

PURCHASE AND SALE AGREEMENT

(Honnen Building)

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made this 10 day of December, 2019, by and between, **ADAMS COUNTY, COLORADO**, located at 4430 S. Adams County Parkway, Brighton, CO 80601, referred to as "**Seller**," and **THE CITY OF COMMERCE CITY** a Colorado home rule municipality, located at 7887 E. 60th Avenue, Commerce City, CO 80206, hereafter referred to as "**Buyer**." Hereinafter, Seller and Buyer may also be referred to, individually, as a "**Party**" and, collectively, as the "**Parties**."

WITNESSETH:

FOR AND IN CONSIDERATION of the mutual covenants contained herein and for other joint and valuable consideration, the parties hereto, intending to be legally bound, agree as follows:

1. **PROPERTY.** Seller hereby agrees to sell to Buyer and Buyer agrees to buy from Seller, all of Seller's right, title and interests in and to the Property (as hereafter defined), including, without limitation, the real property located at 7111 E 56th Avenue, Commerce City, Colorado, 80022 consisting of approximately 2.8271 acres and as more particularly described on **Exhibit A** attached hereto, together with any and all water and water taps, all fixtures, structures and Improvements thereon, also together with all rights, easements, and improvements associated with the real property and all other appurtenances, if any, including, without limitation, all of Seller's right, title and interest (if any) in and to any easements or appurtenant rights used in connection with such real property and all right, title and interest (if any) of Seller in all mineral rights appurtenant to such real property (collectively, the "**Real Property**").

(a) "**Intangible Property**" shall mean all of Seller's right, title and interest, if any, in all intangible assets relating to the Real Property, Improvements or Personal Property, including all of Seller's right, title and interest, if any, in all (a) warranties and guaranties relating to the Real Property, Improvements or Personal Property, (b) all licenses, permits and approvals relating to the Real Property, Improvements or Personal Property, (c) all contract rights, and (d) all plans and specifications relating to the Real Property, Improvements or Personal Property, in each case to the extent that such Intangible Property exists and to the extent that Seller may legally transfer the same.

(b) "**Improvements**" shall mean all buildings, structures and other improvements situated upon the Real Property and any fixtures, systems and facilities owned by Seller and located on the Real Property.

(c) "**Leases**" shall mean all leases (other than subleases), including all amendments, extensions, modifications and supplements thereto, pursuant to which any party uses or occupies any part of the Real Property or Improvements.

(d) "**Personal Property**" shall mean all furniture, equipment, machinery, inventories, supplies, signs and other tangible personal property, if any, owned by Seller and installed, located or situated on the Real Property excluding: (i) any phones, routers, projectors,

A/V equipment, computer hardware and periphery, and other IT and communications equipment not incorporated into the Improvements; (ii) program furniture, supplies, and equipment in the classrooms, toys, the playground equipment, and non-commercial appliances used by Head Start; and (iii) other tangible personal property identified by the parties before the end of the Inspection Period.

(e) **“Property”** shall mean, collectively, the Real Property, the Improvements, the Personal Property, and Seller’s interest in the Leases, and the Intangible Property.

2. **EFFECTIVE DATE.** The **“Effective Date”** means the latter of the dates that this Agreement is signed by Buyer or Seller.

3. **PURCHASE PRICE.** The purchase price (**“Purchase Price”**) for the Property shall be Five Hundred Thousand and 00/100ths Dollars (\$500,000.00). The Purchase Price for the Property shall be paid, subject to application of the Earnest Money, credits, prorations and adjustments provided herein, to the Title Company at Closing all in cash, by certified check, bank check or federal funds wire transfer.

4. **EARNEST MONEY.** Within five business (5) days after the Effective Date, Buyer shall pay the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) to Land Title Guarantee Company (**“Title Company”**) as escrow holder, for deposit into an interest-bearing account. Said deposit together with any interest earned thereon is collectively referred to as the **“Deposit”** or **“Earnest Money.”** Title Company's receipt of said amounts shall be acknowledged by its execution of this Agreement or a separate escrow agreement. The Parties agree that the Deposit shall be refundable to Buyer at any time prior to expiration of the Inspection Period. Following expiration of the Inspection Period, if Buyer elects to proceed with the subject transaction, the Earnest Money shall be nonrefundable to Buyer in all events except in the event of Seller's uncured default or destruction of the Improvements. Seller acknowledges and understands that Buyer may, on or before the expiration of the Inspection Period, notify Seller in writing that Buyer elects to terminate this Agreement for any reason or no reason, as determined in Buyer’s sole and absolute discretion. If Buyer elects, in its sole and absolute discretion, to terminate this Agreement, Buyer shall send a written notice to Seller and Title Company on or before the expiration of the Inspection Period. In the event Buyer terminates or is deemed to have terminated this Agreement prior to the expiration of the Inspection Period, the Earnest Money being held by Title Company will be refunded to Buyer. The Deposit shall be applied to the Purchase Price if the Closing occurs.

