

ORDINANCE NO. 025-12

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO SELL 5.45 ACRES OF UNDEVELOPED, TRIANGULAR SHAPED PARCEL OF REAL PROPERTY LOCATED BETWEEN GRAND AVENUE AND 71<sup>ST</sup> AVENUE, GLENDALE, ARIZONA AND DIRECTING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS AND DIRECTING THE CITY CLERK TO RECORD A CERTIFIED COPY OF THIS ORDINANCE.

WHEREAS, Glendale owns approximately 5.45 acres of undeveloped, triangular shaped parcel of real property located between Grande Avenue and 71<sup>st</sup> Avenue (“the Property”), which is identified as Assessor Parcels Nos. 143-23-022-D and 143-23-023L by Maricopa County; and

WHEREAS, Glendale’s Oasis Water Treatment Plant is to the south of the Property on Assessor Parcels Nos. 143-23-022-F and 143-23-023N, with the 2 parcels being separated by two strips of land: (a) Assessor Parcel No. 143-23-040-A, owned by the Atchison Topeka & Santa Fe Railroad (“the Railroad”); and (b) Assessor Parcels No. 143-23-026-C and 143-23-040B, owned by the Salt River Project Agricultural Improvement and Power District (“SRP”); and

WHEREAS, on May 22, 2024, Terrell Real Estate, LLC made an unsolicited offer to purchase the Property from the City; and

WHEREAS, Pursuant to Section 2-166 through 2-168 of the Glendale City Code as amended, the City of Glendale hereby accepts Terrell Real Estate, LLC’s offer and agrees to sell the Property to Terrell Real Estate, LLC; and

WHEREAS, it is in the public interest for the City of Glendale to sell the real property described in this Ordinance.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That the City Manager of the City of Glendale is hereby authorized and directed to enter the Real Property Purchase and Sale Agreement with Terrell Real Estate, LLC, attached in Exhibit “A” and execute all documents necessary to close and support the sale of the Property legally described and incorporated therein.

SECTION 2. That the duly authorized disbursing officers of the City of Glendale be authorized and directed to pay all sums necessary for the closing and transfer of said real property in accordance with the Real Property Purchase and Sale Agreement.

SECTION 3. That the City Clerk is instructed and authorized to forward a certified copy of this ordinance for recording to the Maricopa County Recorder’s Office.

SECTION 4. That the provisions of this ordinance shall become effective thirty (30) days after passage of this ordinance by the Glendale City Council.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 25<sup>th</sup> day of March, 2025.

\_\_\_\_\_  
Mayor Jerry P. Weiers

ATTEST:

\_\_\_\_\_  
Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael D. Bailey, City Attorney

REVIEWED BY:

\_\_\_\_\_  
Kevin R. Phelps, City Manager

**REAL PROPERTY  
PURCHASE AND SALE AGREEMENT**

DATE: March \_\_\_, 2025

PARTIES: TERRELL REAL ESTATE, LLC  
3547 W. Lower Buckeye Rd.  
Phoenix, Arizona 85009  
joyce@saguarosteel.com

CITY OF GLENDALE, an Arizona municipal corporation  
5850 West Glendale Avenue  
Glendale, Arizona 85301  
Attention: City Attorney (“Glendale”)

This Real Property Purchase and Sale Agreement (“Agreement”) is made and entered into this day of March \_\_\_, 2025 (“Effective Date”) by and between the City of Glendale, an Arizona municipal corporation, (“Seller” or “City”) and TERRELL REAL ESTATE, LLC, (“Buyer” or “TERRELL”), an Arizona limited liability company.

