

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (the "Agreement"), is made and is effective as of October 27, 2020 ("Effective Date") by and between **RAMESH PITAMBER, TRUSTEE OF THE PITAMBER IRREVOCABLE FAMILY TRUST DATED MARCH 26, 2002** ("Seller"), and **COUNTY OF NEVADA**, a political subdivision of the State of California ("Buyer"), collectively the "Parties."

RECITAL

A. Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, all of Seller's right, title and interest in and to real property constituting approximately 1.13 acres located at 628 South Auburn Street, Grass Valley CA 95945, currently operating as the "Coach & Four Motel," commonly known as Assessor's Parcel Number: 029-241-028-000 ("the Property"), more specifically described in Exhibit "A," upon the terms and conditions set forth in this Agreement, and all improvements thereon, and appurtenances thereto (the Land and improvements are hereinafter collectively referred to as the "Property").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recital which is specifically incorporated into the body of this Agreement, the promises, the mutual representations, warranties, covenants and agreements hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto hereby agree as follows:

1. **Agreement to Purchase and Sell.** Upon the terms and conditions herein set forth, Seller agrees to sell to Buyer all of Seller's right, title and interest in and to the Property, together with any and all rights, privileges and easements benefiting or appurtenant thereto and any and all improvements and fixtures thereon, and including all of Seller's right, title and interest in and to any and all streets, alleys and vacated or existing public or private rights of way abutting the Property, and Buyer agrees to purchase all of Seller's right, title and interest in and to the Property from Seller. It is further understood and agreed by and between Buyer and Seller that the negotiated purchase price is the amount based on an appraisal by the California State Department of Housing and Community Development (HCD) and negotiation of the Parties.

2. **Purchase Price.** The total purchase price for the Property (the "Purchase Price") shall be One Million, Seven Hundred, Fifty Thousand Dollars Even (\$1,750,000.00). Not later than two (2) business days after the Effective Date Buyer shall deliver an earnest money deposit in the sum of \$10,000.00 ("Initial Deposit") to Escrow Holder named below. The balance of the Purchase Price shall be paid in cash on Close of Escrow.

Opening of Escrow. Buyer has previously opened an Escrow/Order with: First American Title Company, 768 Taylorville Road, Suite B, Grass Valley, CA 95949, Order No. 3428-6332006, Attention: Escrow Officer Eileen Fournier, (Email: eifournier@firstam.com; phone: 530-798-5603) ("Escrow Holder"). Buyer and Seller agree that the duties of the Escrow Holder hereunder are purely ministerial in nature and are limited to the receipt and disbursement of



funds and the safekeeping and disposition of any documents required to be deposited in Escrow in accordance with this Agreement. Seller and Buyer shall, promptly upon request of Escrow Holder, execute such additional escrow instructions as may be reasonably required by Escrow Holder, including Escrow Holder's standard printed conditions and stipulations with respect to Escrow concerning the purchase and sale of real property, provided, however, that if there is any conflict between the provisions of this Agreement and the provisions of any such additional instructions, the provisions of this Agreement shall prevail.

3. **Buyer's Due Diligence.**

(a) **Due Diligence Period.** Subject to the terms and conditions of this Agreement, Buyer and its employees, agents, consultants, and contractors shall have the right, upon reasonable notice to Seller, to enter upon the Property for the purpose of conducting necessary inspections, surveys, testing and examination of the Property as required by Buyer in exercise of Buyer's reasonable judgment. Buyer's inspection, testing and examination, survey and review of the Property shall be at Buyer's sole expense. Buyer shall obtain Seller's advance consent in writing of any proposed physical testing of the Property in furtherance of its obligations contained herein, which consent shall not be unreasonably withheld or delayed. Buyer shall repair, restore and return the Property to its original condition after such physical testing is completed, at Buyer's expense. Buyer shall indemnify and hold harmless Seller, its officers, officials, employees, agents or volunteers from any claims, damages, or injuries incurred or sustained by Seller as a result of any acts of Buyer, its officers, officials, employees, agents or volunteers pursuant to this paragraph. Buyer further agrees that in the event this Agreement is terminated pursuant to the terms and conditions set forth herein, any and all soils tests, engineering studies, environmental reports, and any other documentation developed, prepared, or submitted for the purpose of obtaining rezoning or development of the Property, tentative subdivision maps, tentative parcel maps or other development approvals, shall be delivered to Seller at no expense to Seller and shall become Seller's property.

Seller certifies that it has provided Buyer copies of, and disclosed, all Due Diligence Materials (as defined below) that are in Seller's possession as of the Effective Date. Seller will reasonably and in good faith cooperate with Buyer's due diligence efforts.

(b) **Documents and Records.** Not later than two (2) business days after the Effective Date, Seller will deliver to Buyer copies of the following documents and materials to the extent such documents and materials are in Seller's possession or control: (i) all plans, ALTA and boundary surveys, specifications, permits, reports, investigations, written warranties, notices of violation, and other documents pertaining to the physical, geological, or environmental condition of the Subject Property, (ii) copies of all agreements pertaining to or affecting the Subject Property, and (iii) copies of all documents pertaining to zoning and land use regulations applicable to the Property (collectively, "Due Diligence Materials"). Seller shall also deliver to Buyer such additional Due Diligence Materials as may come into Seller's possession or control prior to the Closing Date.

