

**PURCHASE AND SALE AGREEMENT AND
JOINT ESCROW INSTRUCTIONS**

Contract Date: January _____, 2017

Seller: Donorma RV Park, LLC,
an Arizona limited liability company
1155 S. Power Road, Suite 114
Mesa, Arizona 85206
Attention: Charles Keith

Buyer: City of Surprise, Arizona,
an Arizona municipal corporation
16000 N. Civic Center Plaza
Surprise, Arizona 85374
Attention: Gregory W. Seibt, Esq.

with a copy to: Bergin, Frakes, Smalley & Oberholtzer, PLLC
4343 E. Camelback Road, Suite 210
Phoenix, Arizona 85018
Attention: Michael S. Smalley, Esq.

Escrow Agent: Stewart Title Insurance Company
2930 E. Camelback Road, Suite 210
Phoenix, Arizona 85016
Attention: Rich Newton

THE TERMS LISTED IN BOLD ABOVE ARE DEFINED TERMS THAT ARE REFERRED TO THROUGHOUT THIS PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS.

ARTICLE I

AGREEMENT, PROPERTY, AND PRICE

Section 1.01. Binding Agreement. Upon the execution of this Purchase and Sale Agreement and Joint Escrow Instructions (“**Contract**” or “**Agreement**”) by Seller and Buyer, it shall constitute a binding contract between Seller and Buyer for the purchase and sale of certain real property legally described on **Exhibit A** and depicted on **Exhibit B** attached hereto, (the “**Property**”).

Section 1.02. Acceptance. This Agreement shall only be binding upon the parties hereto if this Agreement is executed, and when one fully executed copy, or executed counterparts thereof, have been delivered to Escrow Agent on or before **Opening of Escrow** as is defined in Section 1.06 herein.

Section 1.03. Inclusions in Property. The property (“**Property**”) that is the subject matter of this Contract is commonly known as Donorma RV Park, and is located at 15627 North Nash Street, Surprise, Arizona, and is depicted and legally described on **Exhibit A**, along with certain improvements consisting of certain permanent structures utilized in the operation of the Property as an RV park (the “**Improvements**”). The Property includes all easements, licenses, interests, rights, privileges, and appurtenances held by Seller as of the Close of Escrow that in any way benefit the Property or relate to the ownership of the Property, including, without limitation: (i) any and all mineral, water, and irrigation rights running with or pertaining to the Property; (ii) all of Seller’s interest in any road, street, or alleyway adjoining the Property; (iii) any rights or interests that may accrue to the benefit of Seller or the land as a result of the abandonment of any road, street, or alleyway adjoining the Property, (iv) any and all Improvements; (v) any and all replacements, renewals, substitutions, and additions of or to the Property that may be made or acquired after the Opening of Escrow; and (vi) all options or renewal rights associated with and appurtenant to any of the Property.

Section 1.04. Purchase Price. The total purchase price (“**Price**”) to be paid by Buyer for the Property is One Million Three Hundred Thousand Dollars (\$1,300,000.00). The Price shall be paid by Buyer to Seller as follows:

(a) Buyer will deposit Twenty Five Thousand Dollars (\$25,000.00) (“**Earnest Money**”) into the Escrow within three (3) business days after Escrow Agent’s receipt of at least one original or telecopy counterpart of this Contract executed by Buyer and Seller.

(b) Buyer will pay the remaining balance after application of the Earnest Money (“**Closing Cash**”) due on the Price to Seller through Escrow on the Closing Date.

Section 1.05. Earnest Money. The term “**Earnest Money**” means the Earnest Money and all interest earned on these amounts. Escrow Agent shall maintain the Earnest Money in an interest-bearing and federally insured account acceptable to Buyer and Seller, upon request by either Buyer or Seller. The requesting party shall pay any fees associated with the establishment of the interest bearing account. All interest on the Earnest Money will accrue for the benefit of the party entitled to the Earnest Money under this Contract. The Earnest Money shall remain in

Escrow until required to be distributed, credited or applied for the benefit of the party entitled to the Earnest Money under this Contract. If the Escrow closes, the Earnest Money will be credited and applied for the benefit of Buyer by Escrow Agent to the Price. If the Escrow does not close as a result of un-cured default by Buyer, then Seller shall be entitled to a distribution of the Earnest Money pursuant to Section 9.05 of this Contract.

Section 1.06. Opening of Escrow. The term “**Opening of Escrow**” means the date upon which Escrow Agent has in its possession at least one fully executed original or telecopy counterpart of this Contract and the Earnest Money and accepts this Contract as its escrow instructions. Escrow Agent shall indicate the date of the Opening of Escrow on Escrow Agent’s Acceptance attached at the end of this Contract. Buyer shall take all reasonably necessary measures to ensure that the Escrow Agent receives a copy of the contract and opens escrow within three (3) business days of the mutual execution of this Purchase Agreement.

