

**CITY CLERK
ORIGINAL**

C-10317
10/14/2015

PURCHASE AGREEMENT

DATE: October 15, 2015

SELLER: CCP INVESTMENTS #2, LLC,
an Arizona limited liability company

and

ALICE R. PENDERGAST, CAROLYN PENDERGAST AND BONNIE PENDERGAST, as Trustees under THE PENDERGAST TRUST, under Agreement dated June 11, 2004 (collectively, the "Seller")

Address: c/o Snell & Wilmer L.L.P.
One Arizona Center
Phoenix, Arizona 85004-2202
Attention: Joyce K. Wright
Telephone: (602) 382-6249
E-mail: jkwright@swlaw.com

**SELLER'S
ATTORNEY:**

SNELL & WILMER L.L.P.
Address: One Arizona Center
Phoenix, Arizona 85004-2202
Attention: Joyce K. Wright
Telephone: (602) 382-6249
E-mail: jkwright@swlaw.com

BUYER: THE CITY OF GLENDALE, ARIZONA,
an Arizona municipal corporation (the "Buyer")

Address: 5850 West Glendale Avenue
Glendale, Arizona 85301
Attention: Michael Bailey, City Attorney
Telephone: (623) 930-2930
E-mail: mbailey@glendaleaz.com

**BUYER'S
ATTORNEY:**

GUST ROSENFELD PLC
Address: One East Washington, Suite 1600
Phoenix, Arizona 85004-2553
Attention: Raul Abad
Telephone: (602) 257-7452
E-mail: rabad@gustlaw.com

**ESCROW
AGENT:**

FIDELITY NATIONAL TITLE INSURANCE COMPANY
Address: 7025 N. Scottsdale Road, Suite # 102
Scottsdale, Arizona 85253
Telephone: (480) 515-2331
Escrow Officer: Lisa Boyle, Vice President – Branch Manager
E-mail: lisa.boyle@fnf.com
Escrow No.: 22002142

PROPERTY:

Fee title to the real property described on **Exhibit A** generally located at the southwest corner of Maryland Avenue and 91st Avenue in Glendale, Arizona, including all improvements located on such real property, if any, and all rights and privileges appurtenant to the real property, all of which are agreed to be and constitute a part of the real property (the “**Property**”).

**ARTICLE 1
AGREEMENT OF THE PARTIES**

1.1 Agreement. In consideration of the mutual promises and covenants set forth in this Purchase Agreement (this “**Agreement**”), Seller agrees to sell and Buyer agrees to buy the Property on the terms and conditions set forth in this Agreement. Simultaneously with the execution of this Agreement, Buyer has entered into that certain Purchase Agreement of even date herewith by and among Buyer and CCP INVESTMENTS #3, LLC, an Arizona limited liability company, as seller thereunder (as may be amended pursuant to the terms thereof, the “**CCP #3 Agreement**”) pertaining to that certain other real property and improvements more particularly described in the CCP #3 Agreement (the “**CCP #3 Property**”). Buyer and Seller established Escrow No. 22002164 with Escrow Agent pursuant to the CCP #3 Agreement (“**Escrow No. 22002164**”). Buyer intends and agrees to purchase both the Property and the CCP #3 Property, subject to the terms and conditions of this Agreement and the CCP #3 Agreement and to close Escrow No. 22002164 simultaneously with closing the escrow established pursuant to this Agreement.

1.2 Effectiveness of Agreement; Opening Date. This Agreement shall be effective when both Buyer and Seller have executed this Agreement. Within one (1) Business Day following the date of execution of this Agreement by both Buyer and Seller, and deposit of their respective executed counterparts of this Agreement with Escrow Agent, Buyer shall deposit the Earnest Money Deposit as defined and required by **Section 2.2(a)** in escrow. The “**Opening Date**” shall be the date on which Escrow Agent has received the fully executed counterparts of this Agreement and the Earnest Money Deposit. Promptly upon receipt of those items, Escrow Agent shall notify Buyer and Seller in writing of the Opening Date.

**ARTICLE 2
PURCHASE PRICE AND PAYMENT TERMS**

2.1 Purchase Price. The total purchase price for the Property is \$6,812,106.00 (the “**Purchase Price**”).

2.2 Payment. The Purchase Price shall be paid by Buyer as follows:

(a) Earnest Money. Within one (1) Business Day following the date of execution of this Agreement by both Buyer and Seller, Buyer agrees to deposit in escrow the sum of \$250,000.00 as an earnest money deposit ("**Earnest Money Deposit**"). An amount equal to \$50,000.00 of the Earnest Money Deposit shall be deemed non-refundable to Buyer, but applicable to the Purchase Price, immediately upon deposit in escrow by Buyer ("**Non-Refundable Earnest Money**"), and in the event this Agreement is terminated for any reason whatsoever other than due to Seller's default as provided in **Section 11.2**, the Non-Refundable Earnest Money shall be immediately released to Seller in recognition of and as compensation to Seller for its expenses related to the transaction contemplated by this Agreement. The remaining portion of the Earnest Money Deposit, excluding the Non-Refundable Deposit, shall be subject to the terms of this Agreement.

(b) Cash Payment at Closing. On or before the Closing, Buyer agrees to deposit in escrow the balance of the Purchase Price.

(c) Manner of Payment. All payments that Buyer is required to make under this **Article 2** shall be made by cashier's check payable to Escrow Agent or by wire transfer of ready funds to the account of Escrow Agent. Escrow Agent is instructed to deposit all such payments in a federally-insured money market or other similar account, subject to immediate withdrawal, at a bank or savings and loan institution located in Phoenix, Arizona.

2.3 Earnest Money Provisions.

(a) Interest. Interest earned on the Earnest Money Deposit shall be retained in the escrow until the Closing, at which time such interest shall be credited to the Purchase Price; *provided, however*, that if this Agreement is terminated, the interest shall be paid to the party entitled to receive the Earnest Money Deposit.

(b) Disposition of Earnest Money Deposit.

(i) If the escrow closes, the Earnest Money Deposit in escrow, together with any interest earned on the Earnest Money Deposit shall be credited against the Purchase Price.

(ii) If the Agreement is terminated and pursuant to the terms of this Agreement Seller becomes entitled to receive and retain all or a portion of the Earnest Money Deposit, Escrow Agent shall immediately pay to Seller the entire Earnest Money Deposit or the Non-Refundable Deposit, as applicable, together with any interest earned on the portion of the Earnest Money Deposit released to Seller.

(iii) If the Agreement is terminated and pursuant to the terms of this Agreement, Buyer becomes entitled to a return of all or a portion of the Earnest Money Deposit, Escrow Agent shall immediately refund to Buyer such amount, together with any interest earned on such amount.

2.4 Disbursements. At Closing, all amounts paid by Buyer on account of the Purchase Price, less any closing costs and brokerage commissions payable by Seller, shall be disbursed to Seller.

ARTICLE 3 ESCROW

3.1 Establishment of Escrow; Escrow Instructions. Immediately upon execution of this Agreement by both parties, Seller will deliver a fully executed copy of this Agreement to Escrow Agent. An escrow for this transaction shall be established with Escrow Agent, and Escrow Agent is engaged to administer the escrow. This Agreement constitutes escrow instructions to Escrow Agent. Should Escrow Agent require the execution of its standard form printed escrow instructions, Buyer and Seller agree to execute same; however, such instructions shall be construed as applying only to Escrow Agent's engagement, and if there are conflicts between the terms of this Agreement and the terms of the printed escrow instructions, the terms of this Agreement shall control.

