

**PURCHASE AND SALE AGREEMENT**

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made as of the last date on which this Agreement has been signed and delivered by both parties (the “**Effective Date**”), between THE CITY OF ENID, OKLAHOMA a municipal corporation (herein “**Seller**”), whose notice address is 401 W. Owen K. Garriott Rd., Enid, Oklahoma 73703; and KYLE WILLIAMS, or his assignee (herein “**Buyer**”), whose notice address is P.O. Box 1112, Enid Oklahoma 73702.

**R E C I T A L S :**

- A. Buyer desires to purchase from Seller the following:
- (1) all right, title and interest of Seller in and to that certain real property located at the southeast corner of the intersection of Cleveland Street and Owen K. Garriott Road, in the City of Enid, Garfield County, Oklahoma, consisting of approximately twenty (20) acres and providing no less than 800 feet of frontage along Owen K. Garriott and 1,085 feet of frontage along Cleveland, as more particularly described on **Exhibit “A”** attached as a part hereof (the “**Land**”). The Land is depicted on the Development Plan dated February 13, 2019 attached as **Exhibit “A-1”** hereto (the “**Development Plan**”);
  - (2) all right, title and interest of Seller in and to all streets, alleys, easements and rights-of-way in, on, across, in front of, abutting or adjoining the Land and any other appurtenances belonging thereto, (collectively, the “**Appurtenances**”) but excepting (i) those Appurtenances abutting, adjoining or belonging to or serving the Residence (defined below) unless the Buyer has timely acquired the Residence and (ii) Owen K. Garriott Road and Cleveland Street;
  - (3) all right, title and interest of Seller in and to all buildings located on the Land (the “**Buildings**”), together with any and all other fixtures, structures, sidewalks, utility lines, parking areas, access ways, and other improvements located on the Land, and together with all machinery and mechanical, electrical, HVAC, plumbing and other systems owned by Seller and which serve any of the foregoing (the Buildings and other property described in this **Recital A(3)** being hereinafter collectively called the “**Improvements**”);

The Land, Appurtenances, Buildings and Improvements are hereinafter collectively called the “**Property**.”

B. Seller is the owner of a portion of the Property and is willing to acquire the entirety of the Property and sell and convey the Property to Buyer on the terms and conditions hereinafter set forth.

C. The purchase and sale transaction contemplated by this Agreement will be called the "**Transaction**."

## A G R E E M E N T S :

NOW, THEREFORE, in consideration of the covenants contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

1. **Sale Agreement**. Seller hereby agrees to sell the Property to Buyer and Buyer hereby agrees to purchase the Property from Seller, subject to the terms and conditions of this Agreement.

2. **Purchase Price**. The total cash purchase price for the Property will be ONE MILLION THREE HUNDRED FIFTY THOUSAND DOLLARS (\$1,350,000.00) (the "**Purchase Price**"). The Purchase Price will be payable as follows:

2.1 **Earnest Money Deposit**. Promptly after the Effective Date and as a condition precedent to the formation of this Agreement, Buyer shall deposit the sum of Twenty-Five Thousand Dollars (\$25,000) (the "**Earnest Money Deposit**" which term will be deemed to include all interest earned on said amount) with Humphreys Abstract Company (the "**Title Agent**"), whose address is 217 W. Broadway Ave., Enid, Oklahoma 73703. The Earnest Money Deposit shall be invested by the Title Agent in an interest-bearing escrow account in a federally insured financial institution. The Earnest Money Deposit shall be applied against the Purchase Price at the Closing, as hereinafter defined.

2.2 **Purchase Price at Closing**. Buyer shall pay to Seller the remaining balance of the Purchase Price after application of the Earnest Money Deposit and plus or minus prorations and adjustments as provided in this Agreement, at the Closing in immediately available funds by wire transfer.

2.3 **In Kind Performance**. In addition to the Purchase Price, the Buyer is obligated after Closing to perform the pre-development work described at Section 6.2.1 of this Agreement, which the Seller reasonably estimates to be valued on a cost-basis in excess of TWO MILLION FORTY-EIGHT THOUSAND DOLLARS (\$2,048,000.00).

