

**PURCHASE AND SALE AGREEMENT**

(Sonoran Creek Marketplace, Lot 3 and Common Drainage Property)

This Purchase and Sale Agreement (the “Agreement”) is entered into effective as of \_\_\_\_\_, 2020, by and between the CITY OF MARICOPA, an Arizona municipal corporation (“Buyer”), and \_\_\_\_\_, an \_\_\_\_\_ (“Seller”), on the following terms and conditions:

1. Agreement. Subject to all of the terms and conditions of this Agreement, Seller agrees to sell, transfer and convey to Buyer, and Buyer agrees to purchase and acquire from Seller, the real property legally described on Exhibit A.1 attached hereto, together with (i) all buildings, structures and improvements located thereon; (ii) all appurtenances, hereditaments, easements, rights-of-way, reversions, remainders, development rights, well rights, water rights, and air rights; (iii) all oil, gas, and mineral rights not previously reserved; (iv) any rights of Seller to any adjoining strips or gores of property and any land lying within the bed of any adjoining street; and (v) any other rights or privileges appurtenant to such real property or used in connection therewith (collectively, the “Property”). Additionally, Seller agrees to convey to Buyer, and Buyer agrees to acquire from Seller, the adjacent real property legally described on Exhibit A.2 attached hereto, together with (i) all buildings, structures and improvements located thereon; (ii) all appurtenances, hereditaments, easements, rights-of-way, reversions, remainders, development rights, well rights, water rights, and air rights; (iii) all oil, gas, and mineral rights not previously reserved; (iv) any rights of Seller to any adjoining strips or gores of property and any land lying within the bed of any adjoining street; and (v) any other rights or privileges appurtenant to such real property or used in connection therewith (collectively, the “Common Drainage Property” and, together with the Property, the “Properties”).

2. Escrow Agent. Seller and Buyer shall open an escrow (“Escrow”) with Fidelity National Title Insurance Company; Attention: Michelle Burton (“Escrow Agent”) to facilitate the consummation of the sale of the Properties. Seller and Buyer shall execute any escrow instructions (“Escrow Instructions”) reasonably requested by Escrow Agent in connection with opening the Escrow or otherwise facilitating the consummation of the sale of the Properties. In the event of any conflict or inconsistency between the Escrow Instructions and this Agreement, the provisions of this Agreement shall prevail.

3. Purchase Price and Payment Terms. The purchase price (“Purchase Price”) to be paid by Buyer for the Property shall be Four Dollars (\$4.00) multiplied by the total square footage of the Property as determined by the Survey (as defined below). For purposes of this Agreement, all references to “total square footage” of the Property shall mean the gross square footage of all of the land located within the boundaries of the Property, less any and all existing public rights-of-way. Assuming that the Property contains 4.22 net acres (183,823.20 square feet), the Purchase Price will equal Seven Hundred Thirty Five Thousand Two Hundred Ninety Two and 80/100 Dollars (\$735,292.80). The Buyer will convey the Common Drainage Property to the Seller at no additional cost. The Purchase Price shall be due and payable as follows:

(a) Five Thousand Dollars (\$5,000.00) of earnest money shall be deposited by Buyer into Escrow upon the Opening of Escrow (which sum, together with any and all interest earned thereon, shall be referred to as the “Earnest Money”).

(b) The balance of the Purchase Price shall be deposited by Buyer into Escrow in cash or by other immediately available funds on or prior to the Closing Date (as defined below), subject to closing costs, adjustments, and pro-rations as provided herein.

4. Earnest Money. The Earnest Money shall be held in a federally insured, interest bearing account. The Earnest Money shall apply as a credit toward payment of the Purchase Price. If this Agreement is terminated prior to the expiration of the Feasibility Period, the Earnest Money shall be refunded to Buyer. If this Agreement is terminated after the expiration of the Feasibility Period, the Earnest Money shall be nonrefundable to Buyer and shall be paid to Seller unless the termination is pursuant to a provision of this Agreement expressly providing for the refund of the Earnest Money to Buyer.

5. Escrow Opening and Closing. The opening of escrow (the “Opening of Escrow”) shall occur when Escrow Agent receives a fully executed counterpart of this Agreement signed by Buyer and Seller. The Escrow Agent shall sign and date this Agreement on the space provided at the end of this Agreement, indicating that Escrow has been opened as of such date. The date set for conveyance of title to the Properties and the performance of all conditions (except those conditions expressly required to be performed earlier pursuant to this Agreement) relating thereto (“Closing” or “Closing Date” or “Close of Escrow”) shall occur on the date that is thirty (30) days following the expiration of the Feasibility Period.

6. Owner’s Title Policy; Closing Costs.

(a) Title Insurance Costs. At Closing, Escrow Agent shall furnish to Buyer an ALTA 2006 extended coverage owner’s policy of title insurance in the amount of the Purchase Price insuring Buyer’s title to the Properties, subject only to the usual printed exceptions contained in such title insurance policies and the Permitted Exceptions (as defined below), together with such endorsements that Buyer may request (“Title Policy”). Seller shall pay that portion of the premium for the Title Policy equal to the premium for a standard coverage owner’s title insurance policy in the amount of the Purchase Price, and Buyer shall pay (i) the additional portion of the premium for the Title Policy required to obtain ALTA extended coverage, and (ii) any charges for any endorsements requested by Buyer.

