



**Shay Realty, Inc.**  
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The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CBS4-9-12) (Mandatory 1-13)

**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  
 (LAND)**

**Property with No Residences)**  
 **Property with Residences-Residential Addendum Attached)**

Date: 3/20/2013

**AGREEMENT**

**1. AGREEMENT.** Buyer, identified in § 2.1, agrees to buy, and Seller, identified in § 2.3, 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.** Buyer, *Brueggeman Auction Buyer*, will take title to the Property described below as  Joint Tenants  Tenants In Common  Other  
n/a

**2.2. Assignability and Inurement.** This Contract  Shall  **Shall Not** be assignable by Buyer without Seller's prior written consent. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties.

**2.3. Seller.** Seller, *Brueggeman Land, LLC*, 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 Yuma, Colorado:

*Auction Tract #1  
 Township 3 South, Range 43 West of the 6th P.M.  
 Section 35: SE1/4, EXCEPT a tract conveyed to Yuma County recorded September 11, 1931 in Book 215 at Page 374 Yuma County, Colorado records, and EXCEPT a tract conveyed to Yuma County recorded January 10, 1939 in Book 258 at Page 370 Yuma County, Colorado records, and EXCEPT a tract conveyed to Department of Highways, State of Colorado recorded October 17, 1957 in Book 372 at Page 226, Yuma County, Colorado records;*

*Auction Tract #2  
 Township 3 South, Range 43 West of the 6th P.M.  
 Section 35: S1/2NE1/4*

*Auction Tract #3  
 Township 3 South, Range 43 West of the 6th P.M.  
 Section 35: N1/2NE1/4*

known as No. n/a n/a n/a CO n/a, 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. Fixtures.** All fixtures attached to the Property on the date of this Contract.

**Other Fixtures:** n/a

If any fixtures are attached to the Property after the date of this Contract, such additional fixtures are also included in the Purchase Price.

**2.5.2. Personal Property.** If on the Property whether attached or not on the date of this Contract, the following items are included:

n/a

**Other Personal Property:**

n/a

The Personal Property to be conveyed at Closing shall be conveyed by Seller free and clear of all

Buyer(s) Initials \_\_\_\_\_ Seller(s) Initials \_\_\_\_\_

84 taxes (except personal property taxes for the year of Closing), liens and encumbrances, except  
85 n/a. Conveyance shall be by bill of sale or other applicable legal instrument.

86 **2.5.3. Trade Fixtures.** With respect to trade fixtures, Seller and Buyer agree as follows:

87 n/a.  
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90 The Trade Fixtures to be conveyed at Closing shall be conveyed by Seller free and clear of all taxes  
91 (except personal property taxes for the year of Closing), liens and encumbrances, except  
92 n/a.

93  
94 Conveyance shall be by bill of sale or other applicable legal instrument.

95 **2.5.4. Water Rights, Water and Sewer Taps.**

96 **2.5.4.1. Deeded Water Rights.** The following legally described water rights:

97 All of record

98 Any water rights shall be conveyed by  n/a **Deed**  **Other** applicable legal  
99 instrument.

100  **2.5.4.2. Well Rights.** If any water well is to be transferred to Buyer, Seller agrees to  
101 supply required information about such well to Buyer. Buyer understands that if the well to be transferred is a  
102 Small Capacity Well or a Domestic Exempt Water Well used for ordinary household purposes, Buyer shall, prior  
103 to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with  
104 the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer shall complete  
105 a registration of existing well form for the well and pay the cost of registration. If no person will be providing a  
106 closing service in connection with the transaction, Buyer shall file the form with the Division within sixty days after  
107 Closing. The Well Permit # is n/a.

108 **2.5.4.3.  Water Stock Certificates:**

109 n/a

110 **2.5.4.4.  Water Tap  Sewer Tap**

111 **Note: Buyer is advised to obtain, from the provider, written confirmation of the amount remaining to be  
112 paid, if any, time and other restrictions for transfer and use of the tap.**

113 **2.5.4.5. Other Rights:**

114 n/a

115 **2.5.5. Growing Crops.** With respect to growing crops, Seller and Buyer agree as follows:

116 none

117 **2.6. Exclusions.** The following items are excluded (Exclusions):

118 n/a

### 119 3. DATES AND DEADLINES.

Item No.	Reference	Event	Date or Deadline	
1	§ 4.3	Alternative Earnest Money Deadline	<u>n/a</u>	
<b>Title and Association</b>				
2	§ 7.1	Record Title Deadline	<u>3/20/2013</u>	Wednesday
3	§ 7.5	Exceptions Request Deadline	<u>3/20/2013</u>	Wednesday
4	§ 8.1	Record Title Objection Deadline	<u>3/20/2013</u>	Wednesday
5	§ 8.2	Off-Record Title Deadline	<u>3/20/2013</u>	Wednesday
6	§ 8.2	Off-Record Title Objection Deadline	<u>3/20/2013</u>	Wednesday
7	§ 8.3	Title Resolution Deadline	<u>3/20/2013</u>	Wednesday
8	§ 7.6	Association Documents Deadline	<u>n/a</u>	
9	§ 7.6	Association Documents Objection Deadline	<u>n/a</u>	
10	§ 8.5	Right of First Refusal Deadline	<u>n/a</u>	
<b>Seller's Property Disclosure</b>				
11	§ 10.1	Seller's Property Disclosure Deadline	<u>n/a</u>	
<b>Loan and Credit</b>				
12	§ 5.1	Loan Application Deadline	<u>n/a</u>	
13	§ 5.2	Loan Objection Deadline	<u>n/a</u>	
14	§ 5.3	Buyer's Credit Information Deadline	<u>n/a</u>	
15	§ 5.3	Disapproval of Buyer's Credit Information Deadline	<u>n/a</u>	

Buyer(s) Initials \_\_\_\_\_

Seller(s) Initials \_\_\_\_\_

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16	§ 5.4	Existing Loan Documents Deadline	<i>n/a</i>	
17	§ 5.4	Existing Loan Documents Objection Deadline	<i>n/a</i>	
18	§ 5.4	Loan Transfer Approval Deadline	<i>n/a</i>	
<b>Appraisal</b>				
19	§ 6.2	Appraisal Deadline	<i>n/a</i>	
20	§ 6.2	Appraisal Objection Deadline	<i>n/a</i>	
<b>Survey</b>				
21	§ 9.1	Current Survey Deadline	<i>n/a</i>	
22	§ 9.2	Current Survey Objection Deadline	<i>n/a</i>	
<b>Inspection and Due Diligence</b>				
23	§ 10.2	Inspection Objection Deadline	<i>3/20/2013</i>	<i>Wednesday</i>
24	§ 10.3	Inspection Resolution Deadline	<i>3/20/2013</i>	<i>Wednesday</i>
25	§ 10.5	Property Insurance Objection Deadline	<i>3/20/2013</i>	<i>Wednesday</i>
26	§ 10.6	Due Diligence Documents Delivery Deadline	<i>3/20/2013</i>	<i>Wednesday</i>
27	§ 10.7	Due Diligence Documents Objection Deadline	<i>3/20/2013</i>	<i>Wednesday</i>
28	§ 10.8	Environmental Inspection Objection Deadline	<i>03/20/2013</i>	<i>Wednesday</i>
29	§ 10.8	ADA Evaluation Objection Deadline	<i>n/a</i>	
30	§ 11.1	Tenant Estoppel Statements Deadline	<i>n/a</i>	
31	§ 11.2	Tenant Estoppel Statements Objection Deadline		
<b>Closing and Possession</b>				
32	§ 12.3	<b>Closing Date</b>	<i>4/17/2013</i>	<i>Wednesday</i>
33	§ 17	Possession Date	<i>on day of closing</i>	
34	§ 17	Possession Time	<i>6:00 P.M.</i>	
35	§ 28	<b>Acceptance Deadline Date</b>	<i>3/20/2013</i>	<i>Wednesday</i>
36	§ 28	<b>Acceptance Deadline Time</b>	<i>8:00 P.M.</i>	
37	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	
38	<i>n/a</i>	<i>n/a</i>	<i>n/a</i>	

**Note: Applicability of Terms.**

Any box, blank or line in this Contract left blank or completed with the abbreviation "N/A", or the word "Deleted" means such provision in **Dates and Deadlines** (§ 3), including any deadline, is not applicable and the corresponding provision of this Contract to which reference is made is deleted.

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 shall be payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price		
2	§ 4.2	Earnest Money		<i>15%</i>
3	§ 4.5	New Loan		
4	§ 4.6	Assumption Balance		
5	§ 4.7	Seller or Private Financing		
6	<i>n/a</i>	<i>n/a</i>		
7	<i>n/a</i>	<i>n/a</i>		
8	§ 4.3	Cash at Closing		
9		<b>TOTAL</b>	<i>TBD</i>	<i>TBD</i>

**4.2. Seller Concession.** Seller, at Closing, shall credit, as directed by Buyer, an amount of \$ *n/a* to assist with any and all of the following: Buyer's closing costs, (Seller Concession). Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract. Seller Concession will be reduced to the extent it exceeds the aggregate of what is allowed by Buyer's lender as set forth in the Closing Statement, Closing Disclosure or HUD-1, at Closing.

**4.3. Earnest Money.** The Earnest Money set forth in this section, in the form of *check or good funds*, shall be payable to and held by *Shay Realty, Inc.*

(Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit shall be tendered, by Buyer, with this Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** (§ 3) 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 shall be transferred to such fund.

**4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if other than at the time of tender of this Contract is as set forth as the **Alternative Earnest Money Deadline** (§ 3).

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

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

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

**4.4.2. Available Funds.** All funds required to be paid at Closing or as otherwise agreed in writing between the parties shall be timely paid to allow disbursement by Closing Company at Closing **OR SUCH PARTY SHALL BE IN DEFAULT.** Buyer represents that Buyer, as of the date of this Contract,  Does  Does **Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

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

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

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

**TRANSACTION PROVISIONS**

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

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

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

**6. APPRAISAL PROVISIONS.**

**6.1. Lender Property Requirements.** If the lender imposes any requirements or repairs (Requirements) to be made to the Property (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, Seller has the Right to Terminate under § 25.1, (notwithstanding § 10 of this Contract), on or before three days following Seller's receipt of the Requirements, based on any unsatisfactory Requirements, in Seller's sole subjective discretion. Seller's Right to Terminate in this § 6.1 shall not apply if, on or before any termination by Seller pursuant to this § 6.1: (1) the parties enter into a written agreement regarding the Requirements; or (2) the Requirements have been completed; or (3) the satisfaction of the Requirements is waived in writing by Buyer.

**6.2. Appraisal Condition.** The applicable Appraisal provision set forth below shall apply to the respective loan type set forth in § 4.5.3, or if a cash transaction, i.e. no financing, § 6.2.1 shall apply.

**6.2.1. Conventional/Other.** Buyer has the sole option and election to terminate this Contract if the Property's valuation, determined by an appraiser engaged on behalf of           n/a           is less than the Purchase Price. The appraisal shall be received by Buyer or Buyer's lender on or before **Appraisal Deadline** (§ 3). Buyer has the Right to Terminate under § 25.1, on or before **Appraisal Objection Deadline** (§ 3), if the Property's valuation is less than the Purchase Price and Seller's receipt of either a copy of such appraisal or written notice from lender that confirms the Property's valuation is less than the Purchase Price. This § 6.2.1 is for the sole benefit of Buyer.

**6.3. Cost of Appraisal.** Cost of any appraisal to be obtained after the date of this Contract shall be timely paid by  Buyer  Seller. The cost of the appraisal may include any and all fees paid to the appraiser, appraisal management company, lender's agent or all three.

**7. EVIDENCE OF TITLE AND ASSOCIATION DOCUMENTS.**

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**7.1.  Seller Selects Title Insurance Company** If this box is checked, Seller shall select the title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline** (§ 3), Seller shall furnish to Buyer a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price, or if this box is checked  an **Abstract** of title certified to a current date. Seller shall cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing.

**7.2.  Buyer Selects Title Insurance Company.** If this box is checked, Buyer shall select the title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline** (§ 3), Buyer shall furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.  
If neither box in § 7.1 or § 7.2 is checked, § 7.1 applies.