3. **Conditions Precedent to Closing**. The following shall constitute conditions precedent to Buyer's obligation to purchase the Property, and Buyer shall be satisfied within the time periods stated unless waived or deferred in writing by Buyer.

3.1 **Assembly**. Not later than sixty (60) days after the Effective Date, the Seller shall have acquired ownership in fee simple title to the entirety of the Property, excepting only the portion of the Property consisting of the residence having the street address of 2305 E. Court, Enid, Oklahoma (the "**Residence**"). The date when the Seller has fully satisfied this condition precedent shall be the "**Assembly Date**".

3.2 Re-Platting. The Seller, at Seller's expense and to Buyer's satisfaction, within one hundred eighty (180) days after the Assembly Date shall cause (1) the existing plat and all rights of way, public ways, streets and roads, public and private easements, covenants and restrictions, and set back requirements covering, within, or affecting the Property to be permanently closed and vacated, (2) the Property to be replatted and re-zoned consistent with and to permit the C-3 uses contemplated by the Development Plan and this Agreement and (3) easements, covenants and restrictions running with the land, in form and substance acceptable to and approved by the Buyer in writing and consistent with the Development Plan, to be imposed and recorded providing for (a) ingress, egress, and access as shown on the Development Plan, (b) utility and maintenance rights of way and easements consistent with the Development Plan, (c) the future owner(s) of the Property to share expenses of maintaining and repairing common areas, drives and landscaping on the Property, on a pro rata basis according to square footage under ownership and (d) Buyer retaining all decision rights concerning maintaining and repairing common areas, drives, landscaping and similar. To satisfy this condition precedent, Seller (i) need not close or vacate any public way, alley or utility easement that provides access to or means of supplying utilities to the Residence but (ii) shall be responsible for, among other things, (1) commencing and completing all necessary judicial actions, providing notices as required by law and obtaining final, non-appealable judicial orders; (2) obtaining all necessary governmental approvals and authorizations including without limitation approvals from the city engineer, design review board and applicable zoning commission and ordinances and resolutions from the Enid City Council and (3) filing and recording necessary items with the City of Enid and county authorities. The date when the Seller has fully satisfied this condition precedent shall be the "**Re-Plat Date**".

3.3 Title.

3.3.1 Title Commitment. Not later than twenty (20) days after the Re-Plat Date, Seller will cause the Title Agent to deliver to Buyer and Seller a commitment (the "**Title Commitment**") for an ALTA owner's policy of title insurance to be issued by the Title Agent, as agent for a title insurance company selected by the Buyer (the "**Title Insurer**"), covering the Property, including the dominant estate in any Appurtenances, and naming Buyer as the insured, stating the Purchase Price as the policy amount (the "**Title Policy**"), together with such endorsements as may be required by Buyer. Seller shall also request the Title Agent to deliver to Buyer and Seller concurrently with the Title Commitment copies of all recorded documents that are the basis of a requirement or proposed exception to coverage in the Title Commitment.

3.3.2 Survey. Not later than thirty (30) days after the Re-Plat Date, Seller shall deliver to Buyer a Survey of the Land certified to Buyer and meeting the current ALTA/NSPS standards (the "**Survey**"). The Survey shall be dated after the Effective Date and be certified to the Buyer and any lender the Buyer designates and shall be obtained at Seller's sole expense.

