

# CITY CLERK ORIGINAL

C-6295  
02/01/08

## PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this "**Agreement**") is made and entered into as of January 25, 2008 (the "**Effective Date**"), by and between RIGHTPATH LIMITED DEVELOPMENT GROUP, LLC, a Delaware limited liability company ("**Buyer**"), on the one hand, and CITY OF GLENDALE, ARIZONA, an Arizona municipal corporation ("**Seller**"), on the other hand.

### RECITALS

A. Seller is the owner of certain real property located in the City of Phoenix, County of Maricopa and State of Arizona (the "**Property**"), as described on Exhibit A attached hereto and incorporated herein by reference and depicted on Exhibit B attached hereto and incorporated herein by this reference.

B. Buyer and Seller will be parties to the Development Agreement (as defined herein) that will relate, among other things, to the development, the transaction contemplated by this Agreement, and the construction and financing of certain improvements located on the Property, and upon other real property located adjacent thereto. Buyer and Seller have extensively negotiated the Development Agreement and have arrived at an agreement in principle on the provisions that relate to the disposition of the Property. Therefore, while this Agreement is being executed prior to the Development Agreement, it is the parties' intention that those provisions related to the disposition of the Property will be later implemented and made effective when the Development Agreement becomes effective.

C. Buyer desires to purchase from Seller, and Seller desires to sell to Buyer, all of Seller's right, title and interest in, to and under the Property, upon the terms, conditions and provisions set forth in this Agreement.

### AGREEMENT

In consideration of the foregoing, the promises, covenants, representations and warranties hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

1. DEFINITIONS. The following terms shall have the following meanings when used in this Agreement:

1.1 "**Agreement**." This Purchase and Sale Agreement, including all exhibits attached hereto.

1.2 "**Business Day**." A day other than a Saturday, Sunday or any other day on which banking institutions in Maricopa County, Arizona are authorized or required by law or executive order to be closed.

1.3 "**Cash**." United States currency represented by cash in hand, certified or cashier's check, wire transfer or other readily available funds.

1.4 **"Close of Escrow."** The consummation of the Purchase and Sale Transaction, as evidenced by the delivery of all required funds and documents to Escrow Agent and the recordation of the Deed (as defined below).

1.5 **"Conditions of Buyer's Obligation to Close."** The conditions of Buyer's obligation to consummate the Purchase and Sale Transaction as set forth in Article 7.

1.6 **"Development Agreement."** That certain Development and Intergovernmental Agreement by and between the City of Phoenix, Arizona, an Arizona municipal corporation ("**Phoenix**"), Seller (referenced as "Glendale" therein), Buyer (referenced as "Developer" therein), and Western Loop 101 Public Facilities Corporation, an Arizona non-profit corporation, to be executed by the parties after the Effective Date of this Agreement, and thereafter filed with the Clerk of the City of Phoenix and recorded with the Maricopa County Recorder's Office. Any references in this Agreement to particular sections of the Development Agreement shall mean and refer to those sections in the form of proposed Development Agreement approved by the City Council of Seller prior to the Effective Date of this Agreement.

1.7 **"Environmental Law"** means any federal, state or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or environmental conditions, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601, et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901, et seq.; the Toxic Substances Control Act of 1976, 15 U.S.C. §§ 2601, et seq.; the Superfund Amendments and Reauthorization Act of 1986, Title III, 42 U.S.C. §§ 11001, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801, et seq.; the Clean Air Act, 42 U.S.C. §§ 7401, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f, et seq.; the Solid Waste Disposal Act, 42 U.S.C. §§ 3251, et seq.; and any other federal, state or local law, statute, ordinance, or regulation now in effect which pertains to health, industrial hygiene, or the regulation or protection of the environment, including, without limitation, ambient air, soil, groundwater, surface water, and/or land use.

1.8 **"Escrow."** The escrow created pursuant to this Agreement.

1.9 **"Escrow Agent."** Magnus Title Agency, Attn: Vicki Etherton, 2525 E Camelback Road, Ste. 600, Phoenix, Arizona 85016 Telephone number (602) 748-2800, Fax number 602-748-2710.

1.10 **"Hazardous Substance"** means any material, waste, substance, pollutant, or contaminant which has been identified by governmental authorities as posing a risk of injury or threat to health of the environment, including, without limitation:

(a) Those substances included within the definitions of "hazardous substance", "hazardous waste", "hazardous material", "toxic substance", "solid waste", or "pollutant or contaminant" in, or otherwise regulated by, any Environmental Law;

(b) Those substances listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101, including appendices and amendments thereto), or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto);

(c) Such other substances, materials, or wastes which are regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and

(d) Any material, waste, or substance which is (i) petroleum or refined petroleum products; (ii) asbestos in any form; (iii) polychlorinated biphenyls; (iv) flammable explosives; (v) radioactive materials; or (vi) radon.

Any reference in this Section 1.10 to statutory or regulatory sections shall be deemed to include any amendments thereto and any successor sections.

1.11 **“Opening of Escrow.”** The date of delivery to and acceptance by Escrow Agent of a fully executed original of this Agreement.

1.12 **“Permitted Exceptions.”** All taxes and assessments against the Property not yet due and payable as of the Close of Escrow; all applicable patent reservations; matters revealed on the Survey and approved (or deemed approved) by Buyer; and all other matters of record affecting title to the Property approved (or deemed approved) by Buyer, except any matters Seller is expressly obligated pursuant to this Agreement to release from title to the Property prior to the Close of Escrow.

1.13 **“Property.”** The term “Property” includes, without limitation, all improvements thereon and all of Seller’s interest in any rights and appurtenances pertaining thereto, including any right, title, and interest of Seller in and to any adjacent streets, alleys or rights-of-way, easements, gores or strips of land, and any entitlements, development rights and all rights in and to all permits, licenses, authorizations, approvals, maps, studies, and plans specific to the Property, excepting therefrom any water rights appurtenant to the Property.

1.14 **“Purchase and Sale Transaction.”** The purchase and sale of the Property as contemplated by this Agreement.

1.15 **“Purchase Price.”** The total purchase price to be paid by Buyer for the Property, as set forth in this Agreement.

2. DEFINITIVE AGREEMENT FOR PURCHASE AND SALE OF PROPERTY. This Agreement shall be a binding agreement between Buyer and Seller for the purchase and sale of the Property on the terms, conditions and provisions set forth in this Agreement. This Agreement supersedes all other written or oral agreements between Buyer and Seller concerning the Purchase and Sale Transaction except those set forth in the Development Agreement.

3. PURCHASE PRICE. The purchase price for the Property (the **“Purchase Price”**) shall be Seven Million Five Hundred Thousand and No/100 Dollars (\$7,500,000.00), and shall be payable by Buyer to Seller, in Cash, through Escrow, at the Close of Escrow.

4. ESCROW INSTRUCTIONS. This Agreement shall act as escrow instructions to Escrow Agent. If required by Escrow Agent, Seller and Buyer shall execute and deliver to Escrow Agent escrow instructions, with respect to the Purchase and Sale Transaction, on Escrow Agent’s standard form, completed by Escrow Agent in accordance with this Agreement. In the event of any conflict or inconsistency between any provisions of the escrow instructions and any provision of

this Agreement or any other instrument or document executed or delivered pursuant to this Agreement, the provisions of this Agreement and such other instrument or document shall control. 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, promptly following the Opening of Escrow.

5. TITLE REPORT; SURVEY; MISCELLANEOUS PROPERTY MATTERS.

5.1 Preliminary Title Report and Objections. No later than the Opening of Escrow, Escrow Agent shall issue and deliver to Buyer and Seller a preliminary title report with respect to the Property disclosing all matters of record and other matters of which Escrow Agent has knowledge which relate to the title to the Property and Escrow Agent's requirements for closing the Escrow and issuing an extended coverage ALTA form owner's policy of title insurance with respect to the Property, together with legible copies of all instruments referred to therein (collectively, the "**Title Report**"). Except for non-delinquent real estate taxes and assessments, Seller shall cause any mortgage, deed of trust or other monetary lien encumbering the Property to be released on or before the Close of Escrow. Seller shall also cause the Flood Control Releases and Floodway Flowage Easement Releases described in Section 7 to occur prior to the Close of Escrow. Seller shall also cause any and all covenants, conditions or restrictions applicable to the Property that would restrict or prevent development of the Property as contemplated by Buyer to be fully released from the Property on or before the Close of Escrow.

5.2 Amendments to Preliminary Title Report and Objections. If the Title Report is amended by Escrow Agent to reveal new exceptions to title, Escrow Agent shall deliver to Buyer and Seller an amended Title Report, together with legible copies of all additional instruments referred to therein (collectively, the "**Amendment**").

5.3 Survey. On or prior to the Opening Date, Seller shall provide Buyer with a copy of any existing survey of the Property in Seller's possession. Buyer shall, at Buyer's sole expense, deliver to Seller and Escrow Agent prior to Close of Escrow a current ALTA survey of the Property ("**Survey**"), prepared by a surveyor licensed in the State of Arizona. The Survey will be certified to be accurate, complete and correct to Seller, Buyer and Escrow Agent.

5.4 Title and Survey Review. Buyer shall have until the fifteenth (15<sup>th</sup>) day following receipt of the Title Report and Survey and ten (10) days following receipt of any Amendment to the Title Report or Survey, in which to object, in writing, to any exceptions or requirements shown in the Title Report or Survey or Amendments to such documents, as applicable, other than an exception arising from Buyer or Buyer's agents or employees, which is unacceptable to Buyer ("**Buyer's Objections**"). If Buyer fails to object timely, then the condition of title to the Property as reflected on the Title Report, Survey, Amendment and/or revised Survey, as applicable, shall be deemed approved by Buyer. If Buyer's Objections are made within the time specified, Seller may attempt (but shall have no obligation) to eliminate the matters covered by Buyer's Objections. If Seller does not eliminate the matters covered by Buyer's Objections by the Close of Escrow, then Buyer may terminate this Agreement or waive Buyer's Objections prior to the Close of Escrow. If Buyer does not timely elect to cancel this Agreement, then Buyer shall be deemed to have waived Buyer's Objections.

5.5 Environmental Studies. Buyer may investigate the environmental and archaeological condition of the Property prior to the Closing by obtaining a current Phase I and/or Phase II environmental report and/or archaeological report concerning the Property (the "**Environmental and Archaeological Reports**"). Buyer may cancel this Agreement and be relieved of its obligation to purchase the Property if Buyer is not fully satisfied with the environmental and archaeological condition of the Property as shown by the Environmental and Archaeological Reports, by delivery of written notice of cancellation to Seller and Escrow Agent within thirty (30) days following Buyer's receipt of such Reports. Seller has provided Buyer with the environmental and archeological reports that are described on Exhibit E attached hereto (the "**Existing Environmental and Archaeological Reports**").

5.6 Facilitation of Inspection; Access to Property. On or prior to the Opening Date, Seller shall have delivered to Buyer copies of all agreements, surveys, leases, reports, site plans, drawings, test and inspection reports, environmental assessments and other materials in Seller's possession or reasonable control relating to the Property. Additionally, Seller hereby grants to Buyer and Buyer's agents, employees and contractors a non-exclusive right and license to enter upon the Property, at any time. Buyer shall restore any damage to the Property caused by Buyer or its agents, employees or contractors. Buyer hereby agrees to indemnify and defend Seller (with counsel reasonably acceptable to Seller) and agrees to hold Seller harmless for, from and against, all claims, costs, liens, fees (including witness fees and all attorneys' fees), fines, penalties, expenses, loss, damage and liability of any kind which may be asserted against or incurred by Seller as a result of actions by Buyer, or Buyer's agents, employees or contractors, including Buyer's consultants, if any, who prepare the Environmental and Archaeological Reports.

5.7 Seller's Action Items. Seller agrees to undertake the actions described on Exhibit F in the time and manner described therein.

5.8 Lot Division. Seller agrees that Buyer may process, at Buyer's expense, a minor lot division as required by the City of Phoenix for conveyance of the Property to Buyer, prior to Close of Escrow. Seller agrees to execute any documents reasonably required for Buyer to process the minor lot division.

5.9 ADOT Acknowledgment. Buyer acknowledges receipt of correspondence between the Seller and the State of Arizona Department of Transportation ("ADOT") regarding that certain ADOT Aeronautics Division State Aviation Fund Loan Agreement - ADOT TRACS No. ZL22 dated June 1, 1997 between the ADOT Aeronautics Division and Seller (the "ADOT Loan Agreement") that is sufficient for Buyer to proceed with the purchase of the Property as to the ADOT Loan Agreement, and Buyer agrees that no further documentation from Seller or ADOT will be required at the Closing as to the ADOT Loan Agreement.

## 6. CLOSING.

6.1 Time and Place. The Close of Escrow shall take place in the offices of Escrow Agent on or before 5:00 pm (Arizona time) on the one hundred eightieth (180th) day following the Opening Date (the "**Closing Date**").

6.2 Seller's Closing Deliveries. At the Close of Escrow, Seller shall deliver to Escrow Agent:

(a) A Special Warranty Deed, in the form and having the substance of the attached Exhibit C (the "**Deed**"), fully executed and properly acknowledged by Seller, conveying the Property to Buyer, subject only to the Permitted Exceptions;

(b) Written evidence satisfactory to Escrow Agent that this Agreement and the Purchase and Sale Transaction are duly authorized and that the person executing all documents to be executed by Seller in connection with the Purchase and Sale Transaction on behalf of Seller is authorized to do so;

(c) the documents described in Section 5.1 and Section 7 that are required to release certain rights, covenants, conditions, restrictions and other matters from the Property; and

(d) Such other funds, instruments or documents as may be reasonably requested by Buyer or Escrow Agent or reasonably necessary to effect or carry out the purposes of this Agreement (which funds, instruments or documents shall be subject to Buyer's prior approval thereof, which approval shall not be unreasonably withheld).

6.3 Buyer's Closing Deliveries. At the Close of Escrow, Buyer shall deliver to Escrow Agent:

(a) The funds required pursuant to Section 3 of this Agreement;

(b) Evidence reasonably satisfactory to Seller and Escrow Agent that Buyer has duly authorized and approved the Purchase and Sale Transaction, and that the person executing all documents to be executed by Buyer in connection with the Purchase and Sale Transaction on behalf of Buyer is authorized to do so; and

(c) Such other funds, instruments or documents as may be reasonably requested by Seller or Escrow Agent, or necessary, to effect or carry out the purposes of this Agreement (which funds, instruments or documents shall be subject to Seller's prior approval thereof, which approval shall not be unreasonably withheld).

6.4 Escrow Agent's Duties. At the Close of Escrow, Escrow Agent shall: (i) record the documents described in Section 5.1 and Section 7 that are required to release certain rights, covenants, conditions, restrictions and other matters from the Property; (ii) record the Deed in the Maricopa County Recorder's office; (iii) disburse all funds deposited with Escrow Agent in accordance with a settlement statement completed in accordance with the provisions hereof and approved by Buyer and Seller; and (iv) do such other matters requested by Buyer and Seller pursuant to and consistent with the provisions hereof.

6.5 Taxes and Assessments. Ad valorem real estate taxes and assessments in respect of the Property shall be prorated as of the date of the Close of Escrow. Escrow Agent shall make such proration at the Close of Escrow based on the latest available information.

6.6 Closing Costs. Each party shall bear its own costs (including attorneys' fees) in connection with its negotiation, due diligence investigation and conduct of the Purchase and Sale Transaction. Seller shall pay the costs of the standard form owner's policy of title insurance for the Property. Buyer shall pay any additional premium charged by Escrow Agent for extended coverage and any title endorsements. Customary and ordinary Escrow fees of Escrow Agent and recording fees shall be divided equally between the parties. Seller shall pay the cost of any recording fees necessary to release encumbrances from title to the Property as required by this Agreement. All other costs associated with the closing of the Purchase and Sale Transaction shall be borne by the parties in accordance with custom in the state and county in which the Property is located as determined by Escrow Agent, unless otherwise specified in this Agreement. Real estate taxes, utility charges, and irrigation assessments, shall be prorated in the escrow as of the Close of Escrow, based upon the latest available information. If, at the closing, actual real estate tax statements are not available, then, following the Close of Escrow and within thirty (30) days of receipt by either Buyer or Seller of the actual tax statements, Buyer and Seller shall re-prorate real estate taxes among themselves and make any necessary adjusting payments. Improvement liens and other special assessments shall be prorated as of the Close of Escrow. All closing costs payable by Seller shall be deducted from Seller's proceeds at the Close of Escrow. On or before the close of escrow, Buyer shall deposit with Escrow Agent cash in an amount sufficient to pay all closing costs payable by Buyer.

6.7 Possession. Buyer shall be delivered exclusive possession of the Property immediately after the Close of Escrow, subject to any easements or other possessory rights reflected in the Permitted Exceptions.

6.8 Title Insurance Policy. At the Close of Escrow, Escrow Agent shall commit to issue to and in favor of Buyer an extended coverage ALTA form owner's policy of title insurance with respect to the Property in the amount of the Purchase Price, effective on and as of the Closing Date together with any endorsements reasonably requested by Buyer, insuring Buyer's fee simple title the Property, subject only to the Permitted Exceptions (the "Title Policy").

7. CONDITIONS OF BUYER'S OBLIGATION TO CLOSE. In addition to the conditions set forth in this Agreement, the following conditions shall be satisfied as a condition of Buyer, unless otherwise waived in writing by Buyer, in consummating the Purchase and Sale Agreement:

7.1 Leases and Rights of Occupancy. On or before the Closing, Seller shall provide Escrow Agent with an affidavit certifying that to the best of Seller's actual knowledge there are no leases or rights of occupancy (other than the Permitted Exceptions) affecting the Property prior to Close of Escrow.

7.2 Flood Control District. On or prior to the Closing Date, if shown on the title report for the Property, Seller shall cause the release and recording of the appropriate notices of release in the Official Records of Maricopa County, Arizona, of the following Flood Control District resolutions: (1) Resolution FCD No. 82-14 (recorded as Instrument No. 84-324528, Maricopa County Recorders Office), (2) Resolution FCD No. 86-18 (recorded as Instrument No. 86-685576, Maricopa County Recorders Office), (3) Resolution FCD 86-4 (recorded as Instrument No. 86-124982, Maricopa County Recorders Office) (collectively, the "**Flood Control Releases**").

7.3 Floodway Flowage Easement Releases. On or prior to the Closing Date, if shown on the title report for the Property, Seller shall cause the release from the Property and recording of appropriate releases (the “**Floodway Flowage Easement Releases**”) in the Official Records of Maricopa County, Arizona of 1) that certain Flowage Easement and Agreement for Flood Control Purposes Designated Fringe attached as Exhibit A and that certain Flowage Easement and Agreement for Flood Control Purposes Designated Floodway attached as Exhibit B to the Judgment recorded September 24, 1990, as Instrument No. 90-428610, Maricopa County Recorder’s Office; and 2) that certain Flowage Easement and Agreement for Flood Control Purposes Designated Fringe attached as Exhibit A and that certain Flowage Easement and Agreement for Flood Control Purposes Designated Floodway attached as Exhibit B to the Judgment recorded November 7, 1990, as Instrument No. 90-501578, Maricopa County Recorder’s Office, if and to the extent applicable to the Property.

7.4 Seller’s Action Items. Seller shall complete the actions described on Exhibit F on or before the Close of Escrow.

8. SELLER’S REPRESENTATIONS AND WARRANTIES. Seller represents and warrants to Buyer that:

8.1 Authority. Seller has full power and authority to enter into this Agreement and complete the Purchase and Sale Transaction.

8.2 Title. To the best of Seller’s actual knowledge, fee simple title is vested with Seller, there are no material unrecorded agreements, liens or encumbrances which affect the Property, and permanent, legal access is available to the Property from a dedicated public right-of-way.

8.3 Binding Agreement. Upon Seller’s execution of this Agreement, this Agreement shall be binding and enforceable against Seller in accordance with its terms. Upon Seller’s execution of the additional documents contemplated by this Agreement, the additional documents shall be binding and enforceable against Seller in accordance with their terms.

8.4 Consents. To the best of Seller’s actual knowledge, neither the execution and the delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement is subject to any requirement that Seller obtain any consent, approval or authorization of, or make any declaration or filing with, any governmental authority or third party which cannot be obtained prior to the Close of Escrow and in accordance with Section 6.2 above or which, in any case or in the aggregate, if not obtained or made would render such execution, delivery or consummation illegal or invalid, or would constitute a default under, or result in the creation of any lien, charge or encumbrance upon the Property.

8.5 Litigation. Seller is not a party to any pending or threatened action, suit, proceeding or investigation, at law or in equity or otherwise, in, for or by any court or governmental board, commission, agency, department or officer arising from or relating to the Property or to the past or present operations and activities of Seller upon or relating to the Property.

8.6 Environmental Matters.

(a) Except as may be disclosed in the reports previously provided to Buyer by Seller, to the best of Seller's actual knowledge, the Property is free from and has always been free from Hazardous Substances, and is not now and has never been in violation of any Environmental Law. Seller has not caused or allowed the use, generation, manufacture, production, treatment, storage, release, discharge, or disposal of any Hazardous Substances on, under, or about the Property in violation of applicable law, and has not caused or allowed the transportation to or from the Property of any Hazardous Substance in violation of applicable law.

(b) Except as may be disclosed in the reports previously provided to Buyer by Seller, to the best of Seller's actual knowledge, all property owned by Seller adjacent to the Property is and has always been free from Hazardous Substances, and is not and has never been in violation of any Environmental Law.

(c) Except as may be disclosed in the reports previously provided to Buyer by Seller, to the best of Seller's actual knowledge, there are not now and have never been any buried or partially buried storage tanks located on the Property.

(d) To the best of Seller's actual knowledge, Seller has received no warning, notice of violation, administrative complaint, judicial complaint, or other formal or informal notice alleging that conditions on the Property or adjacent property owned by Seller 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 on or about the Property or the potential violation of any Environmental Law.

(e) Except as may be disclosed in the reports previously provided to Buyer by Seller, to the best of Seller's actual knowledge Seller is not aware of any facts or circumstances which could give rise to a violation of any Environmental Law on the Property.

(f) To the best of Seller's actual knowledge, no environmental lien in favor of any governmental entity has attached to any of the Property.

8.7 Leases and Agreements. To the best of Seller's actual knowledge, there are no unrecorded leases, arrangements, agreements, understandings, options, contracts, or rights of first refusal affecting or relating to the Property.

8.8 Absence of Liens. To the best of Seller's actual knowledge, no lien against the Property has arisen or exists under Federal or state tax, environmental, or other law, other than the lien for any current real property taxes not yet due and payable.

8.9 Governmental Restrictions; Condemnation. To the best of Seller's actual knowledge, Seller has not received, nor is aware of, any notifications, restrictions, or stipulations from the United States of America, the State of Arizona, the County of Maricopa, the City of Phoenix, or any other governmental authority requiring any work to be done on the Property or threatening the use of the Property; there are no pending or threatened condemnation proceedings affecting any portion of the Property; Seller is not subject to, nor does any basis exist for, any order, judgment, decree or governmental restriction which would adversely affect this transaction, the Property or the use of the Property in the manner presently being conducted by Seller; and Seller is not aware of any plan, study, litigation, action, proceeding or effort by any governmental authority

or private party which in any way challenges, affects or would challenge or affect the continuation of the present use and operation of the Property.

8.10 Archeological Matters. Except as may be disclosed in the reports previously provided to Buyer by Seller, to the best of Seller's actual knowledge there are no historical or archeological materials or artifacts of any kind or any Indian ruins of any kind located on the Property.

8.11 Endangered Species Act. To the best of Seller's actual knowledge, no part of the Property is "critical habitat" as defined in the Federal Endangered Species Act, 16 U.S.C. §§1531 et seq., as amended, or in regulations promulgated thereunder, nor are any "endangered species" or "threatened species" located on the Property, as defined therein.

8.12 Mechanics' Liens. To the best of Seller's actual knowledge, no work has been performed on or about the Property or to any improvements located thereon within six (6) months prior to the Effective Date that could give rise to any mechanics' or materialmen's liens whatsoever.

8.13 No Third Party Approvals. Except as described in Section 7, no third party or governmental consents or approvals are required in order for Seller to sell and/or convey fee title to the Property to Buyer.

As used in this Agreement, "the best of Seller's actual knowledge" means the actual knowledge of Deputy City Managers Horatio Skeete and Art Lynch, following reasonable inquiry of City staff but without any review of files or other investigation. In no event shall any reference to said Deputy City Managers or to "the best of Seller's actual knowledge," as defined herein, impose any personal liability on said Deputy City Managers for statements contained in this Section or for any knowledge or ignorance of facts that might relate to the matters set forth in this Section.

The truth of the foregoing representations and warranties in all material respects on and as of the date hereof and on and as of the Close of Escrow shall be a condition precedent to the Close of Escrow and Buyer's obligation to otherwise perform under this Agreement. All representations and warranties by Seller set forth in this Agreement shall survive the execution and delivery of this Agreement, the recordation of the Deed and the Close of Escrow for a period of one (1) year. All claims for breach of representation and warranty shall be made in writing prior to the expiration of the one-year period or such claims shall be deemed waived.

9. BUYER'S REPRESENTATIONS AND WARRANTIES. Buyer represents, warrants and acknowledges to Seller that:

9.1 Organization and Standing. Buyer is duly organized, validly existing and in good standing under the laws of the state of its organization and has full power and authority to enter into this Agreement and complete the Purchase and Sale Transaction.

9.2 Binding Agreement. Upon Buyer's execution of this Agreement, this Agreement shall be binding and enforceable against Buyer in accordance with its terms. Upon Buyer's execution of the additional documents contemplated by this Agreement, the additional documents shall be binding and enforceable against Buyer in accordance with their terms.

The truth of the foregoing representations and warranties on and as of the Effective Date and on and as of the Close of Escrow shall be a condition precedent to Seller's obligations to sell the Property and otherwise perform under this Agreement. All representations and warranties by Buyer set forth in this Agreement shall survive the execution and delivery of this Agreement and the Close of Escrow for a period of one (1) year. All claims for breach of representation and warranty shall be made in writing prior to the expiration of such one-year period or shall be deemed waived.

10. EASEMENT. For the purpose of providing construction access for the Property following the Close of Escrow, Seller agrees to grant to Buyer a Temporary Construction Access Easement ( the "**Construction Access Easement**"), over, across, and through a portion of the MLB Land, as that term is described in Section 3.1 of the Development Agreement, provided, however, that such easement shall not disrupt any construction upon the MLB Land. The exact location of the Construction Access Easement will be mutually approved by Buyer and Seller.

11. "AS IS." EXCEPT AS OTHERWISE PROVIDED HEREIN, BUYER ACKNOWLEDGES FOR BUYER AND BUYER'S SUCCESSORS AND ASSIGNS THAT BUYER WILL BE ACQUIRING THE PROPERTY BASED UPON BUYER'S OWN INVESTIGATION AND INSPECTION THEREOF AND THAT SELLER HAS MADE NO REPRESENTATIONS OR WARRANTY AS TO THE CONDITION OF THE PROPERTY OR THE PROPERTY'S FITNESS FOR ANY PARTICULAR PURPOSE. SELLER AND BUYER AGREE THAT THE PROPERTY SHALL BE SOLD AND THAT BUYER SHALL ACCEPT TITLE TO THE PROPERTY AND POSSESSION OF THE PROPERTY ON THE CLOSING DATE "**AS IS, WHERE IS, WITH ALL FAULTS.**"

12. BROKERS COMMISSIONS AND CONSULTING FEES. Seller and Buyer represent and acknowledge to each other that no person has provided real estate brokerage services in connection with this transaction. Seller acknowledges that Buyer has disclosed that members of Buyer, including individual(s) executing this Agreement on behalf of Buyer hold real estate sales persons or broker licenses from the State of Arizona. If any person asserts 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 will indemnify, defend (with counsel reasonably acceptable to the indemnified party) and hold the other party harmless for, from and against any claims related thereto. This indemnity will survive the Close of Escrow or the cancellation of this Agreement.

13. NEGATIVE COVENANT. From and after the Effective Date and until the Close of Escrow or any termination of this Agreement, Seller, without the prior written consent of Buyer, which consent shall not be unreasonably withheld, delayed or conditioned, shall not: (i) enter into a contract or agreement for the sale, transfer or conveyance, exchange, encumbrance or other disposition of all or any portion of the Property, which is not subordinate to this Agreement; (ii) grant a lien, pledge, encumbrance, security interest, option, or right of first refusal, against the Property, which will not be released or discharged prior to the Close of Escrow; (iii) enter into any maintenance or service contracts for the Property which will remain in full force and effect after the Close of Escrow; (iv) terminate any liability insurance prior to the Close of Escrow; or (v) knowingly act or fail to act in a manner that would materially impair the use of the Property.

14. ASSIGNMENT. Buyer may not assign or otherwise transfer any of its rights under this Agreement without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything contained herein to the contrary, Buyer may, without Seller's consent, assign this Agreement to any entity which is either controlled by, affiliated with or under common control with Buyer; provided, that Buyer shall provide a copy of the document evidencing the assignment and the assignee's satisfaction of the conditions imposed in this sentence (including the assignee's agreement to perform all obligations of Buyer under this Agreement) to Seller and Escrow Agent prior to the assignment becoming effective. Notwithstanding any assignment of this Agreement, Buyer shall continue to be obligated for the performance of all of Buyer's obligations arising hereunder through the Close of Escrow.

15. RISK OF LOSS. If any loss, damage or taking of the Property is threatened or occurs prior to the Close of Escrow, then Buyer may, within five (5) Business Days after Buyer receives notice of such loss, damage or taking but not later than the Closing Date, cancel this Agreement, and neither Buyer nor Seller shall have any further liability or obligation under this Agreement (except as expressly provided herein). If Buyer does not cancel this Agreement, Buyer will be deemed to waive any such loss, damage or taking of the Property and shall be obligated to consummate the Purchase and Sale Transaction, whereupon Buyer may, at Buyer's sole discretion, elect to either: (a) exclude the portion of the Property affected by the loss, damage or taking from the calculation of the "Net Acreage" of the Property set forth in Section 5.4 hereof, in which case the Purchase Price payable by Buyer for the Property shall be reduced accordingly, based on such reduced Net Acreage; or (b) receive from Seller at the Close of Escrow and as a condition precedent thereto, the amount of any insurance or condemnation proceeds attributable thereto which have been received by Seller by means of a credit against the balance of the Purchase Price payable pursuant to Section 3 hereof. With respect to the foregoing clause (b), if Seller has not actually received an award or payment as the result of the loss, damage or taking, Seller shall assign to Buyer all of its rights to any awards or any payments, and the Purchase Price will not be adjusted. Seller agrees to notify Buyer promptly following Seller's receipt of notice of any condemnation action threatened against or instituted on the Property after the Opening of Escrow.

16. REMEDIES.

16.1 If Seller fails to perform any of Seller's obligations under this Agreement prior to the Close of Escrow and such failure continues for five (5) Business Days after Seller's receipt of written notice from Buyer, then Buyer may, as Buyer's sole remedy for such failure, pursue one of the following: (i) waive the effect of such matter and proceed to consummate the Purchase and Sale Transaction; (ii) cancel this Agreement and neither Buyer nor Seller shall have any further liability or obligation under this Agreement (except as expressly provided herein); or (iii) bring an appropriate action for specific performance of this Agreement. Any action for specific performance must be commenced within one hundred twenty (120) days following the deadline for Seller to cure the alleged default or Buyer's right to seek specific performance shall be deemed waived.

16.2 If Buyer fails to perform any of Buyer's obligations under this Agreement and such failure continues for five (5) Business Days after Buyer's receipt of written notice from Seller, then Seller, as Seller's sole remedy, shall be entitled to cancel this Agreement.

16.3 In addition to the foregoing, each party's indemnity obligations set forth in this Agreement shall be enforceable.

16.4 Each party hereby waives and covenants not to assert any claim for consequential, punitive and other forms of special damages.

17. CANCELLATION. If Buyer or Seller elects to cancel this Agreement pursuant to the provisions hereof, such cancellation shall be effected by the canceling party giving written notice of the cancellation to the other party and Escrow Agent. Upon such cancellation or if this Agreement is cancelled automatically, Escrow Agent shall return all documents deposited in the Escrow to the party who supplied the documents. Upon such delivery of such documents, this Agreement and the Escrow shall be deemed cancelled and terminated, and, except as expressly provided herein, neither party shall have any further obligations hereunder.

18. ATTORNEYS' FEES. If there is any litigation, arbitration or administrative proceeding (including an appeal) between Seller and Buyer to enforce or interpret any provisions hereof or rights arising hereunder, the unsuccessful party in such litigation, arbitration or administrative proceeding (including an appeal) as determined by the court, arbitrator or hearing officer, shall pay to the successful party, as determined by the court, arbitrator or hearing officer all costs and expenses, including but not limited to reasonable attorneys' fees incurred by the successful party, such fees to be determined by the court, arbitrator or hearing officer, sitting without a jury, if applicable.

19. NOTICES. Except as otherwise required by law, any notice given in connection with the Purchase and Sale Transaction shall be in writing and shall be given by personal delivery, overnight courier service, or United States certified or registered mail, return receipt requested, postage prepaid, addressed to Seller or Buyer at the following addresses (or at such other address as Seller or Buyer or the person receiving copies may designate in writing):

BUYER: c/o Rightpath Limited  
3131 East Camelback Road, Suite 212  
Phoenix, AZ 85016  
Telephone: (602) 977-2999  
Facsimile: (602) 977-7707  
Attn.: Rick L. Burton  
Email: [rick@rightpathlimited.com](mailto:rick@rightpathlimited.com)

With a copy to: Snell & Wilmer L.L.P.  
One Arizona Center  
Phoenix, AZ 85004-2202  
Telephone: 602-382-6249/ 602-382-6397  
Facsimile: 602-382-6070  
Attention: Joyce Kline Wright, Esq.  
John F. Baird, II, Esq.  
Email: [jkwright@swlaw.com](mailto:jkwright@swlaw.com)  
[jbaird@swlaw.com](mailto:jbaird@swlaw.com)

SELLER: City Manager  
City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301  
Attention: Ed Beasley  
Email: [ed@glendaleaz.com](mailto:ed@glendaleaz.com)

With a copy to: City Attorney  
City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301  
Attention: Craig D. Tindall, Esq.  
Email: [ctindall@glendaleaz.com](mailto:ctindall@glendaleaz.com)

Notice shall be deemed to have been received on the date on which notice is delivered, if notice is given by personal delivery, on the first Business Day after delivery to the overnight courier service, if such a service is used, and on the earlier of actual receipt or the third Business Day after deposit in the mail, if mailed. Copies of all notices given to Seller or Buyer shall be given to Escrow Agent.

20. ESCROW CANCELLATION CHARGES. If the Escrow fails to close because of Seller's default, Seller shall be liable for any cancellation charges by Escrow Agent. If the Escrow fails to close because of Buyer's default, Buyer shall be liable for any cancellation charges by Escrow Agent. If the Escrow fails to close for any other reason, Seller and Buyer each shall be liable for one-half of any cancellation charges.

21. ADDITIONAL ACTS. The parties agree to execute promptly such other documents and perform such other acts as may be reasonably necessary to carry out the purpose and intent of this Agreement.

22. GOVERNING LAW. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Arizona.

23. BUSINESS DAYS. If this Agreement requires any act to be done or action to be taken on a date which is not a Business Day, such act or action shall be deemed to have been validly done or taken if done or taken on the next succeeding Business Day.

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

25. SURVIVAL. All of the covenants, agreements, representations and warranties set forth in this Agreement shall survive the Close of Escrow, for the periods set forth herein and shall not merge into any deed, assignment or other instrument executed or delivered pursuant hereto.

26. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile copies of executed original counterparts shall be accepted as originals.

27. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

28. ENTIRE AGREEMENT. This Agreement sets forth the entire understanding of the parties with respect to the matters set forth herein as of the date hereof; it supersedes all prior oral or written agreements of the parties as to the matters set forth herein; and it cannot be altered or amended except pursuant to an instrument in writing, signed by Buyer and Seller.

29. CONSTRUCTION. This Agreement is the result of negotiations between the parties, neither of whom has acted under any duress or compulsion, whether legal, economic or otherwise. Accordingly, the terms and provisions hereof shall be construed in accordance with their usual and customary meanings. Seller and Buyer hereby waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Agreement that ambiguous or conflicting terms or provisions should be construed against the party who (or whose attorney) prepared the executed Agreement or any earlier draft of the same.

30. INTERPRETATION. If there is any specific and direct conflict between, or any ambiguity resulting from, the terms and provisions of this Agreement and the terms and provisions of any document, instrument or other agreement executed in connection herewith or in furtherance hereof, including any exhibits hereto, the same shall be consistently interpreted in such manner as to give effect to the general purposes and intention as expressed in this Agreement, which shall be deemed to prevail and control.

31. HEADINGS. The headings in this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement.

32. NO THIRD PARTY BENEFICIARY. No term or provision of this Agreement or the Exhibits hereto is intended to be, nor shall any such term or provision be construed to be, for the benefit of any person, firm, corporation or other entity not a party hereto (including, without limitation, any broker), and no such other person, firm, corporation or entity shall have any right or cause of action hereunder.

33. SEVERABILITY. If any provision of this Agreement or any portion of any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable from all other provisions hereof.

34. INCORPORATION BY REFERENCE. All Exhibits to this Agreement are fully incorporated herein as though set forth herein in full.

35. CONFIDENTIALITY. The parties hereto shall not disclose any of the terms of this Agreement prior to the Close of Escrow (except to the extent as may be required by law or as required by Escrow Agent or except to the officers, directors, investors, lenders, advisors, attorneys,

and employees of the parties hereto in the ordinary course of business) without the prior written consent of the other party.

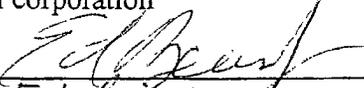
[Remainder of Page Left Intentionally Blank]

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

SELLER:

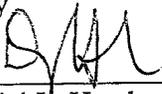
CITY OF GLENDALE, ARIZONA, an Arizona municipal corporation

By:   
Name: Ed Beasley  
Its: ~~Assistant~~ City Manager

BUYER:

RIGHTPATH LIMITED DEVELOPMENT GROUP, LLC, a Delaware limited liability company

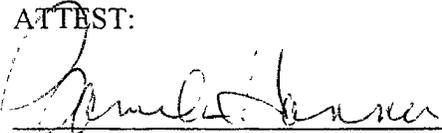
By: Hendon MLB Development, LLC, an Arizona limited liability company

By:   
Daniel L. Hendon  
Managing Member

APPROVED AS TO FORM:

  
Craig Tindall, City Attorney

ATTEST:

  
CITY CLERK

ESCROW AGENT ACCEPTANCE:

This Purchase and Sale Agreement is accepted and the Escrow is opened this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

ESCROW AGENT:

MAGNUS TITLE AGENCY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**  
**[SEE ATTACHED]**

**EXHIBIT "A"**  
**SPRING TRAINING C**  
**LEGAL DESCRIPTION**

That portion of the south half of Section 18, Township 2 North, Range 1 East of the Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

**COMMENCING** at a found Maricopa County Highway Department Brass Cap in handhole accepted as the south quarter corner of said Section 18, from which a found Maricopa County Highway Department brass cap in hand hole accepted as the southeast corner thereof bears North 87 degrees 31 minutes 36 seconds East a distance of 2613.39 feet;

Thence along the south line of the Southeast quarter of said Section 18, North 87 degrees 31 minutes 36 seconds East a distance of 55.24 feet;

Thence leaving said south line, North 02 degrees 28 minutes 24 seconds West a distance of 75.00 feet to a line that is north of and parallel with said south line, being the **POINT OF BEGINNING**;

Thence North 02 degrees 47 minutes 07 seconds West a distance of 74.56 feet to the beginning of a curve concave to the west having a radius of 5439.23 feet;