(c) **Approval of Title.** Buyer acknowledges that it has received the Preliminary Report from First American Title Company, Order no. 3428-633206 dated July 31, 2020 ("Preliminary Report"). Buyer shall take title to the Property subject to the following Exceptions



shown on the Preliminary Report: Exception nos. 2, 4, 5, 6,, 11, 12, and 13 ("Permitted Exceptions").

(d) Buyer's Approval of Subject Property; Right to Terminate. Within ten (10) business days after the Effective Date, Buyer shall deliver written notice to Seller of Buyer's decision to complete its purchase of the Subject Property on the terms of this Agreement, or of Buyer's decision to exercise its unqualified right to terminate this Agreement. If Buyer, on or before the Approval Date, delivers a written notice of termination under Section 4(b)(i)–(xi) below, Section 8 and/or Section 12 below, or (ii) disapproval under this Section 3(d), then this Agreement shall terminate, the Initial Deposit shall be returned to Buyer, and neither party shall have any further obligation to the other under this Agreement (other than those which this Agreement provides will survive the termination of this Agreement). If Buyer does not deliver any notice of Buyer's decision to Seller on or before the Approval Date, then Buyer shall be deemed to have elected to complete its purchase of the Subject Property on the terms and conditions of this Agreement.

(e) Condition of Property – As-Is Purchase. Buyer acknowledges it has been provided an adequate opportunity to fully investigate the physical condition and feasibility of ownership of the Property and, except for the representations and warranties of Seller expressly set forth in this Agreement, has decided to purchase the Property solely based upon Buyer's investigation. **Buyer agrees to take title to the Property at Close of Escrow in its "AS-IS" condition, including all faults, defects, deficiencies, and problems, including the physical condition of the Property, land use designation, zoning, building code requirements, adequacy of utility services, neighborhood characteristics, boundary determinations or disputes, encroachments, environmental conditions, Hazardous Substances (as defined in Section 9(b)(iii)), proximity to other properties, and access, whether known or unknown ("Property Characteristics").** Buyer agrees to release Seller from all such Property Characteristics and agrees Buyer will be solely responsible for such Property Characteristics on and after Close of Escrow.

4. Conditions to Closing.

(a) Seller's Conditions Precedent. The Closing and Seller's obligation to sell the Subject Property to Buyer are subject to the satisfaction of the following conditions ("Seller's Conditions Precedent"). Seller's Conditions Precedent are intended solely for the benefit of Seller. If any of Seller's Conditions Precedent are not satisfied, Seller shall have the right in its sole discretion either to waive such Seller's Condition(s) Precedent and proceed with the sale or terminate this Agreement by written notice to Buyer and the Escrow Holder.

(i) Representations and Warranties. The representations and warranties of Buyer contained herein shall be true and correct as of the Closing Date as though made at and as of the Closing Date, and Buyer's covenants under this Agreement shall be satisfied as of the Closing Date (to the extent such covenants are to be satisfied as of the Closing Date).

(ii) Performance by Buyer. Buyer shall have performed, satisfied and complied with all obligations, agreements and conditions required by this Agreement to be performed or complied with by Buyer on or before the Closing Date.



(b) Buyer's Conditions Precedent. The Closing and Buyer's obligation to purchase the Subject Property from Seller are subject to the satisfaction of the following conditions ("Buyer's Conditions Precedent"). Buyer's Conditions Precedent are intended solely for the benefit of Buyer. If any of Buyer's Conditions Precedent are not satisfied, Buyer shall have the right in its sole discretion either to waive such Buyer's Condition(s) Precedent and proceed with the acquisition or terminate this Agreement by written notice to Seller and the Escrow Holder.

(i) Representations and warranties. The representations and warranties of Seller contained herein shall be true and correct as of the Closing Date as though made at and as of the Closing Date, and Seller's covenants and warranties under this Agreement shall survive any and all inquiries and investigations made by Buyer and shall survive Close of Escrow and recordation of the grant deed.

(ii) Elimination of Exceptions. Seller, at its sole cost, on or prior to the Closing, shall cause to be eliminated all liens on the Property evidencing monetary encumbrances (other than liens for non-delinquent real estate taxes and assessments, and supplemental taxes and assessments), and all exceptions shown on the Preliminary Report other than Permitted Exceptions.

(iii) Present Use. Seller shall warrant that it has not actually received any formal written notice that any of the easements, covenants, conditions, restrictions or agreements to which the Property is subject interferes with or is breached by the use or operation of the Property as presently used and operated.

(iv) Contracts and Leases. Except as elsewhere set forth herein or as may be approved by Buyer, the Property shall not be encumbered by any contracts, leases, licenses, options, right of first refusal, instruments or other rights affecting any portion of the Subject Property, whether written or oral and whether recorded or unrecorded (collectively, "Contracts").

(v) Performance by Seller. Seller shall have performed, satisfied and complied with all obligations, agreements and conditions required by this Agreement to be performed or complied with by Seller on or before the Closing Date.

