

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT (“Agreement”) is made this 20th day of December, 2022 (“Effective Date”) by and between the CITY OF SHAKOPEE, MINNESOTA, a municipal corporation and political subdivision of the State of Minnesota (“Seller”), and MARK PETERSON, an individual, or his assigns (“Buyer”).

RECITALS

WHEREAS, the Seller owns property legally described in Exhibit A attached hereto and incorporated herein (“Real Property”), and

WHEREAS, Buyer desires to purchase the Real Property.

WHEREAS, Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the Real Property pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree, for themselves, their successors and assigns as follows

1. **SALE OF PROPERTY.** Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller, the Real Property, together with all easements, rights benefiting or appurtenant to the Real Property, and Seller's interest in any development plans, surveys, approvals, agreements (Buyer elects to assume), transferable permits, licenses, or other approvals issued in connection with the Real Property and all intangibles related to the Real Property (collectively referred to as “Property”).

2. **PURCHASE PRICE AND MANNER OF PAYMENT.** The total purchase price (“Purchase Price”) to be paid by Buyer for the Property will be Thirty Thousand and 00/100 Dollars (\$30,000).

A. **Earnest Money.**

(i) One thousand Dollars (\$1000.00) as earnest money (“Earnest Money”). The Earnest Money is to be deposited with [Scott County Title and Abstract, Shakopee, MN]. The Deposit Account shall be delivered to Seller on the Closing Date as defined in this Agreement or otherwise distributed as provided in this Agreement.

(ii) The Earnest Money will become nonrefundable on the Condition Date, provided notwithstanding anything to the contrary, the Earnest Money will be refunded to Buyer, if the Buyer exercises its right to terminate this Agreement pursuant to Sections 4, 5, 12, or 13.

B. **Additional Cash.** The balance of the Purchase Price (“Additional Cash”) in immediately available funds to Seller on the Closing Date, subject to the adjustments and prorations provided herein.

3. **REPRESENTATIONS AND WARRANTIES BY SELLER.** Seller represents and warrants to Buyer as follows:

A. **Authority.** Seller has the requisite authority to enter into and perform this Agreement, and Seller is duly authorized to execute and deliver all documents which are to be delivered at the Closing by the Seller, are said documents will constitute legal, valid, and binding obligations of Seller, are sufficient to convey title to the Property, and do not violate any provisions of any agreement to which Seller is a party or to which it is subject.

B. **Title to Real Property.** Seller owns fee title to the Real Property, free and clear of all encumbrances, except the Permitted Encumbrances (as hereinafter defined) and there are no leases or other agreements granting third parties any right to possess, lease or purchase any portion of the Real Property being sold.

C. **Utilities.** Seller has received no notice of actual or threatened reduction or curtailment of any utility service now supplied to the Real Property.

D. **Environmental Laws.** To Seller's knowledge, the Real Property does not contain any toxic or hazardous substances or wastes, pollutants or contaminants (including, without limitations, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any hazardous substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601.9657, as amended) or any other applicable state or federal environmental laws ("Hazardous Substances"), and no Hazardous Substances have been generated, treated, stored, released or disposed of, or otherwise placed, deposited in or located on the Real Property in violation of applicable laws or regulations, nor to the best knowledge of Seller, has any activity been undertaken on the Real Property that would cause or contribute to (i) the Real Property becoming a treatment, storage or disposal facility within the meaning of and in violation of the Resource Conservation and Recovery Act of 1976, ("RCRA"), 42 U.S.C. § 6901 et seq., or any similar state law or local ordinance, (ii) a release or threatened release of Hazardous Substances from the Real Property within the ambit of CERCLA or any similar state law or local ordinance, or (iii) the discharge of pollutants or effluents into any water source or system, the dredging or filling of any waters or the discharge into the air of any emissions, that would require a permit under the Federal Water Act, 33 U.S.C. § 1251 et seq., or the Clean Air Act, 42 U.S.C. §7401, et seq., or any similar state law or local ordinance.

E. **Rights of Others to the Real Property.** Seller has not entered into any other contracts for the sale or lease of the Property, or any portion thereof, nor are there any rights of first refusal or options to purchase or lease the Property, or any portion thereof, or any other rights of others that might prevent or delay closing under this Agreement.

F. **Seller's Defaults.** To Seller's knowledge, Seller is not in default concerning any of its obligations or liabilities regarding the Property.

G. **FIRPTA.** Seller is not a "foreign person", "foreign partnership", "foreign trust" or "foreign estate" as those terms are defined in Section 1445 of the Internal Revenue Code.

H. **Proceedings.** There is no action, litigation, investigation, condemnation, or proceeding of any kind pending, or to the best knowledge of Seller, threatened, against Seller or any portion of the Real Property.

I. **Other Agreements.** As of the date of this Agreement and the Closing Date, other than easements and covenants of record, there are no agreements or understandings between Seller and any other parties which materially affect the operation or financing of the Real Property as currently operated by Seller that have not been disclosed to Buyer pursuant to this Agreement.

J. **Well Disclosure/Storage Tanks.** There are no wells, monitoring wells or storage tanks on the Real Property within the meaning of Minn. Stat. § 103.I. This warranty is given pursuant to Minn. Stat. § 103.I.

K. **Special Assessments.** Seller has received no notice of any special assessments or proceedings affecting the Real Property, and Seller knows of no deferred, pending or levied special assessments impacting or encumbering the Real Property, except for assessments related to lateral/trunk/sewer extensions or for county ditch liens (collectively, the “Existing Special Assessments”).

L. **Documents.** Seller has delivered complete copies of all documents, surveys, plans, test results and analysis and wetland delineation in Seller's possession or reasonable control regarding the Real Property. The parties recognize that some of the reports were prepared by third parties and Seller makes no representation or warranty as to the reports' accuracy.

M. **“As-Is”.** Buyer accepts the Property “AS IS, WHERE IS AND WITH ALL FAULTS”. ANY OTHER WARRANTIES AND ANY WARRANTIES OR REPRESENTATIONS FROM SELLER IN ANY OF THE SELLER’S CLOSING DOCUMENTS, EXCEPT FOR SELLER’S REPRESENTATIONS HEREIN, EITHER EXPRESS OR IMPLIED, OF THE PHYSICAL CONDITION OF THE PROPERTY ARE VOID. Buyer acknowledges that it and its representatives have or before Closing will have fully inspected the Property or will be provided with an adequate opportunity to do so, are or will be fully familiar with the physical condition thereof, and, except for Seller’s representations, that the Property has been purchased by Buyer in an “AS IS” and “**WHERE IS**” condition and with all existing defects as a result of such inspections and investigations and, subject to the express representations, and covenants of Seller contained in this Agreement, not in reliance on any agreement, understanding, condition, warranty or representation made by Seller or any agent, attorney, representative or principal of Seller or any other party as to the financial or physical condition or safety of the Property or the condition or safety of the improvements. Buyer acknowledges that neither Seller, nor any agent or employee of Seller nor any other party acting on behalf of Seller has made or shall be deemed to have made any such agreement, condition, representation or warranty either expressed or implied, other than as set forth in this Agreement. This Section shall survive Closing and delivery of the Limited Warranty Deed.

The Seller’s representations and warranties survive Closing for a period of twelve (12) months. Furthermore, Seller will defend, indemnify and hold Buyer harmless from any claims arising out of Seller’s breach of the representations and warranties.

4. **CONDITIONS PRECEDENT.**

A. Unless otherwise set forth herein, the obligations of Buyer under this Agreement are expressly contingent upon the satisfaction of each of the following conditions in Buyer's sole discretion (“Buyer's Conditions”), on or before sixty (60) days from the Effective Date (“Condition Date”), as may be extended pursuant to Sections 4.A(ii) or 16:

(i) **Access.** Seller will allow Buyer, and Buyer's agents, access to the Real Property without charge and at all reasonable times for the purpose of Buyer's inspection and testing of the Real Property. Buyer will pay all costs and expenses of such investigation and testing and will indemnify and hold Seller and the Real Property harmless from all costs and liabilities relating to Buyer's activities, except arising out of any existing conditions, including, without limitation, any environmental conditions or contamination. Buyer will further repair and restore any damage to the Real Property caused by or occurring during Buyer's testing and return the Real Property to substantially the same condition as existed

prior to Buyer's entry. Seller will reasonably cooperate with Buyer to enable Buyer to satisfy the Buyer's Conditions, provided Seller shall not be required to expend any funds or attend any meetings. Prior to any access on and commencement of any inspections on the Real Property, pursuant to this section or any section of this Agreement, Buyer shall furnish evidence to Seller that Buyer and any contractors hired by Buyer to perform such inspections maintain policies of commercial general liability insurance, and such insurance to be on an occurrence (and not claims made) basis, and containing a contractual liability endorsement with respect to the Buyer's indemnity under this paragraph. Commercial general liability insurance providing at least \$1,000,000 of coverage shall be a minimum coverage amount acceptable to Seller. All such insurance policies shall name Seller as an additional insured.

(ii) **Due Diligence.** Buyer may perform, at its sole cost and expense, examinations and inspections relative to the economic and physical feasibility of the Real Property as Buyer determines in its sole and absolute discretion, including, without limitation, engineering studies, wetland delineation, market analysis, financial feasibility analysis including the availability of financing, and environmental assessments of the Real Property ("Tests"). Buyer shall promptly commence and diligently proceed with its Tests. Seller, as set forth below, shall provide Buyer with all readily available property information to assist in the conduct of Buyer's due diligence, including without limitation the Documents (as that term is defined herein). Buyer and its duly authorized agents will, pursuant to Section 4(i), have the right during the period from the Effective Date until the Closing Date, to enter in and upon the Real Property to complete its due diligence, including without limitations, completing the Tests. If such Tests reveal any condition or circumstances which Buyer finds objectionable for any reason, in Buyer's sole and absolute discretion, Buyer shall have the right and option to terminate this Agreement by written notice delivered to Seller on or before the Condition Date as set forth herein.

(iii) **Documents to Seller.** Buyer agrees, at its expense, to deliver to Seller at no cost to Seller a copy of all final reports, test data and approved Plans affecting or involving the physical condition of the Real Property or future improvements thereon ("Due Diligence Materials"). Upon termination of this Agreement for any reason, except as a result of a Seller default, Buyer will assign its interest in the Due Diligence Materials to the extent assignable (without requiring consent from any third party that prepared such materials), with no representation or warranty.

(iv) **Construction Financing.** Buyer determines that competitive lending sources are available for construction and permanent financing for Buyer's intended use of the Real Property, under terms and conditions acceptable to Buyer in its sole and absolute discretion.

(v) **Approvals.** Buyer's receipt of any and all; (a) approvals for necessary re-zoning, Comprehensive Guide Plan amendment, conditional use permit or other governmental approvals necessary for Buyer's intended use of the Real Property or as may be required to accomplish Buyer's development, (b) approval of the site plan, including conditions of approval acceptable to Buyer and any and all other approvals Buyer deems necessary from the City and any other applicable governmental authority, under terms and conditions acceptable to Buyer in its sole discretion, (c) a Development Agreement with the City, and any other agreements necessary for the installation (and payment thereof) of utilities, public streets and other infrastructure that serve the Real Property now or in the future (collectively referred to as "Development Agreement"), (d) any and all other approvals required for the construction of Buyer's intended improvements on the Real Property ((a)

through (d) are hereinafter collectively referred to as "Approvals"). Buyer shall promptly commence, diligently pursue, and be solely responsible for all costs associated with obtaining the Approvals. Seller agrees to promptly assist and cooperate with Buyer to obtain the Approvals, including Seller's execution of any applications (consents or agency forms) that require the fee owner to execute or to provide written consent to any applications or requests relating to the Approvals.

Upon failure of any one or more of the Buyer's Conditions on or before the Condition Date (or other date as referred to in this Section 4), Buyer may, at its sole and absolute discretion, by written notice to Seller given on or before 5:00 Minnesota time on the Condition Date, terminate this Agreement and the Earnest Money will promptly be returned to Buyer and neither Buyer nor Seller will have any further right, privilege, duty or obligation under this Agreement, (unless exclusively set forth herein). Failure of Buyer to give Seller notice of its election to terminate this Agreement prior to the Condition Date constitutes waiver by Buyer of the Buyer's Conditions. Buyer has the right to unilaterally waive any Buyer's Condition by written notice to Seller. If Buyer has not satisfied Buyer's Conditions by the Condition Date, Buyer may extend the Condition Date by an additional thirty (30) days by delivering notice of such extension to Seller and fulfillment of all obligation required by Section 16 herein, on or before the Condition Date.

B. The following conditions are conditions precedent to Buyer's obligations to Close on the purchase of the Real Property:

- (i) **Representations and Warranties by Seller.** The representations and warranties of Seller contained in this Agreement must be true now and on the Closing Date as if made on the Closing Date.
- (ii) **Title.** Buyer must be able to obtain the Title Policy in accordance with the requirements and terms of Section 5.C. below.
- (iii) **Performance of Seller's Obligations.** Seller has performed all of the obligations required to be performed by Seller under this Agreement, as and when required by this Agreement.
- (iv) **Closing Documents.** Delivery of all Seller's documents, pursuant to Section 6.A.
- (v) **Conditions.** There exists no material change in the environmental or physical condition of the Real Property between the Effective Date and the Closing.

In the event that the conditions set forth in this paragraph 4.B are not satisfied, Buyer may elect to terminate this Agreement at which time all Earnest Money will be promptly returned to Buyer, or waive satisfaction of the any of Buyer's Conditions and close by giving written notice to Sellers.

5. **TITLE.**

A. **Title Insurance Commitment.** The Seller will within twenty (20) days after the date of this Agreement deliver to Buyer, at Seller's expense, a commitment for an Owner's Policy of Title Insurance ("Title Commitment") in form and content acceptable to Buyer insuring title to the Real Property, deleting standard exceptions, provided the survey exception need not be deleted in the event Buyer decides not to obtain a Land Survey of the Real Property. The Title Commitment will commit Title to insure title to the Real Property subject only to permitted encumbrances which are consented to in writing by the Buyer ("Permitted Encumbrances"). Notwithstanding the foregoing, Buyer may include as Objections (as defined below); however, Seller is not obligated to cure such Objections and in the event Buyer proceeds to Closing,

Buyer may obtain a Land Survey of the Real Property at Buyer's option. The Title Commitment and Survey will hereinafter be referred to as "Evidence of Title."

B. **Buyer's Objections.** Within twenty (20) days after receiving the last of the Evidence of Title but in no event after sixty (60) days from the Effective Date, Buyer may make written objections ("Objections") to the form and/or content of the Evidence of Title. Buyer's failure to make Objections within such time period will constitute a waiver of Objections. Any matter shown on the Title Commitment and not objected to by Buyer will become a "Permitted Encumbrance". Seller will have twenty (20) days after receipt of the Objections to cure the Objections, during which period the Closing will be extended as necessary. Seller shall have no obligation to correct any Objections (except a lien or monetary encumbrance, such as a mortgage). If the Objections are not cured within such twenty (20) day period, Buyer will have the option to do any of the following:

- (i) Terminate this Agreement and receive a refund of the Earnest Money.
- (ii) Pay any lien or monetary encumbrance which may be cured by the payment of money and thereafter reduce the amount of cash payable to Seller at the Closing by the amount paid.
- (iii) Waive the Objections and proceed to Closing.

C. **Title Update.** Prior to Closing, Buyer may obtain an update of the Title Commitment ("Title Update"). If the Title Update discloses a title matter that was not disclosed in the Title Commitment or the Survey, Buyer may deliver to Seller, within thirty (30) business days following Buyer's receipt of the Title Update ("Title Update Review Period"), a written statement of Objections to any matter first disclosed in the Title Update accompanied by a copy of the Title Update.

Seller will use best efforts to correct any Objections delivered pursuant to this Section 5.C, and if the Objections are not cured within ten (10) days from the date of receipt of the Title Update, Buyer will have the options set forth in Section 5.B(i)-(iii).

D. **Title Policy.** Buyer, at Closing, at its expense may obtain the title policy ("Title Policy") issued by Title pursuant to the Commitment, or a suitably marked up Commitment or Pro-Forma Title Policy initialed by Title undertaking to issue such a Title Policy in the form required by the Commitment as approved by the Buyer.

6. **CLOSING.** The closing of the transaction contemplated by this Agreement ("Closing") will occur thirty (30) days after the Condition Date, or on such earlier date agreed upon by Buyer and Seller ("Closing Date") but no later than May 1, 2023. The Closing will take place at the office of Title or at such other date and time as the parties may mutually agree upon in writing.

A. **Seller's Closing Documents.** On the Closing Date, Seller will sign and/or deliver to Buyer the following (collectively, "Seller's Closing Documents"):

- (i) **Limited Warranty Deed.** A Limited Warranty Deed in recordable form acceptable to Buyer conveying the Real Property from Seller to Buyer, free and clear of any encumbrances except the Permitted Encumbrances.
- (ii) **Seller's Affidavit.** An Affidavit by Seller, in form acceptable to Title, indicating that on the Closing Date there are no outstanding, unsatisfied judgments, tax liens or bankruptcies against or involving Seller or the Real Property; that there has been no skill,

labor or material furnished to the Real Property for which payment has not been made or for which mechanic's liens could be filed; and that there are no other unrecorded interests in the Real Property.

(iii) **FIRPTA Affidavit.** A non-foreign affidavit properly executed and in recordable form acceptable to Title containing such information as is required by IRC § 1445(b)(2) and its regulations.

(iv) **Assignment.** Assignment of all of the Documents or Plans and other documents and intangibles relevant to the Real Property (at no cost to Buyer), assigning all rights, title and interest in said Plans, Documents, and intangibles in form acceptable to the Buyer.

(v) **Bring Down Certificate.** A written certificate from Seller certifying that each of the representations and warranties contained in Section 3 of this Agreement is true and correct as of the Closing Date.

(vi) **Additional Documents.** Such other documents as Buyer may reasonably request to carry out the transactions contemplated under this Agreement.

B. **Buyer's Closing Documents.** On the Closing Date, Buyer will sign and/or deliver to Seller the following (collectively, "Buyer's Closing Documents"):

(i) **Earnest Money.** The Buyer shall cause the Earnest Money to be released to the Seller.

(ii) **Additional Cash.** The Additional Cash due at Closing by wire transfer of U.S. Federal Funds, cashier's check, cash or by certified check on the Closing Date payable to the Seller.

(iii) **Additional Documents.** Such other documents as Seller may reasonably request to carry out the transactions contemplated under this Agreement.

7. **PRORATIONS.** Seller and Buyer agree to the following prorations and allocations of costs regarding this Agreement:

A. **Real Estate Taxes and Special Assessments.** The real estate taxes due and payable in all years prior to the year of Closing and all deferred, levied or pending special assessments as of the Closing Date will be paid in full by the Seller (including the Existing Special Assessments. Any special assessment specifically arising out of the Approvals shall be paid by Buyer. The Seller is also responsible for paying any interest and penalties due thereon. The real estate taxes due and payable in the year of Closing, will be prorated as of the Closing Date, based on the calendar year. Special assessments levied after the Closing Date will be the responsibility of the Buyer. Seller will pay any and all Green Acre Recapture taxes and fees at Closing.

B. **State Deed Tax.** Seller will pay any State Deed Tax necessary to record the Warranty Deed.

C. **Recording Costs.** Buyer will pay the cost of recording the Limited Warranty Deed, and Seller will pay the cost of recording all additional documents necessary to place record title in the condition warranted by Seller in this Agreement. The Buyer will pay the costs of recording all other documents.

D. **Other Costs.** All operating costs of the Real Property will be allocated between Seller and Buyer as of the Closing Date, so that Seller pays that part of such operating costs payable before the Closing Date, and the Buyer pays that part of such operating costs payable from and after the Closing Date.

E. **Closing Costs.** Seller and Buyer will each pay their own customary closing fees charged by Title, and Seller and Buyer will pay their respective other fees charged by Title for the Closing.

8. **OPERATION PRIOR TO CLOSING.** During the period from the Effective Date to the Closing Date (the "Executory Period"), Seller will operate and maintain the Real Property in the ordinary course of business in accordance with prudent, reasonable business standards, including the maintenance of adequate liability insurance and other commercially reasonable insurance. Seller will execute no contracts, leases or other agreements regarding the Real Property during the Executory Period that are not terminable on or before the Closing Date, without the prior written consent of Buyer, which consent may be withheld by Buyer in its sole discretion.

9. **BROKER'S COMMISSION.** Seller and Buyer represent and warrant that neither party engaged any broker and that no brokerage fees are due and owing upon the sale of the Real Property. Seller agrees to pay all costs, brokerage fees or real estate commissions due to NIA as a result of the transaction contemplated herein. Buyer and Seller each agree to indemnify each other and to hold each other harmless against all claims, damages, costs or expenses of or for any other such fees or commissions resulting from its actions or agreements regarding the execution or performance of this Agreement, and will pay all costs of defending any action or lawsuit brought to recover any such fees or commissions incurred by the other party, including reasonable attorney's fees.

10. **NOTICES.** All notices and demands given or required to be given by any party hereto to any other party shall be deemed to have been properly given upon deliver if delivered in person, the next business day after being sent by reputable overnight commercial courier (e.g. U.P.S. or Federal Express), upon delivery if sent by e-mail, or three (3) business days after having been deposited in any U.S. Postal Service and sent by registered or certified mail, postage prepaid, addressed as follows (or sent to such other address as any party shall specify to the other party pursuant to the provisions

If to Seller:

City of Shakopee, MN
Attn: Michael Kerski
485 Gorman St S
Shakopee, MN 55379
MKerski@shakopeemn.gov

If to Buyer:

Mark Peterson
21350 Monterey Ave
Lakeville, MN 55044
[_____]

In the event either party delivers a notice by email, as set forth above, such party agrees to deposit the originals of the notice in a post office, branch post office, or mail depository maintained by the

U.S. Postal Service, postage prepaid and addressed as set forth above. Such deposit in the U.S. Mail shall not affect the deemed delivery of the notice by facsimile or email, provided that the procedures set forth above are fully complied with.

Any party, by notice given as aforesaid, may change the address to which subsequent notices are to be sent to such party. Attorneys for each party are authorized to give notices for each such party.

11. **POSSESSION.** Possession of the Real Property will be delivered by the Seller to the Buyer on the Date of Closing.

12. **REMEDIES.** If Buyer defaults under this Agreement and fails to cure such default within the time period allowed by Minn. Stat. § 559.21, subd. 4(a) (i.e., 30 days), Seller may terminate this Agreement, and upon such termination, Seller will retain the Earnest Money as liquidated damages. The termination of this Agreement and the retention of the Earnest Money will be the sole remedy available to Seller for such default by Buyer, and Buyer will not be liable for damages or specific performance.

If Seller defaults under this Agreement, Buyer may; (i) terminate this Agreement; (ii) seek and recover specific performance, provided, that such action for specific performance is commenced within six (6) months after Buyer becomes aware of the facts forming the basis of such cause of action; and (iii) seek and recover from Seller damages for non-performance, which will be limited to actual out-of-pocket expenditures by Buyer, provided in no event shall such damage claim exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00). If Buyer terminates this Agreement following Seller's default (or otherwise as set forth herein) all Earnest Money and any interest accrued thereon will be immediately refunded to Buyer.

13. **CONDEMNATION/CASUALTY.** If, prior to the Closing Date, (a) all of any part of the Real Property is condemned or appropriated by public authorities or any party exercising the right of eminent domain, or the same is threatened thereby, or (b) access to the Real Property is reduced or restricted by condemnation or appropriation by public authorities or any party exercising the right of eminent domain, or the same is threatened thereby, or (c) if any portion of the Real Property is destroyed or materially damaged by fire, windstorm, explosion or other casualty, Seller shall immediately give written notice to Buyer of such fact and Buyer may, at its sole option (to be exercised within fifteen (15) days after Seller's notice) (i) terminate this Agreement, in which event neither party will have any further obligations under this Agreement and the Earnest Money, together with any accrued interest, shall be refunded to Buyer, or (ii) close the transaction upon the terms and conditions contained herein and Seller shall assign to Buyer all of their right, title and interest in and to any award made or to be made in the condemnation proceedings, or any insurance proceeds as a result of a casualty.

14. **POST CLOSING OBLIGATIONS.** At any time and from time to time after the Closing Date, each party will upon request of another party, execute, acknowledge and deliver all such further and other assurances and documents, and will take such actions consistent with the terms of this Agreement, as may be reasonably requested to carry out the transactions contemplated herein and to permit each party to enjoy its rights and benefits hereunder.

15. **ENTIRE AGREEMENT, MODIFICATION AND WAIVER.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth in this Agreement. No supplement, modification or waiver of this Agreement shall be binding unless it is executed in writing by the party to be bound thereby. No waiver of any of the

provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions whether or not similar, nor shall such waiver constitute a continuing waiver.

16. **EXTENSION.** In the event Buyer is unable to satisfy the Buyer's Conditions, as defined in Section 4, or is unable to close on or before the Closing, Buyer shall have the right to one (1), sixty (60) day extension of either: (i) the Condition Date or (ii) the Date of Closing, as may be requested by Buyer, upon Buyer's written request to Seller, on or before 5:00 p.m. Minnesota Time on the last day of the Condition Date or Closing (whichever is applicable to Buyer's notice) and Buyer's payment directly to be deposited with Title of an extension fee of [Ten Thousand Dollars (\$10,000.00)] (which extension fee shall be nonrefundable to Buyer, unless Buyer terminates this Agreement pursuant to Sections 4, 5, 12 or 13 of this Agreement and upon Closing shall be applicable to the Purchase Price).

17. **SUCCESSORS AND ASSIGNS.** This Agreement will be binding upon and inure to the benefit of the parties, their successors and assigns, provided that Buyer is permitted to assign its interest to another entity which is related to or controlled by the Buyer or principals of the Buyer, without notice to Seller.

18. **GOVERNING LAW.** This Agreement was executed in Minnesota, and shall be governed by, and construed in accordance with, the laws of the State of Minnesota without regard to conflict of law principles.

19. **MUTUAL DRAFTING.** This Agreement is the mutual product of the parties and each provision hereof has been subject to the mutual consultation, negotiation and agreement of each of the parties, and shall not be construed for or against any party to this Agreement.

20. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile or email (PDF format) signatures shall be deemed and treated as originals.

21. **HEADINGS.** Headings contained herein are for reference only and are not a part of this Agreement.

22. **ABSENCE OF THIRD PARTY BENEFICIARY RIGHTS.** No provision of this Agreement is intended, nor is any provision to be interpreted to provide or create any third party beneficiary rights or any other rights of any kind in any client, customer, affiliate, shareholder, employee or partner of any party to this Agreement or any other person or entity.

23. **EARNEST MONEY.** All interest earned by/on the Earnest Money while in the possession of the Title Company will inure to the benefit of, and shall be the property of, (a) Buyer if (i) Buyer and Seller perform this Agreement in accordance with its terms, or (ii) Buyer shall terminate this Agreement under and in accordance with its terms or (b) Seller, if Seller terminates this Agreement in accordance with the terms and conditions of Section 12 of this Agreement

24. **REAL ESTATE EXCHANGE.** The Seller and Buyer acknowledge that the sale and purchase of the Real Property may be part of a 1031 exchange for one or both parties, and the Seller and Buyer agree to cooperate to complete any such 1031 exchange(s).

25. **SURVIVAL.** Except as otherwise provided herein, all of the terms (including, without limitation, warranties and representations) of this Agreement will survive and be enforceable after the Closing.

[Signature Page to Real Estate Purchase Agreement]

IN WITNESS WHEREOF, the parties have executed this Real Estate Purchase Agreement as of the later of the dates set forth below:

SELLER:

CITY OF SHAKOPEE, MINNESOTA

By: William Mars, Mayor

ATTEST:

Lori Hansen
City Clerk

BUYER:

MARK PETERSON

By: _____

Its: _____

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

Lot 5, Block 12, City of Shakopee and all that part of the South half of the vacated alley in Block 12, City of Shakopee, lying Easterly of the Northerly extension of the Westerly line of Lot 5 and lying Westerly of the Northerly extension of the Easterly line of Lot 5, all in Block 12, City of Shakopee, Scott County, Minnesota.