**RECITALS**

- A. Glendale owns approximately 5.45 acres of undeveloped, triangular shaped parcel of real property located between Grande Avenue and 71<sup>st</sup> Avenue (“the Property”), which is identified as Assessor Parcels Nos. 143-23-022-D and 143-23-023L by Maricopa County. The Property is legally described in Exhibit A.
- B. Glendale’s Oasis Water Treatment Plant is to the south of the Property on Assessor Parcels Nos. 143-23-022-F and 143-23-023N, with the 2 parcels being separated by two strips of land: (a) Assessor Parcel No. 143-23-040-A, owned by the Atchison Topeka & Santa Fe Railroad (“the Railroad”); and (b) Assessor Parcels No. 143-23-026-C and 143-23-040B, owned by the Salt River Project Agricultural Improvement and Power District (“SRP”).
- C. On May 22, 2024, TERRELL made an unsolicited offer to purchase the Property from the City.
- D. Pursuant to Section 2-166 through 2-168 of the Glendale City Code as amended, the City of Glendale hereby accepts TERRELL’s offer and agrees to sell the Property to TERRELL and to enter into this Agreement on the terms and conditions set forth below.

## TERMS AND CONDITIONS

In consideration of the mutual promises and covenants set forth in this Agreement, the parties agree to the purchase and sale of the Property on the terms and conditions set forth below.

1. Purchase and Sale. The Buyer shall purchase, and Seller shall sell, upon the terms, provisions, and conditions herein contained, all of Seller's right, title, and interest in and to an approximately 5.45-acre portion of the real property defined herein as the Property:

a. As generally depicted and legally described in Exhibit A attached hereto;  
and

b. All buildings, structures, fixtures, and other improvements contained thereon, if any; and all easements, appurtenances, rights, privileges, reservations, tenements, and hereditaments belonging to each parcel or any portion thereof Buyer is acquiring; except that the Seller is granted a 12-foot easement ("Easement") in the Property for: (i) the location of the currently, as-built 36-inch sewer line infrastructure ("Sewer Line"); (ii) the right to operate, maintain, use, repair, remove, and/or replace said Sewer Line, and (iii) the right to reasonably amend and move the Easement within ten (10) feet of the existing Easement in the event said Sewer Line must be relocated. The City also retains ownership of the Sewer Line and any related equipment within the Easement.

2. Purchase Price. Buyer agrees to pay Seller \$10.35 a square foot, which the parties agree equates to **\$2,453,726.25**, and to pay any and all closing costs, whether expressly set forth in this Agreement or not, required to the close the purchase and sale of the Property described herein ("Purchase Price"), subject to the terms and conditions contained in this Agreement.

3. Payment. The Purchase Price will be paid by providing a **\$50,000.00** deposit ("Earnest Money") to Escrow Agent within five (5) days of the Effective Date of this Agreement, and the balance upon Closing by certified check or wire transfer of immediately available federal funds to the Title Company. The Title Company and Escrow Agent is:

Security Title Agency, Inc  
ATTN: Jason Bryant  
4722 N. 24th Street, Ste. 200  
Phoenix, AZ 85016  
jbryant@securitytitle.com  
602-230-6271

4. Closing.

a. The completion and settlement of the transaction contemplated herein ("Closing") shall take place at the offices of the Title Company, or electronically, at a time and date mutually agreed upon by the Parties, but not later than the date that is thirty (30) days after the expiration of the Due Diligence Period as defined herein ("Closing Date").

b. Prorations; Escrow Agent.

i. Prorations.

Taxes and Assessments. All real property ad valorem taxes, special taxes, and assessments, if any, accruing in years prior to the year in which the acquisition of the Property by Buyer, occurs shall be paid by Seller. All real property ad valorem taxes, special taxes, and assessments accruing in the year in which the acquisition of the Property by Buyer occurs shall be prorated among Seller and Buyer through the Closing Date (as defined above). All real property ad valorem taxes, special taxes, and assessments accruing after the Closing Date shall be paid by Buyer.

ii. Actions By Escrow Agent

Upon the Closing, Escrow Agent shall promptly undertake all of the following in the manner indicated:

1. Prorations. Prorate all matters referenced in this Section 4(b) above based upon the settlement statement delivered into Escrow, signed by the parties.

2. Recording. Cause the deed, and any other documents that the parties to this Agreement may mutually direct, to be recorded in the official records of the County.

3. Disbursements. Disburse from funds deposited by Buyer with Escrow Agent or funds brought to or available at Closing, payment of the Purchase Price and all other items chargeable to the account of Buyer pursuant to this Agreement in payment of such obligations.