(vi) Conveyances by Seller. On or before the Closing, Seller shall deliver into escrow a grant deed in recordable form duly executed by Seller, conveying to Buyer all of Seller's rights and interests in and to the Property to Buyer, in a form reasonably approved by Buyer (the "Grant Deed").

(vii) Title Policy. Title shall be evidenced by Escrow Holder's title insurance underwriter ("Title Company") issuing its standard coverage Owner's Policy of Title Insurance to Buyer in an amount equal to the Purchase Price, showing title to the Property vested in Buyer, subject only to the Permitted Exceptions, such other exceptions caused by Buyer, or exceptions approved in writing by Buyer.

(viii) Books and Records. Seller shall provide at the location of the Property at Close of Escrow all books, records, booklets, catalogs, and manuals regularly maintained by Seller at the Property relating to the use or operation of the Property.



(ix) Condition of Property. The physical condition of the Property shall be substantially the same on the Closing Date as on the Effective Date.

(x) Existing Tenancies. Seller confirms that there are no individuals residing at the Property under tenancy, lease, rental, or other possessory agreements, either written or oral, that create more than a month-to-month right of tenancy or occupation of all or part of the Property. Upon execution of this Agreement, Seller agrees to immediately provide any existing tenants, renters, or occupiers, written 30-day or 60-day notices, as applicable, to vacate the Property. Seller agrees to work cooperatively and in good faith with Buyer to remove any tenants, renters, or occupiers prior to close of escrow, which shall include Seller offering any tenants or renters accommodations at other local hotels/motels owned by Seller in Western Nevada County. Seller shall have no obligation or duty to Buyer prior to Close of Escrow with respect to such tenants except as expressly set forth in this subsection. On and after Close of Escrow, Seller shall have no obligation to Buyer related to such tenants and Buyer assumes all responsibility to remove or relocate such tenants.

(xi) Approval by Board of Supervisors. Approval of Purchase of Property by Resolution of Buyer's Governing Body, the Nevada County Board of Supervisors, prior to Closing Date, as more fully described in Section 9(a)(ii) below, and Project HomeKey funding from the State of California.

5. **Covenants Upon Termination or Failure to Close.**

(a) Payment of Escrow Cancellation Costs. In the event of any termination of this Agreement or the failure of escrow to close as provided herein due to a default of a party or the exercise of a party's right to terminate as provided herein, then the defaulting or terminating party, as the case may be, shall pay any cancellation costs imposed by the Escrow Holder.

6. **Closing and Escrow.**

(a) Closing Date.

(i) Closing Date. The closing of the transaction contemplated by this Agreement (the "Closing" or "Close of Escrow") shall occur no later than November 11, 2020, unless such date is extended by mutual agreement of the parties.

(b) Deposit of Agreement and Escrow Instructions. The parties shall promptly deposit a fully executed copy of this Agreement with Escrow Holder and this Agreement shall serve as escrow instructions to Escrow Holder for consummation of the transactions contemplated hereby. The parties agree to execute such commercially reasonable additional escrow instructions as may be required to enable Escrow Holder to comply with the terms of this Agreement; provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall control unless a contrary intent is expressly indicated in such supplementary instructions. Seller and Buyer hereby designate Escrow Holder as the reporting person for the transaction pursuant to Section 6045(e) of the Internal Revenue Code and the regulations promulgated thereunder.



(c) Seller's Deliveries to Escrow. At least one (1) business day before the Closing, Seller shall deliver or cause to be delivered to Buyer through escrow the following, to the extent they have not already been delivered:

(i) the original duly executed and acknowledged Grant Deed conveying to Buyer fee title to the Property, free and clear of all encumbrances except for the exceptions to title described in Section 3(c), any encumbrances caused by Buyer, and any other matters approved in writing by Buyer;

(ii) a FIRPTA affidavit pursuant to Section 1445(b)(2) of the Internal Revenue Code of 1986, and on which Buyer is entitled to rely, that Seller is not a foreign person within the meaning of Section 1445(f)(3) of the Internal Revenue Code, in form and substance reasonably acceptable to Buyer and Seller;

(iii) an applicable California Form 593 (or equivalent form for another appropriate state) from Seller certifying any real estate taxes that must be withheld, in form and substance reasonably acceptable to Buyer and Seller;

(iv) any duly executed closing statement reflecting the Purchase Price and the costs, prorations and adjustments required under Section 8 of this Agreement, and the Closing Payment; and

(v) any other instruments, records or correspondence called for hereunder which have not previously been delivered.

(d) Seller's Deliveries to Buyer. At or before the Closing (or at such other time indicated below), Seller shall deliver or cause to be delivered to Buyer the following, to the extent they have not already been delivered:

(i) originals (if any) of the Contracts and Due Diligence Materials, to the extent previously requested by Buyer; and

(ii) any other instruments, records or correspondence called for hereunder which have not previously been delivered.

(e) Buyer's Deliveries to Escrow. At or before the Closing, Buyer shall deliver or cause to be delivered to Seller through escrow the following:

(i) the Closing Payment; and

(ii) a Letter of Acceptance of Seller's Grant Deed.