5. **TITLE AND SURVEY.**

(a) At Closing, Seller shall convey to Buyer title to the Property subject to all of the terms and conditions as more specifically set forth herein and further subject to the **“Permitted Exceptions”** as defined below.

(b) Within ten (10) days after the Effective Date, Seller will cause Title Company to deliver to Buyer a commitment for an extended coverage ALTA owner's policy of title insurance (with extended coverage) in the amount of the Purchase Price (the **“Title Commitment”**) committing to insure title to the Property in Buyer subject only to the Permitted

Exceptions. In addition, Title Company will provide legible (to the extent available) hard copies of, or electronic links to, all documents referred to in the Title Commitment including, but not limited to, survey plats, reservations, restrictions and easements. Notwithstanding the foregoing, any cost to cause the Title Company to modify its standard printed exception with respect to taxes and assessments for the Property to except only taxes and assessments for the year of Closing and subsequent years, a lien not yet due and payable, and to delete standard pre-printed exceptions from the title policy to be delivered pursuant to the Title Commitment for the Property shall be borne by the Buyer. Seller agrees to execute any customary affidavits regarding liens or parties in possession or as may otherwise be reasonable requested by the Title Company to issue such extended coverage. In addition, any other endorsements desired by Buyer shall be at Buyer's expense, except as otherwise provided herein. As soon as possible after Closing, Seller shall cause to be delivered to Buyer, at Seller's cost and expense, an owner's title insurance policy (except that the premium for extended coverage or any endorsement to such policy requested by Buyer shall be paid by Buyer, except as otherwise provided herein) insuring the title of Buyer to the Property in accordance with the Title Commitment, and the provisions of this Agreement, and subject only to the Permitted Exceptions, in an amount equal to the Purchase Price paid at Closing. General taxes for the year of Closing, a lien not yet due and payable; building, planning and zoning rules and ordinances; and all matters disclosed in the Title Commitment or Survey and not objected to or otherwise accepted or deemed accepted by Buyer and any exceptions created by Buyer shall constitute "**Permitted Exceptions.**"

(i) Buyer may object, in a writing delivered to Seller and Title Company, to any matters shown on the Title Commitment or the Survey (as defined below) on or before twenty (20) days after the delivery of the latter of the Title Commitment or the Survey. Title exceptions relating to satisfaction of Schedule B-1 requirements, or requiring that Seller release or obtain releases of liens or encumbrances of a definite or ascertainable amount that may be removed by payment of money at Closing by Seller shall not be deemed to make title unacceptable provided Seller shall satisfy such liens or encumbrances at Closing. If Seller is willing to cause the cure or removal of any of the matters to which Buyer objects, then Seller will so notify Buyer in writing within five (5) days of Seller's receipt of Buyer's notice. If Seller does not respond, or chooses not to cure or remedy Buyer's objections, or if Seller is unable to remove any such matters, Buyer may elect either: (A) to terminate this Agreement by delivery of written notice to Seller within five (5) days after Buyer's receipt of Seller's notice, at which time the Earnest Money shall be returned to Buyer; or (B) to waive such objection and to complete the transaction as otherwise contemplated by this Agreement, without any abatement of the Purchase Price or any deduction, offset, credit, lost profits or other damages or claims against the Seller relating to the objection. Buyer's failure to terminate within the aforesaid five (5) day period shall be deemed Buyer's election to waive such objections as provided in option (B) above.

(ii) If Seller elects to cure or remove any title or survey matters objected to by Buyer, and Seller cannot thereafter cure or remove the same by Closing, Seller's failure to remove any such matters shall be an event of default hereunder, thus entitling Buyer to exercise any of its remedies set forth in Section 17 hereof.

(iii) If Buyer does not elect to terminate this Agreement pursuant to this Section 5, then Buyer will be deemed to have accepted, and to have waived any and all objections to all matters set forth on any of the Title Commitment or the Survey as of such date,

which shall be considered Permitted Exceptions, and no further objection to the state of title or survey matters as reflected in the Survey and Title Commitment may thereafter be raised, provided always that the state or condition of such title or survey matters does not suffer any material adverse change between the date of the Title Commitment and Survey and the Closing Date. To that end, Seller shall promptly notify Buyer of any new or other matters affecting title to the Property that are not shown in the Title Commitment or Survey. Buyer shall have the same right to object to any new matters which would survive Closing (other than Permitted Exceptions) appearing in an updated or revised Title Commitment and that did not appear in an earlier version (collectively, the “**New Encumbrances**”); provided that the presence of any New Encumbrances granted by Seller that Seller fails or is unable to cure prior to the applicable Closing shall be a Seller default hereunder, which shall entitle Buyer to exercise its remedies under Section 17 hereof.

(c) Seller shall not, after the Effective Date, encumber the Property with any title exceptions which would survive Closing without Buyer's prior written consent, in its reasonable discretion.

(d) If Title Company requires an ALTA Survey, then within twenty (20) business days of the Effective Date, Buyer, at its sole cost, shall cause any existing ALTA survey of the Property to be updated and certified to Buyer, or Buyer shall, at its sole cost, obtain a new ALTA survey of the Property to be certified to Buyer (the “**Survey**”). Buyer may object to the Survey within twenty (20) days after its receipt of same pursuant to the title objection provisions of Section 5(b), above.

6. **DELIVERY OF INFORMATION.** Within fifteen (15) days of the Effective Date, Seller shall deliver to Buyer copies of all documents and reports related to the Property, including, but not limited to those items set forth on **Exhibit B** attached hereto and incorporated herein by reference, to the extent they are in the possession or control of Seller, and have not already been provided to Buyer (collectively, the “**Property Information**”). All Property Information required to be provided by Seller herein is delivered as a courtesy and convenience to Buyer to assist with Buyer’s inspections and due diligence, and Seller does not warrant the accuracy or completeness of same, provided, however, Seller agrees to inform Buyer of any known inaccuracies contained in such documents. Buyer agrees to investigate and confirm such matters as it deems appropriate prior to the end of the Inspection Period (defined below)

7. **INSPECTION PERIOD.**

(a) The Buyer shall have a period of one hundred eighty (180) days from the later to occur of: (i) the Effective Date; or (ii) Seller’s delivery of the Property Information (the “**Inspection Period**”) in which to verify and ascertain the suitability of the Property for Buyer's purposes. Should Buyer not be satisfied with the condition of the Property or its suitability for Buyer’s intended purposes, Buyer shall notify Seller in writing on or before the expiration of the Inspection Period of its dissatisfaction, at which time this Agreement shall terminate, provided, however, if Buyer’s objections are to defects that Seller can reasonably cure within a reasonable time following receipt of Buyer’s objections, and at nominal cost, Seller may elect to cure such defects to the reasonable satisfaction of Buyer by giving written notice to Buyer not later than ten (10) days after its receipt of Buyer’s objections. Seller shall cure such defects prior to Closing.

In the event of timely termination, the Earnest Money shall be refunded to the Buyer, none of the parties shall be further bound hereby, and this Agreement shall be of no further force or effect (subject to the provisions of this Agreement which expressly survive such termination). Failure of Buyer to notify Seller of Buyer's dissatisfaction prior to the expiration of the Inspection Period shall be deemed a waiver of this condition precedent and an acceptance of the Property as suitable for purchase in its current condition. Failure of Seller to notify Buyer of Seller's intent to cure Buyer's objections within said ten days shall be deemed a waiver of Seller's right to cure such defects, and this Agreement shall be deemed terminated.

(b) Buyer shall comply with all federal, state and local laws which might in any way relate to such investigations, examinations, inspections or tests. Buyer, in the conduct of its inspections, shall not (i) materially interfere with Seller's operation and maintenance of the Property, (ii) damage any part of the Property, (iii) injure any person, or (iv) permit any mechanics' or other liens to attach to the Property or any part thereof. Buyer shall promptly restore the Property after any such entry. Buyer shall provide Seller with twenty-four hours email notice prior to any contractor, subcontractor or agent of Buyer entering the Property to perform any inspection or test that would physically disturb the Property. Anything to the contrary herein notwithstanding, Buyer shall undertake no development, construction, movement or other activities on the Property until Buyer has acquired same. All costs in connection with Buyer's inspections and restoration of the Property shall be borne by Buyer. To the extent allowed by law, Buyer agrees to indemnify, hold harmless and defend Seller and the Property from any liability or damages and Seller from any claim, liability, loss, damage, cost or expense, including attorneys' fees which Seller may incur or which may be asserted by reason of any entry on the Property during the Inspection Period, or work performed by, through or under Buyer or the preparation of any plans by or on behalf of Buyer, or the making of investigations and tests ordered or conducted by Buyer excluding, however, anything arising from Seller's actions or inactions, pre-existing Hazardous Materials or latent defects. Buyer agrees not to permit or suffer and, to the extent so permitted or suffered, to cause to be immediately removed and released (including, but not limited to, by delivering a bond pursuant to the provisions of C.R.S. §38-22-131), any mechanic's, materialman's or other lien against the Property arising by, through or under Buyer. Prior to any entry upon the Property by Buyer its contractors, subcontractors or consultants, Buyer shall provide Seller with a certificate of insurance, naming Seller as an additional insured (with respect to the Property only) under Buyer's current comprehensive general liability insurance, which insurance shall be in the amount of One Million Dollars (\$1,000,000); provided, however, that if any such entry is by an agent, contractor or subcontractor of Buyer, the foregoing insurance requirement may be met by the agent, contractor or subcontractor providing Seller with a certificate of insurance, naming Seller as an additional insured (with respect to the Property only and only with respect to such agent's, contractor's or subcontractor's access to or use of the Property) under such agent's, contractor's or subcontractor's current comprehensive general liability insurance. The provisions of this Section shall survive the Closing and any termination of this Agreement, and shall continue in force and effect regardless of the number of indemnified matters that may arise. Seller's rights and remedies under this Section 7(b) are in addition to any remedies available to Seller under Section 17(a).

(c) Seller agrees to permit Buyer (personally or through its authorized agents or representatives) reasonable access to the Property to conduct, and Buyer agrees it may

conduct (personally or through its authorized agents or representatives) its own due diligence investigations, inspections and testing of the Property in order to determine the adequacy of same for its intended purposes, including, without limitation, property condition reports, surveys, inspections, tests, analyses, and investigations into soils, environmental, and governmental conditions, to the extent Buyer deems necessary in Buyer's sole judgment, and that Buyer is not relying on any representation or warranty of Seller other than as explicitly set forth in this Agreement or in the deed or any other document pursuant to which Seller conveys its interests in the Property to Buyer.

(d) In the event this Agreement is terminated for any reason whatsoever, other than a Seller default, Seller shall have the right, by written request, to Buyer, to purchase all "Buyer's Work Product," as hereinafter defined for one-half (1/2) of the actual cost paid by Buyer to prepare such Buyer's Work Product (the "**Work Product Payment**"). For purposes of this Agreement, "Buyer's Work Product" shall mean all surveys, plats, site plans, studies, reports, engineering, construction plans and specifications and other written or graphic products produced by or on behalf of Buyer, which are in Buyer's physical possession or control, with respect to the physical condition or development of the Property, including, without limitation, soil reports and environmental studies, but specifically excluding, without limitation, any architectural drawings for vertical construction or other proprietary information of Buyer and materials prepared by any attorney and accountant. Within twenty (20) days following Buyer's receipt of a written request from Seller to acquire the Buyer's Work Product, Buyer shall provide to Seller a listing of all Buyer's Work Product available together with a calculation of the Work Product Payment and reasonable evidence to establish the amount of the Work Product Payment, which may include, but not be limited to, invoices marked paid and lien waivers (the "**Inventory and Payment Calculation**"). If Seller decides to purchase Buyer's Work Product for the Work Product Payment, Seller shall notify Buyer in writing within thirty (30) days following receipt of the Inventory and Payment Calculation together with a certified check or other good funds in the amount of the Work Product Payment. Buyer shall transmit the Buyer's Work Product together with such consents from the preparers' thereof to Seller within fifteen (15) days following receipt of the Work Product Payment. Buyer shall take such actions and make such payments as may be necessary to preclude any claim against Seller or the Property for any sums owing for the preparation of the Buyer's Work Product. Notwithstanding the foregoing, Buyer does not represent or warrant that Buyer's Work Product is accurate and any reliance by Seller on Buyer's Work Product is at Seller's risk.

8. **POST-CLOSING OBLIGATIONS.** Seller currently uses the Property for two purposes that the Parties intend to continue after Closing. Buyer therefore agrees that after Closing it will allow the following uses of the Property:

(a) Seller currently uses a portion of the Property as a Head Start location. Buyer shall allow Seller to lease the space currently being used on the Property by Seller's Head Start program for continuing use as a Head Start location on such terms and conditions, and in such form and substance as is mutually agreeable by the parties. Said lease shall not require the payment of rent, but Seller shall be responsible for payment of a proportionate share of utilities. The lease term shall be through July 10, 2020, a one-year lease extension option requiring the payment of rent (at an amount no less than 20% below market rate) and a proportionate share of utilities which option must be exercised before July 1, 2020. The final form, terms and

conditions of said lease shall be agreed upon by the Parties on or before the expiration of the Inspection Period as a condition of Closing.

(b) The Food Bank of the Rockies currently leases a portion of the Property for use as a food bank. Buyer shall continue to allow the Food Bank of the Rockies to continue leasing its space for use as a food bank through December 31, 2024, subject to the current applicable Lease.

(c) Sections 8(a) and (b) are material terms of this Agreement and shall survive Closing, subject to the terms and conditions of the Leases. The Parties shall execute mutually agreed upon assignment documents and/or lease documents to effectuate these obligations, which shall be deemed to be included in the term Leases.

(d) From and after the Effective Date Seller shall not enter into any new lease or modify any existing Lease without Buyer's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed.

9. CLOSING.

(a) Provided all conditions to closing have been satisfied, the "**Closing**" shall be held on the date that is not later than thirty (30) days following the Inspection Period deadline or such earlier date as may be mutually agreed by Buyer and Seller. The Closing shall be held in the offices of the Title Company or at such other place as Buyer and Seller shall agree in writing.

(b) Seller shall pay the cost of (i) all costs of a standard title insurance policy (except endorsements desired by Buyer, which shall be at Buyer's expense, unless the subject endorsement(s) is(are) required to cure a title defect Seller has agreed to cure, which shall be at Seller's expense) and title examination, (ii) all curative title work or expenses to cure or discharge title exceptions that Seller has expressly agreed to cure, (iii) all transfer taxes, if any; (iv) one-half of the Title Company fee to act as escrow agent; (v) all fees and expenses of Seller's attorneys, and (vi) all other costs incurred by Seller. Otherwise, each party shall pay costs which are incurred by them or imposed on them by law.

(c) Buyer shall pay for (i) the cost of extended coverage; (ii) the recording costs and documentary stamp fee for the special warranty deed, (iii) all fees and expenses of Buyer's attorneys, (iv) all fees and expenses for any surveys, inspections, or analyses of the Property undertaken by Buyer, (v) all title insurance endorsements, if any, desired by Buyer (unless the subject endorsement(s) is(are) required to cure a title defect Seller has agreed to cure, which shall be at Seller's expense), (vi) one-half of the Title Company fee to act as escrow agent; and (vi) all other costs incurred by Buyer. Otherwise, each party shall pay costs which are incurred by them or imposed on them by law.

(d) All ad valorem property taxes and assessments affecting the Property for the calendar year of each Closing shall be prorated between Buyer and Seller, as of the subject Closing Date, which proration shall be final and not subject to adjustment. Proration of property taxes and assessments shall be based on the most recent mill levy and most recent assessed valuation of the Property.

(e) *Utilities.* To the extent possible, the Parties shall cause all utilities meters, other than meters solely serving tenant spaces where such tenant is solely liable for such payment, and for which such utilities are charged to tenants, to be read on the day preceding the Closing Date. Seller shall be responsible for the payment of all such utility charges incurred or attributed prior to the Closing Date. If any such utility meters cannot be read on the day prior to the Closing Date, the Parties shall pay the bills therefor in accordance with Section 9(f).

(f) *Post-Closing Adjustments.* Seller shall be entitled to all income, and shall pay all expenses, relating to the operation of the Property for the period prior to the Closing Date and Buyer shall be entitled to all income, and shall pay all expenses, relating to the operation of the Property for the period commencing on the Closing Date. Except for those adjustments that are to become final as of the Closing Date as set forth in this Agreement, Buyer and Seller shall undertake, within 5 days prior to Closing, to adjust between themselves, as of the Closing Date, any income or expenses of the Property that are not adjusted on a settlement statement. Seller shall pay promptly upon receipt any bills relating to the operation of the Property for periods prior to Closing. The parties' obligations under this Section 9(f) will survive the Closing.

10. DOCUMENTS TO BE DELIVERED AT CLOSING.

(a) In addition to any other documents which may be required by the terms hereof at Closing, Seller shall deliver to Buyer the following:

(i) Special Warranty Deed conveying fee simple title to the Property subject to the Permitted Exceptions.

(ii) A Bargain and Sale deed conveying water rights

(iii) An assignment of the Leases, in form and substance mutually agreeable to the parties.

(iv) A bill of sale for the Personal Property and assignment for the Intangible Property in form and substance mutually agreeable to the parties.

(v) Documents necessary to discharge any liens or other objectionable encumbrances on the Property which Seller has expressly agreed to discharge or is required to discharge as set forth in the Agreement.

(vi) All other documentation as may be reasonably required by Title Company to carry out the terms, covenants conditions, and intent of this Agreement.

(b) Buyer shall deliver to Title Company and/or Seller: (i) the Purchase Price; (ii) other documentation as may be reasonably required by Seller or Title Company to carry out the terms, covenants, conditions, and intent of this Agreement.

11. AS-IS. Buyer agrees and acknowledges that, except for Seller's obligations, representations, warranties and covenants expressly set forth in this Agreement (including Section 15), the conveyance deed and any other document(s) executed and delivered by Seller at

the Closing, Buyer is acquiring the Property in its "as is" physical condition and will be relying upon the results of its own investigation concerning the physical condition of the Property. Except as provided expressly in this Agreement, the conveyance deed and any other document(s) executed and delivered by Seller at the Closing, Seller has not made and does not make any representations or warranties, express or implied, to Buyer or to any other person or entity about the physical condition of the Property or its physical suitability for any use or purpose, including but not limited to current or past compliance with environmental and hazardous waste laws.

12. CONDEMNATION. Seller shall immediately notify Buyer if prior to the Closing all or any portion of the Property is subject to a threat of condemnation by a body having the power of eminent domain or condemnation, or is taken by eminent domain or condemnation, or is sold in lieu thereof. In that event, Buyer, at Buyer's sole option, may elect to cancel this Agreement by giving Seller notice to such effect no later than fifteen (15) days after Buyer received notice of the threatened condemnation. If Buyer shall so elect to cancel this Agreement, Title Company shall forthwith return to Buyer the Earnest Money, whereupon this Agreement and all rights, duties, and obligations created or granted hereunder shall be terminated. If Buyer does not elect to cancel this Agreement no later than fifteen (15) days after Buyer received notice of the threatened condemnation, then this Agreement shall remain in full force and effect, and the purchase contemplated herein, less any property taken by eminent domain or condemnation or sold in lieu thereof, shall be effected without reduction in the Purchase Price, and Seller shall, at the Closing, assign, transfer, and set over unto Buyer all of Seller's right, title and interest in and to any awards or proceeds payable in connection with such taking or sale. Upon notice of condemnation, Buyer shall be permitted to participate in and control the proceedings as if Buyer were a party to the action.

13. ASSIGNMENT. Buyer may assign this Agreement to an affiliated entity which controls, is controlled by or under common control with Seller, without prior consent of Seller. Any other assignment by Buyer shall be made only with Seller's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Seller shall not assign this Agreement without Buyer's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

14. RISK OF LOSS AND INSURANCE. Between the Effective Date and until the transaction is consummated, the risks of ownership and loss of the Property shall belong to Seller. If prior to the Closing Date, all or material part of the Property to be acquired is materially damaged by fire or by any other cause of whatsoever nature, Seller shall promptly give Buyer written notice of such damage. After notice of such damage (from Seller or otherwise), Buyer shall have the sole option to either (i) require Seller to convey the Property, on the Closing Date, to Buyer in its damaged condition and to assign to Buyer all of Seller's right, title and interest in and to any claims Seller may have under the insurance policies covering the Property, with a credit against the Purchase Price for the amount of any deductible; or (ii) terminate this Agreement and receive in return the balance of the Earnest Money. Failure to deliver a notice of termination at or prior to the Closing Date shall constitute an election under subsection (ii) above.

15. COVENANTS AND WARRANTIES OF SELLER. Seller covenants, represents and warrants to Buyer that:

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(a) Seller is owner of the Property. Except for any parties in possession pursuant to, and any rights of possession granted under, any matter shown in the Title Commitment, the Permitted Exceptions, and the Leases, there are no parties in possession of any part of the Property, and there are no other rights of possession which have been granted to any third party or parties.

(b) Seller has the right, power and authority to enter into this Agreement and to sell the Property in accordance with the terms and conditions hereof. The persons executing this Agreement on behalf of Seller warrant their authority to do so and to bind Seller to this Agreement.

(c) At the time of Closing, the Property will be free of any liens, security interests, encumbrances or other restrictions created by Seller except for the Permitted Exceptions, whether existing of record or otherwise. To that end, all taxes on the Property being conveyed have been paid or will have been paid up to and including the year prior to the applicable Closing.

(d) There is no pending and Seller has no knowledge of any contemplated condemnation proceedings affecting the Property or any part thereof, and Seller agrees to give Buyer prompt notice of any such contemplated condemnation or the institution of any condemnation proceeding.

(e) Seller is not a party to any litigation affecting the Property or any part thereof or Seller's right to sell the Property, and to the best of Seller's knowledge, Seller knows of no litigation or threatened litigation affecting the Property or any part thereof; and Seller covenants and agrees to give to Buyer prompt notice of the institution or threatened institution prior to Closing of any such litigation.

(f) Seller is not entering into the transactions described in this Agreement with an intent to defraud any creditor or to prefer the rights of one creditor over any other. Seller and Buyer have negotiated this Agreement at arms-length and the consideration paid represents fair value for the assets to be transferred.

(g) All representations and warranties made by Seller under the Agreement shall be made as of the date of Closing to the best of Seller's actual knowledge, shall survive Closing for a period of twelve months, only. Buyer's closing of its acquisition of the Property with knowledge that any of Seller's representations or warranties are false constitutes a waiver of all claims based on such false representations or warranties.

16. COVENANTS AND WARRANTIES OF BUYER. Buyer covenants, warrants and represents to Seller:

(a) Buyer has full power and authority to enter into and to perform the Agreement in accordance with its terms;

(b) The individuals executing the Agreement on behalf of Buyer are authorized to do so and, upon Buyer's execution of the Agreement, the Agreement shall be binding and enforceable upon Buyer in accordance with its terms; and

- (c) Buyer has the financial capability to perform under this Agreement.

17. DEFAULT.

(a) Buyer's Default. It is hereby agreed that Seller's damages may be difficult to ascertain and that the Earnest Money constitutes a reasonable liquidation thereof and are intended not as a penalty, but as liquidated damages. If the transaction contemplated herein is not consummated because of a default of Buyer under the terms of this Agreement, which default is not cured within ten (10) days of Seller's written notice, Seller shall be entitled, as its sole and exclusive remedy, to retain the Earnest Money as liquidated damages and in full settlement of any claims for damages, whereupon Buyer shall have no further liability or obligation hereunder to Seller and no other remedy shall be available for Buyer's breach of this Agreement. Provided, however, that Seller shall also be entitled to enforce all remedies arising in law or equity from Buyer's failure to meet its restoration, defense and indemnification obligations as set forth in Section 7(b), above.

(b) Seller's Default. If the transactions contemplated herein are not consummated solely because of a default on the part of Seller prior to Closing, , which default event is not cured within ten (10) days of Buyer's written notice, Buyer shall be entitled to: (i) terminate this Agreement by written notice to Seller, and upon such termination the Title Company shall return the Deposit, including all non-refundable portions of such Deposit, to Buyer; or (ii) waive such default event and proceed to Closing without adjustment of the Purchase Price; If this Agreement is terminated as set forth above, upon such termination the Parties shall be discharged from all duties and performance hereunder, except for those rights and obligations that expressly survive termination of this Agreement. Except as expressly set forth above, Buyer expressly waives the recovery of damages of any sort or nature in the event of Seller's default.

18. NO BROKERAGE. Buyer and Seller represent to each other that they (i) have not employed any real estate broker, agent or finder in connection with this transaction, and (ii) that no brokers', agents', finders' fees, commissions or other similar fees are due or will be due in connection with this Agreement or this transaction hereunder. Each party agrees to defend, indemnify, to the extent allowed by law, and hold harmless the other from and against any other claim for broker's or finder's fees or commissions made by any other party claiming to have dealt with it in connection with this Agreement or the transaction contemplated hereby.

19. NOTICES. Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party hereto in connection with this Agreement shall be in writing and shall be deemed to have been properly given if delivered in person or by electronic mail, or by courier or sent by United States mail, registered or certified, return receipt requested, to the addresses set out below, or to such other addresses as are from time to time specified by written notice delivered in accordance herewith.

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BUYER: City of Commerce City
Deputy City Manager Troy Smith
7887 E. 60th Avenue
Commerce City, CO 80022
Telephone: 303-289-3619
Email: tsmith@c3gov.com

WITH A COPY TO: City Attorney
City of Commerce City
Commerce City, CO 80222
Telephone: 303-289-3604
Email: rsheesley@c3gov.com

SELLER: Adams County
Nicci Beauprez
4430 S. Adams County Parkway
Brighton, CO 80601
Email: nbeauprez@adcogov.org

WITH A COPY TO: Doug Edelstein
4430 S. Adams County Parkway
Brighton, CO 809601
email: dedelstein@adcogov.org

TO TITLE COMPANY: Land Title Guarantee Company
Attention: Charles Ottinger
3033 East First Avenue, Suite 600
Denver, CO 80206
Telephone #: 303-321-1880
Email: cottinger@ltgc.com

20. MISCELLANEOUS.

(a) Time is of the essence hereof. If any deadline hereunder falls on a Saturday, Sunday or day in which federal banks are closed, such deadline shall automatically be extended until the next day that is not a Saturday, Sunday or federal banking holiday.

(b) This Agreement is made and shall be construed under and in accordance with the laws of the State of Colorado. Venue for any dispute shall be in Adams County, Colorado.

(c) All prior and contemporaneous promises, inducements, offers, solicitations, agreements, commitments, representations, and warranties heretofore made between Seller and Buyer with respect to the Property (including, without limitation, any letters of intent) are merged herein. This Agreement contains the sole and entire understanding between Seller and Buyer with respect to the Property. This Agreement shall not be modified or amended in any respect except by a written instrument executed by or on behalf of each of the

parties to this Agreement. This Agreement may not be changed orally, but only by an agreement in writing signed by Buyer and Seller.

(d) This Agreement may be executed in several counterparts and in facsimile, each of which shall constitute an original and all of which together shall constitute one and the same instrument.

(e) This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both Buyer and Seller have contributed substantially and materially to the preparation of this Agreement.

(f) Each and every Exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if such exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

(g) The provisions of this Agreement are intended only for the regulation of relations among the parties hereto. This Agreement is not intended for the benefit of any non-party and does not grant any rights to or confer any benefits on any non-party.

(h) Buyer agrees not to record this Agreement or any notice or memorandum thereof. Any such recording shall be an event of default and cause the termination of this Agreement and the forfeiture of Buyer's Earnest Money at Seller's option.

(i) SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND EXCESSIVE TAX BURDENS TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL LEVIES.

(j) In the event that any condition or covenant herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of the Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

(k) Each party hereto shall from time to time execute and deliver such further instruments as the other party or its counsel may reasonably request to effectuate the intent of

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this Agreement, including, but not limited to, documents necessary for compliance with the laws, ordinances, rules or regulations of any applicable governmental authorities.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, the parties hereto have duly signed, sealed, and delivered this Agreement, intending to be legally bound.

BUYER:

The City of Commerce City

By: _____

Mayor

Date: _____

11-4-19

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney



SELLER:

Adams County, Colorado

By: _____

Chair

Date: _____

Steven J. O'Donoghue
12/10/19

APPROVED AS TO FORM
COUNTY ATTORNEY

[Signature]

EXHIBIT A

Legal Description of Land

Parcel Number: 0182308414015

SUB:CRESTON DESC: BLKS 12 AND 13 EXC RD AND EXC S 5/0 FT

EXHIBIT B

Property Information

1. A commitment for title insurance issued by the Title Company together with all instruments referred to in such commitment.
2. A copy of all declarations and restrictive covenants pertaining to the Property.
3. Copies of all contracts affecting the Property.
4. All evidence and information pertaining to water shares, mineral rights, water and sewer taps and easements associated with the Property.
5. All documents related to any applicable metropolitan districts, homeowner's associations and any other applicable districts in which the property is located.
6. Copies of third party warranties/guarantees currently in effect pertaining to the Property.
7. All Leases and each modification, extension, amendment, and renewal.
8. All plans concerning the Real Property and Improvements, including site plans, floor plans, "as built" plans and drawings.
9. Notices of building/health/safety violations for past 3 years (incl. fire inspection invoices).
10. Any and all existing operations and maintenance plans.
11. American's with Disabilities Act ("ADA") reports.
12. Existing survey & legal descriptions.
13. Insurance certificates for past 3 years.
14. Utility bills for past 3 years.
15. A log of work orders for the years 2016 through year-to-date 2019.
16. A listing of all repairs and capital expenditures for the years 2016 through year-to-date 2019 and a list of such work anticipated to be completed by seller prior to closing.