

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (COMMERCIAL)

THIS AGREEMENT, including any and all addenda attached hereto ("Agreement"), is by and between **Watauga County, a North Carolina body politic**, ("Buyer") and **Deborah Earp Greene**, ("Seller").

FOR AND IN CONSIDERATION OF THE MUTUAL PROMISES SET FORTH HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Terms and Definitions: the terms listed below shall have the respective meaning given them as set forth adjacent to each term.

(a) **"Property"**; Being Tract Two consisting of approximately 198.50 acres, more or less, as described in Book of Records 1524 at Page 211, Watauga County Registry. Seller reserves upon herself all property described as Tract One, consisting of approximately .5 acres located at 3900 NC Hwy 194 N., Boone North Carolina 28607. Seller also reserves to herself the right to use the well located on Tract Two for the benefit of the house located on Tract One, and an additional three acres surrounding said house as roughly shown and depicted on the map attached hereto as Exhibit A. Seller also reserves unto herself the Quonset Hut and approximately .65 acres surrounding said Quonset Hut on the opposite side of Hwy. 194 from the house.

All of the property in Deed Reference: **Book 1524, Page 211**, Watauga County; consisting of approximately 199 acres.

(For information purposes, the tax parcel number of the Property is: 2922-05-2446-000 & 2912-85-8712-000 together with all buildings and improvements thereon and all fixtures and appurtenances thereto and all personal property, if any, itemized on **Exhibit B**.

\$1,700,000.00 (b) **"Purchase Price"** shall mean the sum of **One million seven hundred thousand dollars**, payable on the following terms:

\$50,000.00 (i) **"Earnest Money"** shall mean **fifty thousand and no/100 dollars**. Upon this Agreement becoming a contract in accordance with Section 14, the Earnest Money shall be promptly deposited in escrow with **Eggers, Eggers, Eggers & Eggers, PLLC** to be applied as part payment of the Purchase Price of the Property at Closing, or disbursed as agreed upon under the provisions of Section 10 herein.

\$1,650,000.00 (ii) **Cash, balance of Purchase Price**, at Closing in the amount of **One million six hundred fifty thousand and no/100 dollars**

(c) **"Closing"** shall mean the date and time of recording of the deed. Closing shall occur on or before 180 days from the execution of this agreement.

(d) **"Contract Date"** means the date this Agreement has been fully executed by both Buyer and Seller.

(e) **"Examination Period"** shall mean the period beginning on the Contract Date and extending through five months from the full execution of this Agreement.

(f) **"Broker(s)"** shall mean:

REDDEN REALTY ("Listing Agency"),
GERALD W. REDDEN ("Listing Agent" – License # 265718)
Acting as: Seller's Agent

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- (g) **"Seller's Notice Address"** shall be as follows:

3900 N.C. Hwy. #194-N., Boone, North Carolina 28607

Except as same may be changed pursuant to Section 12.

- (h) **"Buyer's Notice Address"** shall be as follows:

Watauga County Manager's Office
814 West King Street,
Boone, NC 28607

with copy to Stacy C. Eggers, IV
Attorney at Law
737 West King Street
Boone, NC 28607

Section 2. Sale of Property and Payment of Purchase Price. Seller agrees to sell and Buyer agrees to buy the Property for the Purchase Price.

Section 3. Proration of Expenses and Payment of Costs. Seller and Buyer agree that all property taxes (on a calendar year basis), shall be prorated as of the date of Closing. Seller shall pay for excise tax (revenue stamps), any deferred or rollback taxes, and other conveyance fees or taxes required by law. Buyer shall pay all other closing costs of Seller. Buyer shall pay recording costs, costs of any title search, title insurance, survey, the cost of any inspections or investigations undertaken by Buyer under this Agreement.

Section 4. Deliveries: Seller agrees to use best efforts to deliver to Buyer as soon as reasonably possible after the Contract Date copies of all information relating to the Property in possession of or available to Seller, including but not limited to: title insurance policies, surveys, and copies of all presently or previously representing Seller to release and disclose any title insurance policy in such attorney's file to Buyer and both Buyer's and Seller's agents and attorneys; and (2) the Property's title insurer or its agent to release and disclose all materials in the Property's title insurer's (or title insurer's agent's) file to Buyer and both Buyer's and Seller's agents and attorneys. If Buyer does not consummate the Closing for any reason other than Seller default, then Buyer shall return to Seller all materials delivered by Seller to Buyer pursuant to this Section 4 (or Section 7, if applicable), if any, and shall, upon Seller's request provide to Seller copies of (subject to the ownership and copyright interests of the preparer thereof) any and all studies, reports, surveys and other information relating directly to the Property prepared by or at the request of Buyer, its employees and agents, and shall deliver to Seller, upon the release of the Earnest Money, copies of all of the foregoing without any warranty or representation by Buyer as to the contents, accuracy or correctness thereof.