(f) Deposit of Other Instruments. Seller and Buyer shall each deposit such other commercially reasonable instruments as are reasonably required by Escrow Holder or otherwise required to close the escrow and consummate the transactions described herein in accordance with the terms hereof.



(g) Distribution of Funds and Documents.

(i) The Escrow Holder will, at the close of Escrow pay, from funds to which Seller will be entitled and from funds, if any, deposited by Seller with Escrow Holder, to the appropriate obligees, all monetary encumbrances caused, permitted, or suffered by Seller.

(ii) Escrow Holder will cause the County Recorder to mail the Grant Deed after recordation to the Buyer. Escrow Holder will cause the County Recorder to mail any other document which is expressed to be, or by general usage, is recorded, to the party for whose benefit the instrument was obtained. Escrow Holder will, at the close of Escrow, deliver by United States mail to Buyer and Seller a copy of each document caused to be recorded by Escrow Holder (conformed to show recording data).

(iii) Escrow Holder will, at the close of Escrow, deliver by United States mail each non-recorded instrument received by the Escrow Holder to the payee or person (i) acquiring rights under the instrument, or (ii) for whose benefit the instrument was obtained.

(iv) The Escrow Holder will, at the close of Escrow, deliver by United States mail or wire transfer as requested, (i) to Seller the balance of the cash portion of the Purchase Price to which Seller will be entitled and (ii) to Buyer, or order, any excess funds delivered to Escrow Holder by Buyer.

(v) As the party responsible for closing the transaction contemplated by this Agreement, the Escrow Holder will take all steps necessary to report this transaction to the Internal Revenue Service, as required by section 6045 of the Internal Revenue Code of 1986. Buyer and Seller will provide Escrow Holder with all documents reasonably required by Escrow Holder to satisfy this reporting requirement.

(h) Delivery of Possession. Seller shall surrender possession of the Subject Property to Buyer at Closing, subject to the possessory interest of all tenants in possession as of the Effective Date.

7. Closing Adjustments and Prorations. With respect to the Property, the following adjustments shall be made, and the following procedures shall be followed:

(a) Basis of Prorations. All prorations shall be calculated as of 12:01 a.m. on the Closing Date (i.e., with Buyer being deemed to own the Property for the entire day of the Closing Date), on the basis of a three hundred sixty-five (365) day year.

(b) Closing Adjustments. Prior to Closing, Seller shall cause Escrow Holder to prepare and deliver to Seller and Buyer a proration statement for the Property on an estimated basis with respect to the matters set forth in this Section 7(b), to the extent then possible. Each party shall be credited or charged at the Closing, in accordance with the following:

(i) Expenses.

(A) Unpaid Expenses. To the extent any taxes or other expenses for the Property relating to the period prior to Closing are accrued and unpaid as of the Closing Date



but are ascertainable or estimatable, such taxes or other expenses shall be ascertained or estimated as appropriate, and Buyer shall be credited for Seller's pro rata share of such taxes or other expenses for the period prior to the Closing Date provided that Buyer assumes the obligations pursuant to which such expenses arise.

(ii) Post-Closing Adjustments. If any of the prorations or adjustments required pursuant to Section 7(b) cannot be definitely calculated on the Closing Date, including but not limited to the proration of supplemental real estate taxes pursuant to California Revenue and Taxation Code sections 75, et seq, then they shall be estimated at the Closing and definitively calculated as soon after the Closing Date as feasible. As soon as the necessary information is available, Buyer and Seller shall conduct a post-Closing review to determine the accuracy of all prorations and adjustments. Either party owing the other party a sum of money based on such subsequent prorations(s), adjustments or post-Closing review shall promptly pay said sum to the other party, together with documentation to support such demand. The obligations of Seller and Buyer under this Section 7(b) shall survive the Closing.

(c) Allocation of Closing Costs. Closing costs shall be allocated as set forth below:

- (i) Escrow charges: fifty percent (50%) to Buyer, fifty percent (50%) to Seller.
- (ii) Recording cost for Seller's Grant Deed: one hundred percent (100%) to Buyer.
- (iii) Title insurance premium: Buyer to pay the cost of the standard coverage portion and any extended coverage, if required by Buyer, and all endorsements.
- (iv) County transfer taxes (if any): one hundred percent (100%) to Buyer.

Any other closing fees and costs shall be borne by the respective parties in a manner customary to real estate transfers in Nevada County, California. Buyer and Seller shall each bear the cost of their respective legal fees incurred in connection with the negotiation and preparation of this Agreement.

8. Seller's Representations and Warranties. Seller hereby makes the following representations and warranties to Buyer. Each representation and warranty is made to Seller's actual (meaning subjective) knowledge, without any duty of investigation or inquiry of others. Seller acknowledges the representations and warranties are material and being relied upon by Buyer, and except as otherwise set forth herein shall survive Close of Escrow and recordation of the Grant Deed:

(a) Ownership. Seller holds, or will hold, as of the date and time of the Close of Escrow, fee title to the Property. Seller has not, and will not, sell, transfer, or assign such rights to any other party prior to Closing.

(b) Organization and Authorization; No Conflicting Documents.

(i) Seller has full power, authority and right to execute and deliver this Agreement and to perform all of the terms and conditions hereof to be performed by it and to



consummate the transactions contemplated hereby. This Agreement has been, and all documents executed by Seller which are to be delivered to Buyer at Closing will be, duly executed and delivered by Seller, and are or at the time of Closing will be the legal, valid and binding obligation of Seller. Seller is not subject to any bankruptcy, insolvency, reorganization, moratorium, or similar proceeding.

(ii) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement, nor the compliance with the terms and conditions hereof will (a) violate or conflict, in any material respect, with any provision of Seller's organizational documents or any statute, regulation or rule, or, to Seller's actual knowledge, any injunction, judgment, order, decree, ruling, charge or other restrictions of any government, governmental agency or court to which Seller is subject, and which violation or conflict would have a material adverse effect on the ownership and operation of the Property, or (b) result in any material breach or the termination of any lease, agreement or other instrument or obligation to which Seller is a party or by which any of the Property may be subject, or cause a lien or other encumbrance to attach to any of the Property. Seller is not a party to any contract or subject to any other legal restriction that would prevent fulfillment by Seller of all of the terms and conditions of this Agreement or compliance with any of the obligations under it.

(iii) There are no Hazardous Substances now located, or that previously were located on, in, under, or within any portion of the Property except for (i) those shown on the report of AdamLabs, Inc. dated September 23, 2020, (ii) those expressly identified or disclosed in the Due Diligence Materials and (iii) those identified by Buyer during its Due Diligence inspections. For purposes of this Agreement, "Hazardous Substance" means any substance which is (A) defined as a hazardous waste, pollutant or contaminant under any Environmental Law, (B) a petroleum hydrocarbon, including crude oil or any fraction thereof, (C) hazardous, toxic, corrosive, flammable, explosive, infectious, radioactive, carcinogenic or reproductive toxicant, (D) regulated pursuant to any environmental law, or (E) any pesticide regulated under state or federal law; and the term "Environmental Law" means each and every federal, state and local law, statute, ordinance, regulation, rule, judicial or administrative order or decree, permit, license, approval, authorization or similar requirement of each agency or other governmental authority, pertaining to the protection of human health and safety or the environment.

(iv) All material consents required (if any) from any third party in connection with the execution and delivery of this Agreement by Seller or the consummation by Seller of the transactions contemplated hereby have been made or obtained or shall have been made or obtained by the Closing Date. Complete and correct copies of all such consents shall be delivered to Buyer prior to the Closing.

(c) Contracts and Leases. Except as set forth below, there are no contracts, leases, tenancies, licenses, options, right of first refusal, instruments or other rights (written or oral, and recorded or unrecorded) affecting any portion of the Property which will survive or otherwise be enforceable against Buyer, or otherwise affect the ownership or operation of the Property, or create a right to occupy some or all of the Property, following the Closing Date. Notwithstanding the foregoing, on the Effective Date and at Close of Escrow the Property may be occupied by residential tenants, the names of whom shall be delivered to Buyer in Seller's Due Diligence Materials, who have occupied rooms within the Property for a continuous period prior to the Effective Date in excess of 28 days.



(d) Seller shall, prior to Close of Escrow, timely perform and discharge all obligations and liabilities of every kind whatsoever to be discharged prior to the Close of Escrow and arising from or relating to (i) the Property, including, but not limited to, the use and ownership of the Property; (ii) the operation of the Property; (iii) any Leases or tenancies; and (iv) other Contracts.

(e) No Other Liens or Encumbrances. To Seller's knowledge, there are no encumbrances or liens against the Property, including, but not limited to, actual or impending mechanics liens against the Property or any portion thereof, unexpired options, mortgages or deeds of trust, other than those disclosed herein or which will be set forth in the Title Report.

(f) No Litigation. To Seller's knowledge, there is no litigation pending or threatened against Seller that arises out of the ownership of the Property or that might materially and detrimentally affect the value or the use or operation of any of the Property for its intended purpose or the ability of Seller to perform its obligations under this Agreement. Seller shall notify Buyer promptly of any such litigation of which Seller becomes aware.

(g) Conformance with Law. There are no uncured violations of any federal, state or local zoning, building, fire, environmental, health and safety laws and regulations affecting the Property of which Seller has received written notice from any governmental authorities having the responsibility for monitoring compliance with such laws and regulations, and Seller has no actual knowledge of any violations of such laws and regulations.

(h) Federal Tax Liens. Seller represents Seller is not subject to any recorded or unrecorded federal tax liens or claims.

(i) Seller Not a Foreign Person. Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code.

(j) Absence of Fraud and Misleading Statements. No representation, warranty or statement of Seller in this Agreement, contains any intentional untrue statement of a material fact or to Seller's actual knowledge, omits to state a material fact or premise that thereby renders any representation, warranty or statement contained herein to be misleading.

If Seller obtains actual knowledge that any of the above representations and warranties is not true, Seller shall give immediate written notice to Buyer (which notice shall include copies of the instrument, correspondence, or document, if any, upon which Seller's notice is based). Upon receipt of such notice from Seller, Buyer may either (i) terminate this transaction and receive a refund of its Deposit, and seek any and all remedies available at law or equity (subject to Section 13(a) below), or (ii) proceed with the Closing hereunder.