(b) Recording and Escrow Costs. At Closing, Seller shall pay the recording fees with respect to the Deed and any releases of encumbrances and one-half of the Escrow fees, and Buyer shall pay one-half of the Escrow fees. Except as provided herein, any other fees or charges shall be paid as is customary in Phoenix, Arizona.

(c) Proration of Taxes. All non-delinquent real estate taxes and assessments on the Properties shall be prorated between Buyer and Seller as of the Closing Date based on the actual current tax bill, but if such tax bill has not yet been received by Seller by the Closing Date or if supplemental taxes are assessed after the Closing for the period prior to the Closing, the parties shall make any necessary adjustment after the Closing by cash payment to the party entitled thereto so that Seller shall have borne all real property taxes,

including all supplemental taxes, allocable to the period prior to the Closing and Buyer shall bear all real property taxes, including all supplemental taxes, allocable to the period from and after the Closing. All improvement and special liens and assessments that are due prior to Closing shall be paid in full by Seller at or before the Closing.

7. Status of Title.

(a) Survey. As part of the Reports (as defined below), Seller shall provide Buyer with copies of any surveys that include the Properties in Seller's possession or control. In addition, prior to the Close of Escrow, Seller, at its sole cost and expense, shall cause a new ALTA/ACSM Land Title Survey (the "Survey") of the Properties to be prepared by a registered land surveyor or licensed civil engineer. The Survey shall be certified to Buyer, Seller and Escrow Agent, and Seller shall promptly provide a copy of the Survey to Buyer upon receipt. The Survey will include a calculation of the net acreage of the Property, which shall be the basis for computation of the Purchase Price under Section 3.

(b) Title Commitment. Promptly after Opening of Escrow, Escrow Agent shall issue and deliver to Buyer (1) a current commitment for an ALTA 2006 extended coverage owner's policy of title insurance for the Properties, and (2) copies of all documents referenced as exceptions therein (collectively, the "Title Commitment"). Buyer shall have ten (10) days after receipt of the Title Commitment and the Survey, or five (5) days after receipt of any amendment to the Title Commitment identifying any new matters, to object in writing to Seller to any matters shown thereon (a "Buyer's Objection Letter"). Any matters shown in the Title Commitment (or any amendments or updates thereof) which are not timely objected to by Buyer shall be deemed approved by Buyer. Seller shall have no obligation to cure or correct any matter objected to by Buyer, except as otherwise provided in subsection (c) below. On or before five (5) days following Seller's receipt of Buyer's Objection Letter, Seller may elect, by delivering written notice of such election to Buyer and Escrow Agent ("Seller's Response") whether to cause Escrow Agent to remove or insure over any matters objected to in Buyer's Objection Letter. If Seller fails to deliver Seller's Response within the time frame set forth above, it shall be deemed to be an election by Seller not to cause Escrow Agent to so remove or insure over such objections. If Seller elects not to cause Escrow Agent to so remove or insure, then Buyer must elect, by delivering written notice of such election to Seller and Escrow Agent on or before the earlier to occur of (1) five (5) days following Buyer's receipt of Seller's Response, or (2) if no Seller's Response is received by Buyer, five (5) days following the date on which Seller shall have been deemed to have responded, as provided above, to: (i) terminate this Agreement (in which event the Earnest Money shall be refunded to Buyer, and neither party shall thereafter have any rights or obligations to the other hereunder, other than pursuant to any provision hereof which expressly survives the termination of this Agreement); or (ii) proceed with this transaction in which event such objected to exceptions or matters shall be deemed approved by Buyer and become a Permitted Exception(s). The term Permitted Exception(s) shall also include any matters that are created by or arise from the act or acquiescence of Buyer, its affiliates, employees, agents, contractors, subcontractors, or representatives; zoning and other governmental restrictions; and any

additional matters that an accurate ALTA/ASTM survey or inspection of the Properties would reveal. In the event that Buyer fails to make such election on a timely basis, then Buyer shall be deemed to have elected to proceed with this Agreement in accordance with the preceding clause (ii).

(c) Unpermitted Exceptions. Notwithstanding anything to the contrary contained in this Agreement, at or before the Closing, and without the need for Buyer to object to same in Buyer's Objection Letter, Seller shall remove all financing encumbrances arising from any deeds of trust, mortgages, or other liens encumbering the Properties (expressly excluding the lien for current taxes and assessments); mechanics', materialmen's and supplier's liens; judgment liens; federal or state income or sales tax liens; and lis pendens without cost to Buyer. Seller agrees to execute and deliver to Escrow Agent an owner's affidavit, in form reasonably acceptable to Escrow Agent, so that the Title Policy contains no exceptions for parties in possession or mechanics' or materialmen's liens.

