

AS-IS PURCHASE AGREEMENT

PREAMBLE

THIS PURCHASE AGREEMENT is made and entered into by and between the **CITY OF RIO RANCHO, A MUNICIPAL CORPORATION** (hereafter referred to as “Seller”), whose mailing address is 3200 Civic Center Circle NE, Rio Rancho, NM 87144, and **PG Properties LLC**, a New Mexico limited liability company/corporation (the “Purchaser”), whose address is **211 Montano Rd NW, Suite H, Albuquerque, NM 87107** effective as of the date it has been executed by both Parties.

RECITALS

WHEREAS, the Seller owns and holds an interest in the 3900 Camino Encantadas Park located at 3900 Camino Encantadas NE, Rio Rancho, NM 87144 and described more accurately hereinbelow in Section 1.2 of the Agreement (the “Property”); and

WHEREAS, Seller as the owner of the Property desires to sell the Property; and

WHEREAS, the Purchaser is a local LLC/Corporation dedicated to maintaining the essential character of the area for current and future residents, visitors, and for the general public; and

WHEREAS, the Purchaser desires to purchase the Property to enlarge its own real property located at 3820 Camino Encantadas NE, Rio Rancho, NM 87144 and operate said Property as such at its sole cost and expense, and the Seller is in agreement with said sale; and

WHEREAS, the Purchase Price of the Property is the appraised price of \$17,500.00 because the Purchaser paid for the appraisal of the Property, the Purchaser will pay for a Summary Plat to notate the sale and acquisition in the County and City records, and because the Purchaser has agreed to relieve the Seller of the ongoing costs associated with the operation and maintenance of the Property; and

WHEREAS, Seller desires to sell the Property to Purchaser on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises set forth below, Purchaser and Seller agree as follows:

AGREEMENT

1. SALE OF PROPERTY

1.1 Definitions:

a. "Closing". The consummation of the transaction contemplated by this Agreement, including the transfer of the Property to Purchaser and receipt of the Purchase Price by Seller.

b. "Funds". Transfer of funds in accordance with instructions to be provided by the Seller, or such other forms of immediately available funds as may be acceptable to Seller.

- 1.2 AS-IS Purchase. Seller agrees to sell and Purchaser agrees to purchase 0.560 acres of the Property situated within the Camino Encantadas Park and depicted in the diagram attached to this Agreement as Exhibit A, together with all easements, if any, benefitting the Property and all rights and appurtenances, if any, pertaining to the Property, and cooperative or association memberships. The actual legal description to the Property will be provided by the Purchaser as described in Section 3.1 hereinbelow.

2. PURCHASE PRICE

- 2.1 Purchase Price. The consideration for the Property to be paid by Purchaser to Seller is the sum of SEVENTEEN THOUSAND FIVE HUNDRED and 00/100ths DOLLARS (\$17,500.00) (the "Purchase Price"), at Closing with Funds.

3. CONDITIONS TO CLOSING

- 3.1 General Conditions. Seller's obligation to sell the Property to Purchaser at the Closing is subject to and conditioned upon (a) Purchaser not being in default under this Agreement; and (b) the delivery by Purchaser of the items set forth in Section 5.4(b) on or five (5) days before the Closing Date, or the waiver of any such conditions in accordance with the terms of this Agreement. Purchaser's obligation to buy the Property from Seller at the Closing is subject to and conditioned upon (i) Purchaser not having terminated this Agreement in accordance with the provisions hereof; (ii) Seller not being in default under this Agreement; (iii) Seller having completed all "Seller Obligations" as hereinafter defined; and (iv) the delivery by Seller of the items set forth in Section 5.4(a) on or before the Closing Date.

4. ACCESS AND INSPECTIONS

Purchaser has inspected the Property and has deemed it appropriate and acceptable for its intended use.