Thence northerly along said curve through a central angle of 06 degrees 21 minutes 37 seconds an arc length of 603.80 feet;

Thence North 09 degrees 08 minutes 44 seconds West a distance of 300.00 feet to the beginning of curve concave to the east having a radius of 1186.40 feet;

Thence northerly along said curve through a central angle of 22 degrees 41 minutes 37 seconds an arc length of 469.91 feet to the beginning of a non-tangent curve concave to the east having a radius of 1850.99 feet the center of which bears South 88 degrees 54 minutes 05 seconds East;

Thence southerly along said curve through a central angle of 03 degrees 49 minutes 35 seconds an arc length of 123.62 feet to a point of non-tangency;

Thence North 89 degrees 29 minutes 13 seconds East a distance of 369.01 feet to the beginning of a non-tangent curve concave to the southeast having a radius of 802.41 feet the center of which bears South 72 degrees 10 minutes 33 seconds East;

Thence southerly along said curve through a central angle of 03 degrees 38 minutes 37 seconds an arc length of 51.03 feet to the beginning of a non-tangent curve concave to the southeast having a radius of 1307.58 feet the center of which bears South 78 degrees 27 minutes 24 seconds East;

Thence southerly along said curve through a central angle of 04 degrees 31 minutes 14 seconds an arc length of 103.17 feet to the beginning of a non-tangent curve concave to the east having a radius of 1327.86 feet the center of which bears South 82 degrees 59 minutes 09 seconds East;

Thence southerly along said curve through a central angle of 01 degree 59 minutes 45 seconds an arc length of 46.26 feet to the beginning of a non-tangent curve concave to the east having a radius of 881.04 feet the center of which bears South 83 degrees 36 minutes 29 seconds East;

Thence southerly along said curve through a central angle of 16 degrees 58 minutes 40 seconds an arc length of 261.07 feet to the beginning of non-tangent curve concave to the southwest having a radius of 4689.44 feet the center of which bears South 77 degrees 05 minutes 42 seconds West;

Thence southeasterly along said curve through a central angle of 01 degree 27 minutes 10 seconds an arc length of 118.92 feet to the beginning of a non-tangent curve concave to the southwest having a radius of 4671.86 feet the center of which bears South 78 degrees 33 minutes 02 seconds West;

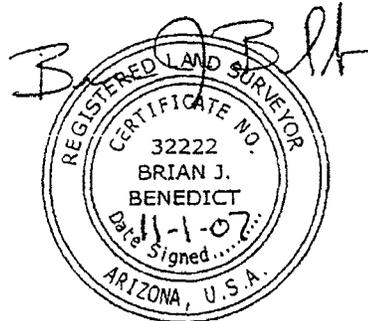
Thence southerly along said curve through a central angle of 09 degrees 00 minutes 32 seconds an arc length of 734.58 feet to a point of non-tangency, said point being on a line that is north of and 75.00 feet north of the south line of the southeast quarter of said Section 18;

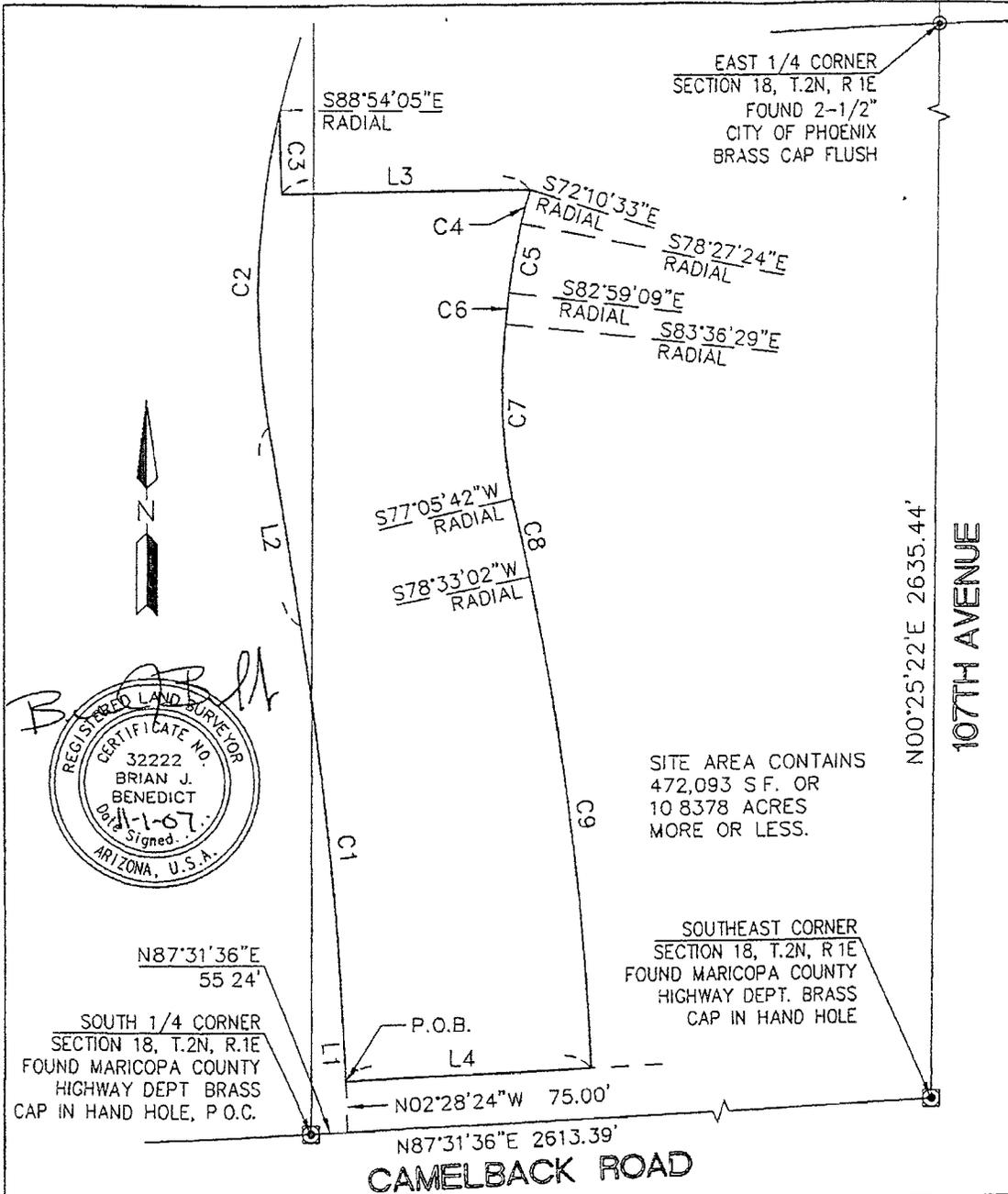
Thence along said parallel line, South 87 degrees 31 minutes 36 seconds West a distance of 362.78 feet to the **POINT OF BEGINNING**.

The above described parcel contains 472,093 Sq. Ft. or 10.8378 Acres more or less.

The description shown hereon is not to be used to violate any subdivision regulation of the state, county and/or municipality or any other land division restrictions.

Prepared by: CMX L.L.C.  
7740 N. 16TH Street, Suite 100  
Phoenix, AZ 85020  
Project No. 3179  
August 15, 2007





REGISTERED LAND SURVEYOR  
 CERTIFICATE NO. 32222  
 BRIAN J. BENEDICT  
 Dated 1-1-07  
 Signed  
 ARIZONA, U.S.A.

SOUTH 1/4 CORNER  
 SECTION 18, T.2N, R.1E  
 FOUND MARICOPA COUNTY  
 HIGHWAY DEPT BRASS  
 CAP IN HAND HOLE, P.O.C.

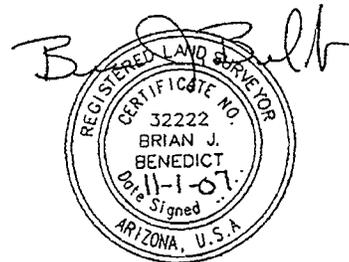
SITE AREA CONTAINS  
 472,093 S.F. OR  
 10 8378 ACRES  
 MORE OR LESS.

SOUTHEAST CORNER  
 SECTION 18, T.2N, R.1E  
 FOUND MARICOPA COUNTY  
 HIGHWAY DEPT. BRASS  
 CAP IN HAND HOLE

CMX PROJ	3179	SPRING TRAINING C	
DATE	10/31/07		
SCALE	N.T.S.	PHOENIX, ARIZONA	PHOENIX OFFICE
DRAWN BY	RLP/KM	EXHIBIT "B" - SHEET 1 OF 2	7740 N 16TH ST STE 100, PHOENIX, AZ
CHECKED BY	BJB		PH (602) 567-1900 FAX (602) 567-1901

LINE TABLE		
LINE	LENGTH	BEARING
L1	74.56'	N02°47'07"W
L2	300.00'	N09°08'44"W
L3	369.01'	N89°29'13"E
L4	362.78'	S87°31'36"W

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	603.80'	5439.23'	06°21'37"
C2	469.91'	1186.40'	22°41'37"
C3	123.62'	1850.99'	03°49'35"
C4	51.03'	802.41'	03°38'37"
C5	103.17'	1307.58'	04°31'14"
C6	46.26'	1327.86'	01°59'45"
C7	261.07'	881.04'	16°58'40"
C8	118.92'	4689.44'	01°27'10"
C9	734.58'	4671.86'	09°00'32"



CMX PROJ. 3179	SPRING TRAINING C PHOENIX, ARIZONA EXHIBIT "B" - SHEET 2 OF 2	 PHOENIX OFFICE 7740 N 16TH ST STE 100, PHOENIX, AZ PH (602) 567-1900 FAX (602) 567-1901
DATE: 10/31/07		
SCALE: N.T.S.		
DRAWN BY: RLP/KM		
CHECKED BY: BJB		

X:\3100\3179\Exhibits\Legals\3179-10 ACRE QUIPARCE.dwg 11-01-2007 - 11:23am

EXHIBIT C

SPECIAL WARRANTY DEED

When recorded, return to:

Snell & Wilmer L.L.P.  
One Arizona Center  
Phoenix, Arizona 85004-2202  
Attention: Joyce Kline Wright, Esq.

SPECIAL WARRANTY DEED

For the consideration of Ten Dollars (\$10.00) and other valuable considerations, CITY OF GLENDALE, ARIZONA, an Arizona municipal corporation (“Grantor”), hereby conveys to RIGHTPATH LIMITED DEVELOPMENT GROUP, LLC, a Delaware limited liability company (“Grantee”), the following real property situated in Maricopa County, Arizona, together with all of Seller’s interest in any rights and privileges appurtenant thereto:

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

SUBJECT to the Permitted Exceptions set forth on Exhibit B attached hereto and incorporated by this reference.

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.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2008.

GRANTOR:

CITY OF GLENDALE, ARIZONA,  
an Arizona municipal corporation

ATTEST:

\_\_\_\_\_  
GLENDALE CITY CLERK

By: \_\_\_\_\_  
Its: ASSISTANT CITY MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_  
GLENDALE CITY ATTORNEY

Exhibit A to Special Warranty Deed

Legal Description

[See Attached]

Exhibit B to Special Warranty Deed

Permitted Exceptions

[See Attached]

**EXHIBIT D**  
**(Intentionally Deleted)**

## EXHIBIT E

### LIST OF ENVIRONMENTAL AND ARCHAEOLOGICAL REPORTS

1. Phase I/Limited Phase II Environmental Site Assessment dated March 1, 2007 prepared by Engineering and Environmental Consultants, Inc. for The City of Glendale, as project no. 204183.03, regarding Maricopa County Assessor's parcel number 102-59-011B, northwest corner of 107th Avenue & Camelback Road, Phoenix, Arizona.

2. **Limited Phase II Environmental Site Assessment Report dated July 9, 2007 prepared by Engineering and Environmental Consultants, Inc. for The City of Glendale**, as project no. 204183.04, regarding Maricopa County Assessor's parcel number 102-59-011B, northwest corner of 107th Avenue & Camelback Road, Phoenix, Arizona.

3. **A Class I and Class III Cultural Resources Survey dated June 21, 2007 prepared by Archaeological Consulting Services, Ltd.**, as project no. 102-59-011B and 102-59-007E for the City of Glendale, regarding 214 acres at the northwest corner of Camelback Road and 107th Avenue, Phoenix, Maricopa County, Arizona.

## EXHIBIT F

1. Seller shall provide Buyer with reliance letters or updated reports naming Buyer as a party entitled to rely upon each of the Existing Reports described on Exhibit E attached hereto, as soon as reasonably possible but in any event on or before the Close of Escrow.
3. Seller shall undertake any action required by the Arizona Department of Water Resources and other applicable laws to close any inactive wells located on the Property, as soon as reasonably possible but in any event on or before the Close of Escrow.
4. Seller shall remove any trailers located on the Property prior to Close of Escrow.
5. Seller shall remove any septic system on the Property and provide appropriate documentation evidencing same prior to Close of Escrow.
6. Seller shall remove all fuel storage tanks from the Property, if any, and to the extent required by law, shall remediate soils affected by any fuel staining as soon as reasonably possible but in any event on or before the Close of Escrow.
7. As soon as reasonably possible but in any event on or before the Close of Escrow, Seller shall obtain a reliance letter benefiting Buyer or updated environmental report certified to Buyer stating that current levels of soil contamination at the Property do not pose a risk for Buyer's proposed use of the Property for commercial, retail, office, hotel and time-share use.