3.3.3 Review. Notwithstanding any expiration of the Due Diligence Period (defined below), Buyer shall have until ten (10) days after the delivery of the items

required in Sections 3.3.1 and 3.3.2, to notify Seller in writing of any objections Buyer has to any matters appearing or referred to in the Title Commitment or Survey. Any exceptions or other matters in the Title Commitment or Survey to which Buyer does not object in writing shall be deemed to be permitted exceptions to Seller's title (the "**Permitted Exceptions**"). Any condition of title with respect to the Residence shall be a Permitted Exception. With regard to items to which Buyer does so object, Seller shall have until Closing within which to cure such objections. Notwithstanding the foregoing, Seller shall be obligated to discharge all monetary encumbrances against the Property excepting monetary encumbrances on the Residence. If Seller is unable or unwilling to cure such objections (other than monetary encumbrances as required above), Seller shall so notify Buyer in writing no later than ten (10) days after Seller's receipt of Buyer's objections. If Seller does not notify Buyer of Seller's inability or unwillingness to cure Buyer's objections within such ten-day period, Seller shall be deemed to have elected to cure such objections. If Seller declines to cure Buyer's objections or if Seller elects to cure such objections and fails to do so, Buyer, at its option, and as its exclusive remedy, may (a) waive its objections and purchase the Property without reduction of the Purchase Price, or (b) terminate this Agreement in which case Buyer will be entitled to promptly receive a return of the entire amount of the Earnest Money Deposit along with interest accrued thereon, less Title Agent's reasonable charges not to exceed \$1,000.00. If Buyer so terminates this Agreement, then notwithstanding anything herein to the contrary, the Buyer and Seller agree that the Earnest Money Deposit shall be promptly refunded to Buyer and that the Due Diligence Information, as hereinafter defined, shall be returned to Seller, and neither party shall have any further obligations hereunder, except as otherwise specifically provided in this Agreement.

#### 3.4 Due Diligence.

3.4.1 Due Diligence Information. Not later than ten (10) days after the Assembly Date (the "**Delivery Deadline**"), Seller shall deliver to Buyer, at Seller's expense, all such other information and documentation as Buyer may reasonably request in writing and as may be reasonably available to Seller concerning the Property, its construction, repair, maintenance, use and operation (herein "**Due Diligence Information**").

Buyer acknowledges that the Due Diligence Information is confidential and shall not be distributed or disclosed by Buyer to any person or entity not associated with Buyer. If the Transaction fails to close for any reason whatsoever, Buyer shall return to Seller all Due Diligence Information which is in written form which Seller has delivered to Buyer.

3.4.2 Property Inspection; Due Diligence. As used herein the term "**Due Diligence Period**" will mean the period beginning on the Delivery Deadline and continuing for ninety days (90) days thereafter, exclusive of the day constituting the Delivery Deadline, provided that such Due Diligence Period will be extended by the number of days after the Delivery Deadline that it takes Seller to provide all of the Due Diligence Information to Buyer, if any. The Due Diligence Period will also be extended by the number of days after the Delivery Deadline required to satisfy the conditions precedent described in Section 3.4.1. After the Effective Date, Buyer and Buyer's authorized agents and representatives will be entitled to review the Due Diligence Information and enter the Property at all reasonable times to conduct

appraisals, inspections, tests, reviews, studies and other investigations as Buyer deems necessary, including but not limited to tests and studies to determine, among other things, the presence of asbestos, radon, lead paint or other hazardous waste or substances, and the general state of the Property. Buyer shall be responsible for any and all costs associated with such inspections and studies. Buyer shall make such inspections of the Property, market conditions, applicability of laws, ordinances, regulations, and any other matters pertaining to the Property and the Transaction as Buyer deems necessary. Buyer shall have the right to terminate this Agreement for any reason whatsoever including without limitation because of environmental, economic or title conditions, or for no reason at all by giving Seller and the Title Agent written notice of such election on or before the date that is one (1) business day after the end of the Due Diligence Period. After such termination, (a) neither party shall have any further rights or obligations hereunder and (b) Title Agent will return the Earnest Money Deposit to Buyer, along with interest accrued thereon, less Title Agent's reasonable charges not to exceed \$1,000.00.

