

15275

2005-316

Attachment A

## REAL ESTATE PURCHASE & SALE AGREEMENT

This Purchase and Sale Agreement is made as of the date this instrument is fully executed, by and between KING COUNTY, a municipal corporation and a political subdivision of the State of Washington ("County"), and WAMCO, INC., a Nevada corporation ("WAMCO"), for purchase and sale of those certain properties situated in King County, Washington, described in Exhibits "A" and "B", defined therein ("the Agreement").

### RECITALS

1. County owns Cedar Falls Transfer Station, tax lot 272308-9004 (the "Transfer Station"). The only access road ("Access Road") into the Transfer Station runs from Cedar Falls Road NE across tax lot 262308-9050, which is legally described in Exhibit B attached hereto ("WAMCO's Parcel"). The parties wish to resolve issues concerning ownership of the Access Road. Therefore, the parties have determined it to be in their own best interests to trade WAMCO's Parcel for an unused portion of the Transfer Station, which is legally described in Exhibit A attached hereto (the "Portion"), which lies northeast of Cedar Falls Road NE.
2. County will benefit from the acquisition of WAMCO's Parcel, because it lies immediately adjacent to and will expand the square footage of the Transfer Station, and it will clarify County's ownership over the Access Road into the Transfer Station.
3. WAMCO will benefit from acquisition of the Portion, as it has been approved by King County Department of Development and Environmental Services as a legally-buildable lot, and WAMCO wishes to develop it for residential use.
4. County will convey and grant to WAMCO the Portion, legally described in Exhibit A (attached hereto), with a total estimated fair market value of Sixty-Two Thousand Dollars [\$62,000].
5. WAMCO will convey and grant to County WAMCO's Parcel, legally described in Exhibit B (attached hereto), with an estimated fair market value of Twenty Thousand Dollars [\$20,000], any will pay to County Forty-Two Thousand Dollars [\$42,000] in cash.
6. Conveyance and granting of the Portion and WAMCO's Parcel will be simultaneous at the Closing of Escrow, identified in Article 9.1 below (the "Closing Date"). All appraised values set forth in this Agreement will be honored for 365 days from the date this Agreement is executed by both parties.

**NOW, THEREFORE**, in consideration of the promises and mutual covenants contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

## ARTICLE 1. EXCHANGE AND TRANSFER OF ASSETS

**1.1. COUNTY PARCEL TO BE SOLD.** Subject to, and upon the terms and conditions set forth in this Agreement, County shall sell, convey, assign, transfer and deliver to WAMCO by Statutory Warranty Deed in the form attached as Exhibit A1, and WAMCO shall buy, assume and accept from County, the Portion of Tax Lot 272308-9004, which is legally described in Exhibit A.

a. The fee simple sale of the Portion of Tax Lot 272308-9004 shall occur upon the Closing Date, with the following assets and properties being delivered on that date:

- i. all of County's right, title and interest in the Portion;
- ii. all of County's right, title and interest in improvements and structures located on the Portion, if any; and
- iii. all of County's tenements, hereditaments, easements and rights appurtenant to the Portion, including but not limited to, all of County's right, title, and interest in and to streets, alleys or other public ways adjacent to the Portion, easements for public utilities, all sewers and service drainage easements, all rights of connection to the sewers, and all rights of ingress and egress, and all leases, licenses, government approvals and permits affecting the Portion.

b. Definition of the Portion as a Separate, Taxable Lot. WAMCO has agreed to purchase and County has agreed to sell the Portion based on the understanding and assumption that the Portion fits the definition of a legal lot as described in King County Code 19A.08, and as determined by King County Department of Development and Environmental Services.

As pertains to this Agreement, WAMCO will be solely responsible for any fees and costs associated with securing building lot entitlements for the Portion, including permitting and testing.

Hereinafter, the items listed in Section 1.1(a) are collectively referred to as "County's Purchased Assets", and are further described in Exhibits A1 (Warranty Deed) and A2 (Portion Map).

**1.2. WAMCO'S PARCEL TO BE SOLD.** Subject to and upon the terms and conditions set forth in this Agreement, WAMCO shall sell, convey, assign, transfer and deliver to County, on the Closing Date identified in Section 9.1, and County shall buy, assume and accept from WAMCO on the Closing Date, WAMCO PARCEL (Tax Lot 262308-9050), with the following assets and properties:

- (a) all of WAMCO's right, title and interest in WAMCO's Parcel;
- (b) all of WAMCO's right, title and interest in improvements and structures located on WAMCO's Parcel, if any; and
- (c) all of WAMCO's tenements, hereditaments, easements and rights appurtenant to WAMCO's Parcel including but not limited to, all of WAMCO's right, title, and interest in and to streets, alleys or other public ways adjacent to WAMCO's Parcel, easements for public utilities, all sewers and service drainage easements, all rights of connection to the sewers, and all rights of ingress and egress, and all leases, licenses, government approvals and permits affecting WAMCO's Parcel;

Hereinafter, the items listed in Section 1.2, are collectively referred to as "WAMCO's Purchased Assets" and are further described in Exhibits B1 (Warranty Deed) and B2 (WAMCO's Parcel Map).

**1.3 BOUNDARY LINE ADJUSTMENT(S).** It has been determined by King County Department of Development and Environmental Services that WAMCO's Parcel will undergo a boundary line adjustment with the Transfer Station and is required in order to allow the transfer of fee title pursuant to this Agreement. The County will be responsible for all costs associated with obtaining approval for any boundary line relating to WAMCO's Parcel.

## **ARTICLE 2 EXCHANGE OF DEEDS, EASEMENTS, AND CONSIDERATION**

**2.1. EXCHANGE OF DEEDS.** In consideration of the payments, covenants and agreements contained herein and the performance of said covenants and agreements by each of the parties, on the Closing Date, County will convey to WAMCO County's Purchased Assets by Statutory Warranty Deed in the form attached hereto as Exhibit A1, and WAMCO will convey to County WAMCO's Purchased Assets by Statutory Warranty Deed in the form attached hereto as Exhibit B1.

**2.2. ATTORNEY'S FEES AND CLOSING COSTS.** In consideration of County's and WAMCO's conveyance by exchange of deeds as referenced in Article 2.1., above, each party will at the Closing Date pay fifty percent (50%) of Closing costs, title reports, escrow fees, and taxes on WAMCO's Parcel. County will pay for actual and reasonable County staff labor fees. WAMCO will be solely responsible for any fees and costs associated with securing building entitlements for the Portion, including permitting and testing.

**ARTICLE 3**  
**REPRESENTATIONS AND WARRANTIES OF THE PARTIES**

**3.1. WARRANTIES AND REPRESENTATIONS OF THE PARTIES** Since each party is acting herein both as purchaser and seller, the following warranties and representations are combined and each party's warranties and representations apply to its property only (the "Property"), as described in Exhibit A and Exhibit B, unless otherwise specified. The parties represent and warrant as follows:

**3.1.1 ORGANIZATION OF WAMCO.** WAMCO is a Nevada corporation, duly organized and in good standing under the laws of the State of Nevada. WAMCO has all requisite power and authority to carry on its business as it is now being conducted in the State of Washington.

**3.1.2 ORGANIZATION** County is a political subdivision of the State of Washington, duly organized, validly existing and in good standing under the laws of the State of Washington. County has all requisite power and authority to carry on its business as it is now being conducted in the place where such businesses are now conducted.

**3.1.3. EXECUTION, DELIVERY AND PERFORMANCE OF AGREEMENT, AUTHORITY – WAMCO.** The execution, delivery and performance of this Agreement by WAMCO (a) is within the powers of WAMCO as a corporation, (b) has been or will be on or before the Closing Date duly authorized by all necessary action of WAMCO's management, and (c) does not and will not violate any provision of any law, rule, regulation, order, writ, judgment, decree or award to which WAMCO is a party or which is presently in effect and applicable to WAMCO.

**3.1.4. EXECUTION, DELIVERY AND PERFORMANCE OF AGREEMENT, AUTHORITY.** The execution, delivery and performance of this Agreement by County (a) is within the powers of County as a political subdivision of the State of Washington, (b) has been or will be on or before the Closing Date duly authorized by all necessary action of County's legislative authority, and (c) does not and will not violate any provision of any law, rule, regulation, order, writ, judgment, decree or award to which County is a party or which is presently in effect and applicable to County.

**3.1.5. LITIGATION** There is no pending, or to the best of either party's knowledge, threatened lawsuit or material claim against or relating to either party with respect to its Property, which shall impede or materially affect either party's ability to perform the terms of this Agreement. There is no pending or, to the best of party's knowledge, contemplated condemnation or similar proceeding with respect to its Property or any part thereof.

**3.1.6. ASSESSMENTS.** There is no pending, or to the best of either party's knowledge, contemplated local improvement district or other special assessment or charge with respect to its Property, except as may be disclosed in the Title Commitment described in Section 4.1.1.

**3.1.7. FULL DISCLOSURE.** No representation or warranty by either party in this Agreement or in any instrument, certificate or statement furnished to the other party pursuant

hereto, or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact or fails to state a material fact which is necessary to make the statements set forth therein not false or misleading.

**3.1.8. NO BROKER.** No broker, finder, agent or similar intermediary has acted for or on behalf of either party in connection with this Agreement or the transactions contemplated hereby, and no broker, finder, agent or similar intermediary is entitled to any broker's, finder's or similar fee or commission in connection with this Agreement based on an agreement, arrangement or understanding with either party or any action taken by either party.

**3.1.9. CONTRACTS** There are no contracts or other obligations outstanding for the sale, exchange, transfer, lease, rental or use of either of the Properties described herein or any portion thereof.

**3.1.10. FUTURE AGREEMENTS.** With respect to the period prior to the Closing Date, from and after the date hereof unless this Agreement is terminated in accordance with its terms, neither party shall, without the prior written consent of the other party:

(a) enter into any agreement, contract, commitment, lease or other transaction that affects its Property in any way; or

(b) sell, dispose of or encumber any portion of its Property.

**3.1.11. MAINTENANCE OF THE PROPERTY.** Each party shall continue to maintain its Property in compliance with all applicable laws and pay all costs of such Property with respect to the period prior to the Closing Date. Each party agrees to defend, indemnify and hold the other party harmless as provided herein to the maximum extent possible under law. Accordingly, the each party agrees for itself, its successors, and assigns, to defend, indemnify, and hold harmless the other party, (which includes, in case of County, its appointed and elected officials and employees), from and against liability for all claims, demands, suits, and judgments, including costs of defense thereof, for injury to persons, death, or property damage, arising out of or in any way relating to its Property prior to the Closing Date, except to the extent attributable to the acts or omissions of the other party.

**3.1.12. CONDITION OF THE PROPERTY FOR WHICH ANY STATUTE OR REGULATION REQUIRES A PERMIT OR SPECIAL HANDLING IN ITS USE, COLLECTION, OR STORAGE** Neither party has intentionally withheld any material information concerning environmental matters with respect to its Property described herein. Based on the present, actual knowledge of each party, without investigation of any kind or nature: (a) there has been no generation, treatment, storage, transfer, disposal or release of Hazardous Substances on its Property at any time during the party's ownership or use thereof in violation of applicable law; (b) there are no underground storage tanks on its Property, nor have underground storage tanks been removed from its Property; and (c) neither party is aware of any facts which would lead it to believe that there are any Hazardous Substances on its Property in violation of applicable law. For purposes of this Agreement, the term Hazardous Substances shall mean: "hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended

("CERCLA"); "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 ("RCRA") as amended; hazardous wastes, hazardous materials, hazardous substances, toxic waste, toxic materials, or toxic substances as defined in state or federal statutes or regulations; asbestos-containing materials, polychlorinated biphenyls; radioactive materials, chemicals known to cause cancer or reproductive toxicity; petroleum products, distillates or fractions; any substance the presence of which is prohibited by statute or regulation; and any substance, treatment or disposal, the release or storage of which has occurred in violation of any applicable statute, rule or regulation.

**3.1.13. PHYSICAL INSPECTION.** Each party has performed, to its satisfaction all physical inspections deemed necessary in connection with the purchase of the Purchased Assets. Prior to the Closing Date, each party, its agents and employees shall have the right to go upon the properties which are the subject of this Agreement for the purpose of making any soils and engineering tests or studies which that party deems appropriate. WAMCO shall first have obtained a Special Use Permit from King County for such entry and/or testing. A party conducting such tests or studies shall not interfere with the other party's use of the Property, shall not alter the grade of the Property and shall repair and restore the Property to its condition existing prior to entry. The cost of any and all soils and engineering studies of the Property undertaken by either party shall be paid by the party conducting the test or study.

Each party indemnifies and holds the party harmless from and against any and all liens, claims, loss or liability arising out of entry on to the Property prior to the Closing Date pursuant to this section.

**3.1.14. RISK OF LOSS.** Until the Closing Date, the risk of loss relating to each Property shall rest with the party owning said Property. Risk of Loss shall be deemed to include any property damage occurring as a result of an "Act of God", including but not limited to earthquakes, tremors, wind, rain or other natural occurrences.

**3.1.15. FOREIGN PERSON.** Neither party is a foreign person and is a "United States Person" as such term is defined in Section 7701 (a) (30) of the Internal Revenue Code of 1986, as amended and each party shall deliver to the other party, prior to the Closing Date, an affidavit, as set forth in Exhibit A3 and Exhibit B3, evidencing such fact, and such other documents as may be required under the Code.

**3.1.16. CONDITION OF PROPERTY.** Upon Waiver or satisfaction of Section 3.1.13 said party will be deemed to have approved the physical condition of the Property it is purchasing and agrees to accept and purchase the same "AS IS, WHERE IS" including, without limitation, the existence or non-existence of any pollutants, contaminants, hazardous waste, dangerous waste, toxic waste, underground storage tanks or contaminated soil, or the actual or threatened release, deposit seepage, migration or escape of such substances at, from or into the Property and the compliance or noncompliance of the Property with applicable federal, state, county and local laws and regulations including, without limitation, environmental laws and regulations. Each party acknowledges and agrees that, except to the extent of the other party's representations and warranties in Section 3.1 of this Agreement, and to the extent of any fraud or deliberate misrepresentation by the other party, the selling party shall have no liability for, and that the

purchasing party shall have no recourse against the selling party for, any defect or deficiency of any kind whatsoever in the Property being purchased, including without limitation any of the foregoing items, without regard to whether such defect or deficiency was discovered or discoverable by either party.

**ARTICLE 4  
TITLE MATTERS**

**4.1. TITLE.** Each party shall deliver to the other party good and marketable title, free and clear of all liens, defects and encumbrances except for the Permitted Exceptions (as defined in Section 4.4).

**4.2 TITLE COMMITMENT.** The parties agree to split title costs 50/50 and have all title commitments issued by Pacific Northwest Title Company of Washington, Inc., located at 215 Columbia Street, Seattle, Washington, 98104-1511, Attn: Mike Sharkey ("Title Company"). The following current ALTA forms of commitment for title insurance policies shall be issued by Title Company: (a) an owner's standard policy of title insurance ("County's Title Commitment"), describing County Portion, listing WAMCO as the prospective named insured in the policy amount of Sixty-Two Thousand Dollars [\$62,000]; and (b) an owner's standard policy of title insurance ("WAMCO's Title Commitment"), describing WAMCO's Parcel, listing County as the prospective named insured in the policy amount of Twenty Thousand Dollars [\$20,000].

At such time as Title Company causes County's Title Commitment to be furnished to WAMCO, Title Company shall further cause to be furnished to WAMCO legible copies of all instruments referred to in County's Title Commitment as restrictions or exceptions to the title to the Portion at such time as Title Company causes WAMCO's Title Commitment to be furnished to County, Title Company shall further cause to be furnished to County legible copies of all instruments referred to in the WAMCO's Title Commitment as restrictions or exceptions to title to WAMCO's Parcel.

**4.3. SURVEY.** County shall, at its expense, have prepared certified surveys by a licensed public surveyor of WAMCO's Parcel and the Portion ("WAMCO's Survey and County Survey"). Each Survey will be certified to Title Company so as to permit Title Company to issue owners' standard coverage title policies for both the Portion and WAMCO's Parcel. WAMCO's Survey and County Survey will be done in accordance with the State of Washington's accepted survey standards identifying WAMCO's Parcel and the Portion by legal descriptions and shall set forth the number of square feet contained within the Portion and WAMCO's Parcel, show all natural monuments, existing fences, drainage ditches and/or courses, flood plain limits, any building or other site improvements and/or objects, any rights-of-way for streets, existing driveways, alleys or highways, easements and other restrictions existing and/or proposed which shall affect any portion of the Portion or WAMCO's Parcel.

**4.4. REVIEW OF TITLE COMMITMENT AND SURVEY.**

(a) County shall have until fourteen (14) days after receipt of the last dated WAMCO

Title Commitment and WAMCO's Survey (the "Review Period") in which to notify WAMCO of any objections County has to any matters shown or referred to in WAMCO's Title Commitment or WAMCO's Survey and of any title insurance endorsements required by County. Any exceptions or other items that are set forth in WAMCO's Title Commitment or WAMCO's Survey to which County does not object within the Review Period shall be deemed to be permitted exceptions ("Permitted Exceptions"). With regard to items to which County does object within the Review Period, WAMCO shall notify County within ten (10) days after WAMCO receives County's notice of objections of any exceptions to the title or items on WAMCO's Survey which WAMCO will not remove or otherwise resolve following County's request within the Review Period. County may, at County's option within ten (10) days thereafter, either waive the objections not cured, or County may terminate this Agreement by notice to WAMCO. Notwithstanding the foregoing, all monetary liens or encumbrances shall be paid by WAMCO at the Closing Date.

(b) WAMCO shall have until fourteen (14) days after receipt of the last dated County Title Commitment and County Survey (the "Review Period"), in which to notify County of any objections WAMCO has to any matters shown or referred to in County Title Commitment or County Survey and of any title insurance endorsements required by WAMCO. Any exceptions or other items that are set forth in County Title Commitment or County Survey and to which WAMCO does not object within the Review Period shall be deemed to be permitted exceptions ("Permitted Exceptions"). With regard to items to which WAMCO does object within the Review Period, County shall notify WAMCO within ten (10) days after County receives WAMCO's notice of objections of any exceptions to the title or items on County Survey which County will not remove or otherwise resolve following WAMCO's request within the Review Period. WAMCO may, at WAMCO's option within ten (10) days thereafter, either waive the objections not cured or WAMCO may terminate this Agreement by notice to County. Notwithstanding the foregoing, all monetary liens or encumbrances shall be paid by WAMCO at the Closing Date.

**4.5. OWNER'S TITLE INSURANCE POLICY.**

(a) At the Closing Date, County shall cause an owner's policy of title insurance to be issued by Title Company in the amount of Sixty-Two Thousand Dollars [\$62,000], effective as of the Closing Date. Such title insurance policy shall insure WAMCO that the fee simple title to the Portion and the easement interests therein (as defined in Article 11.16 below) are vested to WAMCO, subject only to the usual printed exceptions contained in such title insurance policy, to the matters approved by WAMCO as provided herein, and to any other matters approved in writing by WAMCO. WAMCO shall pay any sum owing to Title Company for the preparation of the preliminary and binding commitments generated by Title Company for the Portion.

(b) At the Closing Date, WAMCO shall cause an owner's policy of title insurance to be issued by Title Company in the amount of Twenty Thousand Dollars [\$20,000], effective as of the Closing Date, insuring County that the fee simple title to WAMCO's Parcel is vested to County, subject only to the usual printed exceptions contained in such title insurance policy, to the matters approved by County as provided herein and to any other matters approved in writing by County. The obligation of WAMCO to provide the title policy called for herein shall be satisfied if, at the Closing Date, Title Company has given a binding commitment, in a form



reasonably satisfactory to County, and issues the policy in the form required by this section. WAMCO shall pay any sum owing to Title Company for the preparation of the preliminary and binding commitments generated by Title Company for WAMCO's Parcel.

4.6. **CONVEYANCE.** County shall convey to WAMCO the title to the Portion by Statutory Warranty Deed, in the form attached hereto as Exhibit A1, subject only to the Permitted Exceptions. WAMCO shall convey the title to WAMCO's Parcel by Statutory Warranty Deed in the form attached hereto as Exhibit B1, subject only to the Permitted Exceptions. Rights reserved in federal patents or state deeds, building or use restrictions general to the district, and building or zoning regulations or provisions shall be deemed Permitted Exceptions.

**ARTICLE 5  
COVENANTS OF WAMCO PENDING THE CLOSING DATE**

5.1. **CONDUCT, NOTICE OF CHANGE.** WAMCO covenants that between the date hereof and the Closing Date, WAMCO shall take all such actions as may be necessary to assure that the representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing Date (except such representations, warranties and matters which relate solely to an earlier date), and all covenants of WAMCO set forth in this Agreement which are required to be performed by WAMCO at or prior to the Closing Date shall have been performed at or prior to the Closing Date as provided for in this Agreement. WAMCO shall give County prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement, which occurs prior to the Closing Date.

**ARTICLE 6  
COVENANTS OF COUNTY PENDING THE CLOSING DATE**

6.1. **CONDUCT, NOTICE OF CHANGE.** County covenants that between the date hereof and the Closing Date, County shall take all such actions as may be necessary to assure that the representations and warranties set forth in Article 3 hereof will be true and complete as of the Closing Date (except such representations, warranties and matters which relate solely to an earlier date), and that all covenants of County set forth in this Agreement which are required to be performed by County at or prior to the Closing Date shall have been performed at or prior to the Closing Date as provided for in this Agreement. County shall give WAMCO prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement, which occurs prior to the Closing Date.

**ARTICLE 7  
CONDITIONS PRECEDENT TO WAMCO'S OBLIGATIONS**

All obligations of WAMCO to close on the Closing Date are subject to the fulfillment of each of the following conditions at or prior to the Closing Date, and County shall diligently attempt to cause each such condition to be so fulfilled:

**7.1. DELIVERY OF DOCUMENTS.** County shall have delivered to WAMCO, at or prior to the Closing Date, all documents required by the terms of this Agreement to be delivered to WAMCO.

**7.2. REPRESENTATIONS, WARRANTIES AND COVENANTS.** All representations, warranties and covenants of County contained herein or in any document delivered pursuant hereto shall be true and correct in all material respects when made and as of the Closing Date.

**7.3. OBLIGATIONS.** All obligations required by the terms of this Agreement to be performed by County at or before the Closing Date shall have been properly performed in all material respects.

**7.4. TITLE.** Any and all matters shown or referred to in County's Title Commitment to which WAMCO has objected within the time specified in Section 4.1, and which County has agreed to remove, shall have been cured by County, unless such objections have been waived by WAMCO. Title Company is irrevocably committed to issue an owner's standard policy of title insurance containing no exceptions other than the Permitted Exceptions.

**7.5. APPROVAL OF COUNSEL.** County's counsel shall have approved this document as to form as evidenced by such counsel's signature on this Agreement.

**7.6. CONDEMNATION.** No portion of County's Purchased Assets shall have been taken or damaged by any public or quasi-public body, and County shall not have transferred any portion of County's Purchased Assets to any such body in lieu of condemnation.

**7.7. APPROVAL FOR DEVELOPMENT.** Prior to the Closing Date, WAMCO shall be satisfied that it can receive permits, approvals, and/or such other reasonable assurances, acceptable to WAMCO in its reasonable discretion, that the Portion shall constitute (or will constitute upon the payment of fees and the issuance of necessary permits and approvals) a buildable lot which may have a single family residence construction thereon.

**ARTICLE 8  
CONDITIONS PRECEDENT TO COUNTY'S OBLIGATIONS**

All obligations of County hereunder are subject to the fulfillment of each of the following conditions at or prior to the Closing Date, and WAMCO shall diligently attempt to cause each such condition to be fulfilled:

**8.1. DELIVERY OF DOCUMENTS.** WAMCO shall have delivered to County at or prior to the Closing Date all documents required by the terms of this Agreement to be delivered to County.

**8.2. REPRESENTATIONS, WARRANTIES AND COVENANTS.** All representations, warranties and covenants of WAMCO contained herein, or in any document delivered pursuant hereto, shall be true and correct in all material respects when made and as of the Closing Date.

**8.3. OBLIGATIONS.** All obligations required by the terms of this Agreement to be performed by WAMCO at or before the Closing Date shall have been properly performed in all material respects.

**8.4. TITLE.** Any and all matters shown or referred to in WAMCO's Title Commitment to which County has objected within the time specified in Section 4.1, and which WAMCO shall have agreed to remove, shall have been cured by WAMCO, unless such objections have been waived by County. Title Company is irrevocably committed to issue an owner's standard policy of title insurance containing no exceptions other than the Permitted Exceptions.