4. Title Policy. Direct the Title Company to issue to Buyer an original Standard Owner's Policy of Title Insurance (the premium for which shall be paid for by Seller) or, if requested by Buyer, an original ALTA Extended Coverage Owner's Policy of Title Insurance ("Title Policy") in the amount requested by Buyer showing title to the Real Estate vested in Buyer and with such endorsements as Buyer may request, and Buyer shall pay the additional cost of the extended coverage and any endorsements.

c. [This contradicts the language in the Purchase Price provision in Paragraph 2.]

5. Due Diligence Period.

a. Buyer, and Buyer's agents and contractors, at Buyer's sole cost and expense, shall have three hundred sixty-five (365) days following the Effective Date (the "Due Diligence Period") to conduct any investigations or examinations as provided in this Agreement to determine if it will Close this transaction. Not less than five (5)

days before expiration of the Due Diligence Period, Buyer may give written Notice of its desire to extend the Due Diligence Period for an additional ninety (90) days. Upon giving such Notice, the Due Diligence Period shall be extended an additional ninety (90) days (for a total of four hundred fifty-five (455) days from the Effective Date) at no cost to the Buyer. During the Due Diligence Period, Buyer has the right to:

- (i) Obtain, conduct or commission a Phase I Environmental Site Assessment Report;
- (ii) Enter into and onto the Property at reasonable times and to conduct inspections, including, but not limited to: examinations and tests of the Property, such as soil, environmental and other physical tests and inspections, including an underground utility study, environmental site assessment and survey, and evaluation of minerals and materials subject to the terms and conditions contained in Section 6 below. Seller will also, upon request, provide to Buyer copies of all leases, bills and plans for utilities, tax bills, environmental and Geotech reports, surveys and other documents concerning the Property, if any, in Seller's possession; and
- (iii) Enter into and onto the Property at reasonable times and to conduct an ALTA survey subject to the terms and conditions contained in Section 6 below.;
- (iv) Obtain and review Title Company's Title Report and/or obtain title insurance (Title Commitment); and
- (v) Apply for and obtain any permits and approvals necessary for Buyer to construct any structures and operate any business at the Property, including, without limitation, zoning approvals, use permits PAD approvals, building permits (or the equivalent in the City) and Plan of Development (defined below) from all applicable governmental and quasi-governmental entities (collectively the "Approvals"). In the event any permits, use permits, zoning approvals, including having the Property rezoned to M2 heavy industrial by the City of Glendale,
- (vi) have been applied for but have not been granted within the initial 365-Day Due Diligence Period, , the Due Diligence Period may be extended as provided in Section 5(a). Nothing in this Agreement, however, requires the City to grant any such approval.
- (vii) Negotiate and enter into agreements with SRP and the Railroad to allow for tractor trailer and vehicle access across APNs 143-23-040-A and 143-23-026-B. In the event that the parcels owned by SRP and the Railroad require annexation into the City, the Agreements between the parties shall include a provision agreeing to such annexation. If such Agreements have not been finalized or any required annexation petition has not been approved within the initial 365-day Due Diligence Period, the Due Diligence Period may be extended by an additional 90 days as provided in Section 5(a) above.

b. Buyer's Election to Close. Buyer may, in its sole and absolute discretion, elect not to Close this transaction on or before the expiration of the Due Diligence Period and extensions thereto. If Buyer so decides not to Close this transaction, Buyer will terminate this Agreement by providing written notice to Seller and Escrow Agent as provided herein, whereupon this Agreement shall terminate, and Buyer's Earnest Money shall be refunded. Upon such termination, the parties shall have no further obligations to each other, except those which survive termination pursuant to this Agreement.

c. Except as otherwise provided herein, if Buyer proceeds to Closing, Buyer shall be deemed to acknowledge that it has determined the Property is suitable for its intended use.