3.5 Sale of Restaurant Tract. Buyer's and Seller's obligations to close will be conditioned on Buyer closing a sale to a third party, for a net sales price paid to Buyer of not less than \$700,000 in cash, that approximately two (2.00) acre portion of the Property identified on the Development Plan as including the "Restaurant" and more particularly described on Exhibit "B" hereto (the "**Restaurant Tract**") which sale shall close simultaneously with Buyer's closing on his acquisition of the Property. The third party purchaser shall be contractually obligated to the City of Enid to construct on the Restaurant Tract a steakhouse restaurant (or other on-premises dining restaurant of similar quality) and associated parking improvements and commence operations within twenty-four (24) months after Closing. Buyer shall have no obligation to enforce the third party purchaser's construction or operating obligations.

3.6 Signage. With respect to the billboard on the Property which is covered by a lease in favor of Fairway, Seller will use reasonable efforts before Closing to purchase the lease or obtain an unconditional release of the lease and, at closing, Seller will transfer rights to Buyer the billboard lease (or transfer the Property free and clear of such lease) and Buyer will reimburse Seller for its actual out-of-pocket expenses incurred to acquire or obtain a release of the billboard lease not to exceed \$40,000.00, plus a two percent (2%) as a fee. Additionally, the Seller agrees that after Closing and continuing for five (5) years, Buyer shall have the right to remove the existing billboard and erect a new billboard of the same size or smaller anywhere on the Property, subject to set back requirements, which, at Buyer's option, may be a digital billboard. As a condition precedent to Closing, Seller will provide Buyer such written assurances, permits and authorizations as Buyer may reasonably require concerning Buyer's rights to remove the existing billboard and erect and maintain a new billboard.

#### 4. Representations, Warranties, and Covenants of the Parties.

4.1 Seller's Representations, Warranties and Covenants. Seller represents, warrants, and covenants to Buyer as set forth below:

4.1.1 Authority. Seller has full power and authority to execute and deliver this Agreement and carry out its obligations hereunder.

4.1.2 Title. Before Closing, Seller will be the sole owner of the marketable fee simple title to the Property, excepting only the Residence.

4.1.3 Consents. No consent, approval, or authorization from any governmental authority or other third party is required to be obtained by Seller in connection with the execution, delivery, and performance by Seller of this Agreement.

4.1.4 Notices of Violation of Laws. Seller has not received a written notice or written report from any governmental authority alleging that the Property, or the use or operation thereof, is not in compliance with any applicable municipal or other governmental laws, ordinances, regulations, codes, licenses, permits, or authorizations.

4.1.5 Litigation. There are no pending, or to the best of Seller's knowledge, threatened, judicial, municipal or administrative proceedings (including bankruptcy proceedings) affecting the Property or in which Seller is or will be a party by reason of Seller's ownership or operation of the Property or any portion thereof that are not fully covered by insurance maintained by Seller or a third party, including without limitation any litigation challenging or seeking to overturn or avoid the closing or vacating of plats, easements, covenants, restrictions, rights of way or public ways on the Property.

4.1.6 Condemnation. There are no condemnation proceedings or offers relating to a conveyance in lieu of condemnation or similar proceedings pending, or to the knowledge of Seller, threatened, with respect to the Property.

4.1.7 Effect of Agreement. Neither the execution of this Agreement nor the consummation of the Transaction contemplated hereby will (a) result in a breach of, default under, or acceleration of, any agreement to which Seller is a party or by which Seller or the Property is bound; or (b) violate any restriction, court order, agreement or other legal obligation to which Seller and/or the Property is subject.

4.1.8 Due Diligence Information. To the best of Seller's knowledge, all Due Diligence Information that has been or will be furnished by Seller is or will be true, complete and accurate in all material respects on the date(s) of delivery thereof.

