

REAL ESTATE PURCHASE AGREEMENT

SELLER: GIBBONEY CHARITABLE TRUST, an Arizona charitable trust
BUYER: CITY OF PEORIA, an Arizona municipal corporation
ESCROW AGENT: Fidelity National Title Insurance Company
LOCATION: 8344 W. Washington Street, Peoria, AZ
ESCROW NUMBER: GC75001335

RECITALS

- A. Gibboney Charitable Trust (the “**Seller**”) is the owner of certain real property (APN 142-41-017A) located at 8344 W. Washington Street, in Peoria, Arizona (the “**Property**”) and described on Exhibit A hereto.
- B. Seller desires to sell the Property and the City of Peoria (the “**City**”) desires to purchase the Property from Seller for its appraised fair market value as set forth in Section 6 herein (the “**Purchase Price**”).
- C. City, in accordance with Article I, Section 3(1) of the Peoria City Charter, is authorized to purchase real property, and City’s City Council has considered and approved the sale terms authorized by this Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual promises and representations contained herein, Seller and City agree as follows:

TERMS OF AGREEMENT

- 1. Contingencies of Sale. City and Seller acknowledge that their obligations to consummate the transaction contemplated by this Agreement are conditioned upon, among other things, City’s City Council approving the terms of this agreement.
- 2. Agreement. Upon execution of this Real Estate Purchase Agreement (this “**Agreement**”) by Seller and City, same shall constitute a binding contract between Seller and City for the purchase and sale of the Property.
- 3. Opening of Escrow and Close of Escrow. Escrow shall be opened when (i) one fully executed or counterparts of this Agreement executed by Seller and City, respectively, have been delivered to Escrow Agent, and (ii) City shall have deposited the Earnest Money with Escrow Agent on or before the 2nd business day following delivery of this Agreement to Escrow Agent

(“**Opening of Escrow**”). Escrow Agent shall advise Seller and City, in writing, of the Opening of Escrow and the date thereof. Unless extended pursuant to the terms of this Agreement, consummation of the purchase of the Property contemplated hereby (the “**Close of Escrow**” or “**Closing Date**”) shall take place on or before the date that is ten (10) days following the expiration of the Investigation Period (as defined below) (the “**Closing Deadline**”), and shall automatically terminate without any further notices, three (3) business days following the Closing Deadline unless otherwise extended as provided in this Agreement or by mutual agreement of the parties. At or before Close of Escrow, each party shall execute and deliver such documents and perform such acts as are provided for herein. All monies and documents required to be delivered under this Agreement shall be deposited in Escrow on or before 5:00 p.m. Arizona Time on the Closing Date.

4. Title Insurance; Conveyance of Title. The Property, including all rights and privileges appurtenant to or arising from the Property, shall be conveyed by Seller to City upon Close of Escrow by Seller’s warranty deed (the “**Deed**”), warranting title to the Property to be conveyed thereby to be a fee simple absolute estate free and clear of all matters, claims, liens, and encumbrances except: (i) taxes not yet due and payable at Close of Escrow (subject to proration as hereinafter provided); (ii) reservations in patents from the United States or the State of Arizona; and (iii) any other matters disclosed by the preliminary title report (or any amended report) which are deemed waived or approved by City in accordance with Subsection 9.1. Escrow Agent shall commit to issue or cause to be issued a standard coverage owner’s policy of title insurance in the amount of the Purchase Price, for which Seller shall bear the cost.
5. Possession. Upon Close of Escrow, Seller shall vacate the Property and deliver possession to City, and all risk of loss of, or damage to, the Property from any source shall, at that time, pass to and become the sole responsibility of City.
6. Appraised Value; Purchase Price. The Seller has caused an appraisal of the Property to be prepared by an appraiser selected by the Seller (the “**Appraisal**”). The Purchase Price for the Property shall be based on the appraised value, which, as reflected in the Appraisal, shall be \$159,000 (the “**Purchase Price**”).
7. Payment of Purchase Price. The Purchase Price for the Property shall be paid by City at Close of Escrow.
8. Closing; Fees, Taxes, and Assessments; Costs.
 - 8.1. At Close of Escrow, a Standard ALTA Owner’s Policy of title insurance shall be issued by Escrow Agent through its authorized underwriter(s) insuring City’s fee simple title to the Property, subject to the usual printed exceptions contained in such title insurance policies, those matters which appear as exceptions in Schedule B of the commitment (as defined below) and which are not objected to or are waived in the manner described in said Section 9, and any other matters approved in writing by City (the “**Title Policy**”). The Premium for the Title Policy will be in the amount of the Purchase Price or such other amount as determined by City. The cost of a standard Title Policy in the amount of the

Purchase Price shall be borne by Seller. In the event City desires an American Land Title Association (ALTA) Extended Policy and/or any endorsement to the Title Policy, or to increase the liability amount of the Title Policy, the additional cost shall be borne by City, including without limitation the cost for obtaining any necessary survey or updated survey.

- 8.2. At Close of Escrow, the recording fees with respect to the Deed, the Affidavit of Value and any other documents to be recorded at Close of Escrow and any escrow fees and charges shall be paid equally by City and Seller. All non-delinquent real property taxes and any other assessments to or charges against the Property shall be paid by Seller prorated to Close of Escrow based upon the most recent assessments.
 - 8.3. At Close of Escrow, Seller shall deliver the Deed, an Affidavit of Property Value, a Non-Foreign Person Affidavit, and each and every document, agreement, and/or instrument reasonably required by the Escrow Agent in connection with the Closing.
 - 8.4. At Close of Escrow, City shall deliver the Purchase Price and all other sums to be paid by City hereunder, the Affidavit of Property Value, and each and every other document, agreement and/or instrument reasonably required by Escrow Agent in connection with the Close of Escrow.
9. City's Contingencies. City's obligation to consummate the transactions contemplated by this Agreement is subject to satisfaction of all of the following conditions precedent (which may only be waived by City in a writing signed by City or its duly authorized agent):
- 9.1. Status of Title. Escrow Agent, as soon as is reasonably possible after execution of this Agreement, shall provide City and Seller with a preliminary report of the title to the Property (the "**Commitment**"), disclosing all matters of record and Escrow Agent's requirements for both closing the Escrow created by this Agreement and issuing the Title Policy (the Commitment also shall be suitable to serve as the basis for issuance of an ALTA extended form coverage lender's title insurance policy). At such time as City receives the Commitment (and any amended report adding additional title exceptions) and a current ALTA/NSPS Survey of the Property (the "**Survey**"), City shall have ten (10) business days after receipt of the Commitment and the Survey to object in writing to any matter shown in the Commitment or the Survey. If City fails to object within the ten (10) business days, the condition of title to the Property shall be deemed approved by City. In the event City does object in writing to any matter disclosed in the Commitment or the Survey, Seller may, but shall not be required to attempt to remove such objection before Close of Escrow. If Seller fails to notify City within five (5) business days after receipt of such objections that Seller has elected to eliminate the objectionable matters prior to the Closing, such failure shall be deemed Seller's election not to eliminate any such matter. If Seller notified City in writing of its election not to eliminate any such objectionable matter or is deemed to have elected not to eliminate any such matter, City shall elect within five (5) business days after receipt of Seller's notice (or, if applicable, five (5) business days after the date on which Seller is deemed to have elected not to eliminate any such matter) to either: (i) cancel this Agreement and receive the return of all Earnest

Money paid, together with any interest accrued thereon; or (ii) proceed with this Agreement waiving and taking title subject to such matters. If Seller timely elects to eliminate a disapproved exception from the Commitment prior to the Closing, Seller shall be obligated to do so by either causing such disapproved exception to be eliminated entirely from the Commitment or to be endorsed over in form and substance reasonably acceptable to City.

9.2. Environmental Contamination and Assessment of Property. Seller will disclose to City, within five (5) days of Opening of Escrow, any actual knowledge or information it has regarding any current or historical environmental contamination of the Property. Notwithstanding Seller's obligation to disclose, City shall have until the expiration of the Due Diligence Period (defined below) to obtain a Phase I Environmental Assessment (the "**Assessment**"). If the Assessment indicates that a Phase II Environmental Assessment ("**Phase II**") is warranted, City will not be required to close the Escrow pending completion of the Phase II, and the Close of Escrow may be extended by sixty (60) days for City to obtain and review the Phase II. If the Phase II concludes contamination exists, City may elect to cancel this Agreement and receive the return of all Earnest Money paid, together with any interest accrued thereon. Moreover, in no event shall an "as is" clause set forth within this Agreement affect the application of federal, state or local law regarding environmental contamination and Seller's responsibility for remediating same as required under applicable federal, state and local law, including remediation that may be required after Close of Escrow.

9.3. Investigation. City shall have thirty (30) days after Opening of Escrow (the "**Due Diligence Period**") to conduct such other tests and investigations, other than those described in Subsections 9.1 and 9.2 above, as City deems in its sole discretion to be material to its determination whether the Property is suitable for City's purposes. Upon prior reasonable notice to Seller, Seller shall permit access to the Property by City to inspect and perform any such tests during the Due Diligence Period. City must obtain Seller's written consent prior to conducting any invasive testing on the Property, which consent shall not unreasonably be withheld. City shall conduct all such inspections, investigations, and tests and be responsible for returning the Property to substantially the condition in which it was prior to the time of any entry. In the event City does so notify Seller, however, Seller shall have the option to either undertake to remediate such conditions to City's reasonable satisfaction or to terminate this Agreement, whereupon City and Seller shall have no further obligations hereunder, other than liabilities or obligations arising under the indemnity provisions of Subsection 15.6. Prior to expiration of the Due Diligence Period, City may terminate this Agreement for any reason or for no reason whatsoever, in City's sole and absolute discretion, and the Earnest Money and interest accrued, will be returned to Peoria. The provisions of Section 9 shall survive Close of Escrow, execution, delivery and recordation of the Deed.

10. No Warranties. Except as otherwise set forth herein, City agrees that the Property shall be purchased in an "as-is" condition. Seller makes no warranty as to the sufficiency of the Property for City's purposes or any purpose whatsoever, the physical condition of the Property or any

work or improvements which might be required for any reason whatsoever, the square footage or acreage contained within the Property, except as expressly set forth elsewhere in this Agreement or within the separate escrow instructions included as a part of this Agreement. Nothing herein abrogates Seller's duty to disclose known material conditions affecting the Property and the consideration to be paid by City.

11. Seller's Warranties. Seller warrants and represents (with the understanding that City is relying on said warranties and representations) that the following representations and warranties are true, complete, and correct as of the date hereof, and shall be true, complete, and correct as of the Closing Date with the same force and effect as if first made at that time:

11.1. Seller's Authority. Seller has full power and authority to enter into and perform under this Agreement in accordance with its terms. Upon execution of this Agreement this Agreement shall be binding and enforceable on Seller.

11.2. Other Leases or Agreements. Seller warrants that it has not entered into any unrecorded leases or other agreements, which may affect City's ability to take title to or possession of the Property or to use the Property.

11.3. No Lawsuits. There are no actions, suits, proceedings or investigations pending or threatened with respect to or in any manner affecting Seller's ownership of the Property or otherwise affecting any portion thereof, or which will become a cloud on the title to the Property or question the validity or enforceability of the transaction contemplated herein, or which may adversely affect Seller's ability to perform hereunder.

11.4. Bankruptcy or Insolvency. Seller warrants that it is not the subject of a bankruptcy or insolvency proceeding.

11.5. Labor, Materials and Mechanics' Liens. Seller warrants that payment in full will be made prior to Close of Escrow for all labor, professional services, materials, machinery, fixtures, or tools furnished within the one hundred fifty (150) days immediately preceding the Close of Escrow in connection with any construction, alteration or repair of any improvement to or on the Property.

11.6. Compliance. Seller hereby represents and warrants that Seller:

11.6.1. Is in compliance with the U.S. Treasury Department Office of Foreign Assets Control (OFAC) sanctions and regulations promulgated under the authority granted by the Trading with the Enemy Act, 12 U.S.C. § 95 (a) *et seq.*, and the International Emergency Economic Powers Act, 50 U.S.C. § 1701, *et seq.*, as the same apply to it or its activities;

11.6.2. Is in compliance with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended from time to time (the "**Patriot Act**") and all rules and regulations

promulgated under the Patriot Act applicable to Seller; and is not now, nor has ever been, under investigation by any governmental authority for, nor has been charged with or convicted of a crime under, 18 U.S.C. §§ 1956 or 1957 or any predicate offense thereunder; has never been assessed a civil penalty under any anti-money laundering laws or predicate offenses thereunder; has not had any of its funds seized, frozen, or forfeited in any action relating to any anti-money laundering laws or predicate offenses thereunder; has taken such steps and implemented such policies as are reasonably necessary to ensure that it is not promoting, facilitating, or otherwise furthering, intentionally or unintentionally, the transfer, deposit, or withdrawal of criminally derived property, or of money or monetary instruments which are (or which Seller suspects or has reason to believe are) the proceeds of any illegal activity or which are intended to be used to promote or further any illegal activity; and has taken such steps and implemented such policies as are reasonably necessary to ensure that it is in compliance with all laws and regulations applicable to its business for the prevention of money laundering and with anti-terrorism laws and regulations, with respect both to the source of funds from its investors and from its operations, and that such steps include the development and implementation of an anti-money laundering compliance program within the meaning of Section 352 of the Patriot Act, to the extent such a party is required to develop such a program under the rules and regulations promulgated pursuant to Section 352 of the Patriot Act.

- 11.6.3. Neither Seller nor any other person owning a direct or indirect, legal, or beneficial interest in Seller is in violation of the Executive Order or the Patriot Act. Neither the Seller nor any of its respective constituents, investors (direct or indirect and whether or not holding a legal or beneficial interest), or affiliates, acting or benefiting, directly or indirectly, in any capacity in connection with the Property or this Agreement or any of the transactions contemplated hereby or thereby, is: listed in the Annex to, or otherwise subject to the provisions of, that certain Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit or Support Terrorism; named as a "specifically designated national" on the most current list published by OFAC at its official website (<http://www.treas.gov/ofac/t11sdn.pdf>) or at any replacement website or other replacement official publication of such list or that is named on any other Governmental Authority list issued post 9/11/01; or, acting, directly or indirectly, in contravention of any anti-money laundering law or terrorist organizations or narcotics traffickers, including those persons that are included on any relevant lists maintained by the United Nations, North Atlantic Treaty Organization, Financial Action Task Force on Money Laundering, OFAC, U.S. Securities and Exchange Commission, U.S. Federal Bureau of Investigation, U.S. Central Intelligence Agency, U.S. Internal Revenue Service, all as may be amended or superseded from time to time; or (iv) owned or controlled by, or acting for or on behalf of, any person described above.

- 11.6.4. None of the funds or other assets of the Seller constitute property of, or are beneficially owned, directly or indirectly, by any person, entity or government subject to trade restrictions under U.S. law, including without limitation: the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 *et seq.*; The Trading with the Enemy Act, 50 U.S.C. App. 1 *et seq.*; and any Executive Orders or regulations promulgated thereunder, with the result that sale by Seller, its managing member, manager or any non-managing member (whether directly or indirectly), is prohibited by law (an "**Embargoed Person**"). No Embargoed Person has any interest of any nature whatsoever in Seller (whether directly or indirectly); and none of the funds of Seller have been derived from any unlawful activity with the result that an investment in the Seller (whether directly or indirectly) or sale by the Seller, is prohibited by law or that execution, delivery, and performance of this Agreement or any of the transactions or other documents contemplated hereby or thereby is in violation of law.
- 11.7. During the period from the Effective Date until the Closing Date, Seller shall:
- 11.7.1. Be permitted to enter into any agreements with respect to all or any portion of the Property provided that such agreements expire by their terms on or prior to the Closing Date or, in accordance with their terms, would not be effective following the Closing Date;
 - 11.7.2. Maintain in full force and effect the insurance policies currently in effect with respect to the Property (or replacements continuing similar coverage);
 - 11.7.3. Operate and manage the Property in a manner consistent in all material respects with past practice but in any event shall perform its obligations under all agreements of Seller relating to the Property in all material respects;
 - 11.7.4. Promptly deliver to City copies of all written notices of violations and promptly notify City of all judgments, claims and litigation affecting Seller or any part of the Property;
 - 11.7.5. Promptly notify City of the institution of any litigation, arbitration, administrative hearing before any court or governmental agency concerning or affecting the Seller and/or the Property and of any such proceedings which are to Seller's knowledge threatened after the date hereof;
 - 11.7.6. Promptly after the delivery or receipt thereof, deliver to City copies of all notices concerning Seller or the Property, which relate to any relevant assumed contracts, leases, releases of Hazardous Materials affecting the Property, any actual or threatened condemnation of the Property or any portion thereof given by or on behalf of any federal, state, or local agency, and copies of all other correspondence sent, filed, served on, or received by Seller from any federal, state, or local agency affecting the Property from and after the Effective Date;

- 11.7.7. Not settle or compromise or agree to any settlement or compromise of any insurance or condemnation claim or award without the prior written consent of City, which may be granted or withheld in City's sole and absolute discretion except in the case of an emergency; and,
- 11.7.8. Pay all utility and other service charges accrued through the Closing Date.
- 11.8. During the period from the Effective Date until the Closing Date, Seller shall not, to the extent the same would be binding on or affect the Property or any owner thereof after the Closing, without City's prior written approval, which approval may be given or withheld in its sole and absolute discretion:
 - 11.8.1. Enter into any new lease, submit or consider any proposal for a new lease, terminate any lease, or amend or modify any lease;
 - 11.8.2. Enter into any new brokerage agreement;
 - 11.8.3. Enter into any new service contracts;
 - 11.8.4. Affirmatively (whether by action or inaction) subject the Property to any additional liens, encumbrances, covenants, or easements;
 - 11.8.5. Enter into any agreement which would require the consent of a third party to consummate for the transactions contemplated by this Agreement;
 - 11.8.6. Sell, transfer, encumber, or change the status of title of all or any portion of the Property;
 - 11.8.7. Change or attempt to change, directly or indirectly, the current zoning of the Property;
 - 11.8.8. Cancel, amend, or modify any certificate, approval, license, or permit held by Seller with respect to the Property or any part thereof which would be binding upon City after the Closing; or,
 - 11.8.9. Take any action in respect of any litigation or proceeding in respect of the Property which shall have a material adverse effect on the Property; provided, however, nothing shall preclude Seller from filing appropriate pleadings prior to the answer date or pursuant to an order of the court or administrative body. If Seller shall take any action in respect of any litigation or proceeding in respect of the Property, Seller shall indemnify and hold harmless City from and against any and all loss, liabilities, costs, damages, expenses, assessments, and penalties (including without limitation, attorneys' fees) incurred by City as a result of any such litigation

or proceeding. The foregoing indemnity shall survive the Closing without any restriction or limitation.

12. City's Representations and Warranties. City warrants and represents, (with the understanding that Seller is relying on said warranties, representations, and covenants) that City has full power and authority to enter into and perform this Agreement in accordance with its terms.
13. Brokerage. Seller shall bear the cost of any brokerage commissions.
14. Remedies.
 - 14.1. In the event of default by City of any provision of this Agreement that is not cured during the Cure Period, Seller's sole remedy shall be to cancel this Agreement and to retain the Earnest Money (together with all accrued interest) as liquidated damages; Seller and City agree that it would be impractical or extremely difficult to fix actual damages in case of City's default; that the amount of the Earnest Money deposit paid by City is a reasonable estimate of Seller's damages in case of City's default; and that Seller shall retain said Earnest Money as its damages and, thereafter, neither party shall have any further obligations to the other under this Agreement.
 - 14.2. In the event of default by Seller under this Agreement City may elect (i) to cancel this Agreement by written notice to Seller and Escrow Agent, in which event Escrow Agent shall return to City all Earnest Money (plus any accrued interest earned thereon), together with all other documents City has deposited with Escrow Agent in connection with this Escrow, in which case City and Seller shall have no other rights or obligations under this Agreement or (ii) proceed with whatever actions City may deem necessary in order to enforce the rights available to City under this Agreement, at law or in equity, including the right to seek specific performance of this Agreement or to recover its actual damages from Seller not to exceed the amount of the Earnest Money deposit.
15. Miscellaneous. The following additional provisions apply to this Agreement:
 - 15.1. Effective Date of Agreement. The date of this Agreement shall for all purposes be the date of the signature of the last party to sign this Agreement.
 - 15.2. Survival of Representations and Warranties. All representations and warranties contained in this Agreement are true on and as of the date so made, will be true in all material respects on and as of the Closing Date, and will survive Close of Escrow and execution, delivery, and recordation of the Deed. In the event that any representation or warranty by a party is untrue, the other party shall have all rights and remedies available at law, in equity, or as provided in this Agreement.
 - 15.3. Appurtenant Rights. At Close of Escrow, Seller shall, without further act, be deemed to have assigned, transferred, conveyed, and set over unto City all grandfathered water rights, easement rights and other appurtenant rights, if any, with respect to the Property.

- 15.4. No Assumption of Seller's Liabilities. City is acquiring only the Property from Seller and is not the successor of Seller. City does not assume, agree to pay, or indemnify Seller or any other person against any liability, obligation, or expense of Seller, or relating in any way to the Property.
- 15.5. Condemnation; Risk of Loss. In the event of the condemnation (or sale in lieu of condemnation) of any part of the Property prior to Close of Escrow, City shall have the right either: (i) to cancel this Agreement by written notice to Seller and Escrow Agent in which event there shall be returned to City the Earnest Money and all interest thereon, all documents shall be returned to the party who deposited them and thereafter this Agreement shall be of no further force or effect whatsoever, or (ii) to proceed with this transaction, in which event City shall be entitled to receive all proceeds of the condemnation (or sale in lieu of condemnation).
- 15.6. Indemnification and Liabilities. Seller will pay, defend, indemnify and hold harmless City and its City Council members, officers, and employees from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including attorneys' fees, experts' fees and court costs associated with such matters; all of the foregoing, collectively, "**Claims**") that arise in whole or in part from, or relating to the acts of Seller or Seller's agents in connection with, any element of the Project (the, "**Indemnity**"). Such Indemnity shall survive the expiration or earlier termination of this Agreement. The indemnification set forth in this Subsection 15.6 shall not apply to the extent such Claims arise from or relate solely to the grossly negligent or intentional acts of the City and its City Council members, officers, or employees. If the City and its City Council members, officers, or employees are made defendant(s) in any action, suit or proceeding brought by a third party by reason of any of the occurrences described in this Subsection 15.6, Seller shall at its own expense: (i) resist and defend such action suit or proceeding or cause the same to be resisted and defended by counsel designated by Seller and reasonably approved by the City; and (ii) if any such action, suit or proceeding results in a final judgment against the indemnified party, Seller promptly shall satisfy and discharge such judgment or shall cause such judgment to be promptly satisfied and discharged. Except as explicitly provided in this Agreement, the City does not assume any liability, obligation, or responsibility of the Seller arising from or in connection with the Property. This includes, without limitation, any financial obligation, contractual commitment, or legal responsibility. The Seller shall remain solely responsible for all liabilities and obligations related to the Property arising or accruing before the Close of Escrow, including but not limited to unpaid property taxes, utility charges, assessments, and any liens or encumbrances. The City shall not be liable for any such pre-closing liabilities, nor shall the City be required to cure any such issues. Seller agrees to indemnify, defend, and hold harmless the City from and against any claims, demands, liabilities, costs, or expenses (including attorneys' fees) arising from or related to any and all obligations, liabilities, or debts pertaining to the Property that accrued or were incurred by Seller prior to the Close of Escrow. The provisions of this

Subsection 15.6 shall survive Close of Escrow, any early termination of this Agreement, and execution, delivery, and recordation of the Deed.

- 15.7. Amendments and Interpretation, No Oral Modification. This Agreement may not be changed, modified, or rescinded, except by a formal writing executed by both Parties. From time to time, Seller and City (acting through its City Manager or the City Manager's designee) may, by mutual written agreement, refine, amend, revise, change, or correct any part of this Agreement as the City and Seller deem necessary or preferable.
- 15.8. Severability. If any term, condition, covenant, stipulation, agreement, or provision in this Agreement is held to be invalid or unenforceable for any reason, the invalidity of any such term, condition, covenant, stipulation, agreement, or provision shall in no way affect any other term, condition, covenant, stipulation, agreement, or provision of this Agreement.
- 15.9. No Partnership. This Agreement shall not be construed as creating a joint venture, partnership, or any other joint arrangement between Seller and City.
- 15.10. Further Instruments and Documents. Each Party hereto shall, promptly upon the request of the other Party, acknowledge and deliver to the other Party any and all further instruments reasonably requested or appropriate to evidence or give effect to the provisions and intent of this Agreement.
- 15.11. Payment and Proration. (i) Seller shall pay, in full and at Closing, any existing improvement lien assessments on or relating to the Property unless otherwise agreed by the parties; and (ii) Escrow Agent shall pro-rate taxes on the basis of the latest available tax statement.
- 15.12. Time is of the Essence. Time is hereby declared to be of the essence for the performance of all conditions and obligations under this Agreement.
- 15.13. Waiver. Failure of any party to exercise any right, remedy, or option arising out of a breach of this Agreement shall not be deemed a waiver of any right, remedy, or option with respect to any subsequent or different breach, or the continuance of any existing breach.
- 15.14. Notices. Notices hereunder (each, a "Notice") shall be given in writing delivered to the other Party or other applicable person or entity, or mailed by registered or certified mail, return receipt requested, postage prepaid, or by FedEx or other reliable overnight courier service that confirms delivery. With respect to the Parties, a Notice shall be addressed to a Party as follows:

To City:

Henry Darwin, City Manager
City of Peoria
8401 West Monroe Street
Peoria, Arizona 85345

With a copy to:

Emily Jurmu, City Attorney
City's Counsel: City of Peoria
8401 West Monroe Street
Peoria, Arizona 85345

To Seller:

Gibboney Charitable Trust
8344 West Washington Street
Peoria, Arizona 85345

Service of any Notice by mail in accordance with the foregoing shall be deemed to be complete three (3) Working Days (excluding Friday, Saturday, Sunday, and legal holidays) after the Notice is deposited in the United States mail. Service of any Notice by overnight courier in accordance with the foregoing shall be deemed to be complete upon receipt or refusal to receive.

- 15.15. Integration Clause. This Agreement including without limitation its exhibits and attachments, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all other written or verbal agreements between the Parties with respect to the Project.
- 15.16. Construction/Interpretation. Whenever the context of this Agreement requires, the singular shall include the plural, and the masculine shall include the feminine. The captions and section headings used in this Agreement are for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement. The term "person" shall include an individual, corporation, partnership, trust, estate, or any other entity. Both Parties have participated in the drafting of this Agreement, and this Agreement was negotiated on the basis that it shall be construed according to its plain meaning and neither for nor against either Party, regardless of their respective roles in preparing this Agreement. The terms of this Agreement were established in light of the plain meaning of this Agreement and this Agreement shall therefore be interpreted according to its plain meaning and without regard to rules of interpretation, if any, that might otherwise favor Seller or City.
- 15.17. Recitals. The Recitals set forth on Page 1 of this Agreement are incorporated herein as though fully set forth herein.