3.2 Acceptance; Escrow Agent Not a Party. By accepting this escrow, Escrow Agent agrees be bound by the terms of this Agreement as they relate to the duties of Escrow Agent. However, such agreement does not constitute Escrow Agent as a party to this Agreement and no consent or approval from Escrow Agent shall be required to amend, extend, supplement, terminate or otherwise modify this Agreement except to the extent any such action increases the duties of Escrow Agent or exposes Escrow Agent to increased liability, in which such action shall not be binding on Escrow Agent unless Escrow Agent has consented to the same in writing.

3.3 Termination Charges. If the escrow fails to close because of Seller's default, Seller shall be liable for all customary escrow termination charges. If the escrow fails to close because of Buyer's default, Buyer shall be liable for all customary escrow termination charges. If the escrow fails to close for any other reason, Seller and Buyer shall each be liable for one-half of all customary escrow termination charges.

3.4 IRS Reporting. Escrow Agent agrees to be the designated "reporting person" under §6045(e) of the U.S. Internal Revenue Code of 1986 as amended (the "Code") with respect to the real estate transaction described in this Agreement and to prepare, file and deliver such information, returns and statements as the U.S. Treasury Department may require by regulations or forms in connection with such requirements, including Form 1099-B.

3.5 Insured Closing Letter. If Escrow Agent does not issue its own title insurance policies, but acts as an agent for an underwriter, as a condition to Escrow Agent acting as such, Escrow Agent shall cause its underwriter to issue to the parties a closing protection letter or insured closing service in written form satisfactory to Seller and Buyer, within five (5) days following the Opening Date.

ARTICLE 4
INFORMATION TO BE PROVIDED TO BUYER

4.1 Information and Other Items to Be Provided to Buyer. Within the time periods set forth below, Seller or Escrow Agent, as the case may be, will provide Buyer with the following (the “**Due Diligence Materials**”):

(a) Title Report. Buyer hereby acknowledges receipt of the Commitment for Title Insurance No. 22002142-022-LB1 dated September 30, 2015 issued by Escrow Agent (the “**Title Report**”) which shows the status of title to the Property as of the date of the Title Report and is accompanied by legible copies of all documents referred to in the Title Report.

(b) Existing Information. Within one (1) Business Day following the Opening Date, Seller will provide Buyer with currently relevant documentation and information relating to the Property to the extent in Seller’s possession, custody or control (the “**Property Materials**”); provided, however, that Seller shall have no obligation to provide any zoning and entitlement documents currently on file with the City of Glendale (the “**City**”) or any documents which would be disclosed in the Title Report or would otherwise be reflected in the public records. The Property Materials to be delivered by Seller include the following:

(i) a copy of the Amended and Restated Farm Lease between CCP Investments #2, LLC, an Arizona limited liability company and C.C. Pendergast & Co. L.L.C., as Lessee, relating to the Property (the “**Lease**”), along with land use application and abstract documentation related to the Lease;

(ii) a copy of the most recent survey of a portion of or all of the Property;

(iii) a copy of the Certificate of Grandfathered Groundwater Right with respect to the Property, along with the most recent water usage reports filed with the Arizona Department of Water Resources;

(iv) a copy of the most recent Report of Farm Commodities filed with the United States Department of Agriculture Farm Service Agency; and

(v) any environmental reports, data or analyses prepared, commissioned or received by Seller related to the conditions of the Property.

4.2 Survey. Prior to expiration of the Due Diligence Period, Buyer, at its sole cost and expense, shall obtain a current ALTA survey of the Property sufficient for issuance of the Title Policy described in Section 6.5 (the “**Survey**”). The Survey shall be certified to Buyer, Seller and Escrow Agent. Buyer shall promptly provide Seller and Escrow Agent with a copy of the Survey after its receipt by Buyer.

4.3 Right to Enter and Inspect the Property. During the period from the date of execution of this Agreement by Buyer and Seller until the earlier of the Closing or termination of

this Agreement, and subject to the provisions of this **Section 4.3**, Seller grants Buyer the non-exclusive right and license for Buyer's duly authorized employees, agents, consultants and independent contractors (collectively, "**Representatives**") to enter upon the Property for the purposes conducting tests, inspections, studies, surveys and other investigations relating to the Property, including, but not limited to environmental site assessments, civil engineering, geotechnical studies, preliminary soils investigations, sampling activities and surveys. However, Buyer may not enter the Property without giving one of Seller's managers, Bonnie Pendergast or Carolyn Pendergast, advance written notice by telephone or e-mail at least one (1) Business Day prior to any entry of the nature/purpose of the entry, the identity of the Representative(s) and the general time periods during which such Representative(s) will be on the Property. Seller shall have the right to have a representative present for all such activities, and Buyer, in making such entry and conducting such tests, studies, and analyses, shall not interfere with the use of the Property by Seller or damage the Property. Buyer agrees to repair any damage arising directly from such entry or the performance of any tests, studies and analyses by Buyer's Representatives and further agrees to indemnify, defend, and hold harmless Seller and its Related Parties (the "**Indemnitees**") for, from, and against any and all Claims arising out of Buyer's exercise of the rights granted by this **Section 4.3**, including, without limitation, any Claims relating to mechanics' or materialmen's liens; provided, however, that the foregoing indemnity shall not apply to the extent any such Claim is caused by any unlawful existing conditions of the Property or any grossly negligent acts or omissions or willful misconduct of the Indemnitees. Buyer agrees, at its expense, to promptly refill holes dug and otherwise to repair any damage to the Property as a result of its activities pursuant to this **Section 4.3**. The provisions of this **Section 4.3** shall survive the termination of this Agreement and be subject to **Section 12.14**.

ARTICLE 5 CONDITIONS TO CLOSING

5.1 Conditions to Buyer's Obligation to Close. Buyer's obligations to close this transaction are subject to the satisfaction of the following conditions on and as of the Closing, unless an earlier date is specified:

(a) Title & Survey Review. Buyer is satisfied with the status of title to the Property as disclosed by the Title Report and the Survey, if any. In that regard:

(i) Buyer shall have until November 3, 2015 (the "**Review Period**") in which to review and to give Seller and Escrow Agent written notice of any title exception or matter which is unacceptable to Buyer, in Buyer's reasonable judgment (each such matter or exception, a "**Disapproved Matter**"). If Buyer does not object to an exception to title as disclosed by the Title Report or Survey within the Review Period, such matter or exception shall be deemed to have been approved by Buyer.

(ii) If Buyer gives timely notice of any Disapproved Matters, Seller may elect, by delivering written notice of such election ("**Seller's Response**") to Buyer and Escrow Agent within five (5) days following Seller's receipt of notice of such Disapproved Matters, to eliminate the Disapproved Matters or to obtain title insurance endorsements satisfactory to Buyer against such Disapproved

Matters, it being understood and agreed, however, that Seller shall have no duty whatsoever to eliminate or secure a title endorsement against any such Disapproved Matters.