4.1.9 Hazardous Substances. For purposes of this Agreement, "Hazardous Substances" shall mean and include any solid, liquid, gaseous or thermal irritant or contaminant, such as smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste, petroleum products, asbestos, radon or lead paint (including materials to be recycled, reconditioned or reclaimed) and any pollution or other toxic or hazardous substances as defined or listed under any of the following:

Any applicable federal, state, or local statutes, laws, ordinances, codes, rules, regulations, orders, or decrees including, without limitation, the Federal Comprehensive Environmental Response, Compensation and

Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq., the Federal Hazardous Materials Transportation Act, the Federal Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq., the Federal Toxic Substances Control Act, as amended, 15 U.S.C. § 2601 et seq., the Federal Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq., the National Environmental Policy Act, as amended, 42 U.S.C. §§ 4321 et seq., the Rivers and Harbors Act of 1899, as amended, 33 U.S.C. §§ 401 et seq., or any rules and regulations of the EPA, the applicable state statutes or regulations of the State of Oklahoma that relate to protection of the environment, any other Oklahoma state statutes or regulations that relate to the protection of the environment, any municipal ordinances, rules or regulations or any statutes or regulations of any other agency or governmental authority or entity having jurisdiction over the Project that relate to protection of the environment (collectively the “**Environmental Laws**”).

Seller warrants, represents and agrees that:

- (a) No Hazardous Substances have been discharged, disbursed, released, stored, treated, generated, disposed of, or allowed to escape (collectively referred to as the “**incident**”) on or about the Property in violation of Environmental Laws.
- (b) No investigation, administrative order, consent order and agreement, litigation or settlement with respect to Hazardous Substances is proposed, or to Seller’s knowledge, threatened, anticipated or in existence with respect to the Property.

4.1.10 Stand Still. From the Effective Date until the earlier of (a) the termination of this Agreement, or (b) the failure of the parties to close the transaction contemplated by this Agreement on the Closing Date, Seller will not allow any inspections of the Property by a potential purchaser, initiate or carry on negotiations for the sale of the Property or any portion thereof, or enter into a contract to sell the Property or any portion thereof.

4.2 Representations, Warranties and Covenants of Buyer. Buyer represents, warrants, and covenants to Seller that:

4.2.1 Authority. Buyer has full power and authority to execute and deliver this Agreement and carry out its obligations hereunder.

4.2.2 Consents. No consent, approval, or authorization from any governmental authority or third party is required to be obtained by Buyer in connection with the execution, delivery, and performance by Buyer of this Agreement.

4.2.3 Effect of Agreement. Neither the execution of this Agreement nor consummation of the transactions contemplated hereby will (a) result in a breach of, default under or acceleration of any agreement to which Buyer is a party or by which Buyer is bound, or (b) violate any restriction, court order, agreement or other legal obligation to which Buyer is subject.

5. Closing. The consummation of the Transaction (the "Closing") shall be accomplished as set forth below.

5.1 Closing Place and Date. The Closing shall take place at the offices of the Title Agent at a time and on a date acceptable to Buyer and Seller which is not later than the later of (1) 180 days after the Assembly Date and (2) sixty (60) days after the Re-Plat Date, unless extended in writing by the parties (the "Closing Date").

5.2 Seller's Deliveries. At the Closing Seller shall deliver or cause to be delivered to Buyer and/or the Title Agent, as applicable, the following, each fully executed, attested, sworn to and acknowledged (where appropriate):

5.2.1 General Warranty Deed. A General Warranty Deed in form and substance satisfactory to the parties (the "Deed") conveying to Buyer the Property, subject only to the Permitted Exceptions.

5.2.2 Re-Plat and Restrictive Covenants. The recorded re-plat of the Property and new restrictive covenants, executed, certified and bearing approvals as necessary for valid and effective recording and implementation.

5.2.3 Assignment of Billboard Lease. An assignment of the lease for the billboard on the Property, if obtained from the current lessee.

5.2.4 FIRPTA Affidavit. An affidavit in form and substance satisfactory to Buyer stating that Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and implementing regulations.

5.2.5 Proof of Authority. Such evidence as to the authority of Seller to enter into this Agreement and to discharge the obligations of Seller pursuant hereto as Buyer or the Title Agent shall reasonably require.

5.2.6 Due Diligence Information. Seller shall deliver to Buyer originals of all Due Diligence Information in Seller's possession.

5.2.7 Marked Title Commitment. An original of the Title Commitment, marked and executed by the Title Agent on behalf of the Title Insurer, unconditionally obligating the Title Insurer to deliver to Buyer the Title Policy insuring Buyer as the owner of the



marketable fee simple title to the Property and the holder of the dominant estate in and to the Appurtenances, subject only to the Permitted Exceptions.

