

Case removed and deleted

Haymore Real Estate

COUNTER OFFER 1

Document updated:
February 2011



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1. This is a Counter Offer originated by the: Seller Buyer Landlord Tenant.
2. This is a Counter Offer to the Offer Counter Offer dated 04/08/2016 between the following Parties:
MODAYR
3. Seller/Landlord: West Sierra Vista Az LLC
4. Buyer/Tenant: Cochise County Board, of Supervisors
5. Premises Address: 1728 Paseo San Luis, Sierra Vista, Az 85635
6. Acceptance of the above Offer and/or Counter Offer is contingent upon agreement to the following:
7. Close of escrow date to be on or before 07/05/2016.
8. The legal description is corrected to read: Lot 28, PUEBLO DEL SOL UNIT NO.6, according
9. to Book 10 of Maps, page 9, records of Cochise County, Arizona; EXCEPT All oil, gas, and
10. other minerals, salt water, brines, geo thermal resources and freshwater, as reserved
11. in instrument recorded at Documnet No. 8712-31763 records of Cochise County, Arizona.
12. Lines 152 thru 161 to be removed. The seller has very limited information about this
13. property. Seller has not seen this property. Any disclosures available by the seller
14. have already been provided to the buyers.
15. The seller will provide a set of blue prints/site plan in lieu of the plat map.
16. Lines 304-306, 353, 365-373, and the words "hold harmless and indemnify" are removed and
17. deleted from line 398. Lines 259-263 and lines 268-274 to be removed and be replaced
18. with: "Seller shall manage the property during the term of this agreement in the same
19. manner it previously managed the property." "If, during the period between the end of
20. the 45 day inspection period and closing, substantial damage occurs at the Property
21. which Seller elects not to repair, Buyer may terminate this Agreement and receive a
22. return of its deposit."
23. Sellers standard purchase contract addendum is attached and incorporated herein by this
24. reference.
25. Time for acceptance: Unless acceptance of this Counter Offer is signed by all parties and a signed copy delivered pursuant
26. to Section 8m of the Contract and received by the originating party's Broker named in Contract Section 8r or 9a as applicable
27. by 04/13/2016 at 3:00 a.m. p.m., Mountain Standard Time, this Counter Offer shall be considered withdrawn.
28. Except as otherwise provided in this Counter Offer, the Parties accept and agree to all terms and conditions of the above offer /
29. counter offer. Until this Counter Offer has been accepted in the manner described above, the Parties understand that the Premises
30. can be sold or leased to someone else or either Party may withdraw the offer to buy, sell, or lease the Premises. The undersigned
31. acknowledges receipt of a copy hereof.
32. *[Signature]* Date: _____ Time: _____
33. Seller Buyer Landlord Tenant
34. *[Signature]* Date: 4/14/16 Time: _____
35. Seller Buyer Landlord Tenant

36. **RESPONSE**
37. An additional Counter Offer is attached, and is incorporated by reference. If there is a conflict between this Counter Offer and the
38. additional counter offer, the provisions of the additional counter offer shall be controlling.
39. _____ Date: _____ Time: _____
40. Seller Buyer Landlord Tenant
41. _____ Date: _____ Time: _____
42. Seller Buyer Landlord Tenant

43. **ACCEPTANCE**
44. The undersigned agrees to the terms and conditions of this Counter Offer and acknowledges receipt of a copy hereof.
45. *[Signature]* Date: 4/12/2016 Time: 1:02 p.m.
46. Seller Buyer Landlord Tenant
47. _____ Date: _____ Time: _____
48. Seller Buyer Landlord Tenant

For Broker Use Only:
 Brokerage File/Log No. _____ Manager's Initials _____ Broker's Initials _____ Date _____
(Added February 2012)

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Addendum to Commercial Real Estate Contract

Notwithstanding anything that may be construed to the contrary in the Commercial Real Estate Contract (the "Agreement") dated of even date herewith to which this Addendum is attached and incorporated therein by reference, Buyer (as defined in the Agreement) and Seller (as defined in the Agreement) hereby acknowledge and agree as follows:

1. No Recourse or Seller Warranties or Representations. THE SALE OF THE PROPERTY TO BUYER UNDER THE AGREEMENT SHALL BE WITHOUT RECOURSE, AND WITHOUT REPRESENTATION OR WARRANTY OF ANY NATURE BY SELLER OR ANY REPRESENTATIVE OF SELLER, AND BUYER ACKNOWLEDGES AND AGREES THAT NEITHER SELLER NOR ANY REPRESENTATIVE OF SELLER HAS MADE, OR DOES MAKE, AND SPECIFICALLY DISCLAIMS, AND BUYER IS NOT RELYING ON SELLER WITH RESPECT TO, ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO: (A) THE PROPERTY, (B) THE MARKETABILITY, VALUE, QUALITY OR CONDITION OF THE PROPERTY; (C) THE STATE OF TITLE, PRIORITY OF LIENS, ZONING, TAX CONSEQUENCES, PHYSICAL CONDITION, UTILITY CAPACITY OR COMMITMENT FOR UTILITY CAPACITY, OPERATING HISTORY OR PROJECTIONS, VALUATIONS, GOVERNMENTAL APPROVALS OR GOVERNMENTAL REGULATIONS, COMPLIANCE WITH SPECIFICATIONS, LOCATION, EXISTENCE OF OR COMPLIANCE BY THE PROPERTY WITH ANY FRANCHISE, MANAGEMENT OR OPERATING AGREEMENT, ANY LIQUOR, USE OR OCCUPANCY PERMIT OR LICENSE; (D) THE DESIGN, USE, QUALITY, DESCRIPTION, DURABILITY, OR QUALITY OF MATERIAL OR WORKMANSHIP WITH RESPECT TO OR PERTAINING IN ANY MANNER TO THE PROPERTY AND ALL IMPROVEMENTS LOCATED ON ANY OF THE PROPERTY; (E) THE COMPLIANCE BY SELLER OR ANY PREDECESSOR TO SELLER WITH ANY AND ALL APPLICABLE FEDERAL, STATE OR LOCAL LAWS AND ALL RULES, REGULATIONS, OR ORDINANCES PROMULGATED PURSUANT THERETO, PERTAINING TO OR IN ANY MANNER RELATED TO THE PROPERTY AND ANY STRUCTURES AND IMPROVEMENTS LOCATED ON THE PROPERTY, INCLUDING BUT NOT LIMITED TO THE AMERICANS WITH DISABILITIES ACT OF 1990 (AS SET FORTH IN CHAPTER 126 OF TITLE 42 OF THE UNITED STATES CODE) AND ALL REGULATIONS PROMULGATED THEREUNDER; (F) THE ACCURACY OR COMPLETENESS OF ANY INFORMATION, DATA, STATEMENTS, AMOUNTS OR SOURCES OF INFORMATION PROVIDED TO BUYER; AND (F) ANY OTHER MATTERS PERTAINING TO THE PROPERTY. **IN ADDITION, SELLER EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, SELLER DOES NOT MAKE NOR HAS MADE ANY REPRESENTATION OR WARRANTY REGARDING THE PRESENCE OR ABSENCE OF ANY HAZARDOUS**



SUBSTANCES ON, UNDER OR ABOUT THE PROPERTY OR THE COMPLIANCE OR NONCOMPLIANCE OF THE PROPERTY WITH ANY LEGAL REQUIREMENT REGARDING HAZARDOUS SUBSTANCES, INCLUDING, WITHOUT LIMITATION, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, THE SUPERFUND AMENDMENT AND REAUTHORIZATION ACT, THE RESOURCE CONSERVATION RECOVERY ACT, THE FEDERAL WATER POLLUTION CONTROL ACT, THE FEDERAL ENVIRONMENTAL PESTICIDES ACT, THE CLEAN WATER ACT, THE CLEAN AIR ACT, ANY SO CALLED FEDERAL, STATE OR LOCAL "SUPERFUND" OR "SUPERLIEN" STATUTE, OR ANY OTHER STATUTE, LAW, ORDINANCE, CODE, RULE, REGULATION, ORDER OR DECREE REGULATING, RELATING TO OR IMPOSING LIABILITY (INCLUDING STRICT LIABILITY) OR STANDARDS OF CONDUCT CONCERNING ANY HAZARDOUS SUBSTANCES (COLLECTIVELY, THE "HAZARDOUS SUBSTANCE LAWS").

BUYER FURTHER ACKNOWLEDGES AND AGREES THAT BUYER HAS BEEN GIVEN OR SHALL HAVE THE OPPORTUNITY TO INSPECT THE PROPERTY AND OBTAIN ALL OTHER INFORMATION AND DOCUMENTATION AS BUYER DEEMS APPROPRIATE DURING THE FEASIBILITY PERIOD PROVIDED FOR IN THE AGREEMENT AND, THEREFORE, BUYER WILL BE PURCHASING THE PROPERTY PURSUANT TO ITS INDEPENDENT EXAMINATION, STUDY, INSPECTION AND KNOWLEDGE OF THE PROPERTY, AND BUYER IS RELYING UPON ITS OWN DETERMINATION OF THE QUALITY, ENFORCEABILITY, TITLE VALUE AND CONDITION OF THE PROPERTY, AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER OR ANY REPRESENTATIVE OF SELLER. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OR WILL BE OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE NOR WILL BE OBLIGATED TO MAKE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND SELLER MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT UNDERTAKEN TO CORRECT ANY MISINFORMATION OR OMISSIONS OF INFORMATION WHICH MIGHT BE NECESSARY TO MAKE ANY INFORMATION DISCLOSED TO BUYER NOT MISLEADING IN ANY RESPECT. BUYER AGREES CLOSING UNDER THIS AGREEMENT SHALL CONSTITUTE AN ACKNOWLEDGMENT THAT THE PROPERTY WAS PURCHASED, AND WILL BE ACCEPTED AT CLOSING, WITHOUT REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED AND OTHERWISE IN AN "AS IS", "WHERE IS", AND "WITH ALL FAULTS" CONDITION BASED SOLELY ON BUYER'S OWN INSPECTION, AND WITHOUT LIABILITY BY OR RECOURSE TO SELLER.

2. Seller's maximum liability under this Agreement and all matters arising out of, connected with or related to this Agreement shall not exceed \$5,000 in the aggregate and specific performance



shall not be a remedy permitted to Buyer under the Agreement and Buyer hereby waives the right of specific performance under the Agreement.

3. Buyer may not assign the agreement without the prior written consent of Seller except to an entity wholly owned or controlled by Buyer.
4. Buyer may not do any invasive testing at the Property without the prior written consent of Seller, which consent shall be given or withheld in the sole and absolute discretion of Seller.
5. Seller shall not be obligated to fix, cure or remove any matters on title to which Buyer objects.
6. All notices to Seller under the Agreement shall sent to Seller at the following address:

WEST Sierra Vista AZ, LLC
c/o Westport Capital Partners, LLC,
40 Danbury Road, Wilton CT 06897
Attn: Marc Porosoff
Fax: 203-429-8599
Email: mporosoff@westportcp.com

- a. With copies to:

WEST Sierra Vista AZ, LLC
c/o Westport Capital Partners, LLC,
2121 Rosecrans Ave, Suite 4325, El Segundo CA 90245
Attn: Peter Aronson
Fax: 310-643-7379
Email: paronson@westportcp.com

AND

Urban Investment Research Corporation
15700 W 103rd St, Lamont Illinois 60439
Attn: David Peluso
Fax: 1-773-650-1576
Email: dave@uirc.com



7. This Addendum shall form an integral part of the Agreement. In the event of any conflict between the terms of this Addendum and the Agreement, the Addendum shall control.

Dated: April , 2016. 4/12/2016

Buyer:

COCHISE COUNTY BOARD OF SUPERVISORS

DocuSigned by:
By: Britt Hanson
89662177EF1E41D
Name: Britt Hanson
Title: Chief Civil Deputy, County Attorney

Seller:

WEST Sierra Vista AZ, LLC

By: 
Name: Pete Aronson
Title: Authorized Signatory
By: 
Name: Sean Aronson
Title: Authorized Signatory