**8.5 APPROVAL BY COUNTY OF ALL PLANS AND SPECIFICATIONS FOR WAMCO'S BUILDING ENTITLEMENTS FOR THE PORTION REFERENCED THROUGHOUT THIS AGREEMENT.**

In the event that WAMCO proposes testing within the Portion, the following requirements shall apply:

(a) WAMCO shall have received and paid for a King County Special Use Permit for the proposed on-site work.

(b) County shall have reviewed and approved WAMCO's engineering plans and specifications for the proposed on-site work.

**8.6. CONDEMNATION.** No portion of WAMCO's Purchased Assets shall have been taken or damaged by any public or quasi-public body, and WAMCO shall not have transferred any portion of WAMCO's Purchased Assets to any such body in lieu of condemnation.

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ARTICLE 9  
THE CLOSING DATE

**9.1 CLOSING/CLOSING DATE.** The Closing shall take place within thirty days after approval of this Agreement by the King County Council, or such earlier date as may be mutually agreed upon by the parties, unless extended pursuant to a written agreement executed by County and WAMCO (THE "CLOSING DATE"): Upon execution of this Agreement, the parties agree to set up an escrow account with Pacific Northwest Title Company of Washington, Inc. (the "Escrow Agent").

The Escrow Agent shall serve as Closing agent for the transaction contemplated herein and Closing shall occur in the offices of the Escrow Agent in Seattle, Washington. The title, right of possession and interest to the Purchased Assets of both parties shall pass to County and WAMCO upon the Closing Date (THE "CLOSING OF ESCROW") and thereafter the risk of loss thereof shall no longer be the responsibility of the transferring party.

**9.2. PRORATIONS.** All prorations, unless otherwise specifically provided for herein, shall be made as of the Closing Date.

**9.2.1. CLOSING COSTS.** WAMCO shall pay fifty percent (50%) of the cost of the escrow fee charged by the Escrow Agent and any real estate excise or other transfer tax due, if any. WAMCO shall also pay fifty percent (50%) of the cost of the preliminary and binding title commitments from Title Company, the title policies and any endorsements, and the recording fees for the deeds and its own attorneys' fees, as well as any fees and costs associated with WAMCO's building entitlements for the Portion.

**9.2.2. TAXES.** County is exempt by law from the payment of real property ad valorem taxes, ("Taxes") on the Portion. WAMCO is, and will remain, liable for the payment of such Taxes and any assessments on WAMCO's Parcel up to the Closing Date. Any unpaid Taxes and assessments then due and payable, associated with WAMCO's Parcel existing on the Closing Date, will be paid for by WAMCO at the Closing Date. WAMCO will also be responsible for payment of any taxes assessed as of the Closing Date and future real estate taxes due to the building entitlements for the Portion that will give the Portion a taxable status.

**9.3. MONETARY LIENS.** Except as otherwise expressly provided to the contrary in this Agreement, each party shall pay or cause to be satisfied at or before the Closing Date all monetary liens on or with respect to all or any portion of its Property. If either party fails to satisfy said liens, the Escrow Agent shall use any deposited cash proceeds to satisfy and discharge the liens or, if such proceeds are unavailable or insufficient, the Escrow Agent shall not record the deed to the affected Property until all such liens have been satisfied and discharged.

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**9.4. COUNTY'S DELIVERY OF DOCUMENTS.** At the Closing Date, County will deliver to the Escrow Agent the following properly executed documents and funds:

(a) A Statutory Warranty Deed conveying the Portion in the form of Exhibit A1, attached hereto; and

(b) County's Certificate of Non-Foreign Status substantially in the form of Exhibit A3, attached hereto.

**9.5. WAMCO'S DELIVERY OF DOCUMENTS AT CLOSING.** At the Closing, WAMCO will deliver to the Escrow Agent the following properly executed documents:

(a) A Statutory Warranty Deed conveying WAMCO's Parcel in the form of Exhibit B1; and

(b) WAMCO's Certificate of Non-Foreign Status substantially in the form of Exhibit B3, attached hereto.

## **ARTICLE 10 TERMINATION**

**10.1. TERMINATION BY EITHER PARTY.** Either party may terminate this Agreement if a condition to its obligation to consummate the transactions contemplated by this Agreement as set forth in Articles 7 and 8 has not been satisfied by the Closing Date. In that event, if neither party is in default under this Agreement, the parties shall have no further obligations or liabilities to one another, and all documents and funds delivered into Escrow shall be returned to the appropriate party.

## **ARTICLE 11 MISCELLANEOUS PROVISIONS**

**11.1. NATURE AND SURVIVAL OF REPRESENTATIONS AND WARRANTIES.** Each statement, representation, warranty, indemnity, covenant, and agreement made by County and WAMCO in this Agreement, or in any document, certificate or other instrument delivered by or on behalf of County and WAMCO pursuant to this Agreement, or in connection herewith, shall be deemed the representation, warranty, indemnity, covenant and agreement of County and WAMCO and shall survive the Closing Date unless a different time period is expressly provided for in this Agreement and all such statements are made only to and for the benefit of the parties hereto, and shall not create any rights in other persons.