5.2.8 Proration Amounts. Such payments to Buyer (or credits against the Purchase Price) as may be required to effect the prorations required by this Agreement.

5.2.9 Additional Documents. Such additional documents, including lien and possession affidavits, as may be reasonably requested by Buyer or the Title Agent to consummate the Transaction.

5.3 Buyer's Deliveries. At the Closing, Buyer shall deliver or cause to be delivered to Seller the following, each fully executed, attested, sealed, sworn to and acknowledged (where appropriate):

5.3.1 Purchase Price. The Purchase Price, subject to adjustments and prorations as provided in this Agreement, in immediately available United States funds.

5.3.2 Proof of Authority. Such evidence as to the authority of Buyer to enter into this Agreement and to discharge the obligations of Buyer pursuant hereto as Seller or the Title Agent shall reasonably require.

5.3.3 Additional Documents. Such additional documents as may be reasonably requested by Seller or the Title Agent to consummate the Transaction.

5.4 Possession. Possession of the Property will be given to Buyer on the Closing Date, free from any claims of any persons asserting a right to possession or an interest in the Property, excepting only possession of the Residence.

5.5 Prorations. The income and expenses of the Property will be prorated as of the Closing Date and the Purchase Price will be adjusted on the following basis:

5.5.1 Taxes, Operating Expenses, Utilities. All personal property and real estate taxes, charges and assessments affecting the Property ("**Taxes**") shall be prorated on a per diem basis as of the Closing Date. If any Taxes have not been finally assessed as of the Closing date for the current fiscal year of the taxing authority, then the same shall be adjusted at Closing based upon the most recently issued bills therefor, and shall be re-adjusted when final bills are issued after the Closing Date. Sewer, water, electric, gas, telephone, cable, and all other utility and fuel charges, shall be handled to the extent possible by meter readings on or prior to the Closing Date, with a final bill to the Seller. The Seller and the Buyer shall make necessary arrangements for discontinuance and commencement of all utility services as of the Closing Date. All unapplied utility deposits of the Seller shall be returned to the Seller. If any other operating expenses cannot conclusively be determined as of the Closing Date, then the same shall be prorated at Closing based upon the most recently issued bills therefor, and shall be re-adjusted as soon as practicable after the Closing Date. Payments in connection with the final adjustments shall be due within fifteen (15) days after receipt of written notice.

5.5.2 Method of Proration; Post-Closing Adjustments. If the apportionments provided for in this Agreement result in a credit balance to the Buyer, such sum shall be applied against the Purchase Price at the Closing. In the event the apportionments result in a credit balance to the Seller, such credit balance shall be added to the Purchase Price payable at Closing. For purposes of computing all prorations required under this Agreement, the Closing Date shall be included within the period of the Buyer's ownership. To the extent any prorations required by this Agreement cannot be adjusted as of the Closing Date because they are not fully or finally ascertainable, they shall be prorated and adjusted at the Closing to the extent reasonably possible and based upon the most recent information with respect to the item to be prorated. Any final prorations and adjustments will be made as soon after the Closing Date as the undetermined amounts are ascertained. The provisions of the foregoing sentence shall survive the Closing.

5.6 Transaction Costs. The costs associated with the Transaction shall be paid as follows:

5.6.1 Seller's Costs. Seller shall pay the following costs of the transaction: (a) the cost to cure any title objections Seller elects or is required to cure, (b) the premium for the owner's title insurance policy and fees for the title insurance commitment, (c) all fees associated with the survey of the Property, (d) one-half of the Title Agent's escrow closing fee, (e) all transfer taxes, documentary stamp taxes, recording fees and similar costs or fees, (f) Seller's attorneys' fees and expenses and (g) any other costs of Seller specified elsewhere in this Agreement.

5.6.2 Buyer's Costs. Buyer shall pay the following costs of the Transaction: (a) the cