

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (this "Agreement") is made, entered into and effective as of **May** _____, 2024, by and between AGUA FRIA MUTUAL SERVICE CO., a California corporation ("Seller"), and **Lake Arrowhead Lagoon LLC** ("Buyer"), with reference to the following facts.

RECITALS

A. Seller is the owner of a parcel of land located in the City of Twin Peaks, County of San Bernardino, State of California, that is described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Land"). The Land and any and all improvements thereon and rights, licenses, privileges and easements appurtenant thereto, are referred to collectively hereinafter as the "Property".

B. Seller desires to sell and convey the Property to Buyer, and Buyer desires to purchase the Property from Seller, pursuant to the terms, covenants, conditions and agreements of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the promises, mutual covenants, agreements, representations and warranties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **PURCHASE AND SALE OF REAL PROPERTY.** At the "Closing" (as hereinafter defined), Seller shall sell to Buyer, and Buyer shall purchase from Seller, upon the terms and conditions herein stated, the Property.
2. **PURCHASE PRICE.** The purchase price (the "Purchase Price") for the Property shall be the sum of **One hundred Dollars** (\$**100.00**). The Purchase Price shall be paid at the Closing.
3. **RESERVATION OF RIGHTS.** As a material consideration for Seller to convey the Property, the parties acknowledge and agree as follows:
 - (a) Buyer and Buyer's successors and assigns shall cause the existing pool (the "Pool") on the Property to be maintained in a clean, good and operable condition at **buyers sole cost** until **May 1, 2074** (the "Covenant Expiration Date").
 - (b) Commencing as of the Closing and continuing until the Covenant Expiration Date, the parties described in Exhibit "B" attached hereto and their successors and assigns (the "Benefitted Parties") shall have a right (at no cost to the Benefitted Parties) to use

the Pool during the hours of _____ and _____ Monday through Friday and Saturday and Sunday during the hours of _____ and _____ subject to reasonable periods that Buyer may require to maintain and repair the Pool or during which the Pool cannot be reasonably used (such as during inclement weather or periods of pandemics).

(c) Each Benefitted Parties shall have the right to be accompanied by their respective immediate family members (including parents and children) as well as two guests at any one visit.

(d) Buyer and Buyer's successors and assigns may impose reasonable rules and regulations regarding the use of the Pool to be complied with by the Benefitted Parties so long as such rules and regulations are (i) in writing and delivered to the Benefitted Parties and (ii) enforced in a uniform and non-discriminatory manner.

(e) Buyer and Buyer's successors and assigns may suspend the right of a Benefitted Party from use of the Pool (not to exceed a period of thirty (30) days for violation of any rules and regulations that are not cured within ten (10) days after written notice from Buyer or Buyer's successors and assigns.

(f) The reservation of rights shall be set forth in the Deed (as defined below) and shall be a covenant running with the Land until the Covenant Expiration Date.

4. **SELLER'S REPRESENTATIONS AND WARRANTIES.**

Authority. Seller represents, warrants and covenants that it is the owner of the Property, and has the right, power and authority to enter into this Agreement and to sell, convey and transfer the Property to Buyer and to carry out Seller's obligations hereunder.

Litigation. Seller represents and warrants that to the best of Seller's actual knowledge (without investigation) there is no litigation pending respecting the Property.

Governmental Orders. Seller represents and warrants that to the best of its actual knowledge (without investigation) no order or directive has been issued by any applicable city, county, state or federal authority concerning any work of repair, maintenance or improvement that must be performed on the Property.

Foreign Person. Seller represents that it is not a "foreign person" within the meaning of Internal Revenue Code Section 1445, and Seller shall deliver to each other at Closing a Non-Foreign Affidavit pursuant to Section 1445(b)(2) of the Internal Revenue Code.

5. **BUYER'S REPRESENTATIONS AND WARRANTIES.**

(a) **Authority.** Buyer represents and warrants that this Agreement constitutes a valid and legally binding obligation of Buyer, enforceable against Buyer in accordance with its terms. In addition, each individual executing this Agreement on behalf of Buyer represents and warrants that he or she is duly authorized to execute this Agreement on behalf of Buyer and that this Agreement is binding on Buyer in accordance with its terms.