8. Feasibility.

(a) Reports. Seller, if it has not already done so, shall provide Buyer not later than five (5) days following the Opening of Escrow, with copies of all leases, reports, tests, surveys, studies, contracts, agreements, documents, approvals, zoning stipulations, drawings, plats, plans, specifications, filings or similar writings pertaining to the Properties, including the physical condition of the Properties or the development thereof, in Seller's possession or control (collectively "Reports"). Buyer acknowledges and agrees that the Reports will be furnished without any representation or warranty from Seller, except as otherwise expressly provided for herein, and Buyer shall independently verify the accuracy of such information. Any such Reports not in Seller's possession or control concurrently with the execution hereof but which come into Seller's possession or control prior to Close of Escrow shall be delivered immediately to Buyer. Buyer agrees that it shall not attempt to assert any liability against Seller by reason of Seller's having furnished such information or for the reason of any such information becoming or proving to have been incomplete, incorrect or inaccurate in any respect. If this Agreement is terminated for any reason, Buyer shall return the Reports to Seller. Seller shall cooperate with Buyer, at no out-of-pocket cost to Seller, (i) to cause any of the Reports to be updated and recertified to Buyer, (ii) to obtain reliance letters from any of the preparers of the Reports, and (iii) to obtain any consents that may be required so that Buyer may receive the benefits of any agreements comprising the Reports.

(b) Due Diligence Tests. From the Opening of Escrow until the expiration of the Feasibility Period, and upon reasonable notice to Seller, Buyer, its agents and representatives shall be entitled at Buyer's sole cost and expense to: (i) enter onto the Properties to perform any reasonable inspections, investigations, studies and tests of the Properties (including, without limitation, physical, engineering, soils, geotechnical and environmental tests); (ii) review the Reports; and (iii) investigate such other matters pertaining to the Properties as Buyer may desire. In conducting any inspections, investigations or tests of the Properties, Buyer shall (i) not disturb tenants or interfere with

their use of the Properties pursuant to their respective leases, (ii) not interfere with the operation and maintenance of the Properties, (iii) not damage any part of the Properties (except as necessary for environmental testing) or any personal property owned or held by any tenant or any other person, (iv) not injure or otherwise cause bodily harm to Seller or its members, officers, employees, agents, guests, invitees, or contractors or any tenant or any other person, (v) promptly pay when due all costs of all tests, investigations and examinations done with regard to the Properties, (vi) not permit any liens to attach to the Properties by reason of the exercise of its rights hereunder, and (vii) fully restore the Properties to the condition in which the same was found before any such inspection, investigation or tests were undertaken. Buyer shall indemnify, protect, defend and hold Seller (and its officers, directors, employees and representatives) harmless from and against any and all claims (including, without limitation, claims for mechanic's liens or materialmen's liens), causes of action, demands, obligations, losses, damages, liabilities, judgments, costs and expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Claims") in connection with or arising out of any inspections carried on by or on behalf of Buyer pursuant to the terms hereof; provided, however, Buyer shall not indemnify Seller for any Claims caused by Seller's negligence or willful misconduct, and Buyer shall have no liability for the discovery of pre-existing conditions (e.g. Buyer shall not be responsible for remediating environmental contamination discovered by Buyer). In the event that this Agreement is terminated for any reason, Buyer shall deliver to Seller (without warranty or representation from Buyer), upon Seller's request and without charge therefor, the results and copies of any and all inspections, studies, tests, surveys, or other reports made by or for Buyer with respect to the Properties. The provisions of this Section shall survive the Closing or the earlier termination of this Agreement.

(c) Termination Right. As used herein, the term "Feasibility Period" shall mean the date that is thirty (30) days following the Opening of Escrow. Buyer shall have the right at any time from the Opening of Escrow until on or before 5:00 p.m. (Arizona time) on the last day of the Feasibility Period to terminate this Agreement by delivering a written notice of such termination to Seller and Escrow Agent, if Buyer determines in its sole and absolute discretion that the Properties are not acceptable to Buyer for any reason whatsoever. If this Agreement is terminated pursuant to this Section, then (i) Escrow Agent shall return the Earnest Money to Buyer, and (ii) this Agreement shall be of no further force or effect and neither party shall have any further rights or obligations hereunder, other than pursuant to any provision of this Agreement which expressly survives the termination of this Agreement.

9. Seller's Conditions to Closing. The Seller's obligation to complete the transaction contemplated by this Agreement is conditioned upon Thompson Thrift Development, Inc.'s acquisition of the Properties from VWP Sonoran Creek, LLC pursuant to the terms of the Purchase Agreement dated February 7, 2019 and all amendments thereto.

10. Buyer's Conditions to Closing. The Buyer's obligation to complete the transaction contemplated by this Agreement is subject to the following conditions precedent (the "Buyer's Closing Conditions"), which conditions may be waived, or the time for satisfaction thereof extended, by Buyer only in a writing executed by Buyer:

(a) Title. Escrow Agent shall be prepared and irrevocably committed to issue to Buyer (with an effective date not earlier than the Closing Date), an ALTA Extended Owner's Policy of Title Insurance (Form 2006) in favor of Buyer for the Properties (i) showing fee title to the Properties vested in Buyer, (ii) with liability coverage in an amount equal to the Purchase Price, and (iii) containing no exceptions other than the Permitted Exceptions.

(b) Seller's Due Performance. All of the representations and warranties of Seller set forth in this Agreement shall be true, correct and complete in all material respects as of the Closing Date, and Seller, on or prior to the Closing Date, shall have complied with and/or performed all of the obligations, covenants and agreements required on the part of Seller to be complied with or performed pursuant to the terms of this Agreement.

(c) No Bankruptcy. No action or proceeding shall have been commenced by or against Seller under the federal bankruptcy code or any state law for the relief of debtors or for the enforcement of the rights of creditors, and no attachment, execution, lien or levy shall have attached to or been issued with respect to Seller's interest in the Properties or any portion thereof.

(d) No Moratorium. There shall be no moratorium or similar restriction imposed by any governmental authority or private entity with respect to the issuance of building permits or certificates of occupancy affecting the Properties, or electric, gas, telephone, cable television, sanitary sewer or water service to the Properties.

If all of the Buyer's Closing Conditions are not satisfied by the Closing Date, then Buyer may elect to: (1) terminate this Agreement, in which event the Earnest Money shall be refunded to Buyer; or (2) waive the unsatisfied Buyer's Closing Condition and proceed to Closing in accordance with this Agreement; or (3) extend the Closing Date for a period of ninety (90) days in order to allow satisfaction of the unsatisfied Buyer's Closing Condition. If Buyer elects to proceed under sub-section (iii) above, and the unsatisfied Buyer's Closing Condition is not satisfied as of the expiration of said ninety (90) day extension, then Buyer shall elect to proceed under either sub-section (1) or (2) above. To the extent that the failure of any applicable Buyer's Closing Condition is caused by a Seller default, Buyer shall be entitled to pursue its rights and remedies pursuant to the terms of Section 12(a).

#### 11. Conveyance.

(a) Deed; Affidavit of Value. The Properties shall be conveyed to Buyer, upon Close of Escrow, by special warranty deed (the "Deed") in the form attached hereto as Exhibit B. On or before the Closing, Seller shall execute and deliver the Deed to Escrow Agent. Escrow Agent shall record the Deed at the Closing, and shall deliver the original of the Deed (following recordation) to Buyer, with a copy to Seller, promptly following the Closing.

(b) Non-Foreign Affidavit. Seller shall execute and deliver to Escrow Agent on or before the Closing Date the non-foreign affidavit required pursuant to this Agreement. Escrow Agent shall provide the fully signed original of the Non-Foreign Affidavit to Buyer, with a copy to Seller, promptly following the Closing.

(c) Other Documents. Each party shall, whenever and as often as it shall be requested by the other party, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments and documents, including supplemental escrow instructions, as may be reasonably necessary in order to complete the sale, conveyance and transfer herein provided and to do any and all things as may be requested in order to carry out the intent and purpose of this Agreement.

12. Remedies.

(a) Default by Seller. If Seller shall breach any of the terms or provisions of this Agreement, and such breach continues for five (5) business days after Buyer provides Seller with written notice thereof, Buyer may, as its exclusive remedies: (i) waive the effect of such matter and proceed to consummate this transaction; (ii) terminate this Agreement and receive a full refund of the Earnest Money; or (iii) pursue an action to compel specific performance of Seller's obligations hereunder, provided that the Seller's Conditions to Closing set forth in Section 9 have been fulfilled. Nothing contained in this Section shall limit or prevent Buyer from enforcing Seller's obligations and liabilities which survive a termination of this Agreement.

(b) Default by Buyer. If Buyer shall breach any of the terms or provisions of this Agreement, and such breach continues for five (5) business days after Seller provides Buyer with written notice thereof, Seller may waive such breach, or Seller may, as its exclusive remedy, immediately terminate this Agreement and receive the Earnest Money as liquidated damages and as consideration for the acceptance of this Agreement and for taking the Property off the market, and not as a penalty. Buyer and Seller have determined and hereby agree that it would be impractical or extremely difficult, if not impossible, to ascertain with any degree of certainty the amount of damages which would be suffered by Seller if Buyer fails to purchase the Property in accordance with the provisions of this Agreement, and the parties agree that a reasonable estimate of such damages under the circumstances is an amount equal to the Earnest Money. Nothing contained in this Section shall limit or prevent Seller from enforcing Buyer's obligations and liabilities which survive a termination of this Agreement.

(c) Post-Closing Defaults. Each party shall have all rights and remedies for defaults occurring or discovered after the Closing if the defaulting party fails to cure within ten (10) days after receipt of written notice, except that each party waives any right to seek recovery of, or recover, any indirect, consequential (including lost profits), exemplary, punitive, or other monetary damages of any kind, other than actual damages.

13. Brokers. Buyer and Seller represent, each to the other, that it has not dealt with any real estate broker or any other party entitled to a commission, broker's fee or other compensation

in connection with this Agreement. If any person shall assert a claim to a fee, commission or other compensation on account of alleged employment as a broker or finder or for performance of services as a broker or finder in connection with this transaction, the party hereo under whom the broker or finder is claiming shall indemnify and hold harmless the other party against and from any such claim and all costs, expenses, and liabilities incurred in connection with such claim or any action or proceeding brought thereon (including, but without limitation, counsel and witness fees and court costs in defending against such claim). The indemnity provided in this Section shall survive Close of Escrow or earlier termination of this Agreement.

14. Seller's Representations, Warranties and Additional Covenants. Seller hereby represents, warrants and covenants (with the understanding that Buyer is relying on said representations, warranties and covenants) that:

(a) Seller is a \_\_\_\_\_ duly organized and existing in good standing under the laws of the State of \_\_\_\_\_.