9. **Buyer's Representations and Warranties.** Buyer hereby represents and warrants to Seller as follows:

(a) Organization and Authorization; No Conflicting Documents.

(i) Buyer has full power and authority to execute and deliver this Agreement and to perform all of the terms and conditions hereof to be performed by it and to consummate the transactions contemplated hereby. This Agreement and all documents executed by

Buyer which are to be delivered to Seller at Closing have been duly executed and delivered by Buyer and are or at the time of Closing will be the legal, valid and binding obligation of Buyer. Buyer is not subject to any bankruptcy, insolvency, reorganization, moratorium, or similar proceeding.

(ii) Prior to the Effective Date, Buyer's governing body, the Board of Supervisors for the County of Nevada, has approved a resolution authorizing Buyer to purchase the Property on the terms and conditions stated herein. Therefore, the individual(s) executing this Agreement and the instruments referenced herein on behalf of Buyer have power, right and actual authority to execute the Agreement as provided herein.

(iii) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement, nor the compliance with the terms and conditions hereof will violate or conflict, in any material respect, with any provision of Buyer's organizational documents or, to Buyer's actual knowledge, any statute, regulation or rule, or any injunction, judgment, order, decree, ruling, charge or other restrictions of any government, governmental agency or court to which Buyer is subject, and which violation or conflict would have a material adverse effect on the ownership and operation of the Property. Buyer is not a party to any contract or subject to any other legal restriction that would prevent fulfillment by Buyer of all of the terms and conditions of this Agreement or compliance with any of the obligations under it.

(iv) All material consents required (if any) from the Nevada County Board of Supervisors in connection with the execution and delivery of this Agreement by Buyer or the consummation by Buyer of the transactions contemplated hereby have been made or obtained or shall have been made or obtained by the Closing Date. Complete and correct copies of all such consents shall be delivered to Seller prior to the Closing.

(b) No Pending Legal Proceedings. There is no litigation pending or, to Buyer's knowledge, threatened, against Buyer or any basis therefor that might materially and detrimentally affect the ability of Buyer to perform its obligations under this Agreement. Buyer shall notify Seller promptly of any such litigation of which Buyer becomes aware. Buyer is not now the subject of any proceeding under the federal Bankruptcy Code or under any applicable state bankruptcy, debtor protection or insolvency statute that would in any way limit or impair Buyer's ability to perform under this Agreement.

10. **Survival of Representations; Indemnification.** The representations, warranties and indemnities made by each party herein are material and are relied upon by the other party in entering into this Agreement, shall be deemed to have been made as of the Effective Date and as of the Closing, and shall survive the Closing for a period of six (6) months. Each party hereto shall indemnify, defend and hold the other party harmless from and against any and all obligations, liabilities, claims, damages, costs, expenses and fees (including reasonable attorneys' and experts' fees and costs), arising out of the breach of any of the representations and warranties made by such party hereunder.

11. **Risk of Loss.** Risk of loss with respect to the Property shall remain with Seller until the Closing.



12. **Damage or Condemnation Prior To Closing.** Except for any damage or destruction attributable to the activities of Buyer or Buyer's agents, employees or contractors, in the event that prior to Closing Date the Property or any improvements thereon are destroyed or materially damaged, Seller shall bear the risk of loss therefor, and Buyer may elect to cancel this Agreement and receive back from Seller all consideration previously paid to Buyer, or may purchase the Property at the purchase price set forth herein less the amount by which such damage or destruction has decreased the fair market value of the Property.

If, before the closing date, either Seller or Buyer receives notice of any condemnation or eminent domain proceeding, the party receiving the notice shall promptly notify the other party of that fact. Buyer may elect either to proceed with the purchase or terminate this Agreement within seven (7) days after the date of notice is received. If Buyer proceeds with the purchase, all condemnation proceeds shall be paid to Buyer (or assigned to Buyer if not then yet collected).

13. **Remedies Upon Default.**

(a) **Default by Seller.** In the event the Closing and the consummation of the transaction contemplated by this Agreement do not occur as a result of a default by Seller, then Buyer may terminate this Agreement by delivery of notice of termination to Seller. Seller shall pay any title and/or escrow fees charged by Escrow Holder in connection with canceling Escrow and, except for any indemnity or other provisions in this Agreement that specifically survive, neither party shall have any further rights or obligations hereunder.

(b) **Default by Buyer.** In the event the Closing and the consummation of the transaction contemplated by this Agreement do not occur as a result of a default by Buyer, then Seller may terminate this Agreement by delivery of notice of termination to Buyer. Buyer shall pay any title and/or escrow fees charged by Escrow Holder in connection with canceling Escrow, the Initial Deposit shall be paid by Escrow Holder to Seller as liquidated damages and, except for any indemnity or other provisions in this Agreement that specifically survive, neither party shall have any further rights or obligations hereunder.