**7.3. Owner's Extended Coverage (OEC).** The Title Commitment  Shall  Shall Not commit to delete or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (effective date of commitment to date deed is recorded), and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing (OEC).

**Note:** The title insurance company may not agree to delete or insure over any or all of the standard exceptions.

**7.3.1. Premium for OEC.** If the title insurance company agrees to provide an endorsement for OEC, any additional premium expense to obtain an endorsement for OEC shall be paid by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  Other n/a.

**7.4. Buyer's Right to Review Title Commitment and Title Documents.** Buyer has the right to review the Title Commitment, its provisions and Title Documents (defined in § 7.5), and if not satisfactory to Buyer, Buyer may exercise Buyer's rights pursuant to § 8.1.

**7.5. Copies of Exceptions.** Unless the box in § 7.2 is checked (Buyer Selects Title Insurance Company) on or before **Record Title Deadline** (§ 3), Seller, at Seller's expense, shall furnish to Buyer and n/a, (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property, and (2) if a Title Commitment is required to be furnished, and if this box is checked  **Copies of any Other Documents** (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions). Even if the box is not checked, Seller shall have the obligation to furnish these documents pursuant to this section if requested by Buyer any time on or before ~~Exceptions Request Deadline~~ (§ 3). This requirement shall pertain only to documents as shown of record in the office of the clerk and recorder in the county where the Property is located. The Abstract or Title Commitment, together with any copies or summaries of such documents furnished pursuant to this section, constitute the title documents (collectively, Title Documents).

~~**7.5.1 Existing Abstracts of Title.** Seller shall deliver to Buyer copies of any abstracts of title covering all or any portion of the Property (Abstract) in Seller's possession on or before **Record Title Deadline** (§ 3).~~

~~**7.6. Homeowners' Association Documents** Homeowners' Association Documents (Association Documents) consist of the following:~~

~~**7.6.1.** All Homeowners' Association declarations, bylaws, operating agreements, rules and regulations, party wall agreements:~~

~~**7.6.2.** Minutes of most recent annual owners' meeting:~~

~~**7.6.3.** Minutes of any directors' or managers' meetings during the six-month period immediately preceding the date of this Contract. If none of the preceding minutes exist, then the most recent minutes, if any (§§ 7.6.1, 7.6.2 and 7.6.3, collectively, Governing Documents):~~

~~**7.6.4.** The most recent financial documents which consist of: (1) annual and most recent balance sheet, (2) annual and most recent income and expenditures statement, (3) annual budget, and (4) reserve study, if any (collectively, Financial Documents):~~

~~**7.6.5. Common Interest Community Disclosure. THE PROPERTY IS LOCATED WITHIN A COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR SUCH COMMUNITY. THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNER'S ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF**~~

Buyer(s) Initials \_\_\_\_\_ Seller(s) Initials \_\_\_\_\_



417 **THE ASSOCIATION.**

418 **7.6.6. Association Documents to Buyer.**

419  **7.6.6.1. Seller to Provide Association Documents.** Seller shall cause the Association  
420 Documents to be provided to Buyer, at Seller's expense, on or before **Association Documents Deadline** (§ 3).

421  ~~**7.6.6.2. Seller Authorizes Association.** Seller authorizes the Association to provide the  
422 Association Documents to Buyer, at Seller's expense.~~

423 ~~**7.6.6.3. Seller's Obligation.** Seller's obligation to provide the Association Documents  
424 shall be fulfilled upon Buyer's receipt of the Association Documents, regardless of who provides such documents.  
425 **Note:** If neither box in this § 7.6.6 is checked, the provisions of § 7.6.6.1 shall apply.~~

426 ~~**7.6.7. Conditional on Buyer's Review.** Buyer has the right to review the Association  
427 Documents. Buyer has the Right to Terminate under § 25.1, on or before **Association Documents Objection  
428 Deadline** (§ 3), based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole  
429 subjective discretion. Should Buyer receive the Association Documents after **Association Documents Deadline**  
430 (§ 3), Buyer, at Buyer's option, has the Right to Terminate under § 25.1 by Buyer's Notice to Terminate received  
431 by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive the  
432 Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller  
433 after **Closing Date** (§ 3), Buyer's Notice to Terminate shall be received by Seller on or before **Closing** (§ 12.3). If  
434 Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the  
435 Association Documents as satisfactory, and Buyer waives any Right to Terminate under this provision,  
436 notwithstanding the provisions of § 8.5.~~

444 **8. RECORD TITLE AND OFF—RECORD TITLE.**

445 **8.1. Record Title.** Buyer has the right to review and object to any of the Title Documents (Right to  
446 Object to Title, Resolution) as set forth in § 8.3. Buyer's objection may be based on any unsatisfactory form or  
447 content of Title Commitment, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole  
448 subjective discretion. If Buyer objects to any of the Title Documents, Buyer shall cause Seller to receive Buyer's  
449 Notice to Terminate or Notice of Title Objection on or before **Record Title Objection Deadline** (§ 3). If Title  
450 Documents are not received by Buyer, on or before the **Record Title Deadline** (§ 3), or if there is an endorsement  
451 to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified  
452 Title Commitment shall be delivered to Buyer. Buyer shall cause Seller to receive Buyer's Notice to Terminate or  
453 Notice of Title Objection on or before ten days after receipt by Buyer of the following documents: (1) any required  
454 Title Document not timely received by Buyer, (2) any change to the Title Documents, or (3) endorsement to the  
455 Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.1  
456 (Record Title), any title objection by Buyer and this Contract shall be governed by the provisions set forth in § 8.3  
457 (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title  
458 Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Title  
459 Documents as satisfactory.

460 **8.2. Off—Record Title.** Seller shall deliver to Buyer, on or before **Off—Record Title Deadline** (§ 3),  
461 true copies of all existing surveys in Seller's possession pertaining to the Property and shall disclose to Buyer all  
462 easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other  
463 title matters (including, without limitation, rights of first refusal and options) not shown by public records, of which  
464 Seller has actual knowledge (Off-Record Matters). Buyer has the right to inspect the Property to investigate if any  
465 third party has any right in the Property not shown by public records (such as an unrecorded easement,  
466 unrecorded lease, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title  
467 Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection,  
468 notwithstanding § 13), in Buyer's sole subjective discretion, shall be received by Seller on or before **Off—Record  
469 Title Objection Deadline** (§ 3). If Seller receives Buyer's Notice to Terminate or Notice of Title Objection  
470 pursuant to this § 8.2 (Off—Record Title), any title objection by Buyer and this Contract shall be governed by the  
471 provisions set forth in § 8.3 (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to  
472 Terminate or Notice of Title Objection on or before **Off—Record Title Objection Deadline** (§ 3), Buyer accepts  
473 title subject to such rights, if any, of third parties of which Buyer has actual knowledge. Unless disclosed in  
474 writing, Seller represents and warrants that there are no Off-Record Matters.

475 **8.3. Right to Object to Title, Resolution.** Buyer's Right to Object to Title shall include, but not be  
476 limited to those matters set forth in §§ 8.1 (Record Title), 8.2 (Off—Record Title) and 13 (Transfer of Title), in  
477 Buyer's sole subjective discretion (collectively, Right to Object to Title). If Buyer objects to any title matter, on or  
478 before the applicable deadline, Buyer shall have the option to either (1) object to the condition of title, or (2)  
479 terminate this Contract.

480 **8.3.1. Title Resolution.** If Seller receives Buyer's Notice of Title Objection, as provided in § 8.1  
481 (Record Title) or § 8.2 (Off—Record Title), on or before the applicable deadline, and if Buyer and Seller have not  
482 agreed to a written settlement thereof on or before **Title Resolution Deadline** (§ 3), this Contract shall terminate  
483 on the expiration of **Title Resolution Deadline** (§ 3), unless Seller receives Buyer's written withdrawal of Buyer's  
484 Notice of Title Objection, (i.e., Buyer's written notice to waive objection to such items and waives the right to  
485 terminate for that reason), on or before expiration of **Title Resolution Deadline** (§ 3).

501 **8.3.2. Right to Terminate — Title Objection.** Buyer has the Right to Terminate under § 25.1, on  
502 or before the applicable deadline, based on any unsatisfactory title matter, in Buyer's sole subjective discretion.

503 **8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL**  
504 **OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON**  
505 **THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE**  
506 **PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT**  
507 **WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE**  
508 **SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE**  
509 **THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY**  
510 **TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY**  
511 **OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY**  
512 **CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**

513 Buyer has the Right to Terminate under § 25.1, on or before **Off—Record Title Objection Deadline** (§ 3),  
514 based on any unsatisfactory effect of the Property being located within a special taxing district, in Buyer's sole  
515 subjective discretion.

516 **8.5. Right of First Refusal or Contract Approval.** If there is a right of first refusal on the Property, or a  
517 right to approve this Contract, Seller shall promptly submit this Contract according to the terms and conditions of  
518 such right. If the holder of the right of first refusal exercises such right or the holder of a right to approve  
519 disapproves this Contract, this Contract shall terminate. If the right of first refusal is waived explicitly or expires, or  
520 the Contract is approved, this Contract shall remain in full force and effect. Seller shall promptly notify Buyer in  
521 writing of the foregoing. If expiration or waiver of the right of first refusal or Contract approval has not occurred on or  
522 before **Right of First Refusal Deadline** (§ 3), this Contract shall then terminate.

523 **8.6. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be  
524 reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership  
525 and use of the Property, including, without limitation, boundary lines and encroachments, area, zoning, unrecorded  
526 easements and claims of easements, leases and other unrecorded agreements, and various laws and  
527 governmental regulations concerning land use, development and environmental matters. **The surface estate may**  
528 **be owned separately from the underlying mineral estate, and transfer of the surface estate does not**  
529 **necessarily include transfer of the mineral rights or water rights. Third parties may hold interests in oil,**  
530 **gas, other minerals, geothermal energy or water on or under the Property, which interests may give**  
531 **them rights to enter and use the Property.** Such matters may be excluded from or not covered by the title  
532 insurance policy. Buyer is advised to timely consult legal counsel with respect to all such matters as there are  
533 strict time limits provided in this Contract [e.g., **Record Title Objection Deadline** (§ 3) and **Off—Record**  
534 **Objection Deadline** (§ 3)].

## 535 9. CURRENT SURVEY REVIEW.

536 **9.1. Current Survey Conditions.** If the box in § 9.1.1 or § 9.1.2 is checked, Buyer, the issuer of the Title  
537 Commitment or the provider of the opinion of title if an Abstract, and n/a  
538 shall receive a Current Survey, i.e., Improvement Location Certificate, Improvement Survey Plat or other form of  
539 survey set forth in § 9.1.2 (collectively, Current Survey), on or before **Current Survey Deadline** (§ 3). The Current  
540 Survey shall be certified by the surveyor to all those who are to receive the Current Survey.

541  **9.1.1. Improvement Location Certificate.** If the box in this § 9.1.1 is checked, Seller Buyer  
542 shall order or provide, and pay, on or before Closing, the cost of an Improvement Location Certificate.

543  **9.1.2. Other Survey.** If the box in this § 9.1.2 is checked, a Current Survey, other than an  
544 Improvement Location Certificate, shall be an  **Improvement Survey Plat**  n/a. The  
545 parties agree that payment of the cost of the Current Survey and obligation to order or provide the Current Survey  
546 shall be as follows: n/a

547 **9.2. Current Objection.** Buyer has the right to review and object to the Current Survey. Buyer has the  
548 Right to Terminate under § 25.1, on or before the **Current Survey Objection Deadline** (§ 3), if the Current Survey  
549 is not timely received by Buyer or based on any unsatisfactory matter with the Current Survey, notwithstanding §  
550 8.2 or § 13.

## 551 DISCLOSURE, INSPECTION AND DUE DILIGENCE

### 552 10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND 553 SOURCE OF WATER.

554 **10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure** (§ 3), Seller agrees to  
555 deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's Property  
556 Disclosure form completed by Seller to Seller's actual knowledge, current as of the date of this Contract.

557 **10.2. Inspection Objection.** Unless otherwise provided in this Contract, Buyer acknowledges that Seller  
558 is conveying the Property to Buyer in an "as is" condition, "where is" and "with all faults". Seller shall disclose to  
559 Buyer, in writing, any latent defects actually known by Seller. Buyer, acting in good faith, has the right to have  
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inspections (by one or more third parties, personally or both) of the Property and Inclusions (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including but not limited to, the roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions, (3) service to the Property (including utilities and communication services), systems and components of the Property, e.g. heating and plumbing, (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's sole subjective discretion, Buyer shall, on or before **Inspection Objection Deadline** (§ 3):

**10.2.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or

**10.2.2. Inspection Objection.** Deliver to Seller a written description of any unsatisfactory physical condition that Buyer requires Seller to correct.

Buyer has the Right to Terminate under § 25.1, on or before **Inspection Objection Deadline** (§ 3) if the Property or Inclusions are unsatisfactory, in Buyer's sole subjective discretion.

**10.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before **Inspection Objection Deadline** (§ 3), and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline** (§ 3), this Contract shall terminate on **Inspection Resolution Deadline** (§ 3) unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination, i.e., on or before expiration of **Inspection Resolution Deadline** (§ 3).

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

**10.5. Insurability.** Buyer has the right to review and object to the availability, terms and conditions of and premium for property insurance (Property Insurance). Buyer has the Right to Terminate under § 25.1, on or before **Property Insurance Objection Deadline** (§ 3), based on any unsatisfactory provision of the Property Insurance, in Buyer's sole subjective discretion.

**10.6. Due Diligence Documents.** Seller agrees to deliver copies of the following documents and information pertaining to the Property (Due Diligence Documents) to Buyer on or before **Due Diligence Documents Delivery Deadline**(§ 3):

**10.6.1.** All contracts relating to the operation, maintenance and management of the Property;

**10.6.2.** Property tax bills for the last 1 years;

**10.6.3.** As-built construction plans to the Property and the tenant improvements, including architectural, electrical, mechanical, and structural systems; engineering reports; and permanent Certificates of Occupancy, to the extent now available;

**10.6.4.** A list of all Inclusions to be conveyed to Buyer;

**10.6.5.** Operating statements for the past n/a years;

**10.6.6.** A rent roll accurate and correct to the date of this Contract;

**10.6.7.** All current leases, including any amendments or other occupancy agreements, pertaining to the Property (Leases);

**10.6.8.** A schedule of any tenant improvement work Seller is obligated to complete but has not yet completed and capital improvement work either scheduled or in process on the date of this Contract;

**10.6.9.** All insurance policies pertaining to the Property and copies of any claims which have been made for the past n/a years;

**10.6.10.** Soils reports, Surveys and engineering reports or data pertaining to the Property (if not delivered earlier under § 8.2);

**10.6.11.** Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories, and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or other toxic hazardous or contaminated substances, and/or underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;

**10.6.12.** Any *Americans with Disabilities Act* reports, studies or surveys concerning the compliance of the Property with said Act;

**10.6.13.** All permits, licenses and other building or use authorizations issued by any governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations, if any; and

**10.6.14.** Other Documents:

Buyer(s) Initials \_\_\_\_\_ Seller(s) Initials \_\_\_\_\_



n/a

10.7. **Due Diligence Documents Conditions.** Buyer has the right to review and object to Due Diligence Documents, zoning and any use restrictions imposed by any governmental agency with jurisdiction over the Property (Zoning), in Buyer's sole subjective discretion, and has the right to object if Seller fails to deliver to Buyer all Due Diligence Documents. Buyer shall also have the unilateral right to waive any condition herein.

10.7.1. **Due Diligence Documents Objection.** Buyer has the Right to Terminate under § 25.1, on or before **Due Diligence Documents Objection Deadline** (§ 3), based on any unsatisfactory matter with the Due Diligence Documents, in Buyer's sole subjective discretion. If all Due Diligence Documents under § 10.6 are not received by Buyer on or before **Due Diligence Documents Delivery Deadline** (§ 3), then Buyer has the Right to Terminate under § 25.1 on or before the earlier of ten days after **Due Diligence Documents Objection Deadline** (§ 3) or Closing.

10.7.2. **Zoning.** Buyer has the Right to Terminate under § 25.1, on or before **Due Diligence Documents Objection Deadline** (§ 3), based on any unsatisfactory zoning, in Buyer's sole subjective discretion.

10.7.3. **Source of Potable Water (Residential Land and Residential Improvements Only).** Buyer  Does  Does Not acknowledge receipt of a copy of Seller's Property Disclosure or Source of Water Addendum disclosing the source of potable water for the Property. Buyer  Does  Does Not acknowledge receipt of a copy of the current well permit.

There is No Well.

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

10.8. **Due Diligence — Environmental, ADA.** Buyer shall have the right to obtain environmental inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable.  Seller  Buyer shall order or provide  **Phase I Environmental Site Assessment.**  **Phase II Environmental Site Assessment.** (compliant with ASTM E1527-05 standard practices for Environmental Site Assessments) and/or  n/a \_\_\_\_\_, at the expense of  Seller  Buyer (Environmental Inspection). In addition, Buyer may also conduct an evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations shall be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business uses of the Property, if any.

If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the **Environmental Inspection Objection Deadline** (§ 3) shall be extended by \_\_\_ days (Extended Environmental Inspection Objection Deadline) and if such Extended Environmental Inspection Objection Deadline extends beyond the **Closing Date** (§ 3), the **Closing Date** (§ 3) shall be extended a like period of time.

Buyer shall have the Right to Terminate under § 25.1, on or before **Environmental Inspection Objection Deadline** (§ 3), or if applicable the Extended Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion. Buyer shall have the Right to Terminate under § 25.1, on or before **ADA Evaluation Objection Deadline** (§ 3), based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

10.9. **Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller shall not amend, alter, modify, extend or cancel any of the Leases nor shall Seller enter into any new leases affecting the Property without the prior written consent of Buyer, which consent shall not be unreasonably withheld or delayed.