Section 5. Evidence of Title: Seller agrees to convey fee simple marketable and insurable title to the Property free and clear of all liens, encumbrances and defects of title other than: (1) ordinances affecting the property, (b) Leases (if applicable) and (c) matters of record existing at the Contract Date that are not objected to by Buyer prior to the end of the Examination Period ("Permitted Exceptions"); provided that Sellers shall be required to satisfy, at or prior to Closing, any encumbrances that may be satisfied by the payment of a fixed sum of money, such as deeds of trust, mortgages or statutory liens. Seller shall not enter into or record any instrument that affects the Property after the Contract Date without the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed.

Section 6. Conditions. This Agreement and the rights and obligations of the parties under this Agreement are hereby made expressly conditioned upon fulfillment (or waiver by Buyer, whether explicit or implied) of the following conditions:

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(a) **Title Examination:** After the Contract Date, Buyer shall, at Buyer's expense, cause a title examination to be made of the Property before the end of the Examination Period. In the event that such title examination shall show that Seller's title is not fee simple marketable and insurable, subject only to permitted exceptions, then Buyer shall promptly notify Seller in writing of all such title defects and exceptions, in no case later than the end of the Examination period, and Seller shall have thirty (30) days to cure said noticed defects. If Seller does not cure the defects or objections within thirty (30) days of notice thereof, then Buyer may terminate this Agreement, and receive a return of Earnest Money (notwithstanding that the Examination Period may have expired). If Buyer is to purchase title insurance, the insuring company must be licensed to do business in the state in which the Property is located. Title to the Property must be insurable at regular rates subject only to standard exceptions and Permitted Exceptions.

(b) **Same Condition:** If the Property is not in substantially the same condition at Closing as of the date of the offer, reasonable wear and tear excepted, then the Buyer may (i) terminate this Agreement and receive a return of the Earnest Money or (ii) proceed to Closing whereupon Buyer shall be entitled to received, in addition to the Property, any of the Seller's insurance proceeds payable on account of account of the damaged or destruction applicable to the Property.

(c) **Inspections:** Buyer, its agents or representatives, at Buyer's expense and at reasonable times during normal business hours, shall have the right to enter upon the Property for the purpose of inspecting, examining, performing soil boring and other testing, conducting timber cruises, and surveying of the Property. Buyer shall conduct all such on-site inspections, examinations, soil boring and other testing, timber cruises and surveying of the Property in a good and workmanlike manner, shall repair any damage to the Property caused by Buyer's entry and on-site inspections and shall conduct same in a manner that does not unreasonably interfere with Seller's use and enjoyment of the Property. Buyer assumes all responsibility for the acts of itself, its agents or representatives in exercising its rights under this Section 6 (c). Buyer shall, at Buyer's expense, promptly repair any damage to the Property caused by buyer's entry and on-site inspections. Except as provided in Section 6 (c) above, Buyer shall have from the Contract Date through the end of the Examination Period to perform the above inspections, examinations and testing. **If Buyer chooses not to purchase the property, for any reason or not reason, and provides written notice to Seller thereof prior to the expiration of the examination period, then this Agreement shall terminate, and Buyer shall receive a return of the Earnest Money.**

Section 7. Donation In-kind Documentation: Buyer is a governmental entity capable of receiving charitable donations under the terms and requirements of the Internal Revenue Code. ~~Buyer understands that the Seller has in her possession an appraisal of the property to be sold under this contract.~~ The parties agree that in addition to the purchase price for this property, the Seller is making a donation to the Buyer for the excess equity contained in the property. The Buyer agrees to execute any necessary documents requested by the Seller which may be required by the Internal Revenue Service to document Buyer's receipt of this property. In doing so, Buyer makes no representations to Seller as to any tax consequences or effect related to the execution of these documents. NEG

Section 8. Environmental: Seller represents and warrants that it has no actual knowledge of the presence or disposal, except as in accordance with applicable law, within the buildings or on the Property of hazardous or toxic waste or substances, which are defined as those substances, materials and wastes; including, but not limited to these substances, materials and waste listed in the United States Department of Transportation Hazardous Materials Table (49 CFR Part 172 P1) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302.4) and amendments thereto, or any such substances, materials and wastes, which are or become regulated under any applicable local, state or federal law, including without limitation, any material, waste or substance which is (i) petroleum, (ii)

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asbestos, (iii) polychlorinated phenyls, or designated as Hazardous Substance pursuant to Section 311 of the Clean Water Act of 1977 (33 U.S.C. § 1321) or listed pursuant to Section 307 of the Clean Water Act of 1977 (33 U.S.C. § 1317), (v) defined as a hazardous waste pursuant to Section 1004 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6903) or (vi) defined as a hazardous substance pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601). Seller has no actual knowledge of any contamination of the Property from such substances as may have been disposed of or stored on neighboring tracts.

Section 9. Risk of Loss/Damage/Repair: Until Closing, the risk of loss or damage to the Property, except as otherwise provided herein, shall be borne by Seller. Except as to maintaining the Property in its same condition, Seller shall have no responsibility for the repair of the Property, including any improvements, unless the parties hereto agree in writing.

Section 10. Earnest Money Disbursement: In the event that any of the conditions hereto are not satisfied, or in the event of a breach of this Agreement by Seller, then the Earnest Money shall be returned to Buyer, but such return shall not affect any other remedies available to Buyer for such breach. In the event this offer is accepted and Buyer breaches this Agreement, then the Earnest Money shall be forfeited. In the event of a dispute between Seller and Buyer over the return or forfeiture of Earnest Money held in escrow, it shall be held in the trust or escrow account until a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction, or alternatively, the party holding the Earnest Money may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of N.C.G.S. § 93-A-12.

Section 11. Closing: At Closing, Seller shall deliver to Buyer a general warranty deed and other documents customarily executed or delivered by a seller in similar transactions, including without limitation, an owner's affidavit, lien waiver forms and a non-foreign status affidavit (pursuant to the Foreign Investment in Real Property Tax Act), and Buyer shall pay to Seller the Purchase Price. At Closing, the Earnest Money shall be applied as part of the Purchase price. The Closing shall be held at the office of the Buyer's attorney or such other place as the parties hereto may mutually agree. Possession shall be delivered at Closing.

Section 12. Notices: Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party to the other in connection herewith shall be in writing and shall be deemed to have been properly given and received on the date delivered in person or deposited in the United States mail, registered or certified, return receipt requested, to the addresses set out in Section 1(g) as to Seller and Section 1(h) as to the Buyer, or at such other addresses as specified by written notice delivered in accordance herewith.

Section 13. Entire Agreement: This Agreement constitutes the sole and entire agreement among the parties hereto and no modification of this Agreement shall be binding unless in writing and signed by all parties hereto.

Section 14. Enforceability: This Agreement shall become a contract when signed by both Buyer and Seller and such signing is communicated to both parties; it being expressly agreed that the notice described in Section 12 is not required for effective communication for the purposes of this Section 14. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns, and their personal representatives.

Section 15. Adverse Information and Compliance with Laws:

(a) **Seller Knowledge:** Seller has no actual knowledge of (i) condemnation(s) affecting or contemplated with respect to the property; or (ii) actions, suits or proceedings pending or threatened against the Property.

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(b) **Compliance:** To Seller's actual knowledge (i) Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions pertaining to or affecting the Property; (ii) performance of the Agreement will not result in the breach of, constitute any default under or result in the imposition of any lien or encumbrance upon the Property under any agreement or other instrument to which Seller is a party or by which Seller or the Property is bound; and (iii) there are no legal actions, suites or other legal or administrative proceedings in pending or threatened against the Property, and Seller is not aware of any facts which might result in any such action, suit or other proceeding.

Section 16. Survival of Representations and Warranties: All representations, warranties, covenants and agreements made by the parties hereto shall survive the Closing and delivery of the deed. Seller shall at or within six (6) months after the Closing, and without further consideration, execute, acknowledge and deliver to Buyer such other documents and instruments, and take such other action as buyer may reasonably request or as may be necessary to more effectively transfer to Buyer the Property described in accordance with this Agreement.

Section 17. Applicable Law: This Agreement shall be construed under the laws of the State of North Carolina. The parties agree that Watauga County is the appropriate venue for resolution of any dispute arising under this Agreement.

Section 18. Memorandum of Contract: Upon request by either party, the parties hereto shall execute a memorandum of contract in recordable form setting forth such provisions hereof (other than the Purchase Price and other sums due) as either party may wish to incorporate. Such memorandum of contract shall contain a statement that it automatically terminates and the Property is released from any effect thereby as of a specific date to be stated in the memorandum (which specific date shall be no later than the date of closing). The cost of recording such memorandum of contract shall be borne by the party requesting execution of same.

Section 19. Authority: Each signatory to this Agreement represents and warrants that he or she has full authority to sign this Agreement and such instruments as may be necessary to effectuate any transaction contemplated by this Agreement on behalf of the party for whom he or she signs and that his or her signature binds such party.

Section 20. Brokers: Buyer and Seller represent and warrant to each other that (i) except as to the Brokers designated under Section 1(f) of this Agreement, they have not employed nor engaged any brokers, consultants, or real estate agents to be involved in this transaction and (ii) that the compensation of the Brokers is established by and shall be governed by separate agreements entered into as amongst the Broker and the Seller.

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BUYER:

COUNTY OF WATAUGA

DATE: _____

BY: _____

Nathan A. Miller, Chairman
Watauga County Board of
Commissioners

ATTEST:

BY: _____

Anita Fogle, Clerk to the Board

SELLER:

DATE: 3-21-2013

Deborah Earp Greene
Deborah Earp Greene

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Margaret Pierce
Watauga County Finance Officer

The undersigned hereby acknowledges receipt of the Earnest Money set forth herein and agrees to hold said Earnest Money in accordance with the terms hereof.

Eggers, Eggers, Eggers and Eggers, PLLC, Attorneys at Law

Date: _____

By: _____
Stacy C. Eggers, IV