Buyer. See § 33 for Broker's brokerage relationship with Seller.

Brokerage Firm's compensation or commission is to be paid by **Listing Brokerage** **Buyer** **Other** *n/a*.

Brokerage Firm's Name: ***Aspen/Pitkin County Housing Authority***

Brokerage Firm's License #: ***EI001319982***

Cindy Christensen

Date: 2/10/2020

Broker's Name: **Cindy Christensen**

Broker's License #: **EI001319982**

Address: **210 E Hyman, #202 Aspen, CO 81611**

Ph: **9709205455** Fax: **9709205580** Email Address: **cindy.christensen@cityofaspen.com**

33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Seller)

Broker **Does** **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Although Broker is not a party to the Contract, Broker agrees to cooperate, upon request, with any mediation requested under § 23.

Broker is working with Seller as a **Seller's Agent** **Transaction-Broker** in this transaction. This is a **Change of Status**.

Customer. Broker has no brokerage relationship with Seller. See § 32 for Broker's brokerage relationship with Buyer.

Brokerage Firm's compensation or commission is to be paid by **Seller** **Buyer** **Other** *n/a*.

Brokerage Firm's Name: *n/a*

Brokerage Firm's License #:

Broker _____ Date: _____

Broker's License #:

Address: *n/a n/a, n/a n/a*

Ph: *n/a* Fax: *n/a* Email Address:

CBS1-5-19. CONTRACT TO BUY AND SELL REAL ESTATE (RESIDENTIAL)

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**Addendum to Contract to Buy and Sell Real Estate
(Residential) dated February 10, 2020 Between
Aspen/Pitkin County Housing Authority (Buyer) and
Cordes & Company, solely in the capacity of Receiver for
Edward L. Mulcahy Jr. (Seller) and Aspen/Pitkin County
Housing Authority (Brokerage firm)**

The purpose of the Addendum is to clarify the Aspen/Pitkin County Housing Authority's ("APCHA") role in this transaction.

APCHA is not a Brokerage Firm as defined by CRS 12-61-103, *et seq.*, or by regulations of the Colorado Real Estate Commission. APCHA's employees are not real estate brokers as defined by law.

Accordingly, it is understood and agreed by and between all parties to this contract that the term "brokerage firm" or "broker", where being used to reference APCHA and/or APCHA employees, is not meant to refer to APCHA as acting on behalf of either the Buyer or the Seller or as agent for either party, but rather as a governmental agency carrying out its governmental purpose in administering and enforcing its duties as a multi-jurisdictional housing authority pursuant to Colorado law. It should be further understood that all activities performed by employees of APCHA are done in their official capacities and not as independent third parties.

Cindy Christensen and Pam Gabel are licensed brokers in the State of Colorado but are acting as employees of APCHA for this transaction.

Cordes & Company, solely in the capacity of Receiver
For Edward L. Mulcahy, Jr.

Date

Michael A. Kosdrosky, in his official capacity as Executive
Director of the Aspen/Pitkin County Housing Authority

Date

Cindy Christensen, APCHA

Date