11. **TENANT ESTOPPEL STATEMENTS.**

11.1. **Tenant Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel Statements. Seller shall obtain and deliver to Buyer on or before **Tenant Estoppel Statements Deadline** (§ 3), statements in a form and substance reasonably acceptable to Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of such occupant's or tenant's lease and any amendments (Lease) stating:

11.1.1. The commencement date of the Lease and scheduled termination date of the Lease;

11.1.2. That said Lease is in full force and effect and that there have been no subsequent modifications or amendments;

11.1.3. The amount of any advance rentals paid, rent concessions given, and deposits paid to Seller;

11.1.4. The amount of monthly (or other applicable period) rental paid to Seller;

11.1.5. That there is no default under the terms of said Lease by landlord or occupant; and

11.1.6. That the Lease to which the Estoppel is attached is a true, correct and complete copy of the Lease demising the premises it describes.

749 11.2. **Tenant Estoppel Statements Objection** Buyer has the Right to Terminate under § 25.1, on or  
750 before **Tenant Estoppel Statements Objection Deadline** (§ 3), based on any unsatisfactory Estoppel  
751 Statement, in Buyer's sole subjective discretion or if Seller fails to deliver the Estoppel Statements on or before  
752 **Tenant Estoppel Statements Deadline** (§ 3). Buyer shall also have the unilateral right to waive any  
753 unsatisfactory Estoppel Statement.  
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757 **CLOSING PROVISIONS**  
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760 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

761 **12.1. Closing Documents and Closing Information.** Seller and Buyer shall cooperate with the Closing  
762 Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and  
763 Seller and their designees. If Buyer is obtaining a new loan to purchase the Property, Buyer acknowledges  
764 Buyer's lender shall be required to provide the Closing Company in a timely manner all required loan documents  
765 and financial information concerning Buyer's new loan. Buyer and Seller will furnish any additional information and  
766 documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller  
767 shall sign and complete all customary or reasonably required documents at or before Closing.  
768

769 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions. Such Closing  
770 Instructions Are Are Not executed with this Contract.  
771

772 **12.3. Closing.** Delivery of deed from Seller to Buyer shall be at closing (Closing). Closing shall be on the  
773 date specified as the **Closing Date** (§ 3) or by mutual agreement at an earlier date. The hour and place of Closing  
774 shall be as designated by n/a.

775 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality, and extent of  
776 service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title  
777 companies).  
778

779 **13. TRANSFER OF TITLE.** Subject to tender of payment at Closing as required herein and compliance by  
780 Buyer with the other terms and provisions hereof, Seller shall execute and deliver a good and sufficient  
781 corporate warranty deed to Buyer, at Closing, conveying the Property free and clear of all taxes except  
782 the general taxes for the year of Closing. Except as provided herein, title shall be conveyed free and clear of all  
783 liens, including any governmental liens for special improvements installed as of the date of Buyer's signature  
784 hereon, whether assessed or not. Title shall be conveyed subject to:  
785

786 **13.1.** Those specific Exceptions described by reference to recorded documents as reflected in the  
787 Title Documents accepted by Buyer in accordance with **Record Title** (§ 8.1),  
788

789 **13.2.** Distribution utility easements (including cable TV),  
790

791 **13.3.** Those specifically described rights of third parties not shown by the public records of which  
792 Buyer has actual knowledge and which were accepted by Buyer in accordance with **Off-Record Title** (§ 8.2) and  
793 **Current Survey Review** (§ 9),  
794

795 **13.4.** Inclusion of the Property within any special taxing district, and  
796

797 **13.5.** Other n/a.  
798  
799

800 **14. PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid shall be paid at or before  
801 Closing from the proceeds of this transaction or from any other source.  
802

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

805 **15.1. Closing Costs.** Buyer and Seller shall pay, in Good Funds, their respective closing costs and  
806 all other items required to be paid at Closing, except as otherwise provided herein.  
807

808 **15.2. Closing Services Fee.** The fee for real estate closing services shall be paid at Closing by  
809

810  Buyer  Seller  One-Half by Buyer and One-Half by Seller  
811

812  Other n/a.  
813

814 **15.3. Status Letter and Record Change Fees.** Any fees incident to the issuance of Association's  
815 statement of assessments (Status Letter) shall be paid by Buyer Seller One-Half by Buyer and  
816 **One-Half by Seller** None. Any record change fee assessed by the Association including, but not limited to,  
817 ownership record transfer fees regardless of name or title of such fee (Association's Record Change Fee) shall be  
818 paid by Buyer Seller One-Half by Buyer and One-Half by Seller None.  
819

820 **15.4. Local Transfer Tax.**  The Local Transfer Tax of n/a % of the Purchase Price  
821 shall be paid at Closing by  Buyer  Seller  One-Half by Buyer and One-Half by Seller None.  
822

823 **15.5. Private Transfer Fee.** Private transfer fees and other fees due to a transfer of the Property,  
824 payable at Closing, such as community association fees, developer fees and foundation fees, shall be paid at  
825 Closing by Buyer Seller One-Half by Buyer and One-Half by Seller None. The Private Transfer fee,  
826 whether one or more, is for the following association(s): n/a in the total  
827 amount of \_\_\_\_\_ % of the Purchase Price or \$ \_\_\_\_\_.  
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833 15.6. **Water Transfer Fees.** The Water Transfer Fees can change. The fees, as of the date of this  
834 Contract, do not exceed:  
835 \$ n/a for  Water Stock/ Certificates  Water District  
836 \$ \_\_\_\_\_ for  Augmentation Membership  Small Domestic Water Company  n/a  
837 and must be paid at Closing by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  None.  
838  
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841 15.7. **Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction  
842 shall be paid when due by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  None.  
843  
844

845 16. **PRORATIONS.** The following shall be prorated to **Closing Date** (§ 3), except as otherwise provided:  
846

847 16.1. **Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general  
848 real estate taxes for the year of Closing, based on  **Taxes for the Calendar Year Immediately Preceding**  
849 **Closing**  
850  **Most Recent Mill Levy and Most Recent Assessed Valuation**, or  **Other**  
851 n/a  
852