14. **Miscellaneous.**

(a) **Notices.** Any notice, demand, approval, consent, or other communication required or desired to be given under this Agreement shall be given in writing in the manner set forth below, addressed to the party to be served at the addresses set forth below, or at such other address for which that party may have given notice under the provisions of this Section. Any notice, demand, approval, consent, or other communication given by (a) mail shall be deemed to have been given on the second (2nd) business day immediately following the date it was deposited in the United States mail, first class and postage prepaid; (b) overnight common carrier courier service shall be deemed to be given on the business day immediately following the date it was deposited with such common carrier (or on the second (2nd) business day following the date of deposit if the day of deposit was not a business day); (c) delivery in person or by messenger shall be deemed to have been given upon delivery in person or by messenger; or (d) electronic facsimile shall be deemed to have been given on the date of transmission of the entire communication, provided that (i) such transmission occurs during 8:00 a.m. and 5 p.m., Pacific Time, on normal business days, (ii) the sending facsimile machine confirms successful transmission of the communication, and (iii) the receiving party receives delivery of a hard copy of the original transmitted document(s) not later



than the third (3rd) business day following such transmission, by one of the methods described in subsections (a), (b) or (c) above.

If to Buyer:

County of Nevada
Information and General Services Department
950 Maidu Avenue
Nevada City, CA 95959
Attn: Stephen T. Monaghan, CIO
Tel: (530) 265-1238
Fax: (530) 265-7112

with a copy to:

County Counsel
County of Nevada
950 Maidu Ave., Suite 240
Nevada City, CA 95959
Tel: (530) 265-1319
Fax: (530) 265-9840

If to Seller:

Ramesh Pitamber
Trustee of Pitamber Irrevocable Family Trust
Dated March 26, 2002
9249 Sierra College Boulevard
Roseville, CA 95661
Phone: (916) 768-5852

with a copy to:

Robert F. Sinclair
Sinclair Wilson Baldo & Chamberlain
2390 Professional Drive
Roseville, CA 95661
Tel: (916) 783-5281
Fax: (916) 783-5232

(b) Brokers and Finders. Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction through any real estate broker or other person who can claim a right to a commission or finder's fee in connection with the transfer contemplated herein. In the event that any broker or finder tenders a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes its claim shall be responsible for said commission or fee and shall indemnify and hold harmless the other party from and against all liabilities, losses, costs and expenses (including reasonable attorneys fees) arising in connection with such claim for a commission or finder's fee. The provisions of this Section shall survive the Closing.

(c) Successors and Assigns.

(i) Assignment of Interest. Neither Buyer nor Seller shall have the right to assign its rights under this Agreement without the written consent of Seller. Any assignment hereunder shall not relieve or release Buyer from any liability under this Agreement.

(ii) Binding on Successors. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors, heirs, administrators and permitted assigns.

(d) Entire Agreement. This Agreement and any/all attachments or exhibits hereto constitute the entire Agreement between the Parties in connection with the transactions contemplated hereby and the subject matter hereof and this Agreement supersedes and replaces any and all prior and contemporaneous agreements, understandings and communications between the Parties, whether oral or written, with regard to the subject matter hereof. There are no oral or written agreements, representations, or inducements of any kind existing between the Parties relating to this transaction which are not expressly stated herein.



(e) Amendments. Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.

(f) Governing Law; Venue. This Agreement has been negotiated and executed in Nevada County, California, and the substantive laws of the State of California, without reference to its conflict of laws provisions, will govern the validity, construction, and enforcement of this Agreement and venue for any action relating to the Property or this Agreement shall be in Nevada County, California.

(g) No Third Party Beneficiaries. This Agreement creates rights and duties only between Buyer and Seller, and no other party, or third party, is intended to have or be deemed to have any rights under the Agreement as an intended third party beneficiary, except as expressly set forth herein.

(h) Modification. No modification, amendment, change, waiver, or discharge of this Agreement or any portion hereof will be valid unless it is in writing and signed by the party against which the enforcement of the modification, waiver, amendment, change or discharge is or may be sought.

(i) Further Assurances. The parties agree to cooperate with each other and execute any documents reasonably necessary to perform the intent and purpose of the Agreement.

(j) Time of the Essence; Dates. Time is of the essence of this Agreement. In the event that any date specified in this Agreement falls on Saturday, Sunday or holiday (as defined in Section 6700 of the California Government Code) (each a "Non-Business Day"), such date shall be deemed to be the succeeding business day. For purposes of this Agreement, a "business day" shall mean a day other than a Non-Business Day.

(k) Construction. Headings at the beginning of each section and subsections are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. Each of the parties hereto agree that this Agreement is the product of joint draftsmanship and negotiation and that should any of the terms be determined by a court, or in any type of quasi-judicial or other proceeding, to be vague, ambiguous and/or unintelligible, that the same sentences, phrases, clauses or other wordage or language of any kind shall not be construed against the drafting party in accordance with California Civil Code Section 1654, and that each such party to this Agreement waives the effect of such statute.

(l) Severability. If any provision of this Agreement, or the application thereof to any person, place, or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such provisions as applied to other persons, places and circumstances shall remain in full force and effect.