Section 1.07. Close of Escrow. Subject to the satisfaction of the conditions and the obligations of the parties set forth in this Agreement, the closing of the Escrow (“**Close of Escrow**” or “**Closing Date**”) will occur on or before March 31, 2017.

Section 1.08. Escrow Instructions. This Contract will constitute the sole escrow instructions to Escrow Agent, and no standard form escrow instructions of Escrow Agent will be used for this Escrow. Any and all amendments to the escrow instructions shall be in writing, signed by the parties.

ARTICLE II

DUE DILIGENCE

Section 2.01. Title. Within five (5) business days after the Opening of Escrow, Escrow Agent shall provide Buyer with a preliminary title report or title commitment for the Property disclosing all matters of record and Escrow Agent's requirements for both closing the escrow created by this Agreement and issuing the policy of title insurance described in Section 7.02 hereof (the Commitment also shall be suitable to serve as the basis for the issuance of an ALTA extended form coverage lender's title insurance policy in the amount of the Purchase Price), and complete and legible copies of all instruments and documents referred to as exceptions to title or as title requirements (“**Report**”). The Report must be issued by Escrow Agent or an acceptable title insurance underwriter and must be dated with an effective date and time after the Opening of Escrow.

Section 2.02. Environmental. Seller and Buyer acknowledge that Seller has provided Buyer with a copy of the Phase I Environmental Site Assessment (“**ESA**”) of the Property.

Section 2.03. Due Diligence Documents. Within five (5) business days of Opening of Escrow, Seller will deliver to Buyer copies of the documents listed on the attached **Exhibit C** (collectively, the “**Due Diligence Documents**”), or a statement that the item does not exist or is not in the actual possession of Seller. Buyer understands that failure to receive any of the items listed on **Exhibit C** shall not extend the Feasibility Date (as defined below). Any Due Diligence

Document provided by Seller to Buyer shall be given as a courtesy and without any representation or warranty as to accuracy or completeness.

ARTICLE III

INTERIM OBLIGATIONS

Section 3.01. Acts of Seller. From the Opening of Escrow until the Closing Date, Seller covenants to Buyer that Seller will not perform any act, fail to perform any act, or permit any act or omission to be made by any other party that would result in the breach or inaccuracy of any of Seller's warranties under this Contract.

Section 3.02. Interim Encumbrances. Seller shall not further encumber or permit the further encumbrance of the Property after the Opening of Escrow.

Section 3.03. Change of Use. Seller has not taken and will not take any action before any governmental authority that could change the present zoning or use of the Property, any portion of the Property, or change the potential use of the Property or its land use limitations.

Section 3.04. Indemnity. Subject to the limitations and other provisions contained in this Agreement, Seller agrees to indemnify, defend, and hold Buyer harmless for, from and against any liability, obligation, action, suit, judgment, fine, award, loss, claim, demand, or expense (including attorneys' fees) arising from any negligent act or omission of Seller pertaining in any manner to the Property during the period of time between Opening of Escrow and the Closing Date. Buyer is acquiring only the Real Property from Seller, and is not the successor of Seller, except as to the Service Contracts and the Leases, and as otherwise expressly set forth in writing in this Agreement. Buyer does not agree to assume any liability, encumbrance, or obligation of any kind or character whatsoever relating in any manner to all or any part of the Property: (i) except as expressly set forth in writing in this Agreement; and (ii) except that Buyer agrees to indemnify, defend, and hold Seller harmless for, from and against any liability, obligation, action, suit, judgment, fine, award, loss, claim, demand, or expense (including attorneys' fees) arising from any act or omission of Buyer, Buyer's agents and employees. Notwithstanding the foregoing, Buyer shall not be obligated to restore or to indemnify in connection with any damage, liability, or claim resulting from any negligence or willful misconduct of Seller, its agents, employees, and/or contractors. The provisions of this Paragraph shall survive the Closing or, if the purchase and sale is not consummated, any termination of this Agreement. Buyer's indemnification obligations shall not include Seller's lost profits, consequential or special damages, or lost opportunities.

Section 3.05. Liens. Buyer shall keep the Property free from any liens and shall pay when due all bills arising out of any work performed pursuant to Buyer's studies, inspections, and investigations on the Property. If Buyer fails to cause the release of record of any lien(s) filed against the Property (or any portion thereof) by payment of the lien amount or by obtaining and recording a "Release Bond" pursuant to applicable Arizona law within ten (10) days from the date of the lien filing(s), then Seller may, at Buyer's expense, cause such lien(s) to be released by any means Seller deems proper, including, but not limited to, payment of the claim giving rise to the lien(s) or obtaining and recording a Release Bond. All sums disbursed, deposited or incurred

by Seller in connection with the release of the lien(s) shall be due and payable by Buyer to Seller on demand by Seller. Buyer's obligations under this Paragraph shall survive any termination of this Agreement.

ARTICLE IV

TITLE

Section 4.01. Buyer's Objections. Buyer shall have fifteen (15) days after receipt of the Commitment to object in writing to any matter shown in the Report ("**Buyer's Objections**"). However, if Buyer fails to object within such fifteen (15) day period, the condition of title to the Property shall be deemed approved by Buyer. If the Report is amended or revised to add a new matter, Buyer will have five (5) business days following its receipt of the amended or revised Report (including legible and complete copies of all new exceptions or requirements to title) to deliver Buyer's Objections to such new matter. If Buyer fails to timely deliver Buyer's Objections, Buyer will be deemed to have waived its right to deliver the Buyer's Objections to the Report, as applicable.

Section 4.02. Cure. Within seven (7) days after Seller's receipt of timely delivered Buyer's Objections, Seller shall send written notice ("**Response**") to Buyer specifying in detail which of Buyer's Objections Seller will or will not cure, it being understood and agreed that Seller shall have no obligation to cure any of Buyer's Objections, except as provided in Section 6.05. If Seller fails to deliver its Response in a timely fashion, Seller will be deemed to have delivered a Response electing not to cure any of Buyer's Objections. If Seller commits to removing any of Buyer's Objections and fails to do so by Closing, Seller will be in default under this Contract and Buyer, at Buyer's election, may pursue its remedies as established in this Contract. Within five (5) days after Buyer's receipt of the Response (or deemed Response) from Seller, Buyer may elect, by delivering written notice to Seller and Escrow Agent, to either: (i) proceed with the purchase and sale of the Property, and take title to the Property subject to such objected to matters; or (ii) terminate this Agreement and the Escrow. If Buyer exercises its cancellation remedy under subsection 4.02(a)(ii) above, this Contract and the Escrow shall be deemed cancelled as of the date of Buyer's notice. Such cancellation will be immediate, neither Seller nor Buyer will have any further obligation or responsibility to the other to perform under the Contract, and Escrow Agent will return promptly to Buyer all Earnest Money.

ARTICLE V

BUYER CONTINGENCIES

Section 5.01. Feasibility Date. The "**Feasibility Date**" shall be thirty (30) days from the Opening of Escrow (the "Due Diligence Period")

Section 5.02. Buyer Inspections. Buyer will have until the Feasibility Date within which to conduct its inspections of the Property (collectively, the "**Buyer Investigations**") deemed necessary by Buyer, in its sole discretion, to determine the economic, physical, mechanical, developmental, and operational feasibility of Buyer's purchase of the Property. Buyer's obligation to purchase the Property is conditioned on Buyer's approval of the results of the

Buyer Investigations and the Due Diligence Documents, in Buyer's sole discretion. If the Buyer Investigations or the Due Diligence Documents are not acceptable to Buyer, in Buyer's sole discretion, Buyer may deliver written notice terminating this Contract to Seller and Escrow Agent on or before the Feasibility Date, in which event this Contract and the related Escrow shall be deemed cancelled as of the date of Buyer's notice. Such cancellation will be immediate, neither Seller nor Buyer will have any further obligation or responsibility to the other to perform under the Contract, and Escrow Agent will return promptly to Buyer all Earnest Money.

Section 5.03. Right of Entry. During the term of this Agreement, Buyer and its agents shall be permitted to enter upon the Property upon reasonable notice to Seller to inspect the Property and to gather such information and conduct such tests as Buyer deems appropriate. Buyer shall indemnify, defend and hold Seller harmless for, from and against any and all claims and damages (including, but not limited to, reasonable attorneys' fees) resulting from or relating to Buyer's inspections under this Paragraph. Buyer's entry onto the Property is at Buyer's sole risk and expense. Buyer shall also keep the Property free from any mechanics' or materialmen's liens caused by Buyer's exercising its inspection rights under this Paragraph. During any such investigation or inspection Buyer and its agents shall refrain from any contact with the residents or employees on the Property and shall in no event indicate to such residents or employees that it is conducting such investigations or inspections to determine the feasibility of a purchase of the Property.

ARTICLE VI

CLOSING

Section 6.01. Non-Foreign Affidavit. At the Closing, Seller agrees to furnish to Buyer either a sworn affidavit stating, under penalty of perjury, that Seller is not a "foreign person" as defined in the Internal Revenue Code of 1986, as amended ("**Code**") or other appropriate evidence that Buyer is not required to withhold taxes under Section 1445(a) of the Code. If Seller does not furnish the sworn affidavit or other appropriate evidence deemed satisfactory by Buyer and Escrow Agent, Buyer may withhold or direct Escrow Agent to withhold from Seller's sale proceeds an amount equal to the amount required to be withheld pursuant to Section 1445 of the Code. Any withheld funds will be deposited by Escrow Agent with the Internal Revenue Service as required by Section 1445(a) and any applicable regulations. The amount withheld, if any, will nevertheless be deemed to be part of the Price paid to Seller.

Section 6.02. Seller's Closing Deliveries. Seller, at the Close of Escrow, will deposit with Escrow Agent (for recordation, if applicable, and delivery to Buyer): (i) a Special Warranty Deed in the form attached as **Exhibit D** ("**Deed**"); (ii) an Affidavit of Title executed by Seller warranting that no outstanding mechanic's lien rights exist and that the Property is subject to no leases, liens or other claims or encumbrances of title except those specifically permitted pursuant to this Contract; (iii) if applicable, a Bill of Sale covering the items of personal property being sold to Buyer, executed by Seller; (iv) an assignment of Seller's interest in any service, utility, laundry, internet, telephone or maintenance contracts, and any automobile or other leases (the "**Service Contracts**"). A schedule of all such assignable contracts shall be set forth on **Exhibit E** attached hereto; (v) an assignment of Seller's interest as Lessor in and to any tenant rental agreements/leases (the "**Leases**"); (vi) keys to all locks on the Property, if available; (vii) a copy

of the Seller's closing statement with the following statement set forth thereon directed to the Real Property Manager at the City of Surprise: "this is to certify this is a true and correct statement of the disbursement of funds collected from the City of Surprise." The Seller agrees to acknowledge in writing within one business day of the Closing its receipt of the amount shown on Seller's closing statement as due; and (viii) such other instruments and documents as may be reasonably necessary in order to carry out the purposes of this Contract

Section 6.03. Buyer's Closing Deliveries. Buyer, at the Close of Escrow, will deliver to Escrow Agent (for disbursement to Seller): (i) the Closing Cash, plus all additional sums necessary to pay Buyer's portion of the closing costs and prorations; (ii) countersigned originals of the assignment of Service Contracts and Leases; (iii) all other documents required pursuant to other provisions of this Contract to be executed and delivered by Buyer; and (iv) such other instruments and documents as may be reasonably required in order to carry out the purposes of this Contract.

Section 6.04. Possession. Seller must deliver exclusive possession of the Property to Buyer at Close of Escrow.

Section 6.05. Release of Monetary Matters. Seller, at Seller's sole cost and expense, shall fully pay and discharge and release the Property from any and all delinquent real property taxes and assessments, based upon the most recent assessments (see Section 7.01), recorded or unrecorded mortgages or deeds of trust, installment land contracts, judgments, tax liens, mechanics liens, lawsuits, or other monetary liens affecting or purporting to affect title to the Property, and Seller authorizes and directs Escrow Agent to pay all such items from Seller's proceeds from the Closing.

Section 6.06. Title Policy. Buyer's obligation to purchase the Property is conditioned upon: (i) Escrow Agent's issuance of (or the unconditional written commitment of Escrow Agent to issue) an ALTA Extended Owner's Policy of Title Insurance ("Title Policy") in an insured amount at least equal to the Price effective no earlier than the actual Close of Escrow and insuring Buyer's fee simple title to the Property, subject only to those matters approved by Buyer pursuant to Article IV.

ARTICLE VII

PRORATIONS AND COSTS

Section 7.01. Real Estate Taxes and Assessments. All non-delinquent real estate taxes on the Property will be prorated as of the Closing Date, based upon the most current information available. All delinquent real estate taxes will be paid in full by Seller on the Closing Date together with all penalties and redemption charges. No further adjustment in any tax figures shall occur following the Closing. Seller shall be entitled to receive any refunds or over-payments for taxes for tax years prior to the year in which the Closing occurs and a pro-rata share of any refunds or over-payments made in the tax year including the year of sale. All improvement liens, special taxing districts, or other special municipal or county assessments that affect the Property and that exist as of the Closing Date shall be prorated as of the Close of Escrow.

Section 7.02. Title Insurance. Buyer shall order a Title Insurance Commitment from Chicago Title Insurance Company. Seller shall pay the premium for a standard policy of title insurance with any endorsements thereto reasonably required in the full amount of the Price based upon Escrow Agent's standard filed rate or basic rate, insuring Buyer's title to Real Property, subject to the usual printed exceptions contained in such title insurance policies, those matters which appear as exceptions in Schedule B of the Title Report and which are not objected to or are waived in the manner described in this Agreement, and any other matters approved in writing by Buyer. Buyer shall pay any additional costs related to the issuance of an ALTA extended Coverage Owner's Title Insurance Policy and any endorsements thereto requested by Buyer, if the Buyer elects such additional coverage.

Section 7.03. Closing Costs. All costs and expenses of closing, including escrow fees and charges, are to be divided equally between Seller and Buyer or, if not dealt with under this Contract, according to the custom and practice of Escrow Agent. Seller shall pay any recording fees, all applicable transfer taxes and any documentary stamp taxes. Seller agrees that all closing costs and any other sums required to be paid by Seller will be paid in full at closing and may be deducted from the proceeds otherwise payable to Seller at Close of Escrow. Each party agrees to pay its own attorney fees. All prorations that are required to be made under this Contract will be made as of the 12:01 a.m. on the date of Closing on the basis of a three hundred sixty-five (365) day year. If any of the apportionments or prorations required above cannot be calculated accurately on the Closing Date or are miscalculated, then they shall be calculated or recalculated as soon as possible after the Closing Date. Either party owing the other party a sum of money based on such subsequent apportionments or prorations shall promptly pay said sum to the other party within ten (10) days after receipt of an invoice therefore. There shall be no further adjustments of such apportionments or prorations after the date that is sixty (60) days following the Closing Date.

Section 7.04. Rents. All rents received by Seller for amounts due on or prior to the Closing Date shall be the property of Seller. Any rents received by Buyer for amounts due after the Closing Date shall be the property of Buyer.

ARTICLE VIII

REPRESENTATIONS AND WARRANTIES

Section 8.01. Seller Representations. Seller represents and warrants to Buyer as follows.

- (a) **Title.** Seller is the owner of fee simple title to the Property.
- (b) **Authority.** This Contract has been duly authorized and executed on Seller's behalf and constitutes the valid and binding agreement of Seller, enforceable in accordance with its terms. Seller is not prohibited from consummating this transaction by the terms of its governing document or any judicial or governmental order or stay.

Section 8.02. Buyer Representations and Warranties. Buyer represents and warrants to Seller as follows:

- (a) Buyer has the full power to execute, deliver, and carry out the terms and provisions of this Contract and has taken all necessary action to authorize the execution, delivery, and performance of this Contract;
- (b) The individual executing this Contract on behalf of Buyer is and shall be duly authorized to sign the same on Buyer's behalf and to bind the Buyer thereto;
- (c) The execution and delivery of this Contract is not prohibited by, will not conflict with, constitute grounds for termination of, or result in the breach of any Contracts or instruments to which Buyer is now a party or by which it is bound, or any order, rule, or regulation of any court or any other governmental agency or official; and
- (d) This Contract constitutes the valid and binding agreement of Buyer, enforceable in accordance with its terms.

Section 8.03. Survival of Warranties. All representations and warranties contained in this Contract are true on and as of the date so made, will be true on and as of the Close of Escrow and will survive the Close of Escrow and the execution, delivery, and recordation of the Deed for a period of six (6) months and shall terminate and be of no further force or effect six (6) months following the Closing Date.

Section 8.04. NO REPRESENTATIONS; PURCHASE AS-IS; WAIVER AND RELEASE. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS CONTRACT, NEITHER SELLER, NOR ANYONE ACTING FOR OR ON BEHALF OF SELLER, HAS MADE ANY REPRESENTATION, WARRANTY, PROMISE OR STATEMENT, EXPRESS OR IMPLIED, TO BUYER, OR TO ANYONE ACTING FOR OR ON BEHALF OF BUYER, CONCERNING THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE USE OR DEVELOPMENT THEREOF. BUYER FURTHER REPRESENTS THAT, IN ENTERING INTO THIS CONTRACT, BUYER HAS NOT RELIED ON ANY REPRESENTATION, WARRANTY, PROMISE OR STATEMENT, EXPRESS OR IMPLIED, OF SELLER, OR ANYONE ACTING FOR OR ON BEHALF OF SELLER, OTHER THAN AS EXPRESSLY SET FORTH IN THIS CONTRACT, AND THAT ALL MATTERS CONCERNING THE PROPERTY HAVE BEEN OR SHALL BE INDEPENDENTLY VERIFIED BY BUYER PRIOR TO THE CLOSING, AND THAT BUYER SHALL PURCHASE THE PROPERTY BASED ON BUYER'S OWN PRIOR DUE DILIGENCE INVESTIGATIONS, INSPECTIONS AND EXAMINATIONS OF THE PROPERTY (OR BUYER'S ELECTION NOT TO DO SO); AND THAT BUYER IS PURCHASING THE PROPERTY IN AN "AS-IS" AND "WITH ALL FAULTS" PHYSICAL CONDITION AND IN AN "AS-IS" AND "WITH ALL FAULTS" STATE OF REPAIR. EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS CONTRACT, BUYER DOES HEREBY WAIVE, AND SELLER DOES HEREBY DISCLAIM, ALL WARRANTIES OF ANY TYPE OR KIND WHATSOEVER WITH RESPECT TO THE PROPERTY, WHETHER EXPRESS OR IMPLIED, INCLUDING, BY WAY OF DESCRIPTION BUT NOT LIMITATION, THOSE OF FITNESS FOR A PARTICULAR PURPOSE AND USE, TENANTABILITY OR HABITABILITY. FURTHER, BUYER DOES HEREBY RELEASE

AND FOREVER DISCHARGE, AND WAIVE ITS RIGHTS TO RECOVER FROM, SELLER AND SELLER'S AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, PARTNERS, MEMBERS, AGENTS, REPRESENTATIVES, (COLLECTIVELY, "SELLER PARTIES") OF AND FROM ANY AND ALL CLAIMS, ACTIONS, CAUSES OF ACTIONS, DEMANDS, RIGHTS, LIABILITIES, DAMAGES, LOSSES, COSTS, EXPENSES, AND COMPENSATION WHATSOEVER, DIRECT OR INDIRECT, KNOWN OR UNKNOWN, FORESEEN OR UNFORSEEN, THAT BUYER AND ANY PERSON OR ENTITY CLAIMING BY, THROUGH OR UNDER BUYER, MAY NOW HAVE OR HEREAFTER ACQUIRE AGAINST SELLER AND/OR ANY OF SELLER PARTIES, ARISING FROM OR RELATED TO THIS CONTRACT OR THE PROPERTY (INCLUDING ANY CLAIM FOR DIMINUTION IN VALUE OF THE PROPERTY ARISING FROM THE CONDITION OF THE PROPERTY), EXCEPT TO THE EXTENT THE SAME RESULTS FROM, CONSTITUTES, OR ARISES FROM SELLER'S FRAUD, SELLER'S FAILURE TO DISCLOSE MATERIAL FACTS TO BUYER, SELLER'S MATERIAL MISREPRESENTATION, OR SELLER'S BREACH OF THIS AGREEMENT OR DEFAULT OF OR UNDER ANY OF THE MATTERS EXPRESSLY REPRESENTED BY SELLER HEREIN (PRIOR TO THE EXPIRATION OF SUCH REPRESENTATION). EXCEPT AS PROVIDED IN THE PREVIOUS SENTENCE, AND TO THE EXTENT PERMITTED BY LAW, BUYER EXPRESSLY WAIVES ITS RIGHTS UNDER ANY APPLICABLE STATUTE OR APPLICABLE RULE OF LAW THAT PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT BUYER DOES NOT KNOW OR SUSPECT TO EXIST IN ITS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY IT MUST HAVE MATERIALLY AFFECTED ITS AGREEMENT TO RELEASE SELLER.

ARTICLE IX

GENERAL

Section 9.01. Brokerage. Seller is represented by Jeffrey Ferenz in regard to this transaction, and will be compensated by Seller pursuant to a separate agreement. Buyer has not been represented by a broker in this transaction.

Section 9.02. Binding Effect; Buyer's Right to Nominate and Assign. Buyer may not assign its rights under this Agreement in whole or in part without Seller's consent. If Seller provides such consent, then Buyer's successors in interest are to have all of the rights entitled to the Buyer under this Agreement, including all available remedies for Seller's breach. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 9.03. Risk of Loss. All risk of loss, damage, or taking of the Property that may occur prior to Close of Escrow will be borne by Seller. In the event of any loss, damage, or taking prior to Close of Escrow, Buyer, at Buyer's sole option and by written notice to Seller and Escrow Agent, will be entitled to cancel this Contract and the related Escrow. Upon Buyer's cancellation of this Contract under the preceding sentence, the cancellation will be immediate and neither Seller nor Buyer will have any further obligation or responsibility to the other to

perform under the Contract, except as otherwise provided in this Contract, and Escrow Agent will return promptly to Buyer all Earnest Money.

Section 9.04. Seller's Default. If Seller breaches this Agreement or fails to perform any of its covenants or obligations under this Agreement, and fails to cure such breach or failure within ten (10) days after receipt of written notice from Buyer specifying such default, then Buyer as its sole and exclusive remedy shall have the right to elect, one of the following remedies: (a) Buyer, upon giving written notice to Seller and Escrow Agent, may terminate this transaction and Escrow, and receive the return of the Earnest Money (including any amounts previously released), following which neither party shall have any further obligation to the other, subject to any continuing indemnities contained herein; or (b) Close Escrow and waive such default by Seller and if Seller refuses to so Close Escrow, Buyer shall be entitled to file an action for specific performance of the terms and provisions of this Agreement (and no damages shall be awardable in any such proceeding). Under no circumstances can either party recover any special, consequential, exemplary or punitive damages.

Section 9.05. Buyer's Default. If Buyer breaches this Agreement or fails to perform any of its covenants or obligations under this Agreement, and fails to cure such breach or failure within ten (10) days after receipt of written notice from Seller specifying such default, Seller, as its exclusive and sole right and remedy, shall be entitled to cancel this Contract and related Escrow by giving Buyer and Escrow Agent written notice of cancellation, in which event Escrow Agent will immediately pay to Seller the Earnest Money as full liquidated damages of Seller. THE EARNEST MONEY SHALL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY BUYER, ALL OTHER CLAIMS TO DAMAGES OR OTHER REMEDIES, INCLUDING WITHOUT LIMITATION ANY RIGHT WHICH SELLER MAY HAVE TO SPECIFIC PERFORMANCE, BEING HEREIN EXPRESSLY WAIVED BY SELLER. UPON DEFAULT BY BUYER, THIS AGREEMENT SHALL BE TERMINATED AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER EACH TO THE OTHER, EXCEPT FOR THE RIGHT OF SELLER TO COLLECT SUCH LIQUIDATED DAMAGES FROM BUYER AND ESCROW HOLDER. Upon receipt by Seller of the Earnest Money as provided above, neither party shall have any further obligation or responsibility to the other hereunder, except as otherwise specifically established in this Contract.