853 16.2. **Rents.** Rents based on  **Rents Actually Received**  **Accrued.** At Closing, Seller shall  
854 transfer or credit to Buyer the security deposits for all Leases assigned, or any remainder after lawful deductions;  
855 and notify all tenants in writing of such transfer and of the transferee's name and address. Seller shall assign to  
856 Buyer all Leases in effect at Closing and Buyer shall assume Seller's obligations under such Leases.  
857

858 16.3. **Association Assessments.** Current regular Association assessments and dues (Association  
859 Assessments) paid in advance shall be credited to Seller at Closing. Cash reserves held out of the regular  
860 Association Assessments for deferred maintenance by the Association shall not be credited to Seller except as  
861 may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be obligated to pay  
862 the Association, at Closing, an amount for reserves or working capital. Any special assessment assessed prior to  
863 **Closing Date** (§ 3) by the Association shall be the obligation of  Buyer  Seller . Except however, any  
864 special assessment by the Association for improvements that have been installed as of the date of Buyer's  
865 signature hereon, whether assessed prior to or after Closing, shall be the obligation of Seller. Seller represents  
866 that the Association Assessments are currently payable at \$ n/a per n/a and that there are no  
867 unpaid regular or special assessments against the Property except the current regular assessments and n/a  
868 Such assessments are subject to change as provided in the Governing Documents. Seller agrees to promptly  
869 request the Association to deliver to Buyer before **Closing Date** (§ 3) a current Status Letter.  
870

871 16.4. **Other Prorations.** Water and sewer charges, propane, interest on continuing loan, and n/a.  
872

873 16.5. **Final Settlement.** Unless otherwise agreed in writing, these prorations shall be final.  
874

875 17. **POSSESSION.** Possession of the Property shall be delivered to Buyer on **Possession Date** (§ 3) at  
876 **Possession Time** (§ 3), subject to the following leases or tenancies:  
877

878 n/a  
879

880 If Seller, after Closing, fails to deliver possession as specified, Seller shall be subject to eviction and shall be  
881 additionally liable to Buyer for payment of \$ 100 per day (or any part of a day notwithstanding § 18.1.) from  
882 **Possession Date**(§ 3) and **Possession Time** (§ 3) until possession is delivered.  
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889 **GENERAL PROVISIONS**  
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891 18. **DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.**  
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893 18.1. **Day.** As used in this Contract, the term "day" shall mean the entire day ending at 11:59 p.m., United  
894 States Mountain Time (Standard or Daylight Savings as applicable).  
895

896 18.2. **Computation of Period of Days, Deadline.** In computing a period of days, when the ending date  
897 is not specified, the first day is excluded and the last day is included, e.g., three days after MEC. If any deadline  
898 falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline  **Shall**  **Shall Not**  
899 be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked, the  
900 deadline shall not be extended.  
901

902 19. **CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION;**  
903 **AND WALK—THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both shall be  
904 delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.  
905

906 19.1. **Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other  
907 perils or causes of loss prior to Closing in an amount of not more than ten percent of the total Purchase Price  
908 (Property Damage), Seller shall be obligated to repair the same before **Closing Date** (§ 3). Buyer has the Right to  
909 Terminate under § 25.1, on or before **Closing Date** (§ 3), if the Property Damage is not repaired before **Closing**  
910 **Date** (§ 3) or if the damage exceeds such sum. Should Buyer elect to carry out this Contract despite such  
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Property Damage, Buyer shall be entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from such damage to the Property and Inclusions, plus the amount of any deductible provided for in such insurance policy. Such credit will not exceed the Purchase Price. In the event Seller has not received such insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** (§ 3) or, at the option of Buyer, Seller shall assign such proceeds at Closing, plus credit Buyer the amount of any deductible provided for in such insurance policy, but not to exceed the total Purchase Price.

**19.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication services), system, component or fixture of the Property (collectively Service), e.g., heating or plumbing, fail or be damaged between the date of this Contract and Closing or possession, whichever shall be earlier, then Seller shall be liable for the repair or replacement of such Inclusion or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before Closing or possession, whichever shall be earlier, Buyer has the Right to Terminate under § 25.1, on or before **Closing Date** (§ 3), or, at the option of Buyer, Buyer will be entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit shall not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, shall survive Closing. Seller and Buyer are aware of the existence of pre-owned home warranty programs that may be purchased and may cover the repair or replacement of such Inclusions.

**19.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may result in a taking of all or part of the Property or Inclusions, Seller shall promptly notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 25.1, on or before **Closing Date** (§ 3), based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer shall be entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or Inclusions but such credit shall not include relocation benefits or expenses, or exceed the Purchase Price.

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

**19.5. Risk of Loss – Growing Crops.** The risk of loss for damage to growing crops by fire or other casualty shall be borne by the party entitled to the growing crops as provided in § 2.5.5 and such party shall be entitled to such insurance proceeds or benefits for the growing crops

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

**21. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence hereof. If any note or check received as Earnest Money hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any obligation hereunder is not performed or waived as herein provided, the non-defaulting party has the following remedies:

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

**21.1.1. Specific Performance.** Seller may elect to treat this Contract as canceled, in which case all Earnest Money (whether or not paid by Buyer) shall be paid to Seller and retained by Seller; and Seller may recover such damages as may be proper; or Seller may elect to treat this Contract as being in full force and effect and Seller has the right to specific performance or damages, or both.

**21.1.2. Liquidated Damages, Applicable. This § 21.1.2 shall apply unless the box in § 21.1.1 is checked.** All Earnest Money (whether or not paid by Buyer) shall be paid to Seller, and retained by Seller. Both parties shall thereafter be released from all obligations hereunder. It is agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES, and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4, 22, 23 and 24), said payment of Earnest Money shall be SELLER'S ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

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

**22. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation relating to this Contract, prior to or after **Closing Date** (§ 3), the arbitrator or court shall award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.



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**23. MEDIATION.** If a dispute arises relating to this Contract, prior to or after Closing, and is not resolved, the parties shall first proceed in good faith to submit the matter to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree, in writing, before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at the party's last known address. This section shall not alter any date in this Contract, unless otherwise agreed.