(b) Seller has full right, power and authority to sell the Properties to Buyer as provided in this Agreement and to carry out its obligations hereunder. This Agreement is, and all other instruments, documents and agreements to be executed and delivered by Seller in connection with this Agreement shall be, duly authorized, executed and delivered by Seller and shall be valid, binding and enforceable obligations of Seller.

(c) To Seller's actual knowledge, and except as disclosed in the Commitment or the Reports, there are no: (i) claims, actions, suits, condemnation actions or other adversarial proceedings pending or threatened by any entity regarding the Properties or (ii) violations of any law, statute, government regulation or requirement concerning the Properties.

(d) There are no attachments, executions, or assignments for the benefit of creditors, or voluntary or involuntary proceedings in bankruptcy or under any other debtor-relief laws pending or, to Seller's knowledge, threatened against Seller.

(e) The execution, delivery and performance by Seller of this Agreement and such other instruments and documents to be executed and delivered in connection herewith by Seller does not, and shall not, result in any violation of, or conflict with, or constitute a default under, any provisions of any agreement of Seller or any mortgage, deed of trust, indenture, lease, security agreement, or other instrument, covenant, obligation, or agreement to which Seller are subject, or any judgment, law, writ, decree, order, injunction, rule, ordinance or governmental regulation or requirement affecting Seller.

(f) Seller shall not sell, convey, assign, lease or otherwise transfer all or any part of the Properties or cause or permit any new liability, encumbrance or obligation to be placed or imposed upon all or any part of the Properties from the Opening of Escrow, without the express written consent of Buyer, such consent not to be unreasonably withheld.

(g) Except as disclosed in the Commitment or in the Reports, Seller has not



entered into any agreement with governmental authorities, any adjoining or surrounding property owners, any civil association, homeowners association, utility, any school board, church or other religious body, or any other person or entity that would in any manner be binding upon Buyer or upon the Properties from and after the Closing.

The foregoing representations, warranties and covenants shall be true as of the date hereof and as of the Close of Escrow and shall survive the Close of Escrow and delivery of the Deed for a period of one (1) year. If at any time Seller discovers that any of such warranties or representations is untrue (other than as the result of the misrepresentation of such warranty when made or the acts or omissions of Seller in which event the provisions of Section 12(a) shall apply), then Seller shall notify Buyer of such discovery, in which event such warranty or representation shall be deemed modified to the extent described in such notice. Upon Seller giving written notice to Buyer of the modification of any such warranty or representation, then, notwithstanding any other provision of this Agreement, Buyer shall have fifteen (15) days after receipt of such notice to notify Seller of Buyer's election to terminate the Agreement. If Buyer elects to terminate the Agreement, the Earnest Money shall be refunded to Buyer, and neither party shall thereafter have any rights or obligations to the other hereunder, other than pursuant to any provision hereof which expressly survives the termination of this Agreement.

15. Buyer's Representations, Warranties and Additional Covenants. Buyer hereby represents, warrants and covenants that:

(a) Buyer is a municipal corporation under the laws of the State of Arizona.

(b) Buyer has full right, power and authority to purchase the Properties from Seller as provided in this Agreement and to carry out its obligations hereunder. The individual(s) executing this Agreement and the instruments referenced herein on behalf of Buyer have the legal power, right and actual authority to bind Buyer to the terms hereof and thereof. This Agreement is, and all other instruments, documents and agreements to be executed and delivered by Buyer in connection with this Agreement shall be, duly authorized, executed and delivered by Buyer and shall be valid, binding and enforceable obligations of Buyer.

(c) Buyer acknowledges and agrees that Buyer is a sophisticated purchaser of real property and is familiar with this type of real property and, other than the representations, warranties, and covenants expressly stated in this Agreement or in the instruments executed and delivered by Seller at Closing (the "Express Representations"), Seller has not made, does not make, and specifically negates and disclaims any representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future, of, as to, concerning, and/or with respect to the Properties and/or the Reports, including, without limiting the generality of the foregoing; (i) the value, nature, quality, or condition of the Properties, including, without limitation, the water, soil, and geology, (ii) the income to be derived from the Properties, (iii) the suitability of the Properties for any and all activities and uses that Buyer may conduct thereon, (iv) the compliance of or by the Properties or its operation with any laws, rules, ordinances, or regulations of any applicable governmental authority or body, (v) the habitability, merchantability, marketability,

profitability, or fitness for a particular purpose of the Properties, (vi) the manner or quality of the construction or materials, if any, heretofore incorporated into the Properties, (vii) the manner, quality, state of repair, or lack of repair of the Properties, (viii) compliance with any environmental protection, pollution, land use, zoning, development, or regional impact laws, rules, regulations, orders, or requirements, including the existence in or on the Properties of Hazardous Materials, (ix) the content, suitability, and/or sufficiency of any plans, plats, drawings, specifications, reports, studies, agreements, and/or documents with respect to the Properties (including, without limitation, any of the foregoing listed items delivered as part of the Reports), or (x) any other matter with respect to the Properties and/or the Reports. Buyer further acknowledges and agrees that, except for the Express Representations, Buyer is relying entirely on Buyer's own investigations and examinations as to the physical condition and every other aspect of the Properties and/or the Reports, including, without limitation, those matters set forth in (i) through (x) above. Buyer acknowledges that, subject to the Express Representations, it has performed, or on or before the Closing will perform, any and all inspections Buyer deems necessary or appropriate for Buyer to be satisfied with the acceptability of the Properties. Buyer further acknowledges that any information provided or made available or to be provided or made available to Buyer by Seller, or its officers, employees, agents, brokers, representatives, or others, including, without limitation, the Reports, was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and, makes no representations as to the accuracy or completeness of any such information, and such information was provided or made available or will be provided or made available solely as a courtesy, and that except for the Express Representations Buyer has the sole responsibility for determining the existence or nonexistence of any fact material to Buyer's decision to purchase the Properties. Buyer acknowledges that, except for the Express Representations, Buyer is purchasing the Properties on an "**AS-IS**", "**WHERE-IS**", and "**WITH ALL FAULTS**" basis, without any implied warranties, and Buyer accepts and agrees to bear all risks with respect to all attributes and conditions, latent or otherwise, of the Properties. Except for the Express Representations, Seller does not warrant any of the Properties to be free from defects and Buyer expressly accepts the possibility of such defects, subject only to Buyer's ability to terminate this Agreement during the Feasibility Period, or any other provision of this Agreement expressly granting Buyer a right to terminate this Agreement, and the Express Representations. By executing this Agreement, Buyer hereby gives Seller, as a material inducement for Seller to enter into this Agreement, a full release of Seller (its shareholders, officers, directors, beneficiaries, members, managers, partners, employees, agents, affiliates, and representatives) for and from any and all claims or causes of action Buyer may have now or in the future based upon the condition of the Properties at or prior to the Closing, the Reports, and/or all other matters pertaining to the Properties, except for the Express Representations. Such release applies to claims or causes of action arising at common law, under statute, or otherwise, whether sounding in contract or in tort, including, without limitation, claims or causes of action for misrepresentation or nondisclosure. The provisions of this Section shall survive the Closing and shall not merge with the Deed.

16. Notices. Any and all notices, demands or requests required or permitted hereunder shall be in writing and shall be effective upon personal delivery, e-mail, or facsimile transmission (facsimile transmission must include verification of transmission) or two (2) business days after

being deposited in the U.S. Mail, registered or certified, return receipt requested, postage prepaid, or one (1) business day after being deposited with any commercial air courier or express service, addressed as follows:

To Developer: Casey Treadwell  
Thompson Thrift Development, Inc.,  
3131 East Camelback Road Suite 115  
Phoenix, Arizona 85016

Copy to: Thompson Thrift Development, Inc.  
Attn: Timothy E. Fears, Sr. VP – Legal  
901 Wabash Avenue, Suite 300  
Terre Haute, Indiana 47807  
Phone: (812) 235-5959  
Email: tfears@thompsonthrift.com

Carolyn Oberholtzer, Esq.  
Bergin, Frakes, Smalley & Oberholtzer PLLC  
4343 East Camelback Road, Suite 210  
Phoenix, Arizona 85018

To City: City of Maricopa  
Attn: Ricky A. Horst, City Manager  
39700 West Civic Center Plaza  
Maricopa, Arizona 85138

Copy to: Denis M. Fitzgibbons, City Attorney  
Fitzgibbons Law Offices, P.L.C.  
1115 East Cottonwood Lane, Suite 150  
P.O. Box 11208  
Casa Grande, Arizona 85130-0148

To Escrow Agent: Fidelity National Title Insurance Company  
1 East Washington St., Suite 450  
Phoenix, AZ 85004  
Attn: Michelle Burton  
Telephone: (602) 343-7570  
Email: michelle.burton@fnf.com

Buyer, Seller or Escrow Agent may change its address for notice by giving notice of change of address in the manner provided above. The inability to deliver because of a changed address of which no notice was given, or rejection or other refusal to accept any notice, shall be deemed to be the receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept. Any telephone numbers provided in this Agreement are for aiding informal communications only and notices shall not be effective if provided orally. An attorney for Buyer or Seller may give any notice hereunder on behalf of his client if such notice states that the attorney is giving notice on behalf of his client.

17. Drainage and Access Easement Agreement. On or before the Closing, Buyer and Seller shall execute and deliver to Escrow Agent the Drainage and Access Easement Agreement (the "Drainage Easement") in the form attached hereto as Exhibit C. Escrow Agent shall record the Drainage Easement at the Closing and shall deliver the original of the Drainage Easement (following recordation) to Buyer, with a copy to Seller, promptly following the Closing.

18. Time of the Essence. Time is of the essence of this Agreement, and Buyer and Seller hereby agree to perform each and every obligation hereunder in a prompt and timely manner; provided, however, that if the date for the performance of any action or the giving of any notice which is required hereunder, occurs on a Saturday, Sunday or legal holiday, the date for performance or giving of notice shall be the next succeeding business day.

19. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be valid under applicable law, but if any provision of this Agreement shall be invalid or prohibited hereunder, such provision shall be ineffective to the extent of such prohibition or invalidation which shall not invalidate the remainder of such provision or the remaining provisions of this Agreement.

20. Waiver. The waiver by either party hereto of any right granted to it hereunder shall not be deemed to be a waiver of any other right granted herein, nor shall same be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived.

