



BOARD OF SUPERVISORS AGENDA ITEM REPORT AWARDS / CONTRACTS / GRANTS

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: 06/17/2025

* = Mandatory, information must be provided

or Procurement Director Award: ☐

***Contractor/Vendor Name/Grantor (DBA):**

Humphrey's Peak Properties, LLC a Delaware limited liability company

***Project Title/Description:**

Acquisition Agreement

***Purpose:**

Pima County will enter into a Purchase Sale Agreement ("PSA") with Humphrey's Peak Properties, LLC, a Delaware limited liability company ("Purchaser") for the sale of property ("Property") designated for economic development purposes. The Property is located at the Pima County Southeast Employment and Logistics Center ("SELC"). The purpose of the PSA is to sell the Property to the Purchaser who will develop a data center technology campus. The Property has a total size of approximately 290.31 acres and it is anticipated to be developed in three phases. The intent of the PSA is to allow the Purchaser and their contractor known as Beale Infrastructure (a data center and infrastructure development company) to construct a data center technology campus. The sale of the property will generate sale proceeds, and the development of the property will allow for the creation of new a source of employment, generate significant capital investment, and will generate a new source of property taxes. Pima County has provided for potential recourse within the PSA if the Purchaser does not meet their development obligations in the form of a reversionary clause. The Pima County Trap & Skeet Facility currently located on the Property and managed by the Parks Department will need to be relocated as part of the project, with the total expense for the relocation of the facility being paid for by the Purchaser.

***Procurement Method:**

Exempt pursuant to Pima County Code 11.04.020

***Program Goals/Predicted Outcomes:**

Pima County will enter into a PSA for the sale of 290.31 acres of Pima County-owned land within the SELC and currently designated for economic development. The PSA has provisions contained within it allowing for reporting and tracking with regard to employment thresholds and average salary requirements, as well as reversionary measures for reacquisition of undeveloped land assets related to construction phases and noncompliance with the terms of the PSA.

***Public Benefit:**

When specific benchmarks are met the development of the entire 290.31 acres will create an estimated minimum of 180 jobs at an average salary of \$64,000.00 US dollars/year (direct employment and contracted employment), the PSA will generate a total of \$20.875M for the Pima County General Fund, the project development will generate additional real property taxes and the project will generate capital investment dollars.

***Metrics Available to Measure Performance:**

Metrics include the sale of the property creating a one-time revenue amount of \$20.875M, the commencement of construction within the first 24 months following the Closing Date, and subsequent construction of Phases 2 and 3 thereafter. Additionally, performance measures within the PSA include the creation of at least 75 direct FTE jobs at a salary of \$75,000.00 U.S. dollars/year (direct employment), with potential financial penalties to the Buyer for non-performance of up to \$1,000,000.00 during the Reporting Period. The PSA includes an earnest money deposit in the amount of \$500,000.00 that will be credited to the amount of the purchase, with up to \$200,000.00 of the earnest money being nonrefundable and considered earned by the County upon various milestones contained within the PSA. There is also an Additional Consideration amount with a Not to Exceed (NTE) amount of \$5,500,000.00 for the planning, relocation and construction of the Pima County Trap and Skeet Facility, with a total Additional Consideration Cap of \$6,500,000.00. From the Additional Consideration a total of \$100,000.00 will be released to the County as a non-refundable amount upon the Effective Date of the PSA for use by the Parks Department to engage in the planning for the relocation of the Trap and Skeet Facility.

***Retroactive:**

No

Location Map Attached

TO: COB, 6-12-25 (1)
VERS: 0
PGS: 30
ADDENDUM

JUN 12 '25 AM 10:26 PD

THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (*) fields

Contract / Award Information

Document Type: CT Department Code: RPS Contract Number (i.e., 15-123): CT2500000038
 Commencement Date: 6/17/2025 Termination Date: 6/16/2026 Prior Contract Number (Synergen/CMS): _____
☐ Expense Amount \$ _____ ☒ Revenue Amount: \$ 20,875,000.00

***Funding Source(s) required: FNN-Non Departmental General Fund**

Funding from General Fund? ☐ Yes ☒ No If Yes \$ _____ % _____
 Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ No
 If Yes, is the Contract to a vendor or subrecipient? _____
 Were insurance or indemnity clauses modified? ☐ Yes ☒ No
 If Yes, attach Risk's approval.
 Vendor is using a Social Security Number? ☐ Yes ☒ No
 If Yes, attach the required form per Administrative Procedure 22-10.

Amendment / Revised Award Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____
 Amendment No.: _____ AMS Version No.: _____
 Commencement Date: _____ New Termination Date: _____
 Prior Contract No. (Synergen/CMS): _____
☐ Expense ☐ Revenue ☐ Increase ☐ Decrease
 Amount This Amendment: \$ _____
 Is there revenue included? ☐ Yes ☐ No If Yes \$ _____

***Funding Source(s) required: _____**

Funding from General Fund? ☐ Yes ☐ No If Yes \$ _____ % _____

Grant/Amendment Information (for grants acceptance and awards)

☐ Award ☐ Amendment

Document Type: _____ Department Code: _____ Grant Number (i.e., 15-123): _____
 Commencement Date: _____ Termination Date: _____ Amendment Number: _____
☐ Match Amount: \$ _____ ☐ Revenue Amount: \$ _____

***All Funding Source(s) required: _____**

***Match funding from General Fund?** ☐ Yes ☐ No If Yes \$ _____ % _____

***Match funding from other sources?** ☐ Yes ☐ No If Yes \$ _____ % _____

***Funding Source: _____**

***If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?**

Contact: Jeffrey Teplitsky

Department: Real Property Services

Telephone: 520-724-6306

Department Director Signature: _____

Date: 6-11-2025

Deputy County Administrator Signature: _____

Date: 6/11/2025

County Administrator Signature: _____

Date: 6/11/2025

LOCATION MAP





ACQUISITION AGREEMENT

1. **Defined Terms.** The following terms will be used as defined terms in this Acquisition Agreement and have the meaning set forth below ("**Agreement**"):

- 1.1 **Seller:** Pima County, a political subdivision of the State of Arizona.
- 1.2 **Buyer:** Humphrey's Peak Properties, LLC a Delaware limited liability company.
- 1.3 **Purchase Price:** The sum of \$20,875,000.00.
- 1.4 **Earnest Money:** The sum of \$500,000.00 together with any interest earned thereon.
- 1.5 **Due Diligence Period:** The examination period from the Effective Date to 11:59 p.m. Mountain Time on the date that is 180 days after the Effective Date, during which Buyer shall satisfy itself, in its sole and absolute discretion concerning, all aspects of the ownership, condition and development of the Property including, without limitation, the right of Buyer to physically inspect the Property and review the Investigation Materials (defined herein).
- 1.6 **Title Company:** Old Republic Title, Attn: Patti Casillas, 2375 E. Camelback Road, Suite #180, Phoenix, AZ 85016; pcasillas@ortc.com.
- 1.7 **Effective Date:** The date Seller and Buyer have approved and accepted this Agreement by affixing their signatures. The date Seller executes this Agreement is the date this Agreement is signed by the Chair of the Pima County Board of Supervisors.
- 1.8 **Property:** The real property, with APN 30501009B, consisting of approximately 290.31 acres of unimproved land within the area known as the Pima County Southeast Employment and Logistics Center in Pima County, Arizona, as further described in **Exhibit A** and depicted in **Exhibit A-1**, together with all improvements, water rights, rights of way or use, tenements, hereditaments, appurtenances and easements associated with, as well as any building plans, permits, designs, drawings and other real and personal property interests appurtenant to, the Property, if any.
- 1.9 **Phase 1 Improvements:** has the meaning set forth in **Section 17.5.1**, below.

1.10 Phase 2 Improvements: has the meaning set forth in **Section 17.5.2** below.

1.11 Phase 3 Improvements: has the meaning set forth in **Section 17.5.3** below.

1.12 Economic Impact Analysis: The summary of the Applied Economics, LLC Regional Project Assessment, dated May 20, 2025.

1.13 Project: The campus-like development which Buyer intends to construct and develop upon the Property containing approximately 2,250,000 square feet of buildings related to technology development and data storage and management for Buyer's business operations, together with all infrastructure and improvements thereto (collectively, the "**Project**").

1.14 Future Zoning: Southeast Employment and Logistics Specific Plan, Phase I as adopted by Pima County and further adopted by City of Tucson as a Planned Area Development after annexation to the City of Tucson.

1.15 Investigation Materials: (1) A copy of the most recent survey with respect to the Property in Seller's possession (the "**Survey**"), (2) most recent copies of any environmental, soils, topography, utility, traffic, engineering, geotechnical, building condition, or other third-party reports in Seller's possession pertaining to the Property, (3) all leases and service contracts affecting the Property, (4) copies of any private or public agreements, restrictions or other encumbrances (metro improvement district documents, subdivision improvement agreement, intergovernmental agreements, etc.) affecting the Property, (5) records of roll back taxes or any other tax programs affecting the Property, and (6) other information related to Seller and the Property as reasonably requested and that Seller has in its possession or reasonable control.

1.16 Seller's Address: Pima County
Public Works Administration, Real Property Services
201 N. Stone Avenue, Sixth Floor
Tucson, Arizona 85701-1215
Attention: Jeff Teplitsky
Email: Jeff.Teplitsky@pima.gov

with copy to: Pima County
Pima County Economic Development
201 N. Stone Avenue, 2nd Floor Tucson, Arizona 85701
Attention: Heath S. Vescovi-Chiordi
Email: Heath.Vescovi-Chiordi@pima.gov

Pima County Attorney's Office
32 N. Stone Avenue, Tucson, AZ 85701
Attention: Janis Gallego and Kyle Johnson
Email: Janis.Gallego@pcao.pima.gov;
Kyle.Johnson@pcao.pima.gov

1.17 Buyer's Address: Humphrey's Peak Properties, LLC
1 Embarcadero Ctr #1350
San Francisco, CA 94111
Attention: Legal

with copy to: Akin Gump Strauss Hauer & Feld LLP
201 Main Street, Suite 1600
Fort Worth, Texas 76102
Attention: Marc N. Epstein and Devin Arnold
Email: mepstein@akingump.com and
arnoldd@akingump.com

2. **Parties; Effective Date.** This Agreement is entered into between Seller and Buyer and shall be effective on the Effective Date. Seller and Buyer are collectively referred to herein as the "Parties," and individually as a "Party."

3. **Purchase of Property; Right of Entry; Driveways; Parcel Split.** Buyer agrees to acquire from Seller, and Seller agrees to convey to Buyer, in consideration of the Purchase Price, the following real property interests:

3.1 Seller's fee interest in the Property;

3.2 The right for Buyer, its agents and contractors, to enter upon the Property prior to closing to inspect and to conduct other non-ground-disturbing activities, provided that such activities do not unduly disturb Seller's use of the Property; and

3.3 The right, if necessary, to adjust driveway grades on the Property to match the grade of Pima County improvements.

3.4 Upon Buyer's request, the Seller will, at or prior to Closing, split the Property into multiple parcels as requested by the Buyer.

4. **Earnest Money.**

4.1 **Payment and Disbursement.** Within 3 business days after the Effective Date, Buyer shall deposit with Title Company the Earnest Money. At Closing, Buyer shall receive a credit against the Purchase Price equal to the total Earnest Money and any interest accrued. Notwithstanding anything to the contrary, \$50,000.00 of the Earnest Money shall become nonrefundable, and, upon approval of the development agreement for the Project at the City of Tucson public hearing ("**City Development Agreement Approval**"), \$150,000.00 of the Earnest Money shall be nonrefundable and payable to Seller in all events, except Seller default, as consideration for entering this Agreement.

4.2 Refundability. The Parties hereby acknowledge and agree that the Earnest Money shall be refundable to Buyer in its entirety until the Closing Conditions are satisfied except for the amounts noted above in Section 4.1.

5. Access and Investigation. During the pendency of this Agreement, Seller agrees that Buyer and its representatives, employees, surveyors, agents, independent contractors, and consultants (collectively, the "Buyer's Representatives") shall have the right to, during regular business hours upon at least 48 hours prior written notice by Buyer, (i) enter all areas of the Property to inspect the physical condition of all aspects of the Property, including, without limitation, conducting studies, tests and investigations concerning the Property (the "Investigative Activities"), and (ii) review the Investigation Materials and any other documentation reasonably requested by Buyer. Buyer acknowledges that access to the clay shooting facility ("Trap and Skeet Range") shall be prohibited during its hours of operation.

5.1 Buyer is responsible for repairing any damage to the Property caused by Buyer's Representatives and restoring the Property to substantially the same condition existing prior to such damage, to the extent that is reasonable and practical, and shall leave the Property free of trash generated by the Buyer's Representatives; provided, however, Buyer shall not be liable for claims or damages arising of the mere discovery or exacerbation of any pre-existing conditions affecting the Property except for the gross negligence or willful misconduct of Buyer or an agent, employee or representative of Buyer.

5.2 Buyer may conduct such investigations and testing of the physical condition of the Property as Buyer deems necessary; provided, however, prior to conducting any activities that will involve physically invasive testing (e.g., a Phase II environmental assessment), Buyer shall provide notice to Seller detailing the scope of such activities. Buyer shall be required to obtain all required permits for its activities and conduct such activities in compliance with all applicable laws.

5.3 Buyer agrees to indemnify, defend and hold Seller harmless from any and all suits, claims, demands, judgments or liabilities of any type whatsoever (including the reasonable out-of-pocket attorney's fees of Seller), including, but not limited to, injury to any person or damage to any property arising out of, incidental to or in any way relating to Buyer's use of, operations upon, or restoration of the Property, including, but not limited to, any acts of any Buyer's Representatives, except to the extent the same are caused by (i) the negligence or willful misconduct of Seller or an agent, employee, or representative of Seller, or (ii) due to the mere discovery or exacerbation of any pre-existing conditions affecting the Property.

5.4 The Buyer's Representatives shall maintain commercial general liability insurance in an amount of \$2,000,000 throughout the term of this Agreement to cover liabilities for any claim for death, personal injury, or property damage caused by the Buyer's Representatives activities hereunder. Buyer will supply verification of such coverage in the form of a certificate of insurance.

5.5 Buyer shall coordinate their activities exercised under this Agreement with Victor Pereira, of Pima County Parks and Recreation at (520) 724-5256 or email at Victor.Pereira2@pima.gov and Heath Vescovi-Chiordi of Pima County Economic Development at (520)-724-4444 or email at Heath.Vescovi-Chiordi@pima.gov. Consistent with Pima County Board of Supervisors Policy No. C 3.17, the Buyer's Representatives shall comply with all applicable federal, state and local cultural resources and historic preservation statutes, regulations, ordinances, policies and guidelines prior to and during any ground disturbance within the Property.

Seller agrees to cooperate reasonably and in good faith with Buyer's Investigative Activities, which cooperation shall include, without limitation, ensuring that Buyer and Buyer's Representatives have access to the Property at all reasonable times during the pendency of this Agreement to perform such Investigative Activities as are required by Buyer in its sole discretion.

6. **Seller's Warranties.** Seller hereby warrants and represents to Buyer as follows (which warranties and representations shall be deemed to be remade by Seller to Buyer as of the Closing Date):

6.1 **Authority:** Seller has authority under A.R.S. § 11-254.04 to engage in any "activity that the board of supervisors has found and determined will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of the inhabitants of the county," including specifically the "conveyance of real or personal property." Based on the Economic Impact Analysis summary which takes into account the anticipated employment and salary levels for the Project, among other factors, the Pima County Board of Supervisors has determined that Buyer's improvements and future operations, and hence this Agreement, will have a significant positive impact on the economic welfare of Pima County, Arizona's inhabitants.

6.2 **Due Execution:** This Agreement is, and all other documents to be delivered by Seller pursuant to this Agreement ("**Seller Closing Documents**") shall be, when executed by Seller, binding on and enforceable against Seller in accordance with its respective terms; there are no other consents required to authorize Seller's entry into and performance of this Agreement, the Seller Closing Documents and/or the transactions contemplated hereby. Seller has full right, power and authority to enter into this Agreement, including the authority to convey the Property to Buyer, neither the execution of this Agreement, nor the consummation of Closing, violates any contract, agreement, or other document to which Seller is a party, and this Agreement is binding on and enforceable against Seller in accordance with its terms.

6.3 **Leases.** Seller warrants (i) that there are no oral or written leases on all or any portion of the Property, (ii) there are no tenants or other parties in possession of any part of the Property, (iii) that no one has any right to occupy, operate, or manage any part of the Property that will not be terminated prior to Closing, and (iv) that no person or entity has a right of first refusal, option right, or other right to purchase all or any portion of the Property.

6.4 **Wells and Water Rights.** Seller warrants that there are no wells on, or water rights associated with the Property, except as specifically identified on **Exhibit B** attached. Seller agrees

to assign and transfer to Buyer effective upon Closing, any and all wells or water rights certificated or claimed appurtenant to the Property. Seller shall execute all documents reasonably necessary to effectuate such transfer.

6.5 Underground Improvements. Seller warrants that there are no septic tanks, septic or leach fields, alternative waste disposal systems, private irrigation lines, and/or other underground improvements on the Property, except as specifically identified on Exhibit C attached.

6.6 Access to Property. Seller has no knowledge of any pending or threatened proceeding or any other fact or condition which would limit or result in the termination or limitation of access to the Property via a public right of way.

6.7 Litigation. Seller has not received written notice of any pending or threatened litigation or other legal or administrative claim affecting the Property or any portion thereof.

6.8 Violations. Seller has not received any written notice of any violation of applicable federal, state and local laws, statutes, ordinances, codes and covenants, conditions and restrictions of record, including, but not limited to, zoning, environmental protection, health, and the rules and regulations of any authority having jurisdiction over the Property, or any portion thereof which remains uncured, and, to Seller's knowledge, no such uncured violation exists.

If any change in condition or circumstances renders any of the foregoing warranties or representations of Seller inaccurate in any material respect between the date hereof and the Closing, Seller shall promptly deliver written notice to Buyer of such change. If such change is the result of a material default under this Agreement by Seller or Seller's fraud, then the Parties shall proceed in accordance with Section 13. If, however, such change is not the result of a material default under this Agreement by Seller or Seller's fraud, then Buyer shall have the right to either (a) waive such inaccuracy and proceed to the Closing, or (b) terminate this Agreement and the Earnest Money shall immediately be remitted to Buyer by the Title Company, with no additional consent, approval or other documentation required from either Party.

7. Closing Costs and Prorations.

7.1 Closing Costs. The closing costs ("Closing Costs") will be paid as follows:

7.1.1 All escrow fees shall be equally divided between Seller and Buyer. Recording fees, if any, shall be paid by Buyer.

7.1.2 Seller will pay for a Standard Owner's Title Insurance Policy for the Property, in the amount of the Purchase Price. In the event Buyer desires an Extended Owners Title Policy, or any specific endorsements to the Standard Owner's Title Insurance Policy, Seller will pay that portion of the premium allocable to a Standard Owner's Title Insurance Policy, and Buyer will pay that portion of the premium allocable to the additional coverage.

7.1.3 Seller will pay for any necessary releases and/or the cost to establish free and clear marketable title to the Property.

7.1.4 Buyer may, at its sole discretion, pay other reasonable fees or costs related to the Closing.

7.2 Prorations. Property taxes, rents, and annual payment of assessments with interest, if any, related to the Property (collectively "Prorations") will be prorated as of the date of Closing.

7.3 RESERVED

8. Escrow and Title.

8.1 Escrow. Title Company will act as escrow agent. This Agreement will constitute escrow instructions in connection with the escrow established with Title Company under this Agreement (the "Escrow"). Title Company will make reasonably suitable arrangements with either Party, upon that Party's request, to have the Party execute any of the documents to be executed by that Party as provided in this Agreement at the office of Title Company that is most convenient for Buyer.

8.2 Title Commitment. Title Company will distribute to the Parties a Commitment for Standard Owner's Title Insurance (the "Commitment") together with complete and legible copies of all documents that are exceptions to Buyer's policy of title insurance. Buyer shall have until the date which is 20 days prior to the expiration of the Due Diligence Period (the "Interim Date") to provide written notice ("Title Notice") to Seller and Title Company of any matters shown on the Commitment or the Survey which are not satisfactory to Buyer. If Seller has not received such Title Notice by the Interim Date, then Buyer shall be deemed to have approved of the condition of title to the Property (excluding Mandatory Cure Items). If Buyer timely delivers a Title Notice, then no later than 11:59 p.m. Mountain Standard Time on the date 5 Business Days following the Interim Date (the "Seller's Response Date"), Seller shall deliver written notice to Buyer and Title Company identifying which disapproved items Seller shall undertake to cure or not cure ("Seller's Response"); provided, however, that, except with respect to liens secured by deeds of trust or mortgages securing loans made to Seller, mechanics' liens, judgment liens of an ascertainable amount against Seller, any ground leases in place with respect to the Property, delinquent real property taxes, any other monetary liens encumbering the Property, and any title exceptions, encumbrances and other matters placed by Seller or suffered to exist by Seller on the Property after the Effective Date without Buyer's written consent (collectively, herein " "), which Seller agrees to have removed or insured over in a manner reasonably acceptable to Buyer on or before the Closing Date, Seller shall have no obligation to expend or agree to expend any funds, to undertake or agree to undertake any obligations or otherwise to cure or agree to cure any title objections unless Seller explicitly agrees to do so in this Agreement or in the Seller's Response. If Seller does not deliver a Seller's Response on or before the Seller's Response Date, then Seller shall be deemed to have elected to not remove or otherwise cure any exceptions disapproved by Buyer other than any Mandatory Cure Items. If Seller elects, or is deemed to have elected, not

to remove or otherwise cure an exception disapproved in Buyer's Title Notice, then Buyer shall have until the expiration of the Due Diligence Period to deliver a Disapproval Notice (as defined in Section 8.3), which notice shall constitute Buyer's election to terminate this Agreement in accordance with Section 8.3, below. If, however, Seller has not received the Buyer's Disapproval Notice from Buyer by the expiration of the Due Diligence Period, then Buyer shall be deemed to have waived its objection and to proceed with the transaction contemplated herein, other than the Mandatory Cure Items. Except for Mandatory Cure Items, all matters shown in the Commitment and the Survey which Seller has not agreed to remove or otherwise cure prior to the expiration of the Due Diligence Period shall be deemed to be approved by Buyer. Notwithstanding anything in this Agreement to the contrary, Seller shall in all events be obligated to remove, pay and/or satisfy prior to or at the Closing, and regardless of whether Buyer makes objection thereto, all Mandatory Cure Items.

8.3 Amended Commitment. In the event Title Company should issue an Amended Commitment for Title Insurance or an exception(s) not previously disclosed arises, Buyer shall have 15 days after the receipt of the Amended Commitment and/or the new exceptions (the "Disapproval Period") within which to notify Seller and the Title Company in writing of Buyer's disapproval of any new exceptions shown thereon (the "Disapproval Notice"). In the event of such disapproval, Seller shall have 10 days from receipt of the Disapproval Notice in which to notify Buyer in writing whether Seller intends to eliminate each of the disapproved exceptions prior to the Closing (the "Notice Period"). If Seller fails to notify Buyer of its intent with respect to the disapproved items within that time or if Seller elects not to cure all disapproved items, Buyer may terminate this Agreement, and Title Company shall return the Earnest Money to Buyer. If the Amended Commitment is issued less than 15 days prior to the date of the Closing, then the date of the Closing is extended until the end of the Disapproval Period and the Notice Period, if applicable.

8.4 Title Policy is Condition to Closing. Buyer's obligation to Close is contingent upon Title Company being prepared to issue a Standard Owner's Title Insurance Policy for the Property in the amount of the Purchase Price, subject only to the Approved Exceptions (defined herein) and the standard printed exceptions in the policy; provided, however, notwithstanding the approval of the exceptions by Buyer, prior to Closing all monetary liens and encumbrances on the Property will be removed, unless this Agreement expressly provides for the prorating of any such lien or encumbrance. For purposes of this Agreement, the "Approved Exceptions" shall mean only those matters set forth in the Commitment, any Amended Commitment and the Survey approved (or deemed approved) by Buyer, and any matters affecting title as a result of any actions or omissions by Buyer or otherwise approved by (or deemed approved by) Buyer in accordance with the terms of this Agreement; provided, however, in no event shall any Mandatory Cure Items be Approved Exceptions.

8.5 Seller's Title Obligation. Seller is hereby obligated to provide Buyer free and clear marketable title subject only to the Buyer's Approved Exceptions. Seller shall cause all exceptions to title not approved by Buyer to be removed prior to Closing.

9. **Closing.**

9.1 **Closing Date.** The closing of the sale of the Property to Buyer (the "**Closing**") will take place at the office of Title Company on or before 45 days after the Closing Conditions are satisfied (the "**Closing Date**"), provided however, that Buyer may extend the Closing until 30 days after receipt of all necessary releases or consents from Lienholders. This Agreement will terminate if closing has not occurred within 1 year after execution by Buyer.

9.2 **Deliveries by Buyer at Closing.** At Closing, Buyer shall deliver to Seller through Escrow the following:

9.2.1 The Purchase Price and the Additional Consideration (defined in **Section 16.1**), which will be paid in full at Closing, payable to Title Company by Buyer by means of a confirmed wire transfer through the Federal Reserve System;

9.2.2 Such additional documents as Seller or Title Company may reasonably require to effectuate the purchase;

9.2.3 The final legal descriptions and depiction of parcel configurations of the Property into multiple parcels, which will serve as Exhibit 1 of the deed that will effectuate the splitting of the Property (the "**Lot Split Deed**").

9.3 **Deliveries by Seller at Closing.** At Closing, Seller shall deliver to Buyer through Escrow the following:

9.3.1 An executed Lot Split Deed in the form of **Exhibit E**, that will effectuate the splitting of the Property.

9.3.2 An executed Special Warranty Deed ("**Deed**") in the form of **Exhibit D**, conveying fee simple title to the Property;

9.3.3 One or more assignments of all the water rights and well registrations certificated or claimed in which Seller has an interest and appurtenant to the Property, if any, and all certificated or claimed Grandfathered Type 2 water rights, if any;

9.3.4 Such additional documents as Buyer or Title Company may reasonably require to effectuate the Purchase (including, but not limited to, title affidavit, and evidence of Seller's authority to effectuate the sale).

9.4 **Delivery of Possession.** Seller shall deliver full and exclusive possession of the Property to Buyer at Closing.

9.5 **Security Interests.** Monies payable under this Agreement may be due to holders (the "**Lienholders**") of certain notes secured by mortgages or deeds of trust, up to and including the total amount of unpaid principal, interest and penalty on the notes, if any, and will, upon

demand by the Lienholders, be paid to the Lienholders. Seller shall obtain from the Lienholders releases for any fee transfer.

9.6 Closing Conditions. On or before the Closing Date, the following conditions ("Closing Conditions") must be met and shall be conditions precedent to Closing:

9.6.1 In accordance with Section 17.1 below, the Property shall have received final, non-appealable entitlements (beyond all applicable appeal/referendum periods) from all applicable governmental authorities, including adoption of the Future Zoning and annexation/zoning translation upon annexation to the City of Tucson;

9.6.2 The Property shall have been successfully annexed into the City of Tucson, beyond all applicable appeal/referendum periods;

9.6.3 Buyer shall have received adequate delivery or contracted future delivery of all necessary utilities for the Project as determined by Buyer in its sole but good faith discretion. This confirmation should address, but not be limited to, the availability of utilities such as power, water supply and discharge services within a commercially reasonable timeframe. Final documentation from a power utility provider is anticipated to include an executed interconnection agreement stipulating the amount of power available with a target delivery timeline and an energy supply agreement; and

9.6.4 The Scheduled Closure Date (pursuant to Section 16) has been set by Seller. For the avoidance of doubt, the Closure is a condition precedent to Closing and must occur at least 10 days prior to the Closing Date.

9.6.5 As part of Closing, the Lot Split Deed and the Deed will be recorded in the following order in the Official Records of Pima County:

- a. First the Lot Split Deed; followed by
- b. the Deed.

Seller will draft the closing instruction letter to the Title Company.

In the event any of the conditions set forth in Section 9.6 are not satisfied or waived by Closing, Buyer shall have the right to terminate this Agreement by giving notice of such termination to Seller. In the event of such termination, (i) all escrow charges shall be divided equally between the Parties; and (ii) the Earnest Money shall be returned to Buyer. The provisions of this Section shall survive the termination of this Agreement prior to the Closing Date.

10. Seller's Covenants.

10.1 No Personal Property. No personal property is being transferred pursuant to this Agreement. Seller represents that as of closing there will be no personal property located on the Property.

10.2 No Salvage. Seller shall not salvage or remove any fixtures, improvements or vegetation from the Property, but this does not prohibit Seller from removing personal property prior to the Closing. In addition, prior to Closing, the Property will not be materially degraded or otherwise materially changed in any aspect by Seller.

10.3 Risk of Loss for Damage to Improvements. Seller bears the risk of loss or damage to the Property prior to Closing. After Closing, the risk of loss or damage to the Property rests with Buyer.

10.4 Government Approvals. Seller shall obtain all government approvals required to close the sale of the Property, if any.

10.5 Use of Property by Seller. Seller shall, prior to the Closing, use the Property on a basis substantially comparable to Seller's historical use thereof. Seller shall maintain the Property in substantially the same condition as it is presently in, ordinary wear and tear excepted, and without liens or encumbrances that Seller will be able to cause to be released before the Closing.

10.6 No Encumbrances. Seller shall not encumber the Property with any lien that Seller will be unable to cause to be released before Closing, and Seller shall not be entitled to sell or exchange all or any portion of the Property before Closing without the prior written approval of Buyer; provided, however, that any such sale will be conditioned upon a written assumption by Buyer thereof of the obligations of Seller under this Agreement, and there will be no novation of Seller with respect to its obligations under this Agreement. From and after the Effective Date through the Closing, Seller will not enter into, execute or record any covenant, deed restriction, or any other encumbrance against the Property. The recording of any such covenant, deed restriction, or other encumbrance, is a material breach of this Agreement and entitles Buyer to terminate this Agreement and receive a refund of the Earnest Money.

10.7 Reports. Seller has made available to Buyer true and complete copies of all Investigation Materials in Seller's possession. In the event that Buyer does not purchase the Property, upon Seller's request and to the extent not previously provided, Buyer will provide Seller with copies of any reports, studies and other documents from third parties created in relation to the Property as a courtesy and without representation or warranty whatsoever; provided, that Buyer shall not be obligated to deliver confidential, privileged, or attorney work product documents or financial, proprietary, or other similar documents or information, nor shall Buyer be required to provide such items if termination or cancellation of this Agreement occurs because of Seller's default.

10.8 Cooperation: Seller shall reasonably cooperate, at no material cost to Seller, with Buyer's efforts to obtain any entitlements or approvals and shall execute, submit, or sign on to, at Buyer's request, any application which requires the signature of the current fee owner of the Property.

10.9 Occupancy: Seller shall not enter into any lease agreement, license agreement, drilling agreement or any other occupancy agreement with respect to all or any portion of the

Property, which in each case would be binding upon the Property or Buyer from and after the Closing without the prior written consent of Buyer.

10.10 Programs: Seller shall not enroll the Property in any elective governmental programs, apply for or enter into any tax abatement or payment in lieu of taxes agreements, or enter into any other agreement with any governmental authority that would be binding upon the Property or Buyer from and after the Closing without the prior written consent of Buyer.

11. Environmental.

11.1 Environmental Representations. Buyer and Seller agree that neither party is assuming any obligation of the other party relating to any potential liability, if any, arising from the environmental condition of the Property, each party remaining responsible for its obligations as set forth by law. Seller acknowledges that portions of the Property have been used as a shooting range, and such use may have resulted in the presence of lead or other hazardous substances in the soil, groundwater, or other environmental media. Notwithstanding the foregoing, Seller represents and warrants that, to the best of Seller's knowledge, no pollutants, contaminants, toxic or hazardous substances, wastes or materials have been stored, used or are located on the Property or within any surface or subsurface waters thereof; that no underground tanks have been located on the Property; that the Property is in compliance with all Federal, state and local environmental laws, regulations and ordinances; and that no legal action of any kind has been commenced or threatened with respect to the Property.

11.2 Environmental Inspection Rights.

11.2.1 From and after the Effective Date, Seller shall permit Buyer to conduct such inspections of the Property as the Buyer deems necessary to determine the environmental condition of the Property. If any environmental inspection recommends further testing or inspection, the Parties hereby agree to extend the date of Closing to at least 30 days after the report for such additional testing or inspection is completed on behalf of Buyer, but not later than an additional 180-day extension.

11.2.2 If any environmental inspection reveals the presence of contamination or the need to conduct an environmental cleanup, Buyer shall provide written notice to Seller, prior to Closing, of any items disapproved by Buyer as a result of Buyer's inspection (the "**Objection Notice**"). If Buyer sends an Objection Notice, Seller may, within 5 business days of receipt of the Objection Notice, notify Buyer if Seller is willing to cure any of the items to which Buyer objected (the "**Cure Notice**"). If Seller elects not to send Buyer a Cure Notice or if Seller's Cure Notice is not acceptable to Buyer, then Buyer may elect to terminate this Agreement, in which case the Agreement will be terminated and of no further force and effect, and Buyer will receive a refund of the Earnest Money.

12. **Broker's Commission**. Except for CBRE which represented Buyer in this transaction, no broker or finder has been used and Buyer owes no brokerage or finders fees related to this Agreement.

13. Default and Remedies.

13.1 Buyer's Default. In the event Buyer defaults prior to Closing under this Agreement, Seller's sole remedy shall be to terminate this Agreement and receive the Earnest Money as liquidated damages, Seller and Buyer agreeing that Seller's damages in such event would be difficult to measure. In the event, Buyer defaults after Closing on any of its obligations under this Agreement, Seller will be entitled to those specific remedies noted in this Agreement in addition to all remedies available under the law or equity. Notwithstanding the foregoing, this section does not negate Seller's indemnification rights under **Section 5.3.**

13.2 Seller's Default. In the event that Seller defaults under this Agreement, Buyer may as its sole remedies, either (i) terminate this Agreement and receive a refund of the Earnest Money; (ii) specifically enforce this Agreement against Seller; or (iii) in the event that specific performance is not available to Buyer because Seller has sold all or any portion of the Property, then in addition to the other remedies described herein, Buyer shall have all remedies available under law or equity.

14. Exhibits. The following Exhibits are fully incorporated herein as if set forth at length. To the extent that any Exhibits to this Agreement are not available at the execution thereof, they will be added by the Parties prior to Closing and will be in form and substance reasonably satisfactory to the Parties.

<u>Exhibit A</u>	Description of Property
<u>Exhibit A-1</u>	Depiction Showing Property
<u>Exhibit A-2</u>	Depiction Showing Parcels 1 & 2
<u>Exhibit A-3</u>	Legal Description of Parcels 1&2
<u>Exhibit B</u>	Seller Disclosure of Water Rights
<u>Exhibit C</u>	Seller Disclosure of Underground Improvements
<u>Exhibit D</u>	Form of Deed for Property
<u>Exhibit E</u>	County Lot Split Deed

15. Miscellaneous Provisions. The following miscellaneous provisions apply to this Agreement:

15.1 Notices.

15.1.1 Writing. All notices required or permitted to be given hereunder must be in writing and mailed by first class, registered, certified or overnight mail, return receipt requested, postage prepaid, or transmitted by electronic mail, facsimile, or hand delivered, addressed to Seller's address or Buyer's address.

15.1.2 Receipt. If mailed, all such notices, demands, requests, or other communications are deemed received upon the expiration of 72 hours after deposit in the U.S. mail as aforesaid. Notice served personally or by electronic mail or facsimile is deemed served

upon delivery thereof to the addressee. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given is deemed to be receipt of the notice, demand or request sent. Any party entitled to notices hereunder may from time to time designate to the other parties, in writing and given in accordance with this Section, a different address for service of notice.

15.2 Governing Law. This Agreement is subject to, and interpreted by and in accordance with, the laws of the State of Arizona. Any action to be brought under this Agreement must be filed and maintained in a court in Pima County, Arizona.

15.3 Entire Agreement. This Agreement is the entire Agreement of the Parties respecting the subject matter hereof. There are no other agreements, representations or warranties, whether oral or written, respecting the subject matter hereof.

15.4 Interpretation. This Agreement, and all the provisions of this Agreement, is deemed drafted by all of the Parties. This Agreement will not be interpreted strictly for or against any Party, but solely in accordance with the fair meaning of the provisions hereof to effectuate the purposes and intent of this Agreement.

15.5 No Representations. Each Party has entered into this Agreement based solely upon the agreements, representations and warranties expressly set forth herein and upon that Party's own knowledge and investigation. Neither Party has relied upon any representation or warranty of any other Party except any such representations or warranties as are expressly set forth herein.

15.6 Signing Authority. Each of the persons signing below on behalf of a Party represents and warrants that the signer has full requisite power and authority to execute and deliver this Agreement on behalf of the Party for whom the signer signs and to bind such Party to the terms and conditions of this Agreement.

15.7 Counterparts. This Agreement may be executed in counterparts, each of which is effective as an original. This Agreement becomes effective only when all of the Parties have executed the original or counterpart hereof. This Agreement may be executed and delivered by a facsimile transmission or email of a counterpart signature page hereof.

15.8 Attorney's Fees and Costs. In any action brought by a Party to enforce the obligations of the other Party, the prevailing Party is entitled to collect from the opposing Party to such action such Party's reasonable litigation costs and attorney's fees and expenses, including court costs, reasonable fees of accountants and experts, and other reasonable expenses incidental to the litigation in addition to all other relief, all of which will be set by a judge and not by a jury, to which the prevailing Party may be entitled.

15.9 Binding Effect. This Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns.

15.10 No Third-Party Beneficiaries. This is not a third-party beneficiary contract. No person or entity other than a Party signing this Agreement has any rights under this Agreement, except as expressly provided in this Agreement.

15.11 Amendment. This Agreement may be amended or modified only in a writing signed by the Parties, which specifically references this Agreement.

15.12 No Partnership. Nothing in this Agreement creates a partnership or joint venture or authorizes any Party to act as agent for or representative of any other Party.

15.13 No Waiver. The failure of a Party to require full or timely performance of any obligation arising under this Agreement (whether on a single occasion or on multiple occasions) is not a waiver of any such obligation. No such failure gives rise to any claim of estoppel, laches, course of dealing, amendment of this Agreement by course of dealing, or other defense of any nature to any obligation arising hereunder.

15.14 Time of the Essence. Time is of the essence with respect to each obligation arising under this Agreement.

15.15 Conflict of Interest. This Agreement is subject to cancellation within 3 years after its execution pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of Buyer is, at any time while this Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement with respect to the subject matter of the Agreement.

15.16 Assignment. Buyer may assign this Agreement at any time prior to the Closing Date without the prior consent of Seller to any Affiliate of Buyer and with Seller's prior written consent to any other assignee, such consent not to be unreasonably withheld, conditioned or delayed. "Affiliate" shall be defined as any entity that, directly or indirectly, controls, is controlled by or is under common control with Buyer. Notwithstanding any assignment of this Agreement by the original Buyer hereunder, the original Buyer shall remain liable for the obligations of Buyer under this Agreement following the effective date of such assignment.

15.17 Exclusivity. During the pendency of this Agreement, Seller and any third parties acting on behalf of Seller shall not: (a) market or advertise all or any portion of the Property; (b) respond to any inquiries or offers with respect to the sale or lease of all or any portion of the Property; (c) issue or solicit a letter of intent or other expression of interest with respect to the sale, exchange, lease or transfer of all or any portion of the Property; (d) provide any information concerning the sale, exchange, lease or transfer of all or any portion of the Property to any third parties; (e) negotiate or enter into any agreement pertaining to the sale, exchange, lease or transfer of all or any portion of the Property with any third parties; or (f) allow any individuals, other than Buyer or Buyer's Representatives, to conduct any Investigative Activities on any portion of the Property. This shall not apply in the event of any required disclosure by Seller including but not limited to any response to a public records request.

16. Closure of Trap and Skeet Range.

16.1 Additional Consideration. As separate, additional consideration (the "**Additional Consideration**") not included in the Purchase Price, Buyer shall pay to Seller an amount equal to the lost revenue, cost of a feasibility study for the planning, design, closing, relocation and constructing a new trap and skeet facility (the "**New Facility**") of similar size, quality, and function to the Trap and Skeet Range as of the Effective Date. Seller shall deliver to Buyer a written statement setting forth its proposed cost of lost revenue, cost of a feasibility study for the planning, design, closing, relocation and constructing the New Facility ("**Estimate**") no later than 150 days after the Effective Date ("**Estimate Deadline**"), such Estimate not to exceed \$6,500,000.00 ("**Additional Consideration Cap**"). Upon Buyer's reasonable approval, the amount of the Estimate shall be used as the Additional Consideration. If Seller fails to timely meet the Estimate Deadline, the Additional Consideration shall be deemed to be \$5,500,000.00. The Parties hereby agree that the stipulated amount of the Additional Consideration, once established by the above-described mechanism, shall not cause any delay or condition to the Closing. If Seller has failed to meet the Estimate Deadline, for 120 days after the Estimate Deadline ("**Reconciliation Period**"), Seller shall be permitted to provide documentation of the Estimate. During the Reconciliation Period, the Parties shall negotiate in good faith to arrange for Seller's compensation of any amount above the Additional Consideration owed to Seller for the proposed cost in the lost revenue, cost of feasibility study for the planning, design, closing, relocation and construction of the New Facility, but in no event shall the Additional Consideration owed to Seller exceed the Additional Consideration Cap. Notwithstanding the foregoing, the conclusions of such Reconciliation Period shall in no way change the Additional Consideration owed at Closing unless mutually agreed in writing by the Parties.

16.2 Closure of Facility. No earlier than 135 days after the Effective Date, Buyer may provide notice to Seller (the "**Closure Notice**") requiring Seller to close the Trap and Skeet Range ("**Closure**") which must be scheduled to be completed within 30 days after the Closure Notice (the "**Scheduled Closure Date**"). Buyer may extend Closure Notice for successive 14-day periods, but such Closure shall not occur any later than 10 days prior to the Closing Date. Within 60 days from the Effective Date, Seller shall provide to Buyer a written inventory of all equipment, trade fixtures, non-permanent structures, and personal property related to the Trap and Skeet Range (the "Inventory"). The Parties shall use good faith efforts to agree, prior to Closing a written plan and timeline addressing the relocation, removal or on-site storage of the Inventory (the "Inventory Plan"). Notwithstanding the foregoing, (a) if the Parties are unable to reach agreement on the Inventory Plan prior to Closing, any unresolved matters related to the Inventory may be factored into the determination of the Additional Consideration, and shall not delay or otherwise affect the Closing, (b) Buyer shall not assume or incur any liability in connection with the Inventory, and shall have no obligation to accommodate or store any portion of the Inventory in a manner that materially interferes with Buyer's intended development or use of the Property. If Buyer determines, in its sole discretion, that certain items of Inventory can be temporarily stored on-site without disruption to Buyer's development or construction activities, Buyer may elect to permit such storage subject to terms to be agreed in a separate lease or license agreement, at no cost to Seller and executed at Closing.

16.3 Partial Release of Additional Consideration. Upon the Effective Date of this Agreement, Buyer shall deposit \$100,000.00 with Title Company as a non-refundable amount of the Additional Consideration which shall be disbursed to Seller, upon Title Company's receipt and credited against the Additional Consideration. Such funds shall be paid to Seller for the purpose of the planning and design of the new Trap and Skeet Range.

16.4 Reduction of Purchase Price or Additional Consideration. In no way shall the Purchase Price or Additional Consideration be reduced by any amount due to any environmental or other impact or costs associated with the remediation or relocation of the Trap and Skeet Range.

17. Construction of Improvements. Buyer shall, at its sole cost and expense, provide and cause to be performed all work of whatever nature is necessary to complete the Phase I Improvements (as defined below).

17.1 Plans and Specifications. Plans and specifications for all improvements on the Project, including the Premises (as defined below), will be subject to the Seller's review and approval (or the City of Tucson's review and approval, if Buyer permits through the City of Tucson). The approval of plans and specifications for Phase 1 Improvements shall have been received no later than 12 months after the Closing Date; provided, however, that such date may be extended by administrative approval by the Seller and at the Sellers' discretion.

17.2 Construction Start Date. The "**Construction Start Date**" shall occur no more than 24 months following the Closing Date; provided, however, (i) Buyer is deemed to have satisfied such requirement to the extent Buyer has commenced site clearing activities ("**Construction Commencement**") prior to the Construction Start Date, and (ii) the Construction Start Date shall be tolled in the event of a Force Majeure Event (defined herein). As used herein, "**Force Majeure Event**" shall mean fire or other casualty, national emergency, requirements of applicable laws, governmental or municipal restrictions, enemy action, civil commotion, acts of God or other natural causes, pandemic, epidemic, strikes, lockouts, inability to obtain and/or delays in the ability to obtain labor or required materials or supplies, or unusual delays in the issuance of any permits required for Buyer's proposed development of the Project.

17.3 Construction Completion Date. The "**Construction Completion Date**" shall occur no more than 60 months following the Closing Date, at which time Buyer shall have reached substantial completion of the core and shell of the Phase 1 Improvements provided, however, the Construction Completion Date shall be tolled in the event of a Force Majeure Event. Buyer shall be entitled to 2 one-year extensions to the Construction Completion Date provided Construction Commencement has occurred. Additional extensions may be provided by administrative approval of the Seller and at the Seller's discretion.

17.4 Construction, Generally. Construction of all improvements on the Project must be in material accordance with the plans and specifications approved by the Seller, as may be amended periodically with Seller (or the City of Tucson, if permitted through the City of Tucson) review and approval; provided, however, it is understood that minor, non-material alterations

will not require subsequent approval by the Seller (or City of Tucson). Buyer must obtain all permits prior to Construction Commencement, to the extent required for the commencement of the applicable construction activity. Construction of all improvements will be at Buyer's sole cost and expense. All construction work must be performed by a licensed and bonded general contractor in good standing with the Arizona Registrar of Contractors, provided that such general contractors shall be permitted to use one or more subcontractors as appropriate. Buyer will ensure lien-free completion of all improvements.

17.5 Construction Phases. Construction phases and associated square footages and building types as currently contemplated are listed below. Exact phasing of improvements, building counts and building size will be subject to additional site diligence and design.

17.5.1 *Phase 1 Improvements*. Site work and core and shell completion of 1 to 2 industrial buildings expected to be approximately 225,000 total square feet of floor area each (collectively, the "**Phase 1 Premises**"), each located on Parcel 1, as such parcel is depicted on **Exhibit A-2** attached hereto ("**Parcel 1**"), yielding up to approximately 450,000 total square feet for the Phase 1 Premises.

17.5.2 *Phase 2 Improvements*. Site work and core and shell completion of 2 to 4 additional industrial buildings expected to be approximately 225,000 total square feet of floor area each (collectively, the "**Phase 2 Premises**"), each located on Parcel 1, yielding up to approximately 900,000 additional square feet for the Phase 2 Premises.

17.5.3 *Phase 3 Improvements*. Site work and core and shell completion of 2 to 4 additional fully improved industrial buildings expected to be approximately 225,000 total square feet of floor area each, each located on Parcel 2, as such parcel is depicted on **Exhibit A-2** attached hereto ("**Parcel 2**") (collectively, the "**Phase 3 Premises**" and together with the Phase 1 Premises and Phase 2 Premises, collectively, the "**Premises**"), yielding up to approximately 900,000 additional square feet for the Phase 3 Premises.

17.6 Economic Performance.

17.6.1. Employees & Salaries. On or before the 84th month after the Closing Date, Buyer must satisfy or cause to be satisfied, either directly or indirectly, including by the tenant located at the Premises ("**Tenant**") the following requirements (collectively, the "**Employment Requirements**"): (a) employ at least 75 FTE employees at the Premises with an average base salary of at least \$75,000 (U.S.) per year (the "**New Positions**"); and (b) maintain the New Positions for 2 years following the date on which Buyer first achieves the requirements set forth in the preceding paragraph (a), provided that the maintenance period may extend beyond the 84th month after the Closing Date ("**Reporting Period**"). A New Position will be considered maintained if the Buyer or Tenant is recruiting for such New Position after it is vacated.

17.6.2. Reporting. Buyer or Tenant will give or cause to be given, written notice to the Seller of the date that it satisfies the requirements to create the New Positions (the "**New Positions Satisfaction Date**"). Continuing for a period of 2 years after the New Positions

Satisfaction Date in January and July of each year, Buyer will provide, or cause to be provided, to Seller biannual reports stating the number of FTE employees employed and working full time at the Premises by Tenant and the average salary of such Tenant FTE employees ("**Employment Certificates**"). Employment Certificates shall be signed by a representative of Buyer or of Tenant authorized to certify that all the information contained in such Employment Certificate is true and correct.

17.6.3. **Default & Notice to Cure.** If Buyer fails to meet, or cause to be met, the Employment Requirements, Seller shall provide Buyer and Tenant written notice to cure such default. Buyer will have 60 days from receipt of notice from Seller to cure ("**Cure Period**"). Should Buyer fail to meet, or cause to be met, the Employment Requirements in such Cure Period it will pay Seller damages in the amount of the number of New Positions below the threshold multiplied by \$ 12,500.00, with a maximum amount of \$250,000.00 per 6-month period. For example, should an Employment Certificate for that time period have 70 employees, damages in the amount of 5 multiplied by \$12,500.00 for a total of \$62,500.00 will be paid to the Seller. Notwithstanding anything to the contrary in this Agreement, Buyer's total liability for any breach of its obligations under this Section 17.6 shall not exceed \$250,000.00 per Employment Certificate, and in no event shall Buyer's aggregate liability for all such breaches during the Reporting Period exceed \$1,000,000.00. The remedies set forth in this Section shall be Seller's sole and exclusive remedies for any failure by Buyer to comply with the Employment Requirements set forth herein.

17.7 **County Requirements, Reversion and Purchase Option:**

17.7.1 If Buyer fails to timely meet the Construction Start Date, the Seller will have the right and option to purchase the Property (the "**County Parcel 1 Option**"); the purchase price will be \$71,905.89 per acre or the per acre amount determined by final survey whichever is less. The purchase price shall be reduced by the amount of any reasonable and actual, out-of-pocket, third-party administrative fees incurred by the Seller in connection with the Seller's exercise of the County Parcel 1 Option.

17.7.2 If there have been no Construction Commencement activities on Parcel 2 and (ii) the New Positions Satisfaction Date has not occurred by the 84th month after the Closing Date the Seller will have the right and option to purchase Parcel 2 (the "**County Parcel 2 Option**") for \$71,905.89 per acre or the per acre amount determined by final survey whichever is less. The purchase price shall be reduced by the amount of any reasonable and actual, out-of-pocket, third-party administrative fees incurred by the Seller in connection with the Seller's exercise of the County Parcel 2 Option.

17.8 **Restrictions on Project and Property:** Prior to Construction Commencement, except to an affiliate of Buyer, Buyer shall not assign any interest in, create a lien on, or otherwise encumber the Property in any manner, in each case, except in connection with a Permitted Encumbrance (as defined below), without the prior written consent of Seller, which consent may be granted, withheld or conditioned in the Seller's reasonable discretion. As used herein, "**Permitted Encumbrance**" shall include (but is not limited to) a lien, recording or other

encumbrance in any way related to: (i) Buyer's acquisition financing, (ii) zoning changes required in connection with Buyer's proposed development of the Project Property, (iii) a title matter reasonably necessary to accommodate Buyer's proposed development of the Project Property, and (iv) the granting of new easements or modifications of existing easements, in each case, to the extent reasonably required for Buyer's proposed development of the Project Property. The Seller shall be entitled to record these restrictions on the Property, subject to Buyer's reasonable approval of such instrument. Buyer shall remain in compliance with all applicable restrictions and design guidelines.

18. Early Commencement. After the Scheduled Closure Date, if Buyer has the requisite permits, Buyer may commence construction on the Property at its own risk. In the event that Buyer fails to close on the Property pursuant to this Agreement but has commenced construction on the Property, Buyer shall be responsible for the cost of the planning, design, closing, relocation and construction the Trap and Skeet Range to its original state, not to exceed the Additional Consideration noted in **Section 16.1** above.

19. Reserved.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the Effective Date included above.

SELLER:

PIMA COUNTY

a political subdivision of the State of Arizona

By: _____

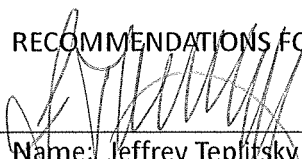
Rex Scott, Chairman of the Board

ATTEST:

Melissa Manriquez, Clerk of Board

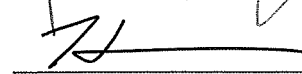
Date

RECOMMENDATIONS FOR APPROVAL:



Name: Jeffrey Teplitzky

Title: Director, Pima County Real Property Services




Name: Heath Vescovi-Chiordi

Title: Director, Pima County Economic Development

BUYER:

HUMPHREY'S PEAK PROPERTIES, LLC

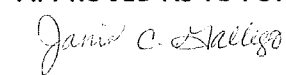
a Delaware limited liability company

By:  _____

Name: Matthew Weisberg

Title: Vice President and Authorized Signatory

APPROVED AS TO FORM



Janis Gallego, Deputy County Attorney

EXHIBIT A

DESCRIPTION OF PROPERTY

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

THE SOUTH HALF (S2) OF SECTION 11, TOWNSHIP 16 SOUTH, RANGE 15 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PIMA COUNTY ARIZONA;

EXCEPT THAT PART LYING EASTERLY OF THE EAST LINE OF HOUGHTON ROAD AS ESTABLISHED UNDER PROCEEDINGS NO. 1233 AND OF RECORD AT THE PIMA COUNTY RECORDER'S OFFICE IN BOOK 9 OF ROAD MAPS AT PAGE 92 THEREOF;

EXCEPT THAT'S PORTION OF THE LAND CONVEYED IN QUIT CLAIM DEED RECORDED MAY 07, 2021 AS 2021-1270196 OF THE OFFICIAL RECORDS OF PIMA COUNTY;

ALSO EXCEPT ALL OIL, GAS, OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER SUBSTANCES OF GASEOUS NATURE, COAL, METALS, MINERALS, FOSSILS, FERTILIZER OF EVERY NAME AND DESCRIPTION, TOGETHER WITH ALL URANIUM, THORIUM OR ANY OTHER MATERIAL WHICH IS OR MAY BE DETERMINED BY THE LAWS OF THE UNITED STATES, OR OF THE STATE OF ARIZONA, OR DECISIONS OF THE COURT, TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF COMMERCIAL VALUE, AND THE EXCLUSIVE RIGHT THERETO, ON, IN, OR UNDER THE ABOVE DESCRIBED LANDS, SHALL BE AND REMAIN AND ARE HEREBY RESERVED IN AND RETAINED BY THE STATE OF ARIZONA, AND RECORDED IN DOCKET 6561, PAGE 1012.

EXHIBIT A-1

DEPICTION SHOWING PROPERTY



EXHIBIT A-2

DEPICTION SHOWING PARCELS 1 & 2

EXHIBIT A-3

LEGAL DESCRIPTION OF PARCELS 1& 2

EXHIBIT B

SELLER DISCLOSURE OF WATER RIGHTS

[To be attached]

EXHIBIT C

SELLER DISCLOSURE OF UNDERGROUND IMPROVEMENTS

[To be attached]

EXHIBIT D

FORM OF DEED FOR PROPERTY

When recorded, mail to:

SPECIAL WARRANTY DEED

For the consideration of Ten Dollars (\$10.00), and other valuable consideration, **PIMA COUNTY**, a political subdivision of the State of Arizona as grantor ("**Grantor**"), does hereby convey to _____, **LLC**, a Delaware limited liability company, as grantee ("**Grantee**"), the real property located in Pima County, Arizona, and more fully described on Exhibit A attached hereto and made a part hereof (the "**Property**").

This conveyance is made by Grantor and accepted by Grantee subject to those matters set forth on Exhibit B and Grantor's right to repurchase all or such applicable portions of the Property pursuant to that certain Acquisition Agreement of even date herewith by and between Grantor and Grantee.

Grantor warrants the title to the Property against all acts of Grantor and any persons claiming by, through, or under Grantor, but no other.

[Execution Page Follows]

Dated: _____

GRANTOR:

PIMA COUNTY

a political subdivision of the State of Arizona

By: _____

Name: Jeff Teplitsky

Title: Director, Pima County Real Property Services

[AZ Acknowledgement on the following page(s)]

EXHIBIT E
County Lot Split Deed