**24. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder shall release the Earnest Money as directed by written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money (notwithstanding any termination of this Contract), Earnest Money Holder shall not be required to take any action. Earnest Money Holder, at its sole subjective discretion, has several options: (1) await any proceeding, (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction and shall recover court costs and reasonable attorney and legal fees, or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder shall be authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit, and has not interplead the monies at the time of any Order, Earnest Money Holder shall disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of **Mediation** (§ 23).

**25. TERMINATION.**

**25.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to Terminate), the termination shall be effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to Terminate shall have accepted the specified matter, document or condition as satisfactory and waived the Right to Terminate under such provision.

**25.2. Effect of Termination.** In the event this Contract is terminated, all Earnest Money received hereunder shall be returned and the parties shall be relieved of all obligations hereunder, subject to §§ 10.4, 22, 23 and 24.

**26. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL.** This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing shall survive the same.

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

**27.1. Physical Delivery.** All notices must be in writing, except as provided in § 27.2. Any document, including a signed document or notice, from or on behalf of Seller, and delivered to Buyer shall be effective when physically received by Buyer, any signatory on behalf of Buyer, any named individual of Buyer, any representative of Buyer, or Brokerage Firm of Broker working with Buyer (except for delivery, after Closing, of the notice requesting mediation described in § 23) and except as provided in § 27.2. Any document, including a signed document or notice, from or on behalf of Buyer, and delivered to Seller shall be effective when physically received by Seller, any signatory on behalf of Seller, any named individual of Seller, any representative of Seller, or Brokerage Firm of Broker working with Seller (except for delivery, after Closing, of the notice requesting mediation described in § 23) and except as provided in § 27.2.

**27.2. Electronic Delivery.** As an alternative to physical delivery, any document, including any signed document or written notice, may be delivered in electronic form only by the following indicated methods:

**Facsimile**  **E-mail**  **Internet**  **No Electronic Delivery.** If the box "No Electronic Delivery" is checked, this § 27.2 shall not be applicable and § 27.1 shall govern notice and delivery. Documents with original signatures shall be provided upon request of any party.

**27.3. Choice of Law.** This Contract and all disputes arising hereunder shall be governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for property located in Colorado.

**28. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal shall expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below, and the offering party receives notice of such acceptance pursuant to § 27 on or before **Acceptance Deadline Date** (§ 3) and **Acceptance Deadline Time** (§

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3). If accepted, this document shall become a contract between Seller and Buyer. A copy of this Contract may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete contract between the parties.

**29. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith, including but not limited to exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations** (§ 5), **Record Title and Off-Record Title** (§ 8), **Current Survey Review** (§ 9) and **Property Disclosure, Inspection, Indemnity, Insurability, Due Diligence, Buyer Disclosure and Source of Water** (§ 10).

**ADDITIONAL PROVISIONS AND ATTACHMENTS**

**30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate Commission.)

*30.1 Buyer understands that this purchase is not contingent upon financing, appraisal, survey or inspection and that Buyer's failure to close for any reason shall result in forfeiture of earnest money and any remedies under paragraph 21.1.1.*

*30.2 The Parties agree to cooperate with each other in the case of either party using this transaction as part of a like-kind exchange, in accordance with the provisions of Section 1031 of the Internal Revenue Service Code of 1986 as amended.*

*30.3 Seller reserves 1/2 of all oil, gas, geothermal, and mineral rights currently owned by Seller.*

*30.4 Buyer and Seller agree that wheat base acres shall be split as follows: Auction Tract #1 shall sell with 114.2 acres of wheat base, Auction Tract #2 shall sell with 54.3 acres of wheat base and Auction Tract #3 shall sell with no wheat base acres.*

*30.5 The closing company shall collect the following amounts from Buyer(s) at closing and pay to the 2012 Tenant (Kenny Helling) as reimbursement for spraying expense: For Auction Tract #1 - \$2,088.25 and for Auction Tract #2 - \$1,058.06.*

**31. ATTACHMENTS.**

**31.1.** The following attachments **are a part** of this Contract: *n/a*

**31.2.** The following disclosure forms **are attached** but are **not** a part of this Contract: *n/a*

**SIGNATURES**

\_\_\_\_\_  
Date: \_\_\_\_\_  
Buyer: **Brueggeman Auction Buyer**  
Address:  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Electronic Address:

[NOTE: If this offer is being countered or rejected, do not sign this document. Refer to § 32]

\_\_\_\_\_  
Date: \_\_\_\_\_  
Seller: **Brueggeman Land, LLC**  
**By: Mark R. Brueggeman, Managing Partner**

**32. COUNTER; REJECTION.** This offer is  Countered  Rejected.  
Initials only of party (Buyer or Seller) who countered or rejected offer

**Brueggeman Land, LLC**  
**By: Mark R. Brueggeman , Managing Partner**

**END OF CONTRACT TO BUY AND SELL REAL ESTATE**

**33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**

(To be completed by Broker working with Buyer)

Broker  **Does**  **Does Not** acknowledge receipt of Earnest Money deposit and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. 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 shall release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money shall be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

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

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

Brokerage Firm's Name: **Shay Realty, Inc.**

*Reese W Shay*

Date: 3/20/2013

Broker's Name: **Reese W. Shay**

Address: **33998 County Road AA Wray, CO 80758**

Ph: **970-630-5006 Cell** Fax: **970-332-3545 Fax** Email: **reese@shayrealty.com**

**34. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**

(To be completed by Broker working with Seller)

Broker  **Does**  **Does Not** acknowledge receipt of Earnest Money deposit specified in § 4.1 and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. 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 shall release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money shall be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

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

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

Brokerage Firm's Name: **Shay Realty, Inc.**

*Reese W Shay*

Broker's Name: \_\_\_\_\_

Date: 3/20/2013

**Reese W. Shay**

Address: **33998 County Road AA Wray, CO 80758**

Ph: \_\_\_\_\_ Fax: **970-332-3545 Fax** Email: **reese@shayrealty.com**

**CBS4-9-12. CONTRACT TO BUY AND SELL REAL ESTATE (LAND)**

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