

## AMENDED PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2018, by and between the Board of County Commissioners, County of Adams, State of Colorado, located at 4430 S. Adams County Parkway ("County"), and Falcon Resources, Inc., whose legal address is 2630 W. Belleview Ave., Suite 220, Littleton, Colorado 80123; (the "Seller").

### RECITALS

- A. WHEREAS, Seller owns 14 acres of real property situated in the County of Adams, State of Colorado, as depicted on the map attached as Exhibit A, and more particularly described as follows:

**PARCEL A:**

ALL THAT PART OF THE SOUTHEAST 1/4 SOUTHWEST 1/4 OF SECTION 23, TOWNSHIP 1 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, LYING WESTERLY OF THE SOUTH PLATTE RIVER.

EXCEPT ANY PORTION DESCRIBED IN DEED RECORDED APRIL 18, 1989 IN BOOK 3555 AT PAGE **369**;

AND

EXCEPT ANY PORTION DESCRIBED IN DEED RECORDED MARCH 21, 2006 UNDER RECEPTION NO.

**20060321000283300**, COUNTY OF ADAMS, STATE OF COLORADO.

**PARCEL B:**

THE EAST 1/2 EAST 1/2 SOUTHWEST 1/4 SOUTHWEST 1/4 OF SECTION 23, TOWNSHIP 1 SOUTH, RANGE

67 WEST OF THE 6TH PRINCIPAL MERIDIAN,

EXCEPT ANY PORTION DESCRIBED IN DEED RECORDED APRIL 18, 1989 IN BOOK 3555 AT PAGE **369**,

COUNTY OF ADAMS, STATE OF COLORADO.

Also known as Adams County Assessor Parcel Numbers 0157123000017 and 0157123000016.

- B. WHEREAS, County wishes to purchase the approximately 14 acres of the above described real property, together with all improvements, as depicted on the map attached as Exhibit A (the "Property"); and
- C. WHEREAS, County wishes to purchase the Property, together with all improvements and appurtenances for \$175,000 dollars; and

- D. WHEREAS, parties entered into a Purchase and Sale Agreement for the Property dated April 10, 2018; and,
- E. WHEREAS, the title company refused to insure over the standard exceptions to the title policy, as required in the Purchase and Sale Agreement, without a survey; and

WHEREAS, by means of this Amended Purchase and Sale Agreement the parties wish to delete the requirement of insuring over the standard exceptions in the title policy and adjusting the dates in Purchase and Sale Agreement to account for the delay caused by the title company.

**WITNESSETH:**

**NOW, THEREFORE,** in consideration of the promises, mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the County and Seller hereby agree as follows:

1. **Purchase and Sale.** Subject to the terms and conditions set forth in this Agreement, the Seller agrees to sell and convey to County, and County agrees to purchase from Seller, the Property.
2. **Purchase Price.** The total purchase price for the Property shall be \$175,000 ("Purchase Price"). Purchase Price shall be payable upon the closing of the transaction contemplated by this Agreement ("Closing"). The location of the Closing shall be Land Title Guarantee Company in Brighton, Colorado. County shall pay Seller the Purchase Price, subject only to adjustments and prorations provided for herein, by cash or certified funds.
  - 2.1 **Appraisal.** No appraisal contingency.
  - 2.2 **Earnest Money.** The Earnest Money Deposit shall be five thousand dollars and no cents (\$5,000), which shall be deposited into an interest bearing escrow account established by Land Title Guarantee Company, within five (5) business days following the execution and delivery of the Agreement by and between County and Seller. So long as County performs fully on the Agreement, the entire Earnest Money Deposit of five thousand dollars and no cents (\$5,000) shall become non-refundable upon the expiration of the Inspection Period and waiver of all Contingencies by County, which shall be by no later than 5:00 p.m. on June 30<sup>th</sup>, 2018.
  - 2.3 **Inspection.** County shall have the right to inspect the physical condition of the Property at County's expense. If the physical condition of the Property is unsatisfactory in the County's subjective discretion, County shall give notice to Seller by May 30<sup>th</sup>, 2018. If the parties fail to agree in writing to a

resolution of County's objection(s) by June 30<sup>th</sup>, 2018, then this Agreement shall terminate, unless the County waives the objection in writing prior to June 30<sup>th</sup>, 2018. In the event that the County terminates the Agreement pursuant to this section, the Earnest Money Deposit shall be returned to the County without deduction or penalty.