(m) Addenda, Exhibits and Schedules. All addenda, exhibits and schedules referred to herein are, unless otherwise indicated, incorporated herein by this reference as though set forth herein in full

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

SELLER:

Ramesh Pitamber, Trustee of the Pitamber Irrevocable Family Trust Dated March 26, 2002

By: 
Name: Ramesh Pitamber, Trustee

BUYER:

COUNTY OF NEVADA, a political subdivision of the State of California

By: _____
Heidi Hall, Chair
Nevada County Board of Supervisors

ATTEST:

By: _____
Julie Patterson-Hunter
Clerk of the Board

APPROVED AS TO FORM:

By: _____
Katharine L. Elliott
County Counsel

EXHIBIT A

Real property in the City of Grass Valley, County of Nevada, State of California, described as follows:

ALL THOSE PORTIONS OF LOTS TWELVE, THIRTEEN AND FOURTEEN IN BLOCK THIRTEEN, OF THE TOWNSITE OF SOUTH GRASS VALLEY, AS SAID LOTS AND BLOCK ARE DESIGNATED UPON THE OFFICIAL MAP OF THE SAID TOWNSITE OF SOUTH GRASS VALLEY, MADE BY PALMER SMITH AND D. B. MERRY IN THE YEAR 1876, BOUNDED AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHWESTERLY LINE OF SOUTH AUBURN STREET, AS SAID SOUTHWESTERLY LINE IS DESIGNATED IN THAT CERTAIN DEED EXECUTED BY PROPERTY OWNERS ALONG SOUTH AUBURN STREET TO THE CITY OF GRASS VALLEY, RECORDED IN BOOK 134 OF OFFICIAL RECORDS, AT PAGE 263 ET SEQ., NEVADA COUNTY RECORDS; FROM WHICH POINT THE ORIGINAL INTERSECTION OF THE SOUTHEASTERLY LINE OF EMPIRE STREET WITH THE SOUTHWESTERLY LINE OF SOUTH AUBURN STREET, BEING IDENTICAL WITH A CORNER OF LOT 1, IN SAID BLOCK 13, BEARS THE FOLLOWING THREE COURSES AND DISTANCES: NORTH 14° 24' 15" WEST 127.99 FEET; NORTH 14° 28' WEST 260.77 FEET; AND NORTH 12° 39' 30" WEST 60.10 FEET; THENCE FROM SAID POINT OF BEGINNING FOLLOWING SAID SOUTHWESTERLY LINE OF SOUTH AUBURN STREET, NORTH 14° 24' 15" WEST 127.21 FEET TO THE MOST EASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND NOW OR FORMERLY OWNED ELMUS H. BENNETT AND PEARL E. BENNETT, HIS WIFE; THENCE LEAVING SAID SOUTHWESTERLY LINE AND FOLLOWING THE SOUTHERLY LINE OF THE SAID BENNETT PROPERTY SOUTH 87° 30' WEST 327.70; THENCE SOUTH 86° 45' WEST 43.66 FEET; THENCE SOUTH 10° 17' WEST 73.84 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 14 BEING THE NORTHERLY LINE OF BADGER LANE; THENCE ALONG THE SOUTHERLY LINES OF SAID LOT 14, BEING THE NORTHERLY LINES OF BADGER LANE THE FOLLOWING COURSES AND DISTANCES: SOUTH 60° 41' EAST 33.28 FEET; THENCE SOUTH 66° 55' EAST 31.94 FEET; THENCE SOUTH 74° 33' EAST 55.81 FEET; THENCE SOUTH 80° 21' EAST 27.33 FEET; THENCE SOUTH 83° 56' EAST 95.52 FEET; THENCE SOUTH 86° 26' EAST 87.31 FEET; THENCE NORTH 87° 55' EAST 23.88 FEET; THENCE NORTH 67° 45' EAST 76.28 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THE MINERAL, METAL MATTER AND ROCK CONTAINED UNDER SAID PREMISES WITH THE RIGHT TO EXTRACT AT ANY TIME HEREAFTER ALL THE MINERAL, METAL MATTER AND ROCK CONTAINED UNDER SAID PROPERTY FROM ANY DEPTH UP TO AND WITHIN 150 FEET OF THE SURFACE OF SAID PROPERTY, AS CONVEYED BY THE DEED RECORDED APRIL 16, 1909, IN BOOK 111 OF DEEDS, AT PAGE 97, EXECUTED BY RICHARD KITTO AND WILLIAM J. KITTO, TO LLOYD P. LARUE.

ALSO EXCEPTING THEREFROM ALL THE MINERAL, METAL MATTER AND ROCK CONTAINED UNDER SAID PREMISES WITH THE RIGHT TO EXTRACT AT ANY TIME HEREAFTER ALL THE MINERAL, METAL MATTER AND ROCK CONTAINED UNDER SAID PROPERTY FROM ANY DEPTH UP TO AND WITHIN 100 FEET OF THE SURFACE OF SAID PROPERTY, AS CONVEYED BY THE DEED RECORDED APRIL 16, 1909, IN BOOK 111 OF DEEDS, AT PAGE 95, EXECUTED BY MRS. CARRIE HARVEY TO LLOYD P. LARUE.

APN: 029-241-028-000