(iii) If Seller fails to deliver Seller's Response within the time period set forth above, or if Seller elects or is deemed to have elected not to eliminate all of the Disapproved Matters or obtain title insurance endorsements against such Disapproved Matters, then Buyer must elect on or before the expiration of the Due Diligence Period, as Buyer's sole and exclusive remedy, to either (A) terminate this Agreement by delivering written notice of such election to Seller and Escrow Agent and upon such termination Buyer shall receive the return of the Earnest Money Deposit less the Non-Refundable Deposit, or (B) waive its objections to the Disapproved Matters and proceed to close with such Disapproved Matters thus being conclusively deemed to have been approved by Buyer. In the event that Buyer fails to make such election by the end of the Due Diligence Period, then Buyer shall be deemed to have elected to waive its objections to the Disapproved Matters in accordance with the preceding clause (B).

(iv) Notwithstanding anything in this Agreement to the contrary, title to the Property shall be delivered to Buyer at the Closing free and clear of all monetary liens and encumbrances voluntarily placed on the Property by Seller or Seller's predecessors-in-title and such monetary liens and encumbrances shall be released from the Property by Seller at Seller's sole expense on or before the Closing. All such liens and encumbrances are disapproved for the purposes of this Section 5.1(a), and Buyer need not give any further notice of disapproval as to those items.

(v) The matters shown in the Title Report (other than standard printed exceptions and exclusions that will be included in the Title Policy) that are approved or deemed approved by Buyer in accordance with this Section 5.1(a) and any other matters approved by Buyer in writing, are referred to in this Agreement as the "Approved Title Exceptions."

(b) Buyer's Investigations. Buyer is satisfied with Buyer's investigations and inspections with respect to the Property and this transaction. In that regard, for a period commencing on the Opening Date and ending at 5:00 p.m. (local Arizona time) on the twentieth (20th) Business Day following the Opening Date (the "**Due Diligence Period**"), Buyer will have the absolute right to terminate this Agreement for any reason whatsoever, in Buyer's sole and absolute discretion. However, until Buyer terminates, Buyer will proceed in good faith with Buyer's preliminary investigatory steps with respect to this transaction. Unless Buyer gives written notice of termination prior to the expiration of the Due Diligence Period, then Buyer will be deemed to have elected not to terminate and to have waived its right to terminate pursuant to this provision.

(c) Contingent Property Closing. The conditions to closing Escrow No. 22002164 with respect to the CCP #3 Property shall be satisfied pursuant to the terms of

the CCP #3 Agreement and the closing of Escrow No. 22002164 and conveyance of the CCP #3 Property to Buyer shall occur simultaneously with the closing of the transaction contemplated by this Agreement, unless such closing has not occurred due to a Buyer default under the CCP #3 Agreement.

(d) Escrow Agent Prepared to Close and Issue Title Policy. Escrow Agent is prepared to close the transactions contemplated by this Agreement and Title Insurer is unconditionally prepared to issue the Title Policy in the form required by this Agreement.

(e) Full Compliance. Seller has fully performed all of its obligations under this Agreement to be performed by Seller on or before Closing.

If any of the foregoing conditions is not fulfilled on or before the date by which such contingency is to have been satisfied and such condition has not otherwise been waived by Buyer in writing, Buyer may, in addition to any right or remedy otherwise available to Buyer, by written notice to Seller given on or before the date specified or, prior to Closing, if an earlier date is not specified, terminate this Agreement. Upon such termination, Buyer shall be entitled to a return of the Earnest Money Deposit less the Non-Refundable Earnest Money, which shall be paid to Seller. Notwithstanding the foregoing, if Buyer's termination is due to a Seller default, Buyer shall be entitled to its remedies under **Section 11.2.**

5.2 Conditions to Seller's Obligation to Close. Seller's obligation to close this transaction is subject to the satisfaction of the following conditions on and as of the Closing, unless an earlier date is specified:

(a) Contingent Property Closing. The conditions to closing Escrow No. 22002164 with respect to the CCP #3 Property shall be satisfied pursuant to the terms of the CCP #3 Agreement and the closing of Escrow No. 22002164 and conveyance of the CCP #3 Property shall occur simultaneously with the closing of the transaction contemplated by this Agreement, unless such closing has not occurred due to a Seller default under the CCP #3 Agreement.

(b) Escrow Agent Prepared to Close and Issue Title Policy. Escrow Agent shall be prepared to close the transactions contemplated by this Agreement.

(c) Full Compliance. Buyer has fully performed all of its obligations under this Agreement to be performed by Buyer on or before Closing.

If any of the foregoing conditions is not fulfilled on or before the date by which such contingency is to have been satisfied and such condition has not otherwise been waived by Seller in writing, Seller may, in addition to any right or remedy otherwise available to Seller, by written notice to Buyer, terminate this Agreement. Upon such termination, Seller shall be entitled to receive the Earnest Money Deposit.

ARTICLE 6 CLOSING

6.1 Time of Closing. The Closing of this transaction and escrow (referred to in this Agreement as the “Closing”) shall occur on or before November 16, 2015 (the actual date of Closing being the “Closing Date”), in the offices of Escrow Agent.

6.2 Closing Statements. Prior to Closing, Escrow Agent will prepare a consolidated closing settlement statement for Seller and Buyer, reflecting the various charges, prorations and credits applicable to each party, as provided in this Agreement, and provide each party with a copy of the closing settlement statement. Prior to Closing, each party shall have the right to review and approve the closing settlement statement to insure that such settlement statement conforms to the terms of this Agreement. The settlement statement, as approved by each party, is referred to in this Agreement as the “Closing Settlement Statement”.

6.3 Seller’s Closing Documents. On or before the Closing, Seller shall deposit into escrow the following documents for delivery to Buyer at the Closing, each of which shall have been duly executed and, where appropriate, acknowledged:

(a) A special warranty deed (the “Deed”) in the form attached hereto as **Exhibit B** conveying the Property to Buyer, subject to current taxes and assessments, reservations in patents, all easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record and all matters which an accurate survey of the Property or a physical inspection of the Property would disclose. Water rights, if any, shall be excluded from the coverage of the Deed warranties and shall be transferred by quitclaim only;

(b) An affidavit of value as required by law;

(c) A certification to Buyer and Escrow Agent, signed and acknowledged by Seller under penalties of perjury, certifying that Seller is not a nonresident alien, foreign corporation, foreign partnership, foreign trust, foreign estate, or other foreign person within the meaning of Section 1445 and 7701 of the Code and the related Treasury Regulations;

(d) Evidence of termination of the Lease on or before Closing;

(e) Any water rights conveyance and notification documents required by the Arizona Department of Water Resources; and

(f) Such other documents as may be necessary or appropriate to transfer and convey all of the Property to Buyer and to otherwise consummate this transaction in accordance with the terms of this Agreement.

6.4 Buyer’s Closing Documents. On or before the Closing, Buyer shall deposit into escrow the following documents for delivery to Seller at the Closing, each of which shall have been duly executed and, where appropriate, acknowledged:

- (a) An affidavit of value as required by law; and
- (b) Such other documents as may be necessary or appropriate to consummate this transaction in accordance with the terms of this Agreement.

6.5 Title Policy. Promptly following the Closing, Seller shall provide Buyer with an ALTA extended owner's policy of title insurance issued by Fidelity National Title Insurance Company (the "Title Insurer") in the full amount of the Purchase Price, effective as of the Closing, insuring Buyer that fee simple title to the Property is vested in Buyer, subject only to the usual printed exceptions and exclusions contained in such title insurance policies and to the Approved Title Exceptions. At Closing, Seller shall pay the portion of the premium for the extended coverage owner's policy equal to the premium for a standard owner's title insurance policy in the amount of the Purchase Price. Buyer shall pay the difference between the premium for the extended coverage policy and the premium for a standard coverage policy. Buyer shall pay the cost of any special endorsements to the title policy requested by Buyer. In no event shall the Closing be conditional upon or extended because of Buyer's election to obtain such special endorsements.

6.6 Closing Costs and Prorations.

(a) Escrow Charges. Upon the Closing, Seller and Buyer each agree to pay one-half of the escrow charges.

(b) Recording and Filing Fees. Fees for recording the Deed will be paid by Seller. All other recording fees, if any, will be paid by Buyer. Buyer shall file and pay any fees payable to the Arizona Department of Water Resources related to filing water rights conveyance and notification documents.

(c) Prorations. Any real property taxes and assessments applicable to the Property shall be prorated as of the Closing on the Closing Settlement Statement such that Seller is responsible for taxes and assessments accruing during 2015 prior to the Closing Date and Buyer is responsible for taxes and assessments accruing, if applicable, from and after the Closing Date. Seller shall be responsible for payment of all real property tax and assessment statements, if applicable, due prior to Closing and Buyer shall be responsible for payment of all real property tax and assessment statements due following Closing. If the tax statement for 2015 is subsequently reduced after Closing, Buyer shall be obligated to reimburse Seller for the pro rata share of the reduction applicable to the period prior to Closing. Buyer hereby authorizes Seller, at no cost or other liability to Buyer, to pursue any action deemed appropriate or necessary by Seller in its sole discretion related to seeking a reduction of the 2015 tax bill. The provisions of this Section 6.6(c) shall survive the Closing.

(d) Miscellaneous Closing Costs. Any other closing costs not provided for above or elsewhere in this Agreement shall be paid by Buyer and Seller according to the usual and customary practice in Maricopa County, Arizona.

(e) Method of Payment. All closing costs and commissions payable by Seller shall be deducted from Seller's proceeds at the Closing. On or before the Closing, Buyer

shall deposit with Escrow Agent cash in an amount sufficient to pay all closing costs payable by Buyer.

6.7 Payments and Disbursements to Be Handled through the Escrow. The various charges, credits and prorations contemplated by this Agreement will be handled by Escrow Agent through the escrow by appropriate charges and credits to Buyer and Seller and will be reflected in the Closing Settlement Statement. All amounts payable pursuant to this Agreement will be paid to Escrow Agent for disposition through the escrow. Escrow Agent is authorized to make all disbursements to the parties and to third parties contemplated by this Agreement from funds deposited for those purposes, as necessary or appropriate to close this transaction and as set forth in the Closing Settlement Statement. Escrow Agent shall also record the Deed in the Maricopa County Recorder's records on the Closing Date.

ARTICLE 7 POST-CLOSING RIGHTS, OBLIGATIONS & RESTRICTIONS

7.1 Restriction on Future Transfer. The parties acknowledge that the purchase and sale of the Property and the CCP #3 Property as contemplated by this Agreement and the CCP #3 Agreement is being made under threat or imminence of condemnation due to Buyer's requirement for use of the Property for municipal purposes. Buyer acknowledges that its requirement for use of the property is a material inducement and component of Seller's willingness to sell the Property to Buyer on the terms set forth in this Agreement. Buyer also acknowledges that Seller is relying on Buyer's representations and would not necessarily sell the Property to Buyer but for the use of the Property for municipal purposes and the threat or imminence of condemnation of the Property. In consideration of the foregoing, Buyer hereby agrees that if Buyer or any entity wholly owned by Buyer sells, conveys or transfers (a "Transfer") any portion of the Property (the "Subject Property") to any third party other than an entity wholly owned by Buyer at any time within two (2) years after the Closing (the "Holding Period"), Seller shall be entitled to a 50% share of any Profit (as defined herein) obtained or received directly or indirectly by Buyer or any entity wholly owned by Buyer as a result of the Transfer of the Subject Property. For purposes of this Section 7.1 "Profit" shall mean any amount which exceeds the pro rata Purchase Price allocated to the Subject Property, and such amount shall be calculated by determining the square footage of the Subject Property conveyed or transferred divided by the total square footage of the Property. Buyer shall pay Seller any amount due pursuant to this Section 7.1 within five (5) Business Days following such Transfer. The provisions of this Section 7.1 shall survive the Closing and be subject to Section 12.14. Notwithstanding anything in this Agreement to the contrary, Buyer's obligation to pay any amount due pursuant to this Section 7.1 shall remain a personal obligation of Buyer regardless of whether such Profit is received directly or indirectly by Buyer.

7.2 Removal of Seller's Personal Property. Buyer shall grant Seller a period of time commencing on the Closing Date and ending on the earlier of: (a) the date on which Seller delivers written notice to Buyer stating that Seller has completed removal of any Tangible Personal Property (as defined below) Seller desired to remove from the Property, or (b) January 8, 2016 (the "Post-Closing Removal Period"), in order to allow Seller time to remove from the Property crops, furniture and other furnishings, maintenance and farming equipment and tools, vehicles, and other machinery, equipment, fixtures, materials, supplies, replacement parts and

tangible personal property of every kind and character owned or leased by Seller, and located in or on, or used or useful in connection with, the Property (collectively, the "**Tangible Personal Property**"). Notwithstanding anything in this Agreement to the contrary, in no event shall Seller be obligated to deliver possession of the Property to Buyer prior to the expiration of the Post-Closing Removal Period. During the Post-Closing Removal Period:

(a) Seller agrees to keep all improvements to the Property in the same condition and repair as on the Closing Date. Upon the expiration of the Post-Closing Removal Period, Seller shall return the Property, and all improvements thereon, to Buyer in the same condition and repair as they existed on the Closing Date; provided, however, that Seller may alter or demolish and remove the existing improvements on the Property so long as any demolished improvements shall be removed entirely and the site restored to grade and any alterations to the improvements shall comply with all government laws and regulations and shall not result in any liens against the Property. Seller may not make additional improvements to the Property.

(b) Seller agrees to pay any and all utility charges incurred in connection with the Property during the Post-Closing Removal Period, including but not limited to all charges associated with electric, water, sewer, garbage collection and telephone.

(c) Seller shall maintain the Property in a neat, clean, weed-free, litter-free and reasonable condition at all times during the Post-Closing Removal Period.

(d) Seller acknowledges that it is occupying the Property "AS-IS", and that Buyer has made no representation or warranty of any kind as to the condition of the Property or its fitness for Seller's intended use during the Post-Closing Removal Period.

(e) Seller agrees that the Property shall only be used for farming purposes and for Seller's other normal and customary operations. Seller shall comply with any and all applicable federal, state and local laws, ordinances, rules, regulations and orders (collectively "**Laws**") with respect to its use and occupancy of the Property during the Post-Closing Removal Period, including but not limited to Environmental Law. Seller agrees that it will not, nor will it allow or acquiesce for any third party to, keep, store, use or dispose of, any substance regulated pursuant to any Environmental Law on, under or around the Property in violation of any applicable Environmental Law during the Post-Closing Removal Period.

(f) Seller agrees to indemnify, protect, defend and hold Buyer and Buyer's Related Parties harmless from and against any and all Claims, whether now known or unknown, fixed or contingent, liquidated or unliquidated, arising out of or in any way connected to the following occurring during the Post-Closing Removal Period: (i) Seller's and Seller's Related Parties and invitees' use and occupancy of the Property or (ii) any accident or other occurrence causing or alleged to have caused injury or death to persons or damage to property by reason of the condition, maintenance or construction of the Property or any improvement to the Property; provided, however, that the foregoing indemnity shall not apply to the extent any such Claims are caused by any grossly negligent acts or omissions or willful misconduct of the indemnitees.

(g) Seller agrees to indemnify, protect, defend and hold Buyer and Buyer's Related Parties harmless from and against any and all Claims, whether now known or unknown, fixed or contingent, liquidated or unliquidated, arising out of or in any way connected to any violation or alleged violation of any Environmental Law occurring during the Post Closing Removal Period.

(h) Seller forever releases, acquits, and discharges Buyer and Buyer's Related Parties from any and all Claims due to business interruption, loss of services, actions and losses of actions, whether now known or unknown, fixed or contingent, liquidated or unliquidated, arising out of, alleged to arise out of or in any way connected with the condition of the Property or the use of the Property during the Post-Closing Removal Period.

(i) Seller shall, at its sole cost and expense, obtain and maintain in full force and effect throughout its occupancy of the Property during the Post-Closing Removal Period, the following non-contributing primary insurance policy, which shall name Buyer as an additional insured: commercial general liability insurance coverage against any liability to the public arising out of the use or occupancy of the Property by Seller with limits of not less than \$500,000.00 per occurrence and not less than \$1,000,000.00 annual aggregate, covering bodily injury and property damage liability.

(j) If for any reason Seller shall remain in possession of the Property beyond the Post-Closing Removal Period, Seller shall be deemed a tenant at sufferance, shall be subject to immediate eviction and removal by Buyer and Buyer shall be entitled to pursue all remedies at law or in equity with respect to Seller's holdover on the Property. Buyer and Seller acknowledge and agree that Buyer will be severely damaged by any holdover by Seller beyond the Post-Closing Removal Period and that the amount of such damages would be difficult to quantify. Buyer and Seller acknowledge and agree that in the event of such a holdover, Seller shall pay to Buyer liquidated damages in an amount equal to \$2,000.00 per day for each day that Seller remains in possession of the Property beyond the Post-Closing Removal Period which Buyer and Seller agree is a reasonable approximation of damages which will be suffered by Buyer as a result of such holdover.

(k) Prior to the Post-Closing Removal Period, Seller shall vacate the improvements on the Property and remove any Tangible Personal Property Seller desires to remove therefrom and shall terminate any existing rights of occupancy or possession affecting the Property. Seller shall be responsible for all fees and costs of Seller's vacation and removal. Any property of Seller left on or about the Property following the Post-Closing Removal Period shall be conclusively presumed to have been abandoned by Seller and may be disposed of in any manner by Buyer in Buyer's sole discretion and at Buyer's expense.

(l) This Section 7.2 shall survive the Closing and the expiration of Seller's right to occupy the Property hereunder.

7.3 Family Recognition of CCP #2 Property. Buyer, on behalf of itself and its successors and assigns, agrees to ensure that the "Pendergast" family name receives recognition

on and with respect to the CCP #2 Property as follows (the “**Recognition Obligation**”): a sign shall be posted on the Property to recognize the family as long as the Property is used for municipal purposes, with the text and specifications for the sign to be mutually approved by Buyer and Seller prior to expiration of the Due Diligence Period, and any parking lot maintained on the Property will be designated “Parking Lot P.”

ARTICLE 8 REPRESENTATIONS AND WARRANTIES

8.1 Seller’s Representations.

(a) Nature of Seller’s Representations. Each of the representations and warranties of Seller contained in this **Section 8.1** constitutes a material part of the consideration to Buyer and Buyer is relying on the correctness and completeness of these representations and warranties in entering into this transaction. Each of the representations and warranties is true and accurate as of the date of execution of this Agreement by Seller, will be true and accurate as of the Closing and shall survive the Closing, for a period of six (6) months.

(b) Representations and Warranties as to Seller and the Transaction. Seller represents and warrants to Buyer as follows:

(i) Organizational Status. Seller is comprised of a trust and a limited liability company, both of which are duly organized and validly existing under the laws of the State of Arizona, are qualified to do business in the State of Arizona, and have full power and authority to enter into and to perform its obligations under this Agreement. The persons executing this Agreement on behalf of Seller have full power and authority to do so and to perform every act and to execute and deliver every document and instrument necessary or appropriate to consummate the transactions contemplated by this Agreement.

(ii) Entity Action. All entity action on the part of Seller which is required for the execution, delivery and performance by Seller of this Agreement and each of the documents and agreements to be delivered by Seller at the Closing has been duly and effectively taken.

(iii) Enforceable Nature of Agreement. This Agreement and each of the documents and agreements to be delivered by Seller at the Closing, constitute legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms.

(c) Representations and Warranties Relating to the Property. Seller represents and warrants to Buyer that, except as disclosed in the Due Diligence Materials:

(i) Litigation. No litigation has been served on Seller and is pending with respect to any matter affecting the Property nor, to Seller’s current actual knowledge, is any proposed, threatened or anticipated with respect to the Property.

(ii) Environmental Matters. To the actual knowledge of Seller: The Property is free from hazardous substances, pollutants or contaminants and is not now in violation of any Environmental Law as herein defined. Seller has not caused or allowed the use, generation, manufacture, production, treatment, storage, release, discharge, or disposal of any hazardous substances, pollutant or contaminant on, under, or about the Property, and has not undertaken, caused or allowed the operation or conduct of any activity, including the transportation to or from the Property of any hazardous substance, pollutant or contaminant except for the past use of agricultural chemicals in connection with Seller's prior farming and/or dairy operations and the operation and maintenance of an above-ground petroleum storage tank on the Property. Seller has received no warning, notice of violation, administrative complaint, judicial complaint, or other formal or informal notice alleging that conditions on the Property are or have been in violation of any Environmental Law, or informing Seller that the Property is subject to investigation or inquiry regarding the presence of hazardous substances, pollutants or contaminants on or about the Property.

As used in this Agreement: (1) "Environmental Law" means any federal, state or local law, statute, ordinance, or regulation pertaining to health, welfare, industrial hygiene, or environmental conditions, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Sections 9601, *et seq.*, as amended; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Sections 6901, *et seq.*, as amended; the Toxic Substances Control Act of 1976, 15 U.S.C. Sections 2601, *et seq.*, as amended; the Clean Water Act 33 U.S.C. Section 1251, *et seq.*, as amended; the Clean Air Act, 42 U.S.C. Section 7401 *et seq.*, as amended; and the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 *et seq.*, as amended; and (2) "hazardous substance," "pollutant" and "contaminant" shall have the same meaning as those terms have in CERCLA but may also include petroleum products and any element, compound, mixture, solution, material, waste, substance, pollutant, or contaminant which may or could pose a risk of injury or threat to human health, welfare or the environment.

(iii) Seller's Knowledge. For purposes of this Agreement, the term "actual knowledge" of Seller shall mean and be limited to the actual (as distinguished from an implied, imputed or constructive) knowledge of Carolyn Pendergast and Bonnie Pendergast, Managers of Seller, and without any attribution of knowledge to any such individuals of facts or information otherwise within the personal knowledge of any other persons, and without investigation or inquiry or the duty to independently investigate.

8.2 Buyer's Representations.

(a) Nature of Buyer's Representations. Each of the representations and warranties of Buyer contained in this Section 8.2 constitutes a material part of the consideration to Seller and Seller is relying on the correctness and completeness of these representations and warranties in entering into this transaction. Each of the

representations and warranties is true and accurate as of the date of execution of this Agreement by Buyer, will be true and accurate as of the Closing, and shall survive the Closing, for a period of six (6) months.

(b) Representations and Warranties as to Buyer and the Transaction. Buyer represents and warrants to Seller as follows:

(i) Organizational Status. Buyer is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Arizona, and has full power and authority to enter into and to perform its obligations under this Agreement. The persons executing this Agreement on behalf of Buyer have full power and authority to do so and to perform every act and to execute and deliver every document and instrument necessary or appropriate to consummate the transactions contemplated by this Agreement.

(ii) Entity Action. All entity action on the part of Buyer and its constituents which is required for the execution, delivery and performance by Buyer of this Agreement and each of the documents and agreements to be delivered by Buyer at the Closing has been duly and effectively taken.

(iii) Enforceable Nature of Agreement. This Agreement and each of the documents and agreements to be delivered by Buyer at the Closing constitute legal, valid and binding obligations of Buyer, enforceable against Buyer in accordance with their respective terms.

8.3 Release; As Is Nature of Transaction. Except for Seller's express warranties and representations set forth elsewhere in this Agreement or in any closing documents delivered by Seller:

(a) Release & Waiver. Buyer hereby releases Seller and Seller's Related Parties from any all responsibility and liability under any Environmental Law regarding the Property and expressly waives any and all objections to, complaints about, or Claims regarding the Property and its physical characteristics and existing conditions, including, without limitation, objections to, complaints about, or Claims regarding the development potential of the Property; the condition, valuation or utility of the Property, or its suitability for any purpose whatsoever; title and survey matters with respect to the Property; and any responsibility or liability with respect to subsurface soil and water conditions, solid and hazardous waste, hazardous substance, pollutant or contaminant as herein defined under or adjacent to the Property. Buyer further assumes the risk of changes in Environmental Law relating to past, present and future environmental conditions on the Property and, except as arising from the express warranties and representations of Seller, the risk that adverse physical characteristics and conditions, including, without limitation, the presence of hazardous substances, pollutants or contaminants, may not have been revealed by its investigations.

(b) AS IS. Buyer has not relied on any warranties, promises, understandings or representations, express or implied, oral or written, of Seller or any of Seller's Related

Parties, relating to the Property or any other aspect of the transactions contemplated by this Agreement and that Buyer is acquiring the Property in its present condition and state of repair, "AS IS" and "WHERE IS", with all defects and liabilities, latent or apparent. No later than expiration of the Due Diligence Period, Buyer will have inspected and investigated all aspects of the Property as Buyer deems necessary or appropriate to Buyer's complete satisfaction and will have observed the physical characteristics and existing conditions of the Property, the operations on the Property and on adjacent areas.

(c) Information Provided by Seller. Buyer acknowledges that any information of any type which Buyer has received or may receive from Seller or Seller's agents is furnished on the express condition that Buyer shall make an independent verification of the accuracy of such information, all such information being furnished without any representation or warranty whatsoever.

(d) Acknowledgments. Buyer agrees that the matters waived and released pursuant to this Section 8.3 are not limited to matters which are known or disclosed. In this connection, Buyer acknowledges that factual matters now unknown to it may have given or may hereafter give rise to causes of action, claims, demands, controversies, damages, costs, losses or expenses which are presently unknown, unanticipated and unsuspected, and Buyer further acknowledges that the waiver and release contained in this Section 8.3 has been negotiated and agreed upon in light of the foregoing. Buyer expressly waives any provision of statutory or decisional law to the effect that a general release does not extend to claims which the releasing party does not know or suspect to exist in such party's favor at the time of executing the release, which, if known by such party, would have materially affected such party's settlement with the released parties. The provisions of this Section 8.3 shall survive the Closing.

ARTICLE 9 ADDITIONAL COVENANTS

9.1 Possession; Risk of Loss. Possession of the Property shall be delivered to Buyer upon the Closing, subject to and upon the expiration of the Post-Closing Removal Period set forth in Section 7.2. In the case of loss or damage to the Property prior to the Closing, Buyer shall proceed with the Closing without abatement to the Purchase Price.

ARTICLE 10 BROKERAGE

10.1 Brokerage. Seller and Buyer warrant that neither party has dealt with any broker in connection with this transaction other than Nate Nathan of Nathan & Associates, Inc. (the "Broker"). If, but only if this transaction closes, Seller agrees to pay a brokerage fee or commission arising in connection with this Agreement pursuant to a separate written agreement between Broker and Seller. If any other person shall assert a claim to a finder's fee, brokerage commission or other compensation on account of alleged employment as a finder or broker or performance of services as a finder or broker in connection with this transaction, the party under whom the finder or broker is claiming shall indemnify, defend, and hold harmless the other party and such party's Related Parties for, from and against any and all Claims in connection with such

claim or any action or proceeding brought on such claim. The provisions of this **Section 10.1** shall survive the Closing and be subject to **Section 12.14**.

ARTICLE 11 DEFAULTS AND REMEDIES

11.1 Defaults by Buyer.

(a) Buyer's Default. The occurrence of any of the following will constitute a default by Buyer under this Agreement:

(i) If Buyer fails to deposit the Earnest Money Deposit required by this Agreement or, by the time set for the Closing, Buyer has failed to pay the balance of the Purchase Price into escrow, to deposit into escrow the documents and other items to be deposited by Buyer in escrow by the time set for Closing, or to perform any other obligation of Buyer to be performed by the time set for Closing (all such obligations being referred to collectively as the "**Buyer Closing Obligations**");

(ii) If Buyer makes an unauthorized assignment of this Agreement; or

(iii) If Buyer fails to observe or perform any of the other covenants or agreements contained in this Agreement or the CCP #3 Agreement to be observed or performed by Buyer.

(b) Seller's Remedies.

(i) If Buyer is in default with respect to the Buyer Closing Obligations, Seller may terminate this Agreement and the escrow, such termination to be effective immediately upon Seller giving written notice of termination to Buyer and Escrow Agent. Upon such termination, Seller shall be entitled to receive the full amount of the Earnest Money Deposit.

(ii) If Buyer is in default with respect to any of its obligations under this Agreement, other than the Buyer Closing Obligations, including any indemnity obligation, or if Seller elects not to terminate this Agreement in the event of a Buyer default with respect to the Buyer Closing Obligations, Seller shall have all rights and remedies at law or in equity in connection with such Buyer default, however, in no event shall Seller be entitled to incidental or consequential damages.

11.2 Default by Seller.

(a) Seller's Default. The occurrence of any of the following will constitute a default by Seller under this Agreement:

(i) If, by the time set for the Closing, Seller has failed to deposit into escrow the documents and other items to be deposited by Seller in escrow by the

time set for Closing, or to perform any other obligation of Seller to be performed by the time set for Closing (all such obligations being referred to collectively as the “**Seller Closing Obligations**”); or

(ii) If Seller fails to observe or perform any of the other covenants or agreements contained in this Agreement or the CCP #3 Agreement to be observed or performed by Seller.