(b) **Litigation.** Buyer represents and warrants that there is no litigation pending against Buyer.

6. **THE CLOSING.**

Can we use an escrow with a title company, buyer to pay closing costs.

(a) **The Closing Date.** The consummation of the purchase and sale of the Property (the "Closing") shall occur, if at all, on or before _____, 2024. The date upon which the Closing shall occur is sometimes herein referred to as the "Closing Date". The Closing shall occur at the office of Seller.

(b) **Deliveries at Closing.** Seller and Buyer shall each deliver to the other at the Closing such instruments and funds as are necessary to consummate the purchase and sale of the Property, including the following:

(i) Buyer shall deliver to Seller the Purchase Price.

(ii) Seller shall deliver to Buyer a duly executed and acknowledged grant deed (the "Deed") in the form attached hereto as Exhibit "C", sufficient to convey fee title to the Property to Buyer.

(c) **Simultaneous Delivery; Conditions Concurrent.** All documents and other items to be delivered at the Closing shall be deemed to have been delivered simultaneously, and no delivery shall be effective until all such items have been delivered.

7. **COSTS AND PRORATIONS.**

(a) **Costs.** Costs of the Closing shall be allocated as follows:

(i) Seller shall pay the costs of preparing and recording the Deed and all other documents to be recorded at the Closing.

(ii) Seller shall pay all documentary transfer and other taxes imposed in connection with recording the Deed.

(iii) Seller shall pay all trustee's fees, reconveyance fees, forwarding fees, beneficiary statement fees and other fees in connection with any deeds of trust and mortgages which shall be reconveyed at the Closing. All other costs, if any, shall be apportioned in the customary manner for real estate transactions in San Bernadino County, California.

(b) **Prorations.** All real and personal property taxes and other state, county or city taxes, charges and assessments affecting the Property, and any operating costs (other than interest on any deed of trust or other lien not assumed by Buyer and which is to be paid by Seller at or prior to the Closing, or other expenses which shall not continue after the Closing) shall be prorated between Buyer and Seller on a per diem basis, based upon the most recent statements or

bills, as of the Closing Date on the basis of a thirty (30) day month in the customary manner for real estate transactions in San Bernardino County, California.

8. **DEFAULT AND REMEDIES**

(a) **Buyer's Waiver of Right of Specific Performance.** To the fullest extent permitted by law, Buyer hereby waives (i) the remedy of specific performance on account of Seller's default under this Agreement, and (ii) any right under California Civil Code Sections 3384, 3387 and 3389, California Code of Civil Procedure, Part II, Title 4.5 (Sections 405 through 405.61), or at common law or otherwise, to record or file a lis pendens or a notice of pendency of action or similar notice against all of any portion of the Property.

(b) **Limitation on Liability of Seller.** Notwithstanding anything to the contrary in this Agreement, in no event shall Seller be liable to Buyer or any person or entity claiming by, through or under Buyer, either prior to or following the Closing, for any lost profits or any form of consequential or punitive damages in connection with any claim, liability, demand or cause of action in manner relating to this Agreement, the Property or any portion thereof, the condition of the Property or any portion thereof, or any transaction or matter between the parties contemplated hereunder.

(c) **Buyer to Acquire "AS IS".** Buyer will acquire the Property, if at all, "AS IS," in its condition existing at the Closing, and without representation by Seller or its representatives as to any matter, except as expressly mentioned herein. No patent or latent condition affecting the Property in any way, whether or not known or discoverable or hereafter discovered, shall affect Buyer's obligations contained in this Agreement, or shall give rise to any cause of action whether for damages, rescission or otherwise against Seller and the other Indemnitees (as defined below).

(d) **Seller Not Liable.** To the maximum extent permitted by law, Seller and Seller's divisions, subsidiaries, partners, members and affiliates, and all of Seller's employees, officers, directors, shareholders, agents, representatives, general contractors and professional consultants and all of their respective successors and assigns (collectively with Seller, the "**Indemnitees**") shall not be liable for any loss, liability, damage, injury or claim of any kind or character to any person or property arising from, caused by or relating to any of the following (notwithstanding the fault of any Indemnatee including, without limitation, the active or passive negligence of Seller or any other Indemnatee) the Property (including, without limitation, structural, physical or environmental condition of the Property), the development of the Property or the construction or sale or other conveyance of any improvements thereon

(e) **Release by Buyer.** As a material part of the consideration of this Agreement, Buyer (on behalf of itself and the other Buyer Representatives) hereby waives and releases Seller and the other Indemnitees from and against any and all losses, liability, damages, injuries or claims described in Section 8(d) (collectively, the "**Claims**"). Buyer's waiver and release also includes any and all Claims of which Buyer is presently unaware or which Buyer does not presently suspect to exist which, if known by Buyer, would materially affect Buyer's release to Seller.

(f) Waiver of Section 1542 of the California Civil Code. In connection with the releases and waivers in this Section, Buyer agrees that it is familiar with, and hereby waives its rights, if any, under California Civil Code Section 1542, which provides as follows:

" A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

Buyer indicates its acknowledgment of the foregoing provisions of Section by initialing below:

Buyer: _____

(g) Survival of Agreements. Notwithstanding anything herein to the contrary, the agreements of Buyer set forth in this Section 8 shall be deemed reaffirmed as of the Closing and shall survive the Closing and shall not be merged therein.

9. **BROKERS.**

Each party represents and warrants to the other that it has not had any dealings with any broker or finder which may result in any liability for a brokerage or finder's fee, and each party hereby agrees to indemnify, defend and hold the other harmless from and against any and all costs, liabilities, losses, damages, claims, causes of action or proceedings which may result from any breach of such representation.

10. **MISCELLANEOUS.**

(a) **Assignability.** Buyer may assign its rights, obligations and duties under this Agreement without the prior written consent of Seller. Any assignment of this Agreement shall not relieve Buyer of its obligations or duties hereunder.

(b) **Entire Agreement.** This Agreement supercedes all prior written or oral agreements between the parties and embodies the entire agreement between the parties regarding the subject matter hereof, and there are no oral or written agreements existing between Seller and Buyer regarding the subject matter hereof which are not expressly set forth herein and covered hereby.

(c) **Headings.** The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

(d) **Interpretation.** Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender and the neuter, and vice versa.

(n) **Attorneys' Fees.** In the event that either party hereto brings any action or files any proceeding in connection with the enforcement of its respective rights under this Agreement or as a consequence of any breach by the other party hereto of its obligations hereunder, the prevailing party in such action or proceeding shall be entitled to have all of its attorneys' fees and out-of-pocket expenditures paid by the losing party, whether or not suit proceeds to final judgment.

[Signature Page to Immediately Follow]

[Signature Page for Agreement of Purchase and Sale]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SELLER:

AGUA FRIA MUTUAL SERVICE CO.,
A California corporation

By: _____

Name: _____

Title: _____

BUYER:

CLAY CLEMENT

EXHIBIT "A"

LEGAL DESCRIPTION

The Property is that certain real property in San Bernardino County, California that is described as follows:

Lot 1, Tract 2455, Block 3, Agua Fria, as per Plat recorded in Book 34 of Maps, Page 93, Records of said County.

Lot 2, Tract 2455, Block 3, Agua Fria, as per Plat recorded in Book 34 of Maps, Page 93, Records of said County.

Assessor Parcel Number 0334-223-12-0000

[NOTE: I am only seeing one assessor parcel number. Do we get one or two property tax bills?]

EXHIBIT "B"

LIST OF BENEFITTED PARTIES

[To be Supplied]

The Benefitted Parties include the successors and assigns of the foregoing parties.

EXHIBIT "C"

FORM OF DEED