2.4 **Property Survey.** Seller shall provide to the County any and all surveys they may have in their possession. The County, in its sole discretion, shall decide if a new property survey is required. If a new survey is required, the County, at its expense, shall contract with a reputable survey company for an ALTA Survey of the Property including a depiction and legal description of the Property.

3. **Environmental History.** The County, at its sole option and expense, may contract for a Phase I Environmental Site Assessment on the Property. If the County has an objection based on the Phase I Environmental Site Assessment, such an objection must be made in writing by June 1<sup>st</sup>, 2018. If Seller receives a written objection based on the Phase I Environmental Site Assessment, Seller shall use reasonable effort to correct said items and bear any nominal expense to correct the same prior to Closing. If, in the County's sole discretion, the results of the Phase I Environmental Site Assessment support the need for a Phase II Environmental Site Assessment, then Seller shall cooperate with the County to obtain a Phase II Environmental Site Assessment. The County will pay the expense of the Phase II Environmental Site Assessment. If the parties are unable to reach agreement regarding cleanup of any environmental objections on or before Closing, this Agreement shall then terminate; provided, however, County may waive objection to such terms by written notice received by Seller on or before Closing. In the event that the County terminates the Agreement pursuant to this section, the Earnest Money Deposit shall be returned without deduction or penalty.

4. **Title**

4.1 The Property shall be merchantable in the Seller, subject only to taxes and assessments for the year in which the Closing occurs and subject to the list of exceptions found in the title commitment.

4.2 The Seller, at the Seller's sole expense, shall provide evidence of title to the Property by a title insurance commitment in the amount of the Purchase Price to the County by June 1, 2018. If the County, in its sole discretion, finds the title is not merchantable or has other objection as to the evidence of title, then County shall so advise the Seller in writing by June 30<sup>th</sup>, 2018.

4.3 If Seller receives notice of unmerchantability of title(s) or any other unsatisfactory title conditions(s) or commitment terms as provided in Section 4.2, Seller shall use reasonable effort to correct said items and bear any

nominal expense to correct the same prior to Closing. If such unsatisfactory title conditions are not corrected on or before Closing, this Agreement shall then terminate; provided, however, County may waive objection to such terms by written notice received by Seller on or before Closing. In the event that the County terminates the Agreement pursuant to this section, the Earnest Money Deposit shall be returned to the County without deduction or penalty.

- 4.4 *Matters not shown by public records.* Seller shall deliver to County, on or before June 1, 2018, true copies of all leases, surveys, and water decrees in Seller's possession pertaining to the Property and shall disclose to County all easements, liens or other title matters not shown by the public records of which Seller has actual knowledge. County shall have the right to inspect the Property to determine if any third parties have any right in the Property not shown by the public records, such as unrecorded easements, unrecorded leases, dry up agreements or boundary line discrepancy. Written notice of any unsatisfactory conditions disclosed by Seller or revealed by such inspection shall be given to Seller on or before June 30<sup>th</sup>, 2018.
5. **Prorations.** County shall be responsible for the closing costs. Seller shall be responsible for the costs of the title insurance policy. Property taxes for the year of Closing shall be prorated. The closing company shall be instructed to pay taxes rather than to give the County a credit.
6. **Leases.** Seller will disclose to County any and all leases related to the Property prior to June 1, 2018.
7. **Closing-Conveyance.**
- 7.1 Closing shall take place on or before June 30, 2018, at such time as the parties may, by mutual agreement, designate. If the inspection, title and off-record matters meet with County's satisfaction prior to the stated deadlines, the parties may agree to a closing date earlier than June 30<sup>th</sup>, 2018.
- 7.2 *Deeds.* Seller shall provide the County with a Special Warranty Deed as title to the Property.
8. **Notices.** All notices or other communications required or permitted to be given by this Agreement shall be in writing and shall be delivered personally (including by means of professional messenger service); or sent by prepaid registered or certified mail, return receipt requested and addressed as follows, or by fax to the below fax numbers:

If to County, to:

Aaron Clark  
Adams County Regional Park

9755 Henderson Road  
Brighton, Colorado 80601  
Fax: (303) 637-8015

With a copy to:

Adams County Attorney's Office  
4430 South Adams County Parkway  
Brighton, Colorado 80601  
Fax: (303) 654-6114

If to Seller, to:

Falcon Resources, Inc.  
Attn: Gordon Burr  
2630 W. Belleview Ave., Suite 220  
Littleton, CO 80123

Or, as to such other address as shall, from time to time, be supplied by either party by like notice. Any notice of other communication sent as aforesaid shall be deemed served when actually received or refused.

**9. Remedies**

9.1 **County's default.** If the Contingencies are satisfied and the sale and purchase is not consummated because of County's default, then Land Title Guarantee Company shall deliver the Earnest Money Deposit, plus any accrued interest, to Seller as full liquidated damages for such default by County, and this shall be Seller's sole and exclusive remedy. The parties expressly acknowledge that it is impossible to more precisely estimate the damages suffered by Seller upon the County's default, and that receipt of the Earnest Money Deposit, plus interest, is intended not as a penalty, but as full liquidated damages.

9.2 **Seller's default.** If the Contingencies are satisfied and the sale and purchase is not consummated because of Seller's default, then Land Title Guarantee Company shall return the Earnest Money Deposit without deduction or penalty, plus any accrued interest, to the County and this shall be the County's sole and exclusive remedy.

10. **General Provisions.** The parties further agree as follows:

- 10.1 **Time.** Time is of the essence of this Agreement and County's and Seller's obligations hereunder. For purposes of this Agreement, facsimile copies shall be treated as originals.
- 10.2 **Entire Agreement.** No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto. This Agreement contains the entire agreement between the parties relating to the purchase and sale of the Property. All prior negotiations between the parties are merged in this Agreement and there are no promises, agreements, conditions, undertakings, warranties or representations—whether written, express or implied—between the parties other than as set forth herein.
- 10.3 **Exhibits.** The exhibits hereto constitute an integral part of this Agreement and are incorporated herein.
- 10.4 **Survival.** All of the representations, warranties, covenants and agreements hereunder, to the extent not fully performed and discharged by or through the Closing, shall not be deemed merged into any instrument delivered at Closing and shall remain fully enforceable thereafter.
- 10.5 **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, and venue for any lawsuit arising from this Agreement shall be in Adams County, Colorado.
- 10.6 **Headings.** The headings which appear in some of the sections of this Agreement are for purposes of convenience and reference and are not in any sense to be construed as modifying the sections in which they appear.
- 10.7 **Counterparts.** This Agreement may be executed in counterparts, each of which (or any combination of which) when signed and delivered by all of the parties shall be deemed an original, but all of which when taken together shall constitute one agreement.
- 10.8 **Successor and Assign.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.
- 10.9 **Authority.** Each party to the Agreement warrants to the other that the respective signatories have full right and authority to enter into and consummate this Agreement and all related documents.
11. In the event that any provisions of this Agreement shall be determined to be illegal, invalid or unenforceable, a provision similar in terms will be added to this Agreement, if possible, which provision shall be legal, valid and

- enforceable; and this Agreement shall not be construed against the party preparing it, but shall be construed as if all parties prepared this Agreement.
12. This Agreement shall replace and supersede the original Purchase and Sale Agreement dated April 10, 2018.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF ADAMS, STATE OF COLORADO

\_\_\_\_\_  
Mary Hodge, Chair

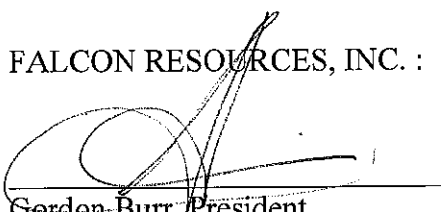
ATTEST:  
STAN MARTIN, CLERK AND RECORDER

\_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney's Office

FALCON RESOURCES, INC. :

  
\_\_\_\_\_  
Gordon Burr, President