21. Legal Fees. In the event it becomes necessary for either Seller or Buyer to employ legal counsel or to bring action at law or other proceeding to enforce any of the terms, covenants or conditions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its costs and expenses incurred, including its reasonable attorneys' fees, from the other party.

22. Entire Agreement; Amendments. This Agreement contains the entire agreement of the parties hereto with respect to the matters covered hereby, and supersedes all prior agreements, arrangements and understandings between the parties, and no other agreement, statement or promise made by either party hereto that is not contained herein shall be binding or valid. This Agreement may be amended only by written document signed by each of the parties hereto.

23. Counterparts; Electronic Signatures. This Agreement may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Signatures transmitted by facsimile and emailed PDF signatures shall be valid as originals.

24. Assignment. Buyer may transfer or assign its interest in this Agreement without Seller's consent. Seller may transfer or assign its interest in this Agreement without Buyer's consent. An assignment allowed under this paragraph shall not relieve the assignor from its obligations under this Agreement. Any purported assignment in violation of this paragraph shall be null and void and shall vest no rights in the purported assignee.

25. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, devisees, personal and legal representatives, successors and assigns. The obligations of the Seller under this Agreement are joint and several obligations.

26. Governing Law. This Agreement shall be construed and interpreted under, and governed and enforced according to the laws of the State of Arizona. The parties hereto hereby submit to the jurisdiction of the courts of Pinal County, State of Arizona in the event of any action or dispute arising from this Agreement.

27. Headings and Construction. The headings set forth in this Agreement are inserted only for convenience and are not in any way to be construed as part of this Agreement or a limitation on the scope of the particular section to which it refers. Where the context requires herein, the singular shall be construed as the plural, and neuter pronouns shall be construed as masculine and feminine pronouns, and vice versa. This Agreement shall be constructed according to its fair meaning and neither for nor against either party hereto.

28. Subsequent Acts. The terms and provisions of this Agreement shall not merge with, be extinguished by or otherwise be affected by any subsequent conveyance or instrument by or between the parties hereto unless such instrument shall specifically so state and be signed by the parties hereto.

29. Non-Foreign Person. Seller represents and warrants that it is not a “foreign person”, as that term is defined in Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended, (the “Code”). Prior to Close of Escrow, Seller shall furnish to Buyer and Escrow Agent Seller's United States taxpayer identification number and such affidavit and other information as Buyer or Escrow Agent may determine to be necessary or reasonable under Section 1445(b)(2) of the Code, or otherwise, to assure that Buyer shall not be subject to United States federal income tax withholding liability under Section 1445 of the Code. Seller shall in any event indemnify and hold harmless Buyer from and against any such cost, loss or liability that Buyer may incur under said Section 1445 of the Code.

30. Condemnation. If, prior to Closing, any governmental authority, other than Buyer, or other entity having condemnation authority shall institute an eminent domain proceeding or take any steps preliminary thereto (including the giving of any direct or indirect notice of intent to institute such proceedings) with regard to the Property, and the same is not dismissed on or before ten (10) days prior to Closing, Buyer shall be entitled either to terminate this Agreement upon written notice to Seller or to waive such right of termination and receive all such condemnation proceeds. In the event Buyer elects to terminate this Agreement under this Section, the Escrow Agent shall return to Buyer the Earnest Money and neither party to this Agreement shall thereafter have any further rights or obligations hereunder except for those rights and obligations that survive termination of this Agreement or the Close of Escrow as provided in this Agreement.

31. Damage or Destruction. If, prior to the Closing, any “Material Damage” (as hereinafter defined) occurs to any portion of the Properties as a result of any flood or other casualty, Seller shall immediately notify Buyer of such fact. In such event, Buyer shall have the option to terminate this Agreement upon written notice to Seller given not later than five (5) days after receipt of such notice from Seller. Upon such termination, the Earnest Money shall be refunded

to Buyer. If Buyer does not elect to terminate this Agreement, Seller shall assign and turn over, and Buyer shall be entitled to receive and keep, all insurance proceeds payable with respect to such damage or destruction (which shall then be repaired or not at Buyer's option and cost) and the parties shall proceed to the Closing pursuant to the terms hereof without reduction in the Purchase Price. If Buyer does not elect to terminate this Agreement by reason of any casualty, Buyer shall have the right to participate in any adjustment of the insurance claim. As used herein, the term "Material Damage" shall mean damage or destruction the cost of repair of which exceeds \$100,000.00.

32. Dispute Resolution. In the event a dispute arises under this Agreement, Buyer and Seller agree that there shall be a thirty (30) day moratorium on litigation during which time the Buyer and the Seller agree to attempt to settle the dispute by non-binding mediation before commencement of litigation. The mediation shall be held under the Commercial Mediation Rules of the American Arbitration Association ("AAA") but shall not be under the administration of the AAA unless agreed to by the Buyer and the Seller in writing, in which case all administrative fees shall be divided evenly between the Buyer and the Seller. The matter in dispute shall be submitted to a mediator mutually selected by Buyer and the Seller. If the Parties cannot agree upon the selection of a mediator within ten (10) days, then within five (5) days thereafter, the Buyer and the Seller shall request that the Presiding Judge of the Superior Court in and for the County of Pinal, State of Arizona, appoint the mediator. The mediator selected shall have at least ten (10) years of experience in mediating or arbitrating disputes relating to commercial property. The cost of any such mediation shall be divided equally between the Buyer and the Seller. The results of the mediation shall be nonbinding with either Buyer or the Seller free to initiate litigation upon the conclusion of the latter of the mediation or of the thirty (30) day moratorium on litigation. The mediation shall be completed in one day (or less) and shall be confidential, private, and otherwise governed by the provisions of A.R.S. § 12-2238, to the extent allowed by the Arizona Open Meetings Law, § 38-431 et. seq.