5. CLOSING; COSTS, TAXES AND ASSESSMENTS

- 5.1 Closing Date. Closing shall occur no later than thirty (30) business days from the date of the approval of all the Purchaser's site plan and accompanying documents by the City of Rio Rancho's Governing Body. (the "Closing Date").
- 5.2 Place of Closing. The Closing shall occur at:

City of Rio Rancho
City Hall – The City Attorney’s Office
3200 Civic Center Circle NE
Rio Rancho, NM 87144

- 5.3 Taxes. Real estate taxes, assessments, and other similar expenses related to the Property, if any, that may result in a lien against the Property will be prorated through the Closing Date. The proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes and/or assessments. If taxes and assessments for the current year vary from the amount prorated at Closing, the Parties shall adjust the prorations when statements for the current year are available.
- 5.4 Items to be delivered at Closing:
- a. By Seller. At or prior to Closing, Seller will deliver or cause to be delivered, through escrow, each of the following items:
 - i. Seller shall execute and deliver a Quit Claim Deed in the form attached hereto as Exhibit B conveying title to the Property to Purchaser;
 - ii. Any evidence required, if any, to prove Seller’s authority to consummate this transaction;
 - b. By Purchaser: At or prior to Closing, Purchaser will deliver to Seller each of the following items:
 - i. The Purchase Price in funds;
 - ii. A new plat and legal description for the Property associated with the transfer of the Property;
 - iii. Any evidence required, if any, to prove Purchaser’s authority to consummate this transaction;
- 5.5 Actions at Closing. Upon delivery of all items set forth in Section 5.4, and the satisfaction of all obligations under this Agreement not waived in writing by both Seller and Purchaser:
- i. The Purchaser shall release to Seller the Purchase Price;
 - ii. The Purchaser shall record the Plat and Quit Claim Deed; and
 - iii. Possession and control of the Property shall be delivered to Purchaser effective as of 5:00 PM Mountain Time on the Closing Date;

Seller and Purchaser shall execute and deliver all other notices, statements, certificates, affidavits, releases, and other documents reasonably required for the closing and conveyance of the Property.

- 5.6 Closing Costs. Each Party shall pay its own attorney's fees, if any. The Purchaser shall be responsible for the recording costs of the Quit Claim Deed.

6. RISK OF LOSS

- 6.1 Risk of loss due to fire, earthquake, acts of God, plague or other calamity shall rest on the Seller until closing and the Purchaser has the option to rescind this agreement if such even shall occur or close the transaction as provided hereafter.

7. REPRESENTATIONS, DISCLAIMERS, AND WARRANTIES:

- 7.1 Purchaser hereby represents and warrants to Purchaser that:

- a. it is a duly organized limited liability corporation in New Mexico;
- b. it has obtained all necessary authorizations and consents to enable it to execute and deliver this Agreement and to consummate the transaction contemplated hereby;
- c. Purchaser's execution of this Agreement and performance of Purchaser's obligations hereunder will violate no law, rule or regulation, or agreement to which Purchaser is a party;
- d. Purchaser for itself, its successors and assigns, will allow emergency vehicular access onto and across the Property and it will not construct any physical or landscaping improvements that will interfere with emergency vehicular access onto and across the Property; and
- e. the person executing this Agreement on behalf of Purchaser is duly authorized to execute and deliver this Agreement on behalf of Purchaser.

- 7.2 Seller hereby represents and warrants to Purchaser that:

- a. it is a duly organized municipal corporation in New Mexico; and
- b. There are no rights of first refusal, options or rights of repurchase associated with the Property.

- 7.3 Survival. All covenants, representations and warranties in this Agreement shall be true as of the Closing and shall survive closing. If any representation of Seller in this Agreement is untrue at the time of the Closing, Seller will be in default.

8. NOTICES

All notices and other communications required or permitted to be given hereunder shall be in writing and shall be delivered to the address or facsimile number set forth below:

To Seller:	Name	City of Rio Rancho Land Coordinator, Department of Public Works	
	Address	3200 Civic Center Circle NE Suite 200 Rio Rancho, New Mexico 87144	
	Telephone	(505)	891-5220
	Facsimile	(505)	891-5203

Copy To:	Name	City of Rio Rancho, City Attorney's Office		
	Address	3200 Civic Center Circle NE		
		Suite 400		
		Rio Rancho, New Mexico 87144		
	Telephone	(505)	896-8705	
	Facsimile	(505)	891-5200	

To Purchaser:	Name	PG Properties, LLC
	Address	211 Montano Rd NW, Suite H Albuquerque, NM 87107

Copy To: Telephone 505-720-2273
Email melvinp@ephinitybuilders.com;
eddieg@ephinitybuilders.com

9. DEFAULTS AND REMEDIES

- 9.1 Seller's Default: Purchaser's Sole Remedies. If, after written demand and fifteen (15) days to cure, Seller fails to consummate this Agreement in accordance with its terms, other than by reasonable of a termination of this Agreement by Seller or Purchaser pursuant to a right to do expressly provided for this Agreement (except by reason of a default by either Party), Purchaser may, as Purchaser's sole and exclusive remedy terminate this Agreement by written notice to Seller.
- 9.2 Purchaser's Default: Seller's Sole Remedies: If, after written demand and fifteen (15) days to cure, Purchaser fails to consummate this Agreement in accordance with its terms, other than by reasonable of a termination of this Agreement by Seller or Purchaser pursuant to a right to do expressly provided for this Agreement (except by reason of a default by either Party), Seller may, as Seller's sole and exclusive remedy terminate this Agreement.

10. MISCELLANEOUS PROVISIONS

- 10.1 Entire Agreement. This Agreement contains the entire agreement between Seller and Purchaser concerning the transaction contemplated herein, and there are no other terms, conditions, promises, understandings, statements or representations, express or implied, concerning such transaction. All previous offers or counter-offers of the parties are hereby revoked. No provision hereof may be waived or amended except in writing signed by both parties. This Agreement shall inure to the benefit of and bind the parties hereto, their successors and assigns. This Agreement shall be governed by the laws of the State of New Mexico.
- 10.2 Unenforceable or Inapplicable Provisions. The waiver of any breach of this Agreement by either party shall not constitute a waiver of any subsequent breach either of the same or another provision of this Agreement. If any of the provisions of this Agreement shall be held by a court of competent jurisdiction to be unenforceable, the remaining provisions of this Agreement shall not be affected thereby.
- 10.3 Counterparts. This Agreement may be executed in counterparts, both of which shall be fully effective as an original and which together shall constitute one and the same instrument.
- 10.4 Headings. The headings, captions, numbering system, etc. are inserted only as a matter of convenience and may under no circumstances be considered in interpreting the provisions of this Agreement.
- 10.5 Applicable Law; Venue. This Agreement will be construed under and in accordance with the laws of the State of New Mexico without regard to principals of conflicts of laws. Venue for any suit filed with respect to the enforcement or interpretation of this Agreement shall be in the State District Court located in Sandoval County, New Mexico.
- 10.6 Binding Effect. All of the provisions of this Agreement are hereby made binding upon the successors, and assigns of both parties hereto. Where required for proper interpretation, words in the singular will include the plural; the masculine gender will include the neutral and the feminine, and vice versa.
- 10.7 Authority. Each person executing this Agreement, by his execution hereof, represents and warrants that he is fully authorized to do so, however, the parties will cooperate in providing appropriate proof to the other party of the authority of the signing person to bind the party.
- 10.8 Time of Essence. Time is of the essence in each and every provision of this Agreement.
- 10.9 Attorneys' Fees. In the event any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party will be entitled to recover reasonable attorney's fees, court costs and

expenses incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

- 10.10 Interpretation. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or in any amendments or exhibits thereto.
- 10.11 No Third Party Beneficiary. The provisions of this Agreement are for the exclusive benefit of the Seller and Purchaser hereto and no other party will have any right or claim against the Seller and Purchaser, or either of them, by reason of those provisions or be entitled to enforce any of those provisions against the Seller and Purchaser hereto, or either of them.
- 10.12 Survival. Notwithstanding any other provision of this Agreement, all of the provisions of this Agreement which require, contemplate or provide for the performance or liability of either party hereto following Closing or termination of this Agreement will survive the Closing or termination of this Agreement.
- 10.13 Indemnity. Each party will be responsible for the acts and/or omissions of its own employees, officials and agents. Nothing herein shall operate or be deemed to alter or expand either party's liability or responsibilities beyond those permitted under the applicable provisions of the New Mexico Tort Claims Act (NMSA 1978 §§ 41-4-1 through 41-4-30 (as amended).), or to waive any limitations or required procedures thereunder.
- 10.14 Further Assurances. In addition to the acts and deeds recited herein and contemplated to be performed at the Closing, Seller and Purchaser agree to perform such other acts, and to execute and deliver such other instructions and documents as either Seller or Purchaser, or their respective counsel, may reasonably require in order to effect the intents and purposes of the Agreement. Further, Seller and Purchaser agree to deliver to the Title Company such affidavits or other documents as may be reasonably required to enable the Title Company to close this transaction as it is contemplated in this Agreement.

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EXHIBIT A

Legal Description of Purchase Property:

0.560 acres of the Property situated within the Camino Encantadas Park, as shown below:



