

## REAL ESTATE SALE AGREEMENT

THIS REAL ESTATE SALE AGREEMENT (this “**Agreement**”) is made and entered into as of February 23, 2022 (“**Effective Date**”) by and between the CITY OF LEE’S SUMMIT, MISSOURI, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the “**Seller**”) and ARCHVIEW PROPERTIES, LLC, an Indiana limited liability company, d/b/a Archview Investors, LLC in the State of Missouri, its successors and assigns (the “**Purchaser**”).

### PRELIMINARY STATEMENTS

A. The Seller is the owner of the real estate and related assets hereinafter described; and

B. The Seller desires to sell, and the Purchaser desires to buy, the real estate and related assets hereinafter described, at the price and on the terms and conditions set forth herein.

In consideration of the recitals, the mutual covenants hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, it is agreed by and between the parties as follows:

1. **Property.**

The real estate which is the subject of this Agreement consists of approximately 6.5 acres +/- as legally described on **Exhibit A** attached hereto and is generally located at the southwest corner of NE Tudor Road and NE Douglas Street in Lee’s Summit, Missouri, together with all rights, benefits, privileges, easements and other appurtenances to such land and, all of Seller’s rights in and to strips and gores and any land lying in the bed of any public right of way adjacent to such land and any unpaid award for damage by reason of any condemnation proceedings or change of grade of any highway, street, road or avenue (collectively, the “**Property**”).

2. **Reserved.**

3. **Sale/Conveyance.**

The Seller agrees to sell and convey to the Purchaser, and the Purchaser agrees to buy from the Seller, at the price and upon the other terms and conditions hereafter set forth, the Property.

4. **Transfer of Title.**

Title to the Property shall be conveyed to the Purchaser free and clear of all liens and rights of possession by a special warranty deed (the “**Deed**”) executed by the Seller, in the form attached hereto as **Exhibit B**.

5. **Purchase Price; Earnest Money.**

The purchase price for the Property shall be XXXX AND NO/100 DOLLARS (\$XXXX) (the “**Purchase Price**”), payable by the Purchaser to the Seller as follows:

(a) Within ten (10) days after the Effective Date of this Agreement, the Purchaser shall deposit into a strict joint order escrow trust (the “**Escrow**”) established with the Kansas City, Missouri national office of First American Title Insurance Company (the “**Title Insurer**”) as earnest money hereunder, the sum of XXXX and No/100 Dollars (\$XXXX) (the “**Earnest Money**”). If requested by Purchaser, the Earnest Money shall be invested through Closing in United States treasury obligations or such other interest bearing accounts or securities but only as are directed and approved by the Seller and Purchaser in writing and any interest earned on the Earnest Money shall be administered, paid or credited (as the case may be) in the same manner as the Earnest Money and, when credited to the escrow account shall constitute additional Earnest Money. At the closing of the transactions contemplated by this Agreement (the “**Closing**”), which shall occur on the Closing Date, the Purchaser shall receive a credit against the Purchase Price for the Earnest Money and all Extension Fees (as defined herein).

(b) The Purchase Price, less a credit for the Earnest Money and all Extension Fees paid hereunder, and plus or minus prorations and adjustments as set forth in **Section 17** hereof, shall be paid by the Purchaser to the Seller by wire transfer of immediately available federal funds on the Closing Date (as defined below).

6. **Representations and Covenants.**

(a) **The Seller’s Representations and Warranties.** As a material inducement to the Purchaser to execute this Agreement and consummate this transaction, the Seller represents and warrants to the Purchaser as of the date hereof and continuing through and including the Closing Date as follows:

(1) **Organization and Authority.** The Seller is a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri. The Seller has the full right and authority to enter into this Agreement, consummate or cause to be consummated the sale and make or cause to be made transfers and assignments contemplated herein and has obtained all consents (if any) required therefor. The persons signing this Agreement on behalf of the Seller are authorized to do so. This Agreement and all of the documents to be delivered by the Seller at the Closing have been (or will be) authorized and properly executed and will constitute the valid and binding obligations of the Seller, enforceable against the Seller in accordance with their terms.

(2) **Conflicts.** To Seller’s Knowledge, there is no agreement to which the Seller is a party or binding on the Seller or the Property, which is in conflict with this Agreement or which would limit or restrict the timely performance by the Seller of its obligations pursuant to this Agreement.

(3) **Documents and Records.** Within five (5) business days after the Effective Date, the Seller shall provide to the Purchaser true, correct and complete copies of the items scheduled in **Schedule 6(a)(3)** attached hereto (all of the foregoing collectively the “**Property Information**”) including, without limitation, the most recent survey of the Property in Seller’s possession or control, if any (the “**Survey**”).

(4) Litigation. There is no action, suit or proceeding pending or, to the Seller's Knowledge, threatened against either the Seller or the Property which (i) if adversely determined, would materially affect the Property, or (ii) challenges or impairs the Seller's ability to execute, deliver or perform this Agreement or consummate the transaction contemplated hereby.

(5) Leases. There are no leases, licenses, occupancy or use, or other rental agreements to which the Seller is a party or is bound affecting any portion of the Property as of the Effective Date, nor will there be any leases, licenses, occupancy or use, or other rental agreements affecting any portion of the Property which will be in force on the Closing Date.

(6) Service Contracts. There are no service contracts to which the Seller is a party or is bound affecting any portion of the Property as of the Effective Date, nor will any be in force on the Closing Date.

(7) Notice of Violations. The Seller has received no written notice that either the Property or the use thereof violates any laws, rules and regulations of any federal, state, city or county government or any agency, body, or subdivision thereof having any jurisdiction over the Property that have not been resolved to the satisfaction of the issuer of the notice.

(8) Withholding Obligation. The Seller is not a "foreign person" within the meaning of Section 1445 of the Internal Revenue Code of 1986, as amended.

(9) Condemnation. There are no pending or, to the Seller's Knowledge, threatened condemnation or similar proceedings affecting the Property or any part thereof.

(10) Insurance Notices. Seller has not received any uncured notices from any insurance company which has issued a policy with respect to any portion of the Property, or by any board of fire underwriters, or from any governmental authority, of zoning, building, fire or health code violations in respect to the Property.

(11) Environmental. Seller has no actual knowledge of any violation of Environmental Laws (as defined below) related to the Property or the presence or release of Hazardous Materials (as defined below) on or from the Property. Seller has not manufactured, introduced, released or discharged from, on, under or adjacent to the Property any Hazardous Materials or any toxic wastes, substances or materials (including, without limitation, asbestos), and Seller has not used the Property or any part thereof for the generation, treatment, storage, handling or disposal of any Hazardous Materials, in violation of any Environmental Laws. The term "**Environmental Laws**" includes without limitation the Resource Conservation and Recovery Act and the Comprehensive Environmental Response Compensation and Liability Act and other federal laws governing the environment as in effect on the date of this Agreement together with their implementing regulations and guidelines as of the date of this Agreement, and all state, county and other local laws, regulations and ordinances that are equivalent or similar to the federal laws recited above or that purport to regulate Hazardous Materials.

(12) ERISA. Seller is not (i) an “employee benefit plan” (within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”)) that is subject to the provisions of Title I of ERISA, (ii) a “plan” that is subject to the prohibited transaction provisions of Section 4975 of the Internal Revenue Code of 1986 (the “**Code**”) or (iii) an entity whose assets are treated as “plan assets” under ERISA by reason of an employee benefit plan or plan’s investment in such entity.

For purposes of this Section 6(a), the term “**Seller’s Knowledge**” means the actual knowledge of Steve Arbo, whom the Seller represents to the Purchaser is the person who is the most knowledgeable about the Property.

(b) The Purchaser’s Representations and Warranties. As a material inducement to the Seller to execute this Agreement and consummate this transaction, the Purchaser represents and warrants to the Seller that the Purchaser has been duly organized and is validly existing as a limited liability company organized pursuant to the laws of the State of Indiana, and if required to consummate the transaction, will be registered to transact business as a foreign limited liability company under the laws of the State of Missouri. The Purchaser has the full right and authority and has obtained any and all consents required therefor to enter into this Agreement, consummate or cause to be consummated the purchase, and make or cause to be made the deliveries and undertakings contemplated herein or hereby. The persons signing this Agreement on behalf of the Purchaser are authorized to do so. This Agreement and all of the documents to be delivered by the Purchaser at the Closing have been (or will be) authorized and properly executed and will constitute the valid and binding obligations of the Purchaser, enforceable against the Purchaser in accordance with their terms.

(c) Representations and Warranties Prior to Closing. The continued validity in all respects of the foregoing representations and warranties shall be a condition precedent to the obligation of the party to whom the representation and warranty is given to close the transaction contemplated herein. If (i) any of the Seller’s representations and warranties shall not be true and correct at any time on or before the Closing whether or not true and correct as of the Effective Date, or (ii) any change in facts or circumstances has made the applicable representation and warranty no longer true and correct and regardless as to whether the Purchaser becomes aware of such fact through the Seller’s notification or otherwise, then the Purchaser may, at the Purchaser’s option, exercised by written notice to the Seller (and as its sole and exclusive remedy), either (y) proceed with this transaction, accepting the applicable representation and warranty as being modified by such subsequent matters or knowledge and waiving any right relating thereto, if any, or (z) terminate this Agreement and declare this Agreement of no further force and effect, in which event the Earnest Money and all Extension Fees, if any, shall be immediately returned to the Purchaser and the Seller shall have no further liability hereunder by reason thereof, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement, and, if the breach of any representation and warranty of the Seller hereunder results from the willful and intentional act of the Seller, the Purchaser shall also have the rights and remedies available to the Purchaser under Section 18(b) of this Agreement upon a default by the Seller of its obligations under this Agreement.

(d) Covenants of the Seller. The Seller covenants and agrees that during the period from the Effective Date through and including the Closing Date:

(1) The Seller will not enter into any contract or agreement that will be an obligation affecting the Property subsequent to the Closing Date.

(2) The Seller will continue to operate and maintain the Property in accordance with past practices and will not make any material alterations or changes thereto.

(3) The Seller will maintain casualty and liability insurance of a level and type consistent with the insurance maintained by the Seller prior to the execution of this Agreement with respect to the Property.

(4) The Seller shall not do anything, nor authorize anything to be done, which would adversely affect the condition of title as shown on the Title Commitment.

(5) Purchaser shall have the ability to submit applications, documents, forms, petitions, etc. as desired or required during pursuit of entitlements, incentives, and approvals with respect to the Property, and Purchaser shall have the right to obtain such entitlements, incentives, and approvals with respect to the Property; including, but not limited to, planning and zoning consents, building permits, onsite/offsite utility coordination, incentives, etc. In addition, as required, Seller agrees to cooperate with the project and shall execute all documents related to any zoning, permitting, incentives, or authorizations related to the Property as Purchaser may reasonably deem necessary or appropriate in connection with Purchaser's intended use, financing, and development of the Property, including without limitation, those required by governmental agencies, utility companies, and authorities having jurisdiction. Nothing in this Agreement shall bind Seller to grant or approve any of the requests made by Purchaser in the course of seeking the types of consents, permits and approvals listed in this paragraph, and the City Council of Seller shall have the the normal level of legislative discretion in rendering decisions on such requests by Purchaser or its representatives in accordance with all applicable provisions of the City Code.

7. **Due Diligence Period; Approvals Period.**

(a) The Purchaser shall have a period beginning on the Effective Date and ending at 11:59 p.m., local time where the Property is located, on the date that is ninety (90) days from the Effective Date (the "**Due Diligence Period**"), to examine, inspect, and investigate the Property and, in the Purchaser's sole discretion, to determine whether the Purchaser wishes to proceed to purchase the Property.

(b) The Purchaser may terminate this Agreement for any reason or for no reason by giving written notice of such termination to the Seller on or before the last day of the Due Diligence Period. If this Agreement is terminated pursuant to this **Section 7**, the Earnest Money shall be immediately returned to the Purchaser, and neither party shall have any further liability or obligation to the other under this Agreement except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement.

(c) The Purchaser, during the Due Diligence Period and through the Closing, shall have reasonable access to the Property for the purpose of conducting, surveys, architectural,

engineering, geo-technical and environmental inspections and tests, and any other inspections, studies, or tests reasonably required by the Purchaser. The Purchaser shall give the Seller not less than twenty-four (24) hours prior email or telephonic notice before entering onto the Property to perform inspections or tests, and in the case of tests (i) the Purchaser shall specify to the Seller the precise nature of the test to be performed, and (ii) the Seller may require, as a condition precedent to the Purchaser's right to perform any such test, that the Purchaser deliver the Seller evidence of public liability and other appropriate insurance naming the Seller as an additional insured thereunder. Such examination of the physical condition of the Property may include an examination for the presence or absence of hazardous or toxic materials, substances or wastes (collectively, "**Hazardous Materials**"), which shall be performed or arranged by the Purchaser at the Purchaser's sole expense. The Purchaser shall keep the Property free and clear of any liens and will indemnify, protect, defend, and hold each of the Seller and its officers, directors members, managers, employees, and agents (each, a "**Seller Related Party**") harmless from and against all losses, costs, damages, claims, liabilities and expenses (including reasonable attorneys' fees and court costs) arising from physical damage to the Property and injury to persons asserted against or incurred by any Seller Related Party as a result of such entry by the Purchaser, its agents, employees or representatives. If any inspection or test damages the Property and the Purchaser does not acquire the Property, the Purchaser will restore the Property to substantially the same condition as existed prior to any such inspection or test. The Purchaser and its agents, employees and representatives may, upon not less than 24 hours prior telephonic notice to the Seller, examine and make copies of all books and records and other materials relating to the condition of the Property in the Seller's possession at the location where such records are maintained. Any information provided to or obtained by the Purchaser with respect to the Property shall be subject to the provisions of **Section 22(o)** of this Agreement.

(d) The Purchaser shall have a period beginning on the Effective Date and ending at 11:59 p.m., local time where the Property is located, on the date that is one hundred twenty (120) days after the expiration of the Due Diligence Period (the "**Approvals Period**"), to conduct further investigation and pursue governmental and third-party approvals, including, without limitation, the right to apply for applicable preliminary and final development plans, preliminary and final plats, rezoning, incentives, and all other approvals, permits, or agreements required by the applicable governmental authorities, applicable third parties, or desired by Purchaser for the development and financing of the Property (individually or collectively, the "**Approvals**").

(1) Purchaser shall have the right to extend the Approvals Period for a period of thirty (30) business days (the "**First Extension**") by, prior to expiration of the initial Approvals Period: (a) providing written notice to Seller of Purchaser's intent to so extend the Approvals Period, and (b) depositing into the Escrow an extension fee in the amount of XXXX and No/100 Dollars (\$XXXX) (the "**First Extension Fee**"), which First Extension Fee shall be immediately non-refundable hereunder (except as otherwise provided herein) but applicable to the Purchase Price.

(2) Purchaser shall, following the First Extension, have the further right to extend the Approvals Period for an additional period of thirty (30) business days (the "**Second Extension**") by, prior to expiration of the First Extension: (a) providing written notice to Seller of Purchaser's intent to so extend the Approvals Period, and (b) depositing

into the Escrow an additional extension fee in the amount of XXXX and No/100 Dollars (\$XXXX) (the “**Second Extension Fee**”), which Second Extension Fee shall be immediately non-refundable hereunder (except as otherwise provided herein) but applicable to the Purchase Price. The First Extension Fee and the Second Extension Fee are collectively referred to herein as the “**Extension Fees**”. The initial Approvals Period, the First Extension, if applicable, and the Second Extension, if applicable, are collectively referred to herein as the “**Approvals Period.**”

(3) Notwithstanding anything herein to the contrary, Purchaser shall have the right to terminate this Agreement at any time on or before the last day of the Approvals Period if Purchaser is unable to secure any or all of the Approvals or if Purchaser disapproves of the terms of the Approvals, in either case in Purchaser’s sole discretion, in which case the Earnest Money shall be immediately returned to the Purchaser, the Extension Fees, if applicable, shall be immediately paid to the Seller, and neither party shall have any further liability or obligation to the other under this Agreement except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement.

8. **As Is Sale.**

**EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES OF THE SELLER SET FORTH IN THIS AGREEMENT AND THE CLOSING DOCUMENTS (AS DEFINED BELOW), THE PURCHASER UNDERSTANDS AND AGREES THAT THE SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESSED OR IMPLIED, WITH RESPECT TO THE PROPERTY OR THE TRUTH, ACCURACY OR COMPLETENESS OF ANY MATERIALS, DATA OR INFORMATION DELIVERED BY THE SELLER TO THE PURCHASER IN CONNECTION WITH THE TRANSACTION CONTEMPLATED HEREBY. THE PURCHASER ACKNOWLEDGES AND AGREES THAT UPON CLOSING THE SELLER SHALL TRANSFER AND CONVEY TO THE PURCHASER AND THE PURCHASER SHALL ACCEPT THE PROPERTY “AS IS, WHERE IS, WITH ALL FAULTS”, EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT OR IN ANY AGREEMENT OR INSTRUMENT EXECUTED BY THE SELLER AND DELIVERED TO THE PURCHASER AT CLOSING (“CLOSING DOCUMENTS”).**

**THE PURCHASER REPRESENTS TO THE SELLER THAT THE PURCHASER HAS CONDUCTED, OR WILL CONDUCT PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS THE PURCHASER DEEMS NECESSARY TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF THE SELLER OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO, OTHER THAN SUCH REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE SELLER AS ARE EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE CLOSING DOCUMENTS.**

9. **Survival of Representations After Closing.**

(a) All representations and warranties of the Seller herein shall survive the Closing for a period of one (1) year (the “**Limitation Period**”).

(b) The Purchaser shall provide written notice to the Seller of any breach of any of the Seller’s warranties or representations of which the Purchaser acquires knowledge, through any means, at any time after the Closing Date but prior to the expiration of the Limitation Period, and shall allow the Seller thirty (30) days from the date of such Purchaser’s notice to Seller within which to cure such breach, or, if such breach is susceptible of cure but cannot reasonably be cured within thirty (30) days, an additional reasonable time period required to effect such cure so long as such cure has been commenced within such thirty (30) days and diligently pursued but in no event more than ninety (90) days from the date of such Purchaser’s notice to Seller. If the Seller fails to cure such breach after written notice and within such cure period (as extended), the Purchaser’s sole remedy shall be an action at law for damages as a consequence thereof, which must be commenced, if at all, within six (6) months after the expiration of the Limitation Period.

10. **Closing.**

(a) The closing shall be accomplished through the escrow referred to in **Section 10(b)** below, and shall take place on the date that is selected by the Purchaser by written notice to the Seller, which date shall be no later than ten (10) days after the date upon which the Approvals Period expires (the “**Closing Date**”), provided that all conditions precedent to the Closing have been fulfilled or have been waived in writing by the respective party entitled to waive same. Notwithstanding the foregoing, Purchaser shall have one (1) option to extend the Closing Date for up to thirty (30) business days by providing Seller with both: (1) on or before the then scheduled Closing Date, notice of such election to extend, and (2) within three (3) business days after such notice, depositing with the Title Insurer the sum of XXXX and No/100 Dollars (\$XXXX) which shall become part of the Earnest Money, shall apply to the Purchase Price, and shall be non-refundable to Purchaser except as otherwise provided in this Agreement.

(b) On or prior to the date set for Closing under this Agreement, the parties shall establish a customary deed and money escrow with the Title Insurer. Counsel for the respective parties, and officials and officers of Seller, are hereby authorized to execute the escrow trust instructions as well as any amendments thereto on behalf of their respective clients.

11. **Conditions to the Purchaser’s Obligation to Close.**

(a) The Purchaser shall not be obligated to proceed with the Closing unless and until each of the following conditions has been either fulfilled or waived in writing by the Purchaser:

(1) This Agreement shall not have been previously terminated pursuant to any other provision hereof;

(2) The Seller shall be prepared to deliver or cause to be delivered to the Purchaser all instruments and documents to be delivered to the Purchaser at the Closing pursuant to **Section 14** and **Section 16** or any other provision of this Agreement;



(3) Seller shall have performed all of its obligations required to be performed hereunder on or before Closing;

(4) The Title Insurer shall have committed to issue a title policy satisfying the requirements of **Section 13** hereof;

(5) There shall exist no pending or threatened actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings, against or involving Seller that would materially and adversely affect Seller's ability to perform its obligations under this Agreement;

(6) Purchaser shall have conducted, immediately prior to the Closing, a re-inspection of the Property which confirms that no material change has occurred from the date of the original Property inspection. If the Property has materially changed from the date of the original Property inspection, the Purchaser shall have the rights and remedies under **Section 18(b)** hereof; and

(7) Seller shall be in good standing and it and the Property are in full compliance with all loan covenants, construction agreements and building and zoning codes and the Property shall be free of all liens, with the exception of the mortgage lien, which shall be paid from the proceeds at Closing and any improvements thereon shall have a permanent certificate of occupancy or its reasonable equivalent under applicable law and all licenses, permits and other approvals necessary for the current operations at the Property, if any.

(b) In the event that any of the foregoing conditions shall not have been fulfilled on or before the time for Closing hereunder, then subject to the provisions of **Section 18(b)** hereof, the Purchaser may elect, upon notice to the Seller, to either (1) terminate this Agreement, in which event the Earnest Money shall be immediately released to the Purchaser, the Extension Fees, if any, shall be paid to Seller as set forth in **Section 7(d)(3)**, and neither party shall have any further liability or obligation to the other, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement, or (2) waive any one or more of the foregoing conditions and proceed to Closing.

12. **Conditions to the Seller's Obligation to Close.**

(a) The Seller shall not be obligated to proceed with the Closing unless and until each of the following conditions has been fulfilled or waived in writing by the Seller:

(1) The Purchaser shall be prepared to pay to the Seller the Purchase Price and all other amounts to be paid to it at Closing pursuant to the provisions of this Agreement; and

(2) The Purchaser shall be prepared to deliver to the Seller all instruments and documents to be delivered to the Seller at the Closing pursuant to **Section 15** and **Section 16** or any other provision of this Agreement.

(b) In the event that any of the foregoing conditions shall not have been fulfilled on or before the time for Closing hereunder, then subject to the provisions of **Section 18(a)** hereof, the Seller may elect, upon notice to the Purchaser, to terminate this Agreement, in which event the Earnest Money and all Extension Fees, if any, shall be immediately released to the Seller, and neither party shall have any further liability or obligation to the other, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement.

13. **Title Insurance.**

(a) Within thirty (30) business days after the Effective Date, the Purchaser, at Seller's sole cost and expense, shall deliver (or cause the Title Insurer to deliver to the Purchaser) a commitment for the Title Policy described in **Section 13(b)** below dated on or after the Effective Date (the "**Title Commitment**"), together with legible copies of all of the underlying documentation described in such Title Commitment (the "**Title Documents**") to the extent not already delivered to Purchaser. If the Survey does not exist, or if Purchaser desires to obtain an updated survey, then Purchaser may obtain a current survey of the Property, certified to the 2021 Minimum Standard Detail Requirements for ALTA/ACSM, and containing such "Table A" items as reasonably acceptable to Purchaser, prepared by a surveyor licensed in the state in which the Property is located that is reasonably acceptable to Purchaser and will be certified to Seller, Purchaser, Purchaser's lender, and the Title Insurer (the "**Updated Survey**").

(b) Purchaser shall have until the expiration of the Due Diligence Period ("**Title Review Period**") in which to review the Title Commitment, the Title Documents, the Updated Survey, and the Survey and notify Seller in writing, at Purchaser's election, of such objections as Purchaser may have to any matters contained therein ("**Purchaser's Objection Notice**"; any of said objections listed on Purchaser's Objection Notice are deemed the "**Objectionable Exceptions**"). If Seller does not notify Purchaser in writing within five (5) business days after receiving the Purchaser's Objection Notice, Seller shall conclusively be deemed to have agreed to remove all said Objectionable Exceptions at or before Closing. On the other hand, if Seller notifies Purchaser in writing within five (5) business days after receipt of the Purchaser's Objection Notice that it has elected not to cure one or more of said Objectionable Exceptions ("**Seller's Notice**"), Purchaser shall have the right to either (a) terminate this Agreement by delivering written notice within five (5) business days after receipt of such Seller's Notice, in which event, the Earnest Money and all Extension Fees, if any, shall be returned to Purchaser and neither party shall have any further rights or obligations under the Agreement, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement, or (b) Purchaser may consummate the transaction contemplated by this Agreement in accordance with the terms hereof, in which event, all those Objectionable Exceptions that Seller has so elected not to cure shall conclusively be deemed to constitute "**Permitted Encumbrances**". Notwithstanding the foregoing, prior to Closing, Purchaser may, at Seller's cost and expense, obtain an update or endorsement to the Title Commitment which updates the effective date of the Title Commitment. If such update or endorsement adds any previously unlisted title or survey exceptions to Schedule B-II of the Title Commitment or its equivalent, then Purchaser may object to any such new exception(s) by delivering written notice to Seller prior to Closing and any such notice shall: (x) be treated as a Purchaser's Objection Notice, (y) the exception(s) objected to in any such notice shall be treated as Objectionable Exceptions, and (z) the Seller shall have until the earlier to occur of: (1) the time period provided under this **Section 13(b)**, or (2) the Closing, to respond to such

Purchaser's Objection Notice; provided, however, that matters of title or survey created by, through, or under Purchaser, if any, shall not be objectionable and shall automatically be deemed additional Permitted Encumbrances.