6. Inspections Prior to Closing.

a. "As-Is" Sale. Seller has disclosed to Buyer, and Buyer acknowledges, that the Property is adjacent to the City's Oasis Water Treatment Plant (the "Plant") and that the Property's use or Buyer's intended operations may, among other things, be affected by operations being conducted at the Plant, including being downwind from noxious odors emanating from the Plant, and by the Easement and Sewer Line. Buyer waives any right it may have now or in the future to bring any claim associated with such location or condition(s), including, but not limited to, a claim for nuisance, interference with the Property for its intended use, interference with business opportunities or diminution in property value.

b. Buyer acknowledges that the City has made disclosed historic and current use(s) and that certain Site and/or Environmental Conditions (as defined below) may exist that limits the Property's future use or that may subject Buyer to certain environmental liabilities. Buyer nonetheless agrees that it is purchasing the Property on an "as is" basis and "with all faults" basis. Buyer acknowledges that prior to the Closing it has been given the opportunity to make a full and complete investigation and inspection of the Property and that Buyer has had an opportunity to make full inquiry of Seller as to all matters Buyer deemed relevant in evaluating the Property. Buyer acknowledges and agrees that, except as expressly provided in this Agreement or the documents delivered at Closing, Seller has made no representations or warranties and has no continuing responsibility or liability regarding the Property, including, without limitation, its physical condition and its "Environmental Condition" (as defined below). Buyer further agrees, as provided elsewhere in this Agreement, to indemnify and hold Seller harmless for any claim for any Environmental Condition, as defined herein, brought by any third party. Buyer is not relying in any way upon any representations, statements, agreements, warranties, studies, plans, reports, descriptions, guidelines or other information or material furnished by Seller or its representatives, whether oral or written, express or implied, of any nature whatsoever, except as expressly provided in this Agreement or the documents delivered at Closing. Further, nothing in this Agreement requires Seller to conduct any investigation or commission any reports or studies to assess the Environmental Condition (as defined below) of the Property.

c. For purposes of this Agreement, "Environmental Condition" shall mean any condition with respect to soil, surface water or groundwater at, from or below the Property or other conditions present at the Property. Such conditions need not be in violation of Environmental Laws (as herein defined), require remedial action, and/or cause, result in, give rise to or have the potential

to give rise to any claims, demands, and/or liabilities to third parties, including, but not limited to, governmental entities.

d. Without limiting the generality of the foregoing, Buyer expressly waives and relinquishes any and all rights and remedies Buyer may now or in the future have against Seller, whether known or unknown, with respect to the Environmental Condition of the Property except as expressly provided in this Agreement.

e. As used herein, "Environmental Laws" shall include, without limitation, federal, state, local, and regional statutes, rules, regulations, and the common law relating to the environment, including, without limitation, the Arizona Environmental Quality Act, contained in Title 49 of the Arizona Revised Statutes, as amended; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"); the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901, et seq. ("RCRA"); the Hazardous Materials Transportation Act, as amended, 49 U.S.C. Section 1801, et seq. ("HMTA"); the Clean Air Act, as amended, 42 U.S.C. Section 7401, et seq.; the Emergency Planning and Community Right-To-Know Act of 1986, as amended, 42 U.S.C. Section 11001 et seq. ("EPCRA"); the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. Section 136, et seq.; the Clean Water Act, as amended, 33 U.S.C. Section 1251, et seq.; the National Environmental Policy Act, as amended, 42 U.S.C. Section 4321, et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651 et seq.; the Endangered Species Act, as amended, 16 U.S.C. Section 1531, et seq.; the Rivers and Harbors Act of 1899, as amended, 33 U.S.C. Section 401 et seq.; the Oil Pollution Act of 1990, as amended; the Pollution Prevention Act of 1990, as amended; the Safe Drinking Water Act, as amended, 42 U.S.C. Section 300[f] et seq.; the Toxic Substances Control Act, as amended, 7 U.S.C. Section 136 et seq. ("TSCA"); any regulations promulgated under or pursuant to any of the foregoing; and all other federal, state, and local laws, ordinances, statutes, codes, rules, regulations, orders, and decrees now in effect relating to the existence of Hazardous Materials (as herein defined) located at the Property. As used herein, the term "Hazardous Material(s)" includes, without limitation, any hazardous waste, solid waste or toxic materials, hazards, substances, pollutants, or contaminants located at or emanating from the Property, as defined in the applicable Environmental Laws described herein.

f. Buyer agrees that, in making any physical or environmental inspections of the Property, Buyer or Buyer's agents will:

- i. carry not less than \$1,000,000.00 in commercial general liability insurance prior to the entering upon the Property to make such inspection;
- ii. will not reveal to any third party not approved by Seller (other than Buyer's agents, employees, contractors, design professionals, and lenders with a need to know) the results of its inspections; and
- iii. will restore promptly any physical damage caused by the inspections.

g. Prior to Buyer and Buyer's agents, representatives, employees, independent contractors and invitees entry on to the Property to perform any Due Diligence activities, including, but not limited to, any subsurface testing, drilling, or excavation of the Property, Buyer shall notify Seller.

h. Buyer shall indemnify, defend, and hold harmless Seller, and Seller's agents, employees, officers, elected officials, directors, shareholders, partners, members, affiliates, successors, assigns, and representatives for, from, and against any and all liabilities, losses, claims, demands, damages, including reasonable attorneys' fees, experts fees, consultants fees, courts costs, and any other expenses to the extent they result from or arise out of or are in any way connected with:

- i. Buyer's inspection of the Property;
- ii. Buyer's accessing the Property to conduct Studies; and
- iii. Buyer's failure to restore the Property in accordance with this Section 6.

This indemnification shall survive the Close of Escrow or any early termination of this Agreement; provided, however, that Buyer's obligation above to indemnify, defend, and hold harmless shall not extend to any claims or liabilities arising out of the discovery or disturbance of any pre-existing conditions on the Property.

7. Survey and Title Insurance. Buyer may obtain a title report ("Report") and a commitment ("Title Commitment") for owner's title insurance policy ("Title Policy") issued by the Title Company in an amount designated by Buyer and at its own cost.

a. Buyer may also order an ALTA Survey of the Property (the "Survey") at its own expense.

b. Buyer shall have until the expiration of the Due Diligence Period in which to notify Seller of any title defects ("Defects") disclosed by the Title Commitment or Survey. Any matter set forth in the Title Commitment and Survey not set forth in said notice shall be deemed to be a "Permitted Exception" to the title, and the Deed and Title Policy delivered at Closing may be subject thereto. If no such notice is given, it shall be deemed that Buyer has agreed to accept the Property subject to the matters shown in the Title Commitment and Survey, and this Agreement shall remain in full force and effect. Seller shall have ten (10) days from receipt of Buyer's notice (the "Cure Period") in which to remedy the Defects or to obtain title insurance by the Title Company insuring over and against such Defects (the premium for which shall be paid by Seller) and provide evidence satisfactory to Buyer thereof. If Seller fails to remedy such Defects or obtain such title insurance within the Cure Period, Buyer shall have the option exercisable within ten (10) days after the expiration of Seller's Cure Period to agree to accept a conveyance of title subject to such Defects, and proceed with this Agreement (in which event the Title Commitment and the Deed will be accepted subject to any such Defects as Permitted Exceptions) or, give written notice to Seller to terminate this Agreement, and thereafter no party hereto shall have any claims, rights, duties, obligations, or liabilities to another party hereto by virtue of this Agreement, except those which herein are expressly stated to survive any termination of this Agreement, and the Earnest Money and Extension Deposits shall be returned to Buyer. If Buyer makes no election, it shall be deemed that Buyer has agreed to accept title "As Is" subject to the Defects, and this Agreement shall remain in full force and effect.

c. To the extent any defects, exceptions or encumbrances arise and appear on the Title Commitment subsequent to the expiration of the Due Diligence Period but prior to the Closing

Date (“Subsequent Defects”), Seller shall determine whether Seller is able to cure and/or insure over the same. To the extent Seller elects not to or is unable to cure the Subsequent Defects, Buyer, at its sole option, may proceed with this Agreement (in which event the Title Commitment and the Deed will be accepted subject to any such Subsequent Defects) or, give written notice to Seller to terminate this Agreement, and thereafter no party hereto shall have any claims, rights, duties, obligations, or liabilities to another party hereto by virtue of this Agreement, except those which herein are expressly stated to survive any termination of this Agreement.

8. Deliveries at Closing. At Closing, Seller shall deliver to Buyer the following:

a. A duly authorized and executed special warranty deed attached hereto as Exhibit B, in recordable form, conveying good and marketable title to the Property (“Deed”), subject only to current real estate taxes not yet due and payable, and the Permitted Exceptions;

b. Bill of sale, if necessary;

c. Vendor’s affidavit acceptable to Buyer and Title Company, stating that all of the representations and warranties set forth in Section 13 below are true and correct as of the date of closing, and sufficient to delete all standard exceptions from the Title Policy and Title Commitment;

d. Non-foreign affidavit, properly executed, containing such information as shall be required by Internal Revenue Code § 1445(b)(2) and the regulations promulgated thereunder stating that Seller is not a “Foreign Person” (as defined in Section 1445);

e. All other documentation which may be reasonably required by the Title Company in order to insure Buyer with good and marketable title to the Property;

f. An executed Conveyance of Easement, attached hereto as Exhibit C, which reserves the City’s right to locate, operate, use, maintain, repair, remove, replace and/or relocate the Sewer Line as provided herein; and

g. All other documents necessary to complete the transaction contemplated by this Agreement.

9. Possession. Seller agrees to deliver exclusive possession of the Property to Buyer at Closing.

10. a. Access to Property. Seller agrees to work in good faith with Buyer on an Access Agreement granting Buyer an ingress/egress easement through City-owned Parcel No. 143-23-023N and the remainder of Parcel No. 143-23-023L.

b. Access to Adjacent Parcels. Glendale will use good faith efforts to facilitate, and to reasonably participate in discussions among TERRELL, the Railroad and SRP to negotiate and enter into an agreement whereby TERRELL obtains the right to access, cross and use those portions of Parcels No. 143-23-040-A and 143-23-026-B; provided, however that: (A) Glendale shall have no liability to TERRELL if it is unable to reach an agreement with either or both parties

as to such matters or use; and (B) Glendale shall have no obligation to expend funds in connection with such agreement.

c. If the Railroad cannot guarantee in writing that rail cars will not be parked across Buyer's primary access point to the Property (i.e., the 71st Avenue alignment), the parties agree that a secondary access to the Property will be secured. Acquisition of the secondary access will be obtained at the sole responsibility and cost of the Buyer. If Buyer is unable or unwilling to secure a secondary access, Buyer shall execute an Acknowledgement of Risk, in a form prepared by Seller, acknowledging and accepting the risks associated with a lack of secondary access, including but not limited to delays in emergency service.

d. City's Operations Take Precedence. Buyer agrees not to undertake any operations or activities at or on the Property that may: (i) interfere with any operations of the City including, but not limited to, the Plant or Sewer Line's operations; (ii) cause any damage to City property including, but not limited to, the Plant or Sewer Line; or (iii) cause the City to violate any federal, state or local law, statute, regulation, requirement, condition or permit, including, but not limited to, applicable to the City's Oasis Water Treatment plant or its operations. Buyer also agrees not to challenge, object to or otherwise seek to change, impact or adversely affect the existing operations of City, including its Oasis Water Treatment Plant, even if such existing operations interfere with or constitute a nuisance to Buyer's operations or ownership interest in the Property.

e. Buyer has disclosed to Seller that it plans to use the Property for a steel fabrication facility which will include the cutting, welding, painting and transportation of steel. Seller believes that the operation of a steel fabrication business on the property as described above should not interfere with the normal operations of the Plant or Sewer Line. Without limiting any rights of the City in this Agreement, Buyer specifically agrees to comply with any and all direction(s), guidance, limitations, restrictions, plan, operations, tasks or requirements imposed by the City, State or Federal government to prepare for, respond to or recover from any emergency, including a local emergency, natural or man-made disaster that affects or threatens to affect the health, safety and welfare of the citizens of Glendale or its surrounding or adjacent areas. Buyer has the right, at its sole cost and expense, to contest the validity of any direction(s), guidance, limitations, restrictions, plan, operations, tasks or requirements imposed by the City applicable to the Property by appropriate proceedings diligently conducted in good faith provided, however, that no such contest will subject the other party to any liability, cost, expense or penalty or delay any response ordered by any governmental entity.