Section 9.06. Attorneys' Fees. If there is any litigation or arbitration between Seller and Buyer to enforce or interpret any provisions or rights of this Contract, the unsuccessful party in such litigation or arbitration, as determined by the court or arbitrator, agrees to pay the successful party, as determined by the court, all costs, legal fees, and expenses (through trial and appeal), including, but not limited to, reasonable attorneys' fees incurred by the successful party.

Section 9.07. Notice. Except as otherwise required by law, any notice required or permitted under this Contract must be in writing and must be given either: (i) by personal delivery; (ii) by United States certified mail, return-receipt requested, postage prepaid, and properly addressed; or (iii) by any private overnight, "same day", or "next-day" delivery service, delivery charges prepaid with proof of receipt. Notice sent in any of the manners set forth above must be addressed or sent to Seller, Buyer, and/or Escrow Agent at the addresses set forth on the first page of this Contract. Any party may change its address for the purposes of delivery and receipt

of notices by advising all other parties in writing of the change. Notice delivered in one of the foregoing manners will be deemed to be received: (I) on the date of delivery, if personally delivered; (II) on the date that is two days after deposit in the United States mail, if given by certified mail; or (III) on the day of deposit with an express delivery service, if given by overnight, “same day”, or “next-day” delivery service. No notice will be deemed effective unless sent in one of the manners described above.

Section 9.08. Waiver of Conditions. Except as otherwise provided in this Contract regarding any deemed waivers for a failure to promptly act or elect, Buyer’s contingencies or conditions precedent may be waived only by Buyer, and any waiver by Buyer may be done only in a writing signed by Buyer.

Section 9.09. Additional Acts. The parties agree to execute promptly any other documents and to perform promptly any other acts as may be reasonably necessary to carry out the purpose and intent of this Contract.

Section 9.10. Governing Law. This Contract will be governed by and construed and enforced in accordance with the laws of the State of Arizona.

Section 9.11. Construction. The terms and provisions of this Contract represent the results of negotiations between Seller and Buyer, neither of which have acted under any duress or compulsion, whether legal, economic, or otherwise. Consequently, the terms and provisions of this Contract should be interpreted and construed in accordance with their usual and customary meanings, and Seller and Buyer each waive the application of any rule of law that states that ambiguous or conflicting terms or provisions are to be interpreted or construed against the party whose attorney prepared the Contract or any earlier draft of the Contract.

Section 9.12. Time of Essence. Time is of the essence of this Contract. The time for the performance of any obligation or the taking of any action under this Contract will be deemed to expire at 5:00 p.m. (Mountain time) on the last day of the applicable time period established in this Contract. In calculating any time period in this Contract that commences upon the receipt of any notice, request, demand, or document, or upon the happening of an event (e.g., the Opening of Escrow), the date upon which the notice, request, demand, or document is deemed received, as determined above, or the date an event occurs (or is deemed to have occurred) is not included with the applicable time period, but the applicable time period will commence on the day immediately following. If the time for the performance of any obligation or taking any action under this Contract expires on a Saturday, Sunday, or legal holiday, the time for performance or taking such action will be extended to the next succeeding day that is not a Saturday, Sunday, or legal holiday and during which Escrow Agent is open for business.

Section 9.13. Interpretation. The terms of this Contract supersede all prior and contemporaneous oral or written agreements and understandings of Buyer and Seller, all of which will be deemed to be merged into this Contract. If there is any specific and direct conflict between, or any ambiguity resulting from, the terms and provisions of this Contract and the terms and provisions of any document, instrument, letter, or other agreement executed in connection with or in furtherance of this Contract, the term, provision, document, instrument,

letter, or other agreement will be consistently interpreted in such manner as to give effect to the general purposes and intention as expressed in this Contract.

Section 9.14. Headings. The headings of this Contract are for reference only and do not limit or define the meaning of any provision of this Contract.

Section 9.15. Incorporation by Reference. All exhibits to this Contract are fully incorporated in the text of this Contract.

Section 9.16. Counterparts. This Contract may be executed in any number of counterparts, whether by original, copy, or telecopy signature, each of which, when executed and delivered, shall be deemed an original, but all of which when taken together will constitute one binding contract and instrument.