33. Conflict of Interest. This Agreement is subject to the conflict of interest provisions set forth in A.R.S. Section 38-511.

[Balance of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

**Attest:**

**"City"**

CITY OF MARICOPA, an Arizona municipal corporation

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
Title: City Clerk

**Approved as to form:**

By

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name \_\_\_\_\_  
Title: City Attorney

\_\_\_\_\_  
Title

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF PINAL        )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged her/himself to be \_\_\_\_\_ of the CITY OF MARICOPA, an Arizona municipal corporation:

- \_\_\_\_\_ whom I know personally;
- \_\_\_\_\_ whose identity was proven to me on the oath of \_\_\_\_\_, a credible witness by me duly sworn;
- \_\_\_\_\_ whose identity I verified on the basis of her/his \_\_\_\_\_,

and s/he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

\_\_\_\_\_  
Notary Public





**ACCEPTANCE OF ESCROW AGENT**

The undersigned Escrow Agent hereby (a) accepts the Escrow created by the foregoing Agreement, (b) agrees to act in accordance with the terms of this Agreement, (c) agrees to be the person responsible for closing the transaction within the meaning of Section 6045(e)(2)(A) of the Internal Revenue Code of 1986 (the “Code”) and filing all necessary information reports, returns and statements (collectively, the “Tax Reports”) regarding the transaction required by the Code and, promptly upon the filing of the Tax Reports, transmit copies of the Tax Reports to Buyer and Seller, (d) agrees to indemnify and hold harmless Seller, Buyer and their respective attorneys and brokers from and against all claims, costs, liabilities, penalties, or expenses resulting from Escrow Agent’s failure to file the Tax Reports, and (e) confirms that the Opening of Escrow occurred on \_\_\_\_\_, 2020.

Fidelity National Title Insurance Company

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT A.1**

**LEGAL DESCRIPTION OF PROPERTY**

**EXHIBIT A.2**

**LEGAL DESCRIPTION OF COMMON DRAINAGE PROPERTY**

**EXHIBIT B**

When Recorded Return To:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SPECIAL WARRANTY DEED**

For the consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration received, \_\_\_\_\_ (“Grantor”), does hereby grant and convey to the CITY OF MARICOPA (“Grantee”), the following described real property (“Property”) situated in Pinal County, Arizona:

SEE EXHIBITS “A.1” and “A.2” ATTACHED HERETO AND BY  
THIS REFERENCE MADE A PART HEREOF

TOGETHER WITH all (i) all buildings, structures and improvements located thereon, including, without limitation, all irrigation ditches, gates, valves, pumps, tanks, and wells; (ii) all appurtenances, hereditaments, easements, rights-of-way, reversions, remainders, development rights, well rights, water rights, and air rights; (iii) all oil, gas, and mineral rights not previously reserved; (iv) any rights of Grantor to any adjoining strips or gores of property and any land lying within the bed of any adjoining street, highway, or waterway abutting the real property; and (v) any other rights or privileges appurtenant to such real property or relating to the past or future operation, maintenance, ownership or development thereof.

SUBJECT TO: All non-delinquent taxes and other assessments, reservations in patents, reserved water rights, and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record, and such facts as would be disclosed by inspection or accurate ALTA survey of the Property (including all optional Table A items).

AND GRANTOR hereby binds itself and its successors and assigns to warrant and defend the title against all of the acts of Grantor and no other, subject only to the Permitted Exceptions. Furthermore, Grantor hereby assigns, transfers, and conveys to Grantee any and all rights, remedies, and warranties acquired by Grantor from Grantee’s predecessors in title.

PROHIBITED USES: The following uses and practices on the real property described in Exhibit A.2 shall be prohibited: development, construction or placement of any buildings, signs, billboards, towers or other structures, other than as necessary for the limited purpose of drainage, open space and landscaping. These prohibitions run with the land and are binding on Grantee’s successors and assigns.

[Signature Page Follows]

DATED: \_\_\_\_\_, 2020.

**GRANTOR:**

\_\_\_\_\_, an \_\_\_\_\_

By: \_\_\_\_\_, the \_\_\_\_\_ of  
\_\_\_\_\_, an \_\_\_\_\_

STATE OF ARIZONA                    )  
  ) ss.  
County of Maricopa                    )

Acknowledged before me this \_\_\_ day of \_\_\_\_\_ 2020, by  
\_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, for and on behalf of the  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Seal/Stamp

\_\_\_\_\_  
Notary Public

EXHIBIT "A.1" TO SPECIAL WARRANTY DEED

Legal Description

EXHIBIT "A.2" TO SPECIAL WARRANTY DEED

Legal Description

**EXHIBIT C**

**DRAINAGE AND ACCESS EASEMENT AGREEMENT**