11. Representations and Warranties of Seller. As a material inducement to Buyer for entering into this Agreement, Seller hereby represents and warrants to Buyer as follows:

a. Seller owns and will continue to own good, marketable and indefeasible fee simple title to the Property on the date of Closing, subject only to the lien of current, non- delinquent real estate taxes, easements, and other matters of record;

b. Seller is duly organized, validly existing and has authority to sell the Property;

c. To the best knowledge and information of Seller, there are no violations of any laws, regulations, codes, ordinances, orders or requirements affecting the Property, including, but not limited to applicable laws, regulations, ordinances or requirements relating to ecology, the environment, pollution, health or safety;

d. There is no litigation or proceeding pending or, to the best knowledge of Seller, threatened against or relating to the Property, including, without limitation, any proceedings for condemnation or other exercise of the power of eminent domain;

e. To the best knowledge and information of Seller, there are no liens or claims which may ripen into liens against the Property other than those to be released at or before closing; and

f. To the best knowledge and information of Seller, there are no unbilled special assessments against the Property.

12. Representations and Warranties of Buyer. Buyer represents and warrants to Seller that Buyer has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder.

13. Casualty or Condemnation. If, on or before the Closing Date, all or any part of the Property is destroyed or damaged by fire or any other cause, or if eminent domain proceedings are instituted by a governmental entity other than the Seller, or a notice of condemnation is given, with respect to all or a portion of the Property, Seller shall promptly notify Buyer thereof. If such damage or destruction is repaired at the sole cost and expense of Seller prior to Closing to substantially the same condition existing prior to such damage or destruction, or if such damage or destruction does not exceed \$25,000 (as determined by Seller's insurer), or if the value of any land taken or to be taken does not exceed \$25,000, Buyer shall be bound to purchase the Property without any reduction in the Purchase Price but receiving an assignment of all insurance or eminent domain proceeds on account thereof. In the event of (i) damage to or destruction of all or any part of the Property of more than \$25,000 and Seller fails to repair such damage or destruction as provided herein, or (ii) the institution or giving of notice of eminent domain proceedings with respect to all or any part of the Property the value of which is more than \$25,000 Buyer shall have the right to terminate this Agreement by giving written notice to Seller on or before the Closing Date and in the event Buyer exercises such right to terminate this Agreement, the Earnest Money shall be returned to Buyer, whereupon no party hereto shall have any further rights, obligations or liabilities hereunder except those which survive termination. In the event of any un-repaired damage or eminent domain proceedings which would permit termination hereunder and neither party elects to terminate, or if Buyer is required to proceed hereunder, the Deed shall be subject to any such eminent domain proceeding, such taking shall be deemed a Permitted Exception, and Seller shall deliver to Buyer on the Closing Date an assignment in a form reasonably satisfactory to Buyer of all of Seller's right, title and interest in and to any eminent domain award or insurance claim to the extent not previously applied to restoration or repair of the Property, but the Purchase Price shall not be affected by any such condemnation, damage or destruction.

14. Default.

a. Damages in the Event of Default. The Parties acknowledge that it is impossible to ascertain damages in the event of default by either Seller or Buyer hereunder. Accordingly, the Parties agree that if either party defaults in performing under this Agreement and the transaction is not closed, there shall be no penalty or damages due to the non-defaulting party except for any penalties or damages for obligations that survive the termination of this Agreement.

15. Notices. All notices, requests, demands, consents, and other communications required or permitted under this Agreement (“Notice”) shall be in writing and shall be deemed to have been duly and properly given on the date of service if delivered personally, or, if mailed, on the day such Notice is deposited in a receptacle of the United States Postal Service, registered or certified mail, first class postage prepaid, return receipt requested, addressed appropriately to the last known address of Seller or Buyer. All Notices required or permitted hereunder, shall be in writing and delivered to the Parties at the following addresses:

To Seller:                   City of Glendale  
5850 West Glendale Avenue  
Glendale, Arizona 85301  
Attention: Kevin Phelps, City Manager  
[kphelps@glendaleaz.com](mailto:kphelps@glendaleaz.com)

with a copy to:           City of Glendale  
5850 W. Glendale Avenue  
Glendale, Arizona 85301  
Attention: Michael Bailey  
[mbailey@glendaleaz.com](mailto:mbailey@glendaleaz.com)