Section 9.17. Severability. If any one or more of the provisions of this Contract or the applicability in any provision to a specific situation is held to be invalid or unenforceable, the provision will be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of this Contract and all other applications of such provisions will not be affected by any such invalidity or unenforceability.

Section 9.18. Representations at the Close of Escrow. All of Buyer's representations contained in this Agreement shall be true and correct at the Close of Escrow as though made at and as of the Close of Escrow. All of Seller's representations contained in this Agreement shall be true and correct at the Close of Escrow as though made at and as of the Close of Escrow.

Section 9.19. Seller's Knowledge. As used in this Contract, the phrase "Seller's knowledge" or "to Seller's knowledge", or similar language, shall mean information that is personally and directly known by Charles Keith as of the Opening of Escrow without undertaking any independent investigation or inquiry for the purpose of making such statement.

Section 9.20. Seller's Possession. As used in this Contract, the phrase "Seller's possession", or similar language, shall mean the current actual possession of Seller as of the Opening of Escrow without requiring that Seller engage in any independent investigation or inquiry or act for the purpose of obtaining possession of any document or personal property or other item not in Seller's current actual possession.

Section 9.21. Survival. Except as otherwise provided herein, any covenants, agreements, and/or representations set forth in this Agreement or in any certificate or instrument executed or delivered pursuant to this Agreement shall not survive the Closing and shall merge into any deed, assignment or other instrument executed or delivered pursuant hereto.

Section 9.22. IRS Real Estate Sales Reporting. Buyer and Seller hereby appoint Escrow Agent as, and Escrow Agent agrees to act as "the person responsible for closing" the transaction which is the subject of this Agreement, pursuant to Internal Revenue Code of 1986 Section 6045(e). Escrow Agent shall prepare and file the informational return (IRS Form 1099-B) required by and otherwise comply with the terms of IRS § 6045(e).

Section 9.23. Miscellaneous Definitions and Standards. The term “sole discretion” means that the act or decision of the party may be made in the party’s independent and individual choice of judgment, without regard to any objective or other standard of consideration. Except for those acts or decisions that may be made in a party’s “sole discretion”, all acts or decisions of any party to this Contract must be exercised with reasonable discretion. The term “will” denotes a mandatory obligation, and the term “may” is a permissive word denoting an option. All references in this Contract to the “Escrow Agent” will be deemed to include the applicable title insurance underwriter for the Title Policy.

Section 9.24. Tax-Deferred Exchange. Seller and Buyer agree to cooperate in a commercially reasonable manner with each other and any designated exchange intermediary or exchange accommodation titleholder in order to effectuate a tax deferred exchange of the Property under Section 1031 of the Internal Revenue Code. This obligation to cooperate does not include requiring the other party to take title to any other property to complete the exchange, to issue any legal opinions, to increase the potential liability of the non-exchange party, to extend any time for the exchanging party’s performance, to expend legal fees to review exchange documents, or to incur any additional costs, expenses or liabilities in this transaction as a result of or in connection with such exchange. Seller and Buyer agree to hold each other harmless from and against any liabilities, damages, or costs, including attorneys’ fees, that may arise from the non-exchanging party’s participation in the exchange.

Executed as of the Contract Date.

ESCROW AGENT’S ACCEPTANCE

By its execution below, Escrow Agent accepts this Contract as its sole escrow instructions and acknowledges receipt of at least one fully executed original or telecopy counterpart of the Contract executed by Buyer and Seller and Buyer’s Initial Earnest Money described in the Contract. Upon its execution, Escrow Agent agrees to: (i) insert the relevant escrow number on the first page of this Contract; (ii) insert the date for the Opening of Escrow in the space below; and (iii) provide copies of the fully executed Contract to Buyer and Seller.

“Escrow Agent”

Stewart Title Insurance Company

Date of **“Opening of Escrow”**

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date the last party signs.

For the City

For Contractor

By: _____

By: _____

Date: _____

Title: _____

Date: _____

By: _____
Department Director

Date: _____

APPROVED AS TO FORM:

City Attorney's Office

**EXHIBIT "A" TO
PURCHASE AGREEMENT AND
JOINT ESCROW INSTRUCTIONS**

(LEGAL DESCRIPTION OF THE REAL PROPERTY)

**EXHIBIT "B" TO
PURCHASE AGREEMENT AND
JOINT ESCROW INSTRUCTIONS**

(DEPICTION OF REAL PROPERTY)

**EXHIBIT “C” TO
PURCHASE AGREEMENT AND
JOINT ESCROW INSTRUCTIONS**

(DUE DILIGENCE DOCUMENTS)

**EXHIBIT “D” TO
PURCHASE AGREEMENT AND
JOINT ESCROW INSTRUCTIONS**

(SPECIAL WARRANTY DEED)

**EXHIBIT "E" TO
PURCHASE AGREEMENT AND
JOINT ESCROW INSTRUCTIONS**

(SERVICE CONTRACTS)