- 15.18. Section Headings. The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of the Agreement.
- 15.19. No Third-Party Beneficiaries. No person or entity shall be a third-party beneficiary to the Agreement nor have any right or cause of action hereunder. City shall have no liability to third parties for any approval of plans, Seller's negligence, Seller's failure to comply with the provisions of this Agreement, or otherwise as a result of the existence of this Agreement.
- 15.20. Exhibits. All exhibits attached hereto as specified herein are hereby incorporated into and made an integral part of this Agreement for all purposes.
- 15.21. Days. If the last day of any time period stated in this Agreement or the date on which any obligations to be performed under this Agreement falls on a Friday, Saturday, Sunday or legal holiday, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day which is not a Friday, Saturday, Sunday or legal holiday.
- 15.22. Attorneys' Fees. If legal action is brought by a Party because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing Party is entitled to reasonable attorney fees and costs as determined by the court or other decision maker.
- 15.23. Choice of Law. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the laws of the State of Arizona.
- 15.24. Venue & Jurisdiction. Legal actions regarding and related to this Agreement shall be instituted in the Superior Court of the County of Maricopa, State of Arizona, or the Federal District Court in the District of Arizona sitting in Maricopa County. City and Seller agree to the exclusive jurisdiction of such courts. Claims by Seller shall comply with time periods and all other requirements of City's claims procedures from time to time.
- 15.25. Waiver of Jury Trial. The Parties expressly waive trial by jury in any action, proceeding or counterclaim brought by either of them against the other, on any matter whatsoever arising out of or any way connected with this Agreement or their relationship arising hereunder.
- 15.26. No Liability of City Officials. Notwithstanding any other language in this Agreement, no City Council Member, officer, director, trustee, partner, principal, member, employee, agent, affiliate, official, representative, agent, attorney, or employee of the City shall be personally liable to Seller, or to any successor in interest to Seller, in any way whatsoever including without limitation in the event of Default by the City, for any amount that may become due to Seller or its successors, or with respect to any obligation of the City under the terms of the Agreements.

- 15.27. Counterparts; Termination. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument. In the event of any termination of this Agreement, the Lease shall be terminated concurrently, and the Parties shall have no obligations to each other except for any obligations that are stated to survive termination of this Agreement or the Lease.
- 15.28. Arizona Law Provisions. To the extent required by Arizona State law:
- 15.28.1. No member, official, or employee of City shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to this Agreement, that is prohibited by law. This Agreement shall be subject to cancellation pursuant to the provisions of A.R.S. § 38-511 relating to conflicts of interest.
 - 15.28.2. Seller certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a “boycott,” as that term is defined in § 35-393, Arizona Revised Statutes, of Israel.
 - 15.28.3. To the extent applicable under A.R.S. § 41-4401, Seller warrants compliance with all federal immigration laws and regulations that relate to their employees and contractors and their compliance with the E-Verify requirements under A.R.S. § 23-214(A). The failure by Seller to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.
 - 15.28.4. To the extent applicable under A.R.S. § 35-394, Seller hereby certifies it does not currently, and for the duration of this Agreement shall not use: (a) the forced labor of ethnic Uyghurs in the People’s Republic of China, (b) any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China, and (c) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China.

[Signatures Appear on Following Pages]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

BUYER:

CITY OF PEORIA, an Arizona municipal corporation

Date: _____

By: _____
Henry Darwin, City Manager

ATTEST:

By: _____
Agnes Goodwine, City Clerk

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

By: _____
Emily Jurmu, City Attorney

SELLER:

GIBBONEY CHARITABLE TRUST, an Arizona charitable trust

By: _____

Name:

Date: _____

Title:

ACKNOWLEDGMENT

STATE OF ARIZONA)
) ss.
County of Maricopa)

On this ____ day of _____, 2026, before me, a Notary Public, personally appeared _____, _____ of GIBBONEY CHARITABLE TRUST, an Arizona charitable trust, known to me or satisfactorily proven to be the person whose name is subscribed to this instrument and acknowledged that they have executed the same. If this person’s name is subscribed in a representative capacity, it is for the seller named and in the capacity indicated.

Notary Public

[Seal]

EXHIBIT A

Legal Description of the Property

For APN/Parcel ID(s): 142-41-017A

Lot 13, Block 16, of PEORIA, according to the plat of record in the office of the County Recorder of Maricopa County, in Book 3 of Maps, Page 62.

EXCEPT the West 45 feet thereof; and

Lot 14, Block 16, of PEORIA, according to the plat of record in the office of the County Recorder of Maricopa County, in Book 3 of Maps, Page 62.

EXCEPT the South 25 feet of the West 45 feet thereof