If to Buyer:               Joyce Terrell Hempelman  
Saguaro Steel  
3547 W. Lower Buckeye  
Phoenix, AZ 85009  
[joyce@saguarosteel.com](mailto:joyce@saguarosteel.com)

and

Dave Terrell  
Saguaro Steel  
3547 W. Lower Buckeye  
Phoenix, AZ 85009  
[dave@saguarosteel.com](mailto:dave@saguarosteel.com)

with a copy to:           David Brnilovich  
The Cavanagh Law Firm P.A.  
13250 N. Del Webb Blvd. #B  
Sun City, Arizona 85351  
[dbrnilovich@cavanaghlaw.com](mailto:dbrnilovich@cavanaghlaw.com)

16. Broker Commissions.

a. Buyer has retained John Crow as its Broker for this transaction. To the extent such Broker is entitled to be paid a finder's fee, cooperation fee, commission or other brokerage-type fee or similar compensation in connection with this Agreement and the transactions contemplated hereby (whether sale or loan), Buyer and Seller shall each pay one-half (1/2) of any such fee or compensation.

b. The parties further acknowledge and understand that John Crow is a member of the City of Glendale's Planning Commission. To the extent such membership creates any actual or perceived conflict of interest, Buyer will require Mr. Crow to recuse himself from participating in any legal action or making any recommendation related to this Property in his capacity as an appointed City official.

17. Survival. Except as expressly set forth in this Agreement, no representations, warranties, covenants, agreements, undertakings, and other obligations of Seller set forth herein shall survive the closing of the transactions contemplated hereby or the execution and delivery of the documents contemplated hereunder, and such shall be merged therein, and no action based thereon shall be commenced after the Closing of this transaction. The delivery of the Deed by Seller, and the acceptance thereof by Buyer, shall be deemed the full performance and discharge of every obligation on the part of Seller to be performed hereunder, except those obligations of Seller which are expressly stated in this Agreement to survive the Closing of this transaction.

18. Exhibits. This Agreement, including Exhibits A (Legal Description of the Property), Exhibit B (Special Warranty Deed), and Exhibit C (Conveyance of Easement), which are incorporated herein by this reference, constitutes the entire agreement between the parties pertaining to the subject matter contained herein. Each party also agrees in good faith to execute such further or additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

19. Time Periods. Except as expressly provided for herein, the time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 p.m. (Phoenix time) on the last day of the applicable time period provided herein. If the time for the performance of any obligation or taking any action under this Agreement expires on a Saturday, Sunday or legal holiday, the time for performance or taking such action shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday. "Day" as used in this Agreement shall mean calendar day, unless otherwise noted.

20. Amendment. This Agreement constitutes the entire agreement of the parties and supersedes any negotiations, discussions, undertakings, correspondence or informal agreements of the parties. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are superseded by and merged in this Agreement. No supplement, modification, or amendment of this Agreement shall be binding unless in writing and executed by TERRELL and Glendale and are not effective until approved by the City Council, if necessary.

21. Interpretation. Both parties have been represented by counsel in negotiating and approving this Agreement. This Agreement shall be interpreted, applied and enforced according to the fair meaning of its terms and shall not be construed in favor of, or against, either party, regardless of which party may have drafted or proposed any of its provisions or terms.

22. Covenants Running with the Land. The obligations and benefits set forth in this Agreement shall run with the land and shall be binding upon the successors and assigns of the parties hereto.

23. Originals. This Agreement is executed in triplicate and each executed copy shall be considered an original.

**TERRELL REAL ESTATE, LLC**  
An Arizona limited liability company

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By: JOYCE TERRELL  
Its: Manager, Joyce A. Terrell  
Trustee of the Joyce A. Terrell  
Revocable Living Trust dated September 7, 2004

**CITY OF GLENDALE,**  
an Arizona municipal corporation

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By: Kevin R. Phelps  
Its: City Manager

**ATTEST:**

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Julie K. Bower  
City Clerk

**APPROVED AS TO FORM:**

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Michael D. Bailey  
City Attorney