**11.2. DEFAULT AND ATTORNEYS' FEES.** In the event of default by either party to this Agreement, the non-defaulting party shall have the right to bring an action for specific performance, damages and any other remedies available to such party at law or in equity. In the event of any litigation hereunder, the Superior Court of King County, Washington shall have the exclusive jurisdiction and venue. In any action to enforce a party's rights under this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney's fees and costs in

addition to any other relief or remedy granted. Interest on any amount owed shall run at ten percent (10%) per annum from the date due.

**11.3. TIME IS OF THE ESSENCE.** Time is of the essence in the performance of this Agreement.

**11.4. NOTICES.** Any and all notices or other communications required or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given upon receipt when personally delivered or sent by overnight courier or two (2) days after deposit in the United States mail if by first class, certified or registered mail, return receipt requested. All notices shall be addressed to the parties at the addresses set forth below or at such other addresses as any parties may specify by notice to all other parties and given as provided herein:

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**If to County:**

Facilities Management Division  
Attn: Harold McNelly, Acquisition Supervisor, Real Estate Services  
Department of Executive Services  
King County Administration Building  
500 Fourth Avenue, Suite 500  
Seattle, Washington 98104-2337  
(206) 296-0883

*With a copy to:*

*Department of Natural Resources and Parks  
Attn: Kevin Brown  
201 South Jackson Street  
Seattle, Washington 98104-3856*

*With a copy to:*

*King County Prosecuting Attorney  
Attn: Robert I. Stier  
900 King County Administration Building  
500 Fourth Avenue  
Seattle, Washington 98104-3856*

**If To WAMCO:**

c/o Weyerhaeuser Venture Company

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1301 Fifth Avenue, Suite 3100  
Seattle, WA 98101  
Attn: David A. Brentlinger

*With a copy to:*

Hillis Clark Martin & Peterson

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1221 Second Avenue, Suite 500  
Seattle, WA 98101  
Attn: Michael F. Schumacher

**11.5. ENTIRE AGREEMENT AND AMENDMENT.** This writing (including the Exhibits attached hereto) constitutes the entire agreement of the parties with respect to the subject matter hereof and may not be modified or amended except by a written agreement specifically referring to this Agreement and signed by all parties hereto.

**11.6. SEVERABILITY.** In the event any portion of this Agreement shall be found to be invalid by any court of competent jurisdiction, such holding shall not impact or affect the remaining provisions of this Agreement unless that court of competent jurisdiction rules that the principal purpose and intent of this contract should and/or must be defeated, invalidated or voided.

**11.7. WAIVER.** No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any prior or subsequent breach or default.

**11.8. BINDING EFFECT.** Subject to Section 11.12 below, this Agreement shall be binding upon and inure to the benefit of each party hereto, its successors and assigns.

**11.9. LEGAL RELATIONSHIP.** The parties to this Agreement execute and implement this Agreement solely as County and WAMCO. No partnership, joint venture or joint undertaking shall be construed from this Agreement.

**11.10. CAPTIONS.** The captions of any articles, paragraphs or sections contained herein are for purposes of convenience only and are not intended to define or limit the contents of said articles, paragraphs or sections.

**11.11. COOPERATION.** Prior to and after the Closing Date, the parties shall cooperate, shall take such further action and shall execute and deliver further documents as may be reasonably requested by the other party in order to carry out the provisions and purposes of this Agreement.

**11.12. GOVERNING LAW.** This Agreement and all amendments thereof shall be governed by and construed in accordance with the laws of the State of Washington applicable to contracts made and to be performed therein, without giving effect to its conflicts of law provisions.

**11.13. NON-MERGER.** The terms and provisions of this Agreement will not merge in, but will survive, the Closing Date of the transaction contemplated under this Agreement.

**11.14. ASSIGNMENT.** Neither party shall assign this Agreement or any rights hereunder without the other party's prior written consent, which shall not be unreasonably withheld.

**11.15. NEGOTIATION AND CONSTRUCTION.** This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either party. All parties acknowledge and represent, as an express term of this Agreement, that they have had the opportunity to obtain and utilize legal review of the terms



and conditions outlined in this Agreement. Except as otherwise stated in Section 9.2.1, each party shall be and is separately responsible for payment of any legal services rendered on its behalf regarding legal review of the terms found in this Agreement

**11.16. EXHIBITS.** The following Exhibits described herein and attached hereto are fully incorporated into this Agreement by this reference:

- Exhibit A** Legal Description of County Portion
- Exhibit A1** County's Purchased Assets, (Warranty Deed)  
With Accompanying Legal Descriptions
- Exhibit A2** Map of the Portion of the King County Transfer Station
- Exhibit A3** County's Certificate of Non-Foreign Status
  
- Exhibit B** Legal Description of WAMCO's Parcel
- Exhibit B1** WAMCO's Purchased Assets (Warranty Deed),  
With Accompanying Legal Descriptions
- Exhibit B2** Map of WAMCO's Parcel
- Exhibit B3** WAMCO's Certificate of Non-Foreign Status

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EXECUTED AS OF THE DATE AND YEAR FIRST ABOVE WRITTEN:

**KING COUNTY REAL ESTATE SERVICES SECTION  
Facilities Management Division, Department of Executive Services**

By: *Harold McNeilly*  
*Acting* Calvin Hoggard, Real Estate Services Manager

APPROVED AS TO FORM:

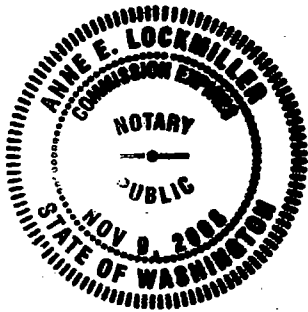
By: *Robert I. Stier*  
Robert I. Stier, Senior Deputy Prosecuting Attorney

Date 6/9/05

STATE OF WASHINGTON } ss.  
COUNTY OF KING }

On this day personally appeared before me *Harold McNeilly* *Acting* Calvin Hoggard, to me known to be the Real Estate Services Manager of the Facilities Management Division of KING COUNTY, a municipal corporation and political subdivision of the State of Washington that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such municipal corporation and political subdivision, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 13TH day of JUNE, 2005.



Printed Name ANNE E. LOCKMILLER  
NOTARY PUBLIC in and for the State of Washington,  
residing at SEATTLE, WASHINGTON  
My Commission Expires 11-09-08

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EXECUTED AS OF THE DATE AND YEAR FIRST ABOVE WRITTEN:

WAMCO, INC., a Nevada corporation

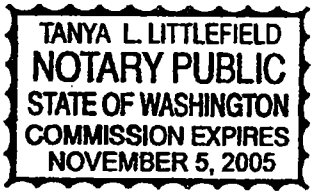
By: *DYR*  
\*Doug Yost - Vice President

#96121 16102-1 6/6/2005  
STATE OF WASHINGTON } ss.  
COUNTY OF KING }

On this day Doug Yost personally appeared before me, who is known to me to be the Vice President of WAMCO, INC., a Nevada corporation, who executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of the company for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 7<sup>th</sup> day of June, 2005.

*Tanya L. Littlefield*



Printed Name Tanya L. Littlefield  
NOTARY PUBLIC in and for the State of Washington,  
residing at Seattle  
My Commission Expires 11/5/2005

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EXECUTED AS OF THE DATE AND YEAR FIRST ABOVE WRITTEN:

WAMCO

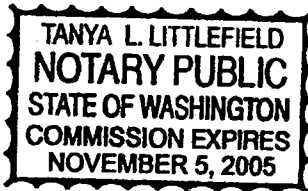
By: Tedi Yasuda  
\* TEDI YASUDA  
CORPORATE SECRETARY

STATE OF WASHINGTON } ss.  
COUNTY OF KING }

On this day Tedi Yasuda personally appeared before me, who is known to me to be the Corporate Secretary of WAMCO, INC, a Nevada Corporation company, who executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of the company for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 7<sup>th</sup> day of June, 2005.

Tanya L. Littlefield



Printed Name Tanya L. Littlefield  
NOTARY PUBLIC in and for the State of Washington,  
residing at Seattle  
My Commission Expires 11/5/2005

**15275**

**EXHIBIT A**

**LEGAL DESCRIPTION OF COUNTY'S PORTION**

All that portion of the hereinafter-described parcel, lying northeast of Cedar Falls Road NE:

**PARCEL:**

The southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of Section 27, Township 23 North, Range 8 East, W. M., in King County, Washington;

EXCEPT a strip of land granted to City of Seattle for road purposes by deed recorded under Recording Number 733102.

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**EXHIBIT A1**

**WARRANTY DEED**

**THE PORTION of KING COUNTY'S TRANSFER STATION**

AFTER RECORDING RETURN TO:

King County Real Estate Services Section  
King County Administration Building, Room 500A  
500 Fourth Avenue  
Seattle, Washington 98104

Grantor:: King County  
Grantee: WAMCO, INC., a Nevada corporation  
Legal Des: SENE 27-23-08  
Tax ID #: 272308-9004

**WARRANTY DEED**

The Grantor herein, **KING COUNTY**, a political subdivision of the State of Washington, for the consideration of **TEN DOLLARS (\$10.00)** and other valuable consideration, conveys and warrants to **WAMCO, Inc.**, a Nevada corporation, all interest in the following described real estate:

All that portion of the hereinafter-described parcel, lying northeast of Cedar Falls Road NE:

**PARCEL DESCRIPTION**

The southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of Section 27, Township 23 North, Range 8 East, W. M., in King County, Washington;  
EXCEPT a strip of land granted to City of Seattle for road purposes by deed recorded under Recording Number 733102.

The rights, conditions, and provisions of this easement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto.

Situated in the County of King, State of Washington

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Calvin Hoggard, Real Estate Services Manager