(c) The Seller, at its sole expense, shall cause to be delivered to the Purchaser at Closing an owner's title insurance policy with extended coverage (the "**Title Policy**") issued by the Title Insurer, dated the day of Closing, in the full amount of the Purchase Price, the form of which shall be American Land Title Association Owner's Policy, Standard Form B, 2006 (or such other form required or promulgated pursuant to applicable state insurance regulations), subject only to the Permitted Exceptions (as defined below). The Title Policy may contain any endorsements requested by the Purchaser; provided that, the Purchaser shall satisfy itself as to the availability of any such endorsements prior to the expiration of the Approvals Period. The costs of any such endorsements shall be paid for by the Purchaser unless otherwise provided herein.

(d) The Seller shall have no obligation to remove or cure title objections, except for (1) liens of an ascertainable amount, which liens the Seller shall cause to be released at the Closing or affirmatively insured over by the Title Insurer with the Purchaser's approval and, (2) any exceptions or encumbrances to title which are created by the Seller after the Effective Date without the Purchaser's consent. In addition, the Seller and Purchaser shall provide the Title Insurer with all affidavits, ALTA statements or personal undertakings (collectively, the "**Owner's Affidavit**"), in form and substance reasonably acceptable to the Title Insurer, that will permit the Title Insurer to provide extended coverage and to remove the standard "mechanic's lien" and "GAP" exceptions and otherwise issue the Title Policy.

(e) "**Permitted Exceptions**" shall mean: (1) any exception arising out of an act of the Purchaser or its representatives, agents, employees or independent contractors; (2) zoning and subdivision ordinances and regulations; (3) Permitted Encumbrances, as described in **Section 13(b)** above; and (4) real estate taxes and assessments not yet due and payable.

14. **Documents to be Delivered to the Purchaser at Closing.**

At Closing, the Seller shall deliver or cause to be delivered to the Purchaser each of the following instruments and documents:

(a) Deed. The Deed, in the form attached hereto as **Exhibit B**.

(b) The Title Policy. The Title Policy, provided, however, that the Title Policy may be delivered after the Closing if at the Closing the Title Insurer, issues a currently effective, duly-executed "marked-up" Title Commitment and irrevocably commits in writing to issue the Title Policy in the form of the "marked-up" Title Commitment after the Closing.

(c) FIRPTA. An affidavit, in the form attached hereto as **Exhibit C**, stating the Seller's U.S. taxpayer identification number and that the Seller is a "United States person", as defined by Internal Revenue Code Section 1445(f)(3) and Section 7701(b).

(d) Owner's Affidavit. The Owner's Affidavit referred to in **Section 13(d)** above.

(e) Surveys, Plans, Permits and Specifications. All existing surveys, blueprints, drawings, designs, plans and specifications, permits, and operating manuals for or with respect to the Property or any part thereof to the extent the same are in the Seller's possession or control.

(f) Certificate. A certificate of the Seller dated as of the Closing Date certifying that the representations and warranties of the Seller set forth in **Section 6(a)** of this Agreement as applicable, remain true and correct in all material respects as of the Closing Date.

(g) Other Documents. Such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required to carry out the terms and intent of this Agreement.

15. **Documents to be Delivered to the Seller at Closing.**

At Closing, the Purchaser shall deliver or cause to be delivered to the Seller each of the following instruments, documents and amounts:

(a) Purchase Price. The Purchase Price calculated pursuant to **Section 5** hereof, subject to adjustment and proration as provided in **Section 17** below.

(b) Certificate. A certificate of the Purchaser dated as of the Closing Date certifying that the representations and warranties of the Purchaser set forth in **Section 6(b)** of this Agreement as applicable, remain true and correct in all material respects as of the Closing Date.

(c) Other Documents. Such other documents and instruments as may be required by any other provision of this Agreement or as may reasonably be required to carry out the terms and intent of this Agreement.

16. **Documents to be Delivered by the Seller and the Purchaser at Closing.**

At Closing, the Purchaser and the Seller shall deliver or cause to be delivered each of the following instruments and documents:

(a) Escrow Instructions. Escrow instructions as described in **Section 10(b)**.

(b) Settlement Statement. A fully executed settlement statement.

17. **Prorations and Adjustments.**

The Property is exempt from real estate taxes as of the Effective Date due to Seller's status as a tax-exempt entity, and shall remain tax exempt for the entire calendar year during which the Closing occurs. After the Closing, Purchaser shall be responsible for all real estate taxes which are applicable to the Property.

18. **Default; Termination.**

(a) If the Purchaser defaults in any material respect hereunder, and such default is not cured within ten (10) business days after written notice to Purchaser, the Seller's sole and

exclusive remedy shall be to terminate this Agreement by giving written notice thereof to the Purchaser, whereupon the Earnest Money and any Extension Fees paid hereunder (or the portion thereof which has been deposited by the Purchaser with the Title Insurer) shall be retained by the Seller as liquidated damages as the Seller's sole and exclusive remedy, and neither party shall have any further liability or obligation to the other, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement. The parties acknowledge and agree that the Seller's actual damages in the event of purchaser's default are uncertain in amount and difficult to ascertain and that said amount of liquidated damages was reasonably determined and is not a penalty. The Seller may not exercise its sole remedy if the Seller is in default in any material respect under this Agreement.

(b) If the Seller defaults in any material respect hereunder, and such default is not cured within ten (10) business days after written notice to Seller, the Purchaser may, at its sole election, either: (1) terminate this Agreement, whereupon the Earnest Money and any Extension Fees paid hereunder shall be immediately returned to the Purchaser, and neither party shall have any further liability or obligation to the other, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement; or (2) assert and seek judgment against the Seller for specific performance, provided that if a court of competent jurisdiction determines that the remedy of specific performance is not available to the Purchaser (for example, but not in limitation, because the Seller's default arose under the last sentence of **Section 6(c)** or the Seller has sold all or any portion of the Property to a third party in violation of the terms of this Agreement), then the Purchaser shall have all remedies available to it at law or in equity, including, without limitation, the right to seek judgment against the Seller for actual contract damages. The Purchaser may not exercise its remedies hereunder if the Purchaser is in default in any material respect under this Agreement.

19. **Expenses.**

(a) Title insurance premiums for the extended coverage Title Policy (other than the costs of the endorsements to such Title Policy other than extended coverage), and all title exam fees shall be borne and paid by the Seller.

(b) All costs of updating or obtaining the Updated Survey shall be borne and paid by Purchaser.

(c) The costs of the endorsements to the Title Policy, the escrow and closing fees charged by the Title Company, and all recording fees respecting the Deed shall be borne and paid by the Purchaser.

(d) Each party shall pay their own attorneys' fees as are incurred by such party.

(e) All other costs, charges, and expenses shall be borne and paid as provided in this Agreement, or in the absence of such provision, in accordance with applicable law or local custom.

20. **Intermediaries.**

(a) The Purchaser and the Seller acknowledge and agree that there is no broker involved in this transaction.

(b) The Seller represents to the Purchaser, and the Purchaser represents to the Seller, that there is no broker, finder, or intermediary of any kind with whom such party has dealt in connection with this transaction. Except as expressly set forth above, if any claim is made for broker's or finder's fees or commissions in connection with the negotiation, execution or consummation of this Agreement or the transactions contemplated hereby by or through acts of Seller or Purchaser or their respective partners, agents or affiliates, then Seller or Purchaser, as applicable, shall hold harmless the other party from and against any such claim based upon any statement, representation or agreement of such party, which obligation shall survive Closing.

21. **Destruction of Improvements.**

(a) If, prior to Closing, any condemnation proceeding is commenced or threatened in writing by a governmental or quasi-governmental agency with the power of eminent domain ("**Condemnation**"), then:

(1) The Purchaser may elect, within ten (10) business days from and after its receipt of written notice of such Condemnation, by written notice to the Seller, to terminate this Agreement, and if necessary the time of Closing shall be extended to permit such election. In the event of an election to terminate, the Earnest Money and all Extension Fees, if any, shall be immediately returned to the Purchaser and neither party shall have any liability to the other by reason hereof, except for any provision of this Agreement that is expressly intended to survive the termination of this Agreement; or

(2) In the event the Purchaser does not timely elect to terminate pursuant to subsection (a)(1) above, the transaction contemplated hereby shall be closed without a reduction in the Purchase Price, and the Seller shall assign to the Purchaser the Seller's rights in any Condemnation award to be paid to Purchaser in connection with such Condemnation.

22. **General Provisions.**

(a) Entire Agreement. This Agreement, including all exhibits and schedules attached hereto and documents to be delivered pursuant hereto, shall constitute the entire agreement and understanding of the parties with respect to the subject matter contained herein, and there are no other prior or contemporaneous written or oral agreements, undertakings, promises, warranties, or covenants related to such subject matter not contained herein.

(b) Amendments in Writing. This Agreement may be amended only by a written agreement executed by all of the parties hereto. Purchaser and Seller agree that any amendments or modifications to this Agreement may be entered into by either Purchaser or its counsel or Seller or its counsel (including without limitation, amendments or modifications related

to title and survey matters) and the execution of an amendment or modification by counsel instead of the applicable Purchaser or Seller is expressly permitted and agreed to by the parties to this Agreement and each party's counsel shall be deemed a permitted and authorized agent of such party until the time that the Purchaser or Seller notifies the other party in writing that their respective counsel does not have authority to amend or modify this Agreement on its behalf.

(c) Waiver. No waiver of any provision or condition of this Agreement by any party shall be valid unless in writing signed by such party. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act, or default.

(d) Time of the Essence. Time is of the essence of this Agreement. In the computation of any period of time provided for in this Agreement or by law, any date falling on a Saturday, Sunday or legal holiday when banks are not open for business in Kansas City, Missouri shall be deemed to refer to the next day which is not a Saturday, Sunday, or legal holiday when banks are not open for business in such locations.

(e) Severability. Except as otherwise provided in the succeeding sentence, every term and provision of this Agreement is intended to be severable, and if any term or provision of this Agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of this Agreement. The preceding sentence shall be of no force or effect if the consequence of enforcing the remainder of this Agreement without such illegal or invalid term or provision would be to cause any party to lose the benefit of its economic bargain.

(f) Headings. Headings of sections are for convenience of reference only, and shall not be construed as a part of this Agreement.

(g) Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefits of the parties hereto, and their respective successors, and permitted assigns. This Agreement may not be assigned by either party without the prior written consent of the other party, provided that this Agreement may be assigned by the Purchaser to an affiliate without Seller consent.

(h) Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to be an adequate and sufficient notice if given in writing and delivery is made either by (i) personal delivery, in which case the notice shall be deemed received the date of such personal delivery or refusal of receipt, (ii) nationally recognized overnight air courier service, next day delivery, prepaid, in which case the notice shall be deemed to have been received one (1) business day following delivery to such nationally recognized overnight air courier service or refusal of receipt, or (iii) email, provided that delivery thereof is acknowledged by the receiving party, evidenced by the sender's receipt of a receipt evidencing delivery from its email program, or the sender of an email notice otherwise does not receive any indication that such email did not get delivered properly to the applicable recipient, and to the following addresses or email addresses, as applicable:

IF TO THE PURCHASER:

Archview Properties, LLC  
c/o Cityscape Residential  
10 West Carmel Drive, Suite 200  
Carmel, Indiana 46032  
Attention: James E. Thomas, Jr.  
Email: [jthomas@cityscaperesidential.com](mailto:jthomas@cityscaperesidential.com)

with copies to:

Polsinelli PC  
900 West 48<sup>th</sup> Place, Suite 900  
Kansas City, Missouri 64112  
Attention: Curt Petersen and Mark Sprecker  
Email: [cpetersen@polsinelli.com](mailto:cpetersen@polsinelli.com) & [msprecker@polsinelli.com](mailto:msprecker@polsinelli.com)

IF TO THE SELLER:

City of Lee's Summit, Missouri  
220 Green Street  
Lee's Summit, Missouri 64063  
Attention: City Manager  
Email: [citymgrsoffice@cityofls.net](mailto:citymgrsoffice@cityofls.net)

with copies to:

City of Lee's Summit, Missouri  
220 Green Street  
Lee's Summit, Missouri 64063  
Attention: David Bushek  
Email: [david.bushek@cityofls.net](mailto:david.bushek@cityofls.net)

or to such additional or other persons, at such other address or addresses as may be designated by notice from the Purchaser or the Seller, as the case may be, to the other party. Any notice to be delivered pursuant to this Agreement (including without limitation, any notice or responses related to title, survey or other due diligence matters) may be delivered by either Purchaser or its counsel or Seller or its counsel and the delivery of notice by counsel instead of the applicable Purchaser or Seller is expressly permitted and agreed to by the parties to this Agreement and each party's counsel shall be deemed a permitted and authorized agent of such party for purposes of delivering notices until the time that the Purchaser or Seller notifies the other party in writing that their counsel does not have authority to deliver notices of this Agreement on its behalf, respectively.

(i) Governing Law. This Agreement shall be governed in all respects by the internal laws of the State of Missouri.



(j) Counterparts; Non-Paper Records. This Agreement may be signed or otherwise authenticated in any number of counterparts and by different parties to this Agreement on separate counterparts, each of which, when so authenticated, shall be deemed an original, but all such counterparts shall constitute one and the same Agreement. Any signature or other authentication delivered by facsimile or electronic transmission shall be deemed to be an original signature hereto. Each party who signs or otherwise authenticates this Agreement hereby: (1) agrees that the other party may create a duplicate of this Agreement by storing an image of it in an electronic or other medium (a “**Non-Paper Record**”); (2) agrees that, after creating the Non-Paper Record, such party may discard or destroy the original in reliance on this Section; (3) agrees that the Non-Paper Record shall be treated as the original for all purposes; and (4) expresses its present intent to adopt and accept the Non-Paper Record as an authenticated record of this Agreement. This Agreement, when signed or authenticated pursuant to this Section, shall be evidence of the existence of this Agreement and may be received in all courts and public spaces as conclusive evidence of the existence of this Agreement and that this Agreement was duly executed by the parties to this Agreement.

(k) Attorney’s Fees. In the event of any action or proceeding brought by either party against the other under this Agreement, the prevailing party shall be entitled to recover all costs and expenses including its attorneys’ fees in such action or proceeding in such amount as the court may adjudge reasonable. The prevailing party shall be determined by the court based upon an assessment of which party’s major arguments made or positions taken in the proceedings could fairly be said to have prevailed over the other party’s major arguments or positions on major disputed issues in the court’s decision. If the party which shall have commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.

(l) Construction. This Agreement shall not be construed more strictly against the Purchaser merely by virtue of the fact that the same has been prepared by the Purchaser or its counsel, it being recognized both of the parties hereto have contributed substantially and materially to the preparation of this Agreement. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders and any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

(m) Reporting Obligations. The Seller and the Purchaser hereby designate the Title Insurer to act as and perform the duties and obligations of the “reporting person” with respect to the transaction contemplated by this Agreement for purposes of 26 C.F.R. Section 1.6045-4(e)(5) relating to the requirements for information reporting on real estate transaction closed on or after January 1, 1991. If required, the Seller, the Purchaser and the Title Insurer shall execute at Closing a designation agreement designating the Title Insurer as the reporting person with respect to the transaction contemplated by this Agreement.

(n) 1031 Exchange. The Seller and the Purchaser may each structure the sale of the Property as a like-kind exchange under Internal Revenue Code Section 1031 at such party’s sole cost and expense. The other party shall reasonably cooperate therein, provided that such party shall incur no material costs, expenses or liabilities in connection with such party’s exchange and the other party shall not be required to take title to or contract for purchase of any other property.

If either party uses a qualified intermediary to effectuate the exchange, any assignment of the rights or obligations of such party hereunder shall not relieve, release or absolve such party of its obligations to the other party hereunder.

(o) Confidentiality/Exclusivity. The: (i) Purchaser and its respective representatives shall hold in strictest confidence all data and information obtained with respect to the operation and management of the Property and the terms and conditions of this Agreement, and (ii) Seller and its respective representatives shall hold the purchase price as a closed record under the Sunshine Law as set forth in Chapter 610 of the Revised Statutes of Missouri, until such time as the purchase price is required to be disclosed pursuant to the Sunshine Law. Purchaser understands and acknowledges that this Agreement shall be placed on a City Council agenda for approval by ordinance and, except for the purchase price which shall remain a closed records as set forth above, this Agreement shall be an open record. The preceding sentence shall not be construed to prevent either party from disclosing to: (y) its prospective lenders or investors, or to its officers, directors, attorneys, accountants, architects, engineers and consultants to perform their designated tasks in connection with the transaction contemplated by this Agreement; provided that such disclosing party advises any such third party of the confidential nature of the information disclosed, or (z) the Title Insurer. However, neither party shall have this obligation concerning information which: (a) is published or becomes publicly available through no fault of either the Purchaser or the Seller; (b) is rightfully received from a third party; or (c) is required to be disclosed by law. Seller agrees that, from the Effective Date until the earlier of such time as (1) the Closing Date or (2) the termination of this Agreement, Seller shall not, directly or indirectly, through any officer, director, agent, representative or otherwise, market, solicit, initiate or encourage the making of any inquiries, engage in marketing, negotiations or other substantial discussions, or enter into any agreement with any party, with respect to the transaction contemplated under this Agreement and shall discontinue any marketing, pending discussions or negotiations with respect to the transaction contemplated hereunder.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.



Attest:

*Trisha Fowler Arcuri*  
Trisha Fowler Arcuri, City Clerk

Approved as to Form

*David Bushek*  
David Bushek, Chief Counsel of  
Economic Development & Planning

**SELLER:**

**CITY OF LEE'S SUMMIT, MO**

By: *William A. Baird*  
William A. Baird, Mayor

**PURCHASER:**

**ARCHVIEW PROPERTIES, LLC**, an Indiana limited liability company, d/b/a Archview Investors, LLC in the State of Missouri

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

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

**SELLER:**

**CITY OF LEE'S SUMMIT, MO**

By: \_\_\_\_\_  
William A. Baird, Mayor

Attest:

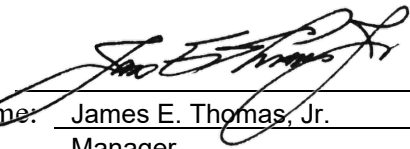
\_\_\_\_\_  
Trisha Fowler Arcuri, City Clerk

Approved as to Form

\_\_\_\_\_  
David Bushek, Chief Counsel of  
Economic Development & Planning

**PURCHASER:**

**ARCHVIEW PROPERTIES, LLC**, an Indiana  
limited liability company, d/b/a Archview Investors,  
LLC in the State of Missouri

By:   
Name: \_\_\_\_\_ James E. Thomas, Jr.  
Its: \_\_\_\_\_ Manager

## LIST OF EXHIBITS AND SCHEDULES

EXHIBITS	DESCRIPTIONS
1. EXHIBIT A	LEGAL DESCRIPTION
2. EXHIBIT B	FORM OF DEED
3. EXHIBIT C	FORM OF FIRPTA AFFIDAVIT
SCHEDULES	DESCRIPTIONS
1. 6(a)(3)	PROPERTY INFORMATION

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

**Legal Description:** To be provided on the Updated Survey, confirmed by the Title Insurer, and agreed to by Seller and Purchaser.

**General Location:** Approximately 6.5 acres +/- generally located at the southwest corner of NE Tudor Road and NE Douglas Street in Lee's Summit, Missouri.

**Map:** The Property is depicted by the highlighted areas on the map below labeled Parcel "A" and Parcel "B".



**EXHIBIT B**

**FORM OF SPECIAL WARRANTY DEED**

THIS DEED is made as of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ ("Grantor"), and \_\_\_\_\_, a \_\_\_\_\_ ("Grantee"), with an address of \_\_\_\_\_.

WITNESSETH, that Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, to Grantor paid by Grantee (the receipt of which is hereby acknowledged) does by these presents GRANT, BARGAIN AND SELL, CONVEY AND CONFIRM, unto Grantee and its successors and assigns, the following described land, lots, tracts or parcels of land, lying, being and situate in the County of \_\_\_\_\_ and State of \_\_\_\_\_ (the "Property"), to wit:

*See **Exhibit A** attached hereto.*

SUBJECT TO: The permitted exceptions described on **Exhibit B** attached hereto.

TO HAVE AND TO HOLD, the Property aforesaid, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in any way appertaining unto the said Grantee and unto its successors and assigns forever; Grantor hereby covenanting that it is lawfully seized of an indefeasible estate in fee in the Property herein conveyed; that it has good right to convey the same; that the said Property is free and clear from any encumbrances done or suffered by, through or under Grantor, except as above stated; and that it will warrant and defend the title of the said Property unto Grantee and unto its successors and assigns forever, against the lawful claims and demands against Grantor and Grantor's successors and assigns, and all and every person or persons whomsoever, lawfully claiming or to claim the same by, through, or under Grantor, except as set forth above.

[SIGNATURE PAGE FOLLOWS]





**Exhibit A**

LEGAL DESCRIPTION

**Exhibit B**

PERMITTED EXCEPTIONS

**EXHIBIT C**

**FORM OF FIRPTA AFFIDAVIT**

Section 1445 of the Internal Revenue Code, as amended, provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the Transferee (as defined below) that withholding of tax is not required upon the disposition of a United States real property interest by \_\_\_\_\_, a \_\_\_\_\_ (the "**Transferor**") to \_\_\_\_\_, a \_\_\_\_\_ (the "**Transferee**") relating to the real property described on **Schedule A** hereto (the "**Transferred Interests**"), the undersigned, being first duly sworn upon oath, does hereby depose and say, and does hereby on behalf of the Transferor represent that the following is true as of the date hereof:

1. \_\_\_\_\_ is the \_\_\_\_\_ of the Transferor, and is familiar with the affairs and business of the Transferor;

2. The Transferor is not a foreign person; that is, the Transferor is not a nonresident alien, a foreign corporation, foreign partnership, foreign trust or foreign estate (as all such terms are defined in the Internal Revenue Code of 1986, as amended, and United States Treasury Department Income Tax Regulations in effect as of the date hereof);

3. The Transferor is a \_\_\_\_\_ duly organized, validly existing and in good standing under the laws of the State of \_\_\_\_\_;

4. The Transferor's United States employer identification number is \_\_\_\_\_;

5. The Transferor's office address and principal place of business is c/o \_\_\_\_\_; and

6. Transferor is not a disregarded entity as defined in §1.1445-2(b)(2)(iii).

The undersigned and the Transferor understand that this affidavit and certification may be disclosed to the United States Internal Revenue Service by the Transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

All terms (whether capitalized or not) used but not defined herein shall have the same respective meanings as in the Internal Revenue Code of 1986, as amended, and the United States Treasury Department Income Tax Regulations in effect as of the date hereof.

Under penalties of perjury, we declare that we have examined this affidavit and certificate, and to the best of our knowledge and belief, it is true, correct and complete. We further declare that we have authority to sign this affidavit and certificate on behalf of the Transferor.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, Transferor has executed and delivered this FIRPTA Affidavit as of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_, a \_\_\_\_\_

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

Name: \_\_\_\_\_

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

STATE OF \_\_\_\_\_ )

) ss.

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned Notary Public in and for said state, appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn did say that \_\_\_ is the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, and that said instrument was signed in behalf of said \_\_\_\_\_, and said person acknowledged said instrument to be the free act and deed of said \_\_\_\_\_ for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last above written.

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

Typed Name: \_\_\_\_\_

My Commission Expires:

**SCHEDULE 6(a)(3)**  
**PROPERTY INFORMATION**

1. Copies of all service contracts, if any.
2. Copies of all certificates of occupancy and other licenses and permits, in the Seller's possession or control.
3. Copies of all plans, drawings, and specifications for current or proposed improvements, if any.
4. Copies of all environmental, engineering, geo-technical, and property condition reports, and all other studies or reports with respect to the Property, in Seller's possession or control.
5. Copies of any final or preliminary plat and stormwater reports, if any.
6. Copies of any agreements that will be binding on the Purchaser after closing, if any.
7. Copies of all leases from the Property.
8. Copies of all easements, if any.
9. A copy of the most recent survey of the Property in Seller's possession or control, if any.
10. A copy of the Seller's existing Owner's Title Insurance Policy.
11. Summary of all pending and threatened litigation and claims, if any.
12. Copies of all existing warranties, if any.
13. All other documentation reasonably requested by the Purchaser and only if in Seller's possession or control.