(b) Buyer’s Remedies.

(i) If Seller is in default with respect to the Seller Closing Obligations, Buyer may, by written notice to Seller and Escrow Agent, (i) terminate this Agreement effective as of the date Buyer gives the notice to Seller and Escrow Agent electing to exercise such termination right and receive the full amount of the Earnest Money Deposit, and (ii) pursue condemnation of the Property in the Superior Court of the State of Arizona in and for the County of Maricopa; provided that, if prior to such condemnation notice being given, Seller otherwise cures the default, Buyer and Seller shall proceed to close the transaction within five (5) days following such cure.

(ii) If Seller is in default with respect to any of its obligations under this Agreement, other than the Seller Closing Obligations, including any indemnity obligation, Buyer shall have all rights and remedies at law or in equity in connection with such Seller default, however, in no event shall Buyer be entitled to incidental or consequential damages.

**ARTICLE 12
GENERAL PROVISIONS**

12.1 Certain Definitions. As used in this Agreement, certain capitalized terms are defined as follows:

(a) “**Business Day**” means any calendar day except a Saturday, Sunday or day when government offices of the State of Arizona or Maricopa County or the offices of Escrow Agent are closed for business.

(b) “**Claims**” means any and all obligations, debts, covenants, conditions, representations, costs, and liabilities and any and all demands, causes of action, and claims, of every type, kind, nature or character, direct or indirect, known or unknown, absolute or contingent, determined or speculative, at law, in equity or otherwise, including attorneys’ fees and litigation and court costs.

(c) “**Related Parties**” means, with respect to any person or entity, the officers, directors, shareholders, partners, members, employees, agents, City Council members (if applicable), attorneys, successors, personal representatives, heirs, executors, or assigns of any such person or entity.

12.2 Assignment. Buyer shall not assign or otherwise transfer any of its rights under this Agreement under any circumstance without the prior written consent of Seller which may be given or withheld in Seller's sole discretion. Any such assignment or transfer without Seller's consent shall be absolutely null and void and shall constitute a default by Buyer under this Agreement.

12.3 Binding Effect. Except as limited by the provisions of **Section 12.2**, the provisions of this Agreement are binding upon and shall inure to the benefit of the parties and their respective heirs, personal representatives, successors and assigns.

12.4 Attorneys' Fees. If either party brings any action or proceeding arising out of or in connection with this Agreement, the prevailing party shall be entitled to collect its reasonable attorneys' fees and its court costs, including, but not limited to, attorneys' fees on appeal and attorneys' fees incurred in any post-judgment proceedings to collect or enforce the judgment. The provisions of this **Section 12.4** shall survive the Closing and be subject to **Section 12.14**.

12.5 Waivers. No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver be a continuing waiver. Except as expressly provided in this Agreement, no waiver shall be binding unless executed in writing by the party making the waiver. Either party may waive any provision of this Agreement intended for its benefit; *provided, however*, such waiver shall in no way excuse the other party from the performance of any of its other obligations under this Agreement.

12.6 Notices. All notices shall be in writing and shall be made by hand delivery, express delivery service, freight prepaid, or by certified mail, postage prepaid, return receipt requested. Notices will be delivered or addressed to Seller and Buyer and their respective attorneys at the addresses or e-mail addresses set forth on the first page of this Agreement or at such other address or number as a party may designate to the other party in writing. Any such notice shall be deemed to be given and received and shall be effective (a) on the date on which the notice is delivered, if notice is given by hand delivery; (b) on the date of actual receipt, if the notice is sent by express delivery service; and (c) on the date on which it is received or rejected as reflected by a receipt if given by United States mail, addressed and sent as aforesaid.

12.7 Further Documentation. Each party agrees in good faith to execute such further or additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

12.8 Counterparts. This Agreement may be executed in counterparts (and by different parties to this Agreement in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by electronic means or by telecopy to the other party shall be effective as delivery of a manually executed counterpart of this Agreement.

12.9 Survival. The following obligations of the parties will survive the Closing or termination of this Agreement, whether contained in this Agreement or in any agreement, instrument, or other document given by a party in connection with the transactions contemplated by this Agreement:

- (a) Indemnification Obligations. All indemnity obligations of the parties;
- (b) Warranties. Any and all warranties or representations of the parties; and
- (c) Other Obligations. Any other obligation with respect to which it is expressly provided that it will survive the Closing or termination of this Agreement or which by its terms requires performance by the party after the Closing.

12.10 Construction. Unless the context of this Agreement clearly requires otherwise or unless otherwise expressly stated in this Agreement, this Agreement shall be construed in accordance with the following:

(a) Use of Certain Words. References to the plural include the singular and to the singular include the plural and references to any gender include any other gender. The part includes the whole; the terms "include" and "including" are not limiting; and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement.

(b) References. References in this Agreement to "Articles," "Sections," or Exhibits are to the Articles and Sections of this Agreement and the Exhibits to this Agreement. Any reference to this Agreement includes any and all amendments, extensions, modifications, renewals, or supplements to this Agreement. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this Agreement.

(c) Construing the Agreement. All parties agree that the provisions of this Agreement shall not be construed or interpreted for or against any party to this Agreement based upon authorship or any other factor but shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties to this Agreement.

(d) Partial Invalidity. If any portion of this Agreement is determined to be unconstitutional, unenforceable or invalid, such portion of this Agreement shall be stricken from and construed for all purposes not to constitute a part of this Agreement, and the remaining portion of this Agreement shall remain in full force and effect and shall, for all purposes, constitute the entire Agreement.

(e) Governing Law. This Agreement shall be construed according to the laws of the State of Arizona, without giving effect to its conflict of laws principles.

(f) Time of Essence; Time Periods. Time is of the essence of this Agreement. The time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at five o'clock p.m. (local Phoenix time) on the last day of the applicable time period provided for in this Agreement. If the time for the performance of any obligation or taking any action under this Agreement expires on a day other than a

Business Day, the time for performance or taking such action shall be extended to the next succeeding Business Day.

(g) Entire Agreement. This Agreement, which includes **Exhibits A and B** constitutes the entire agreement between the parties pertaining to the subject matter contained in this Agreement. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are superseded by and merged in this Agreement. No supplement, modification or amendment of this Agreement shall be binding unless in writing and executed by Buyer and Seller.

12.11 Termination of the CCP #3 Agreement. Notwithstanding any provision of this Agreement to the contrary, if the CCP #3 Agreement is terminated by either Seller or Buyer for any reason, this Agreement will automatically be terminated as of the effective date of the termination of the CCP #3 Agreement.

12.12 Tax Deferred Exchange. If Seller desires to effectuate a tax-deferred exchange under Section 1031 or Section 1033 of the Code, Buyer agrees to fully cooperate in the structure and documentation of the transaction in order to facilitate such exchange at no cost or other liability to Buyer and with no obligation to acquire title to any property other than the Property; provided, however, there shall be no resulting delay in the Closing. The provisions of this **Section 12.12** will survive the Closing.

12.13 Cancellation. Notice is hereby given that the provisions of Ariz. Rev. Stat. § 38-511 are applicable to this Agreement and are hereby incorporated herein as though set forth in its entirety.

12.14 Budget Law. This Agreement is subject in all respects to the provisions of Ariz. Const. Art. IX § 5, Ariz. Rev. Stat. 42-17106, and applicable Arizona common law.

12.15 Disclosure. Notwithstanding anything to the contrary contained in this Agreement, either party may disclose this Agreement to any board, official, officer, party or person as such party or its counsel may determine is necessary, including entry into any public record and disclosure at any public meeting or hearing.

[SIGNATURES ON FOLLOWING PAGE]

EXECUTED as of the date written on the first page of this Agreement.

SELLER:

CCP INVESTMENTS #2, LLC,
an Arizona limited liability company

By: *Bonnie Pendergast*
Name: Bonnie Pendergast
Its: General Manager

By: *Carolyn Pendergast*
Name: Carolyn Pendergast
Its: General Manager

Alice R. Pendergast

ALICE R. PENDERGAST, as Trustee under THE
PENDERGAST TRUST, under Agreement dated
June 11, 2004

Carolyn Pendergast

CAROLYN PENDERGAST, as Trustee under THE
PENDERGAST TRUST, under Agreement dated
June 11, 2004

Bonnie Pendergast

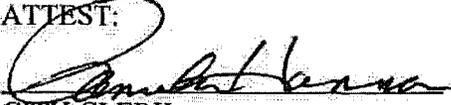
BONNIE PENDERGAST, as Trustee under THE
PENDERGAST TRUST, under Agreement dated
June 11, 2004

[Purchase Agreement – Signature Page of Seller]

BUYER:

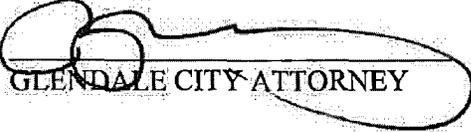
CITY OF GLENDALE, ARIZONA,
an Arizona municipal corporation

ATTEST:


CITY CLERK

By: 
Its: CITY MANAGER

APPROVED AS TO FORM:


GLENDALE CITY ATTORNEY

[Purchase Agreement – Signature Page of Buyer]

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MARICOPA, STATE OF ARIZONA, AND IS DESCRIBED AS FOLLOWS:

That portion of the Southeast quarter of Section 9, Township 2 North, Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at a brass cap in hand hole accepted as the East quarter comer of said Section 9 from which a brass cap flush accepted as the Southeast corner thereof bears South 00 degrees 13 minutes 14 seconds East a distance of 2595.26 feet;

Thence along the north line of said Southeast quarter, South 88 degrees 02 minutes 02 seconds West a distance of 40.02 feet to the west line of the east 40.00 feet of said Southeast quarter;

Thence along said west line, South 00 degrees 13 degrees 14 seconds East a distance of 55.03 feet to the POINT OF BEGINNING;

Thence continuing along said west line, South 00 degrees 13 minutes 14 seconds East a distance of 1309.01 feet;

Thence leaving said west line, South 89 degrees 46 minutes 46 seconds West a distance of 750.00 feet to the west line of the east 790.00 feet of said Southeast quarter;

Thence along said west line, North 00 degrees 13 minutes 14 seconds West a distance of 1286.15 feet to the south line of the north 55.00 feet of said Southeast quarter;

Thence along said south line, North 88 degrees 02 minutes 02 seconds East a distance of 750.34 feet to the POINT OF BEGINNING.

EXHIBIT B
FORM OF SPECIAL WARRANTY DEED

When recorded, return to:
THE CITY OF GLENDALE, ARIZONA,
5850 West Glendale Avenue
Glendale, Arizona 85301
Attention: City Clerk

**THIS DEED IS EXEMPT FROM
AFFIDAVIT OF PROPERTY VALUE
PURSUANT TO A.R.S. § 11-1134(A)(3)**

SPECIAL WARRANTY DEED
AND
QUITCLAIM DEED

For the consideration of Ten Dollars (\$10.00) and other valuable considerations, CCP INVESTMENTS #2, LLC, an Arizona limited liability company ("CCP #2") and ALICE R. PENDERGAST, CAROLYN PENDERGAST AND BONNIE PENDERGAST, as Trustees under THE PENDERGAST TRUST, under Agreement dated June 11, 2004 (the "Pendergast Trust") (collectively, CCP #2 and the Pendergast Trust are referred to herein as, "Grantor"), hereby conveys to THE CITY OF GLENDALE, ARIZONA, an Arizona municipal corporation ("Grantee"), the following real property situated in Maricopa County, Arizona, together with all rights and privileges appurtenant thereto:

See Exhibit A attached hereto and incorporated herein by this reference (the "Property").

EXCEPT, excluding water, water rights, applications for water rights and claims to or interests in water or applications for the same, which are appurtenant or in any way derived from the Property.

SUBJECT to all taxes and other assessments, reservations in patents and all easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record, and all matters which an accurate survey of the Property or a physical inspection of the Property would disclose.

And Grantor hereby binds itself and its successors to warrant and defend the title, as against all acts of Grantor herein and none other, subject to the matters above set forth.

FURTHERMORE, Grantor hereby quitclaims to Grantee, without covenant or warranty of any kind whatsoever, any rights or claims to title to water, applications for water

rights, and claims to or interests in water rights which are appurtenant or in any way applicable to or derived from the Property whether surface, underground, wells, springs, percolating, flood, vested, contingent, recorded, certificated, appropriated or otherwise.

The following information is provided in compliance with A.R.S. § 33-404(B):
The Pendergast Trust held title to the Property on behalf of CLARENCE C. PENDERGAST, JR. and ALICE R. PENDERGAST of 4920 North Valley Glen Drive, Litchfield Park, AZ 85340, beneficiaries under the terms of THE PENDERGAST TRUST under Trust Agreement dated June 11, 2004, as amended.

DATED this _____ of _____, 2015.

GRANTOR:

CCP INVESTMENTS #2, LLC,
an Arizona limited liability company

By: _____
Name: Bonnie Pendergast
Its: General Manager

By: _____
Name: Carolyn Pendergast
Its: General Manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Bonnie Pendergast, General Manager of CCP Investments #2, an Arizona limited liability company, on behalf of the company.

Notary Public

My commission expires:

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by Carolyn Pendergast, General Manager of CCP Investments #2, an Arizona limited liability company, on behalf of the company.

Notary Public

My commission expires:

ALICE R. PENDERGAST, as Trustee under THE
PENDERGAST TRUST, under Agreement dated
June 11, 2004

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by ALICE R. PENDERGAST, as Trustee under THE PENDERGAST TRUST, under Agreement dated June 11, 2004, on behalf of the trust.

Notary Public

My commission expires:

CAROLYN PENDERGAST, as Trustee under THE
PENDERGAST TRUST, under Agreement dated
June 11, 2004

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by CAROLYN PENDERGAST, as Trustee under THE PENDERGAST TRUST, under Agreement dated June 11, 2004, on behalf of the trust.

Notary Public

My commission expires:

BONNIE PENDERGAST, as Trustee under THE
PENDERGAST TRUST, under Agreement dated
June 11, 2004

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by BONNIE PENDERGAST, as Trustee under THE PENDERGAST TRUST, under Agreement dated June 11, 2004, on behalf of the trust.

Notary Public

My commission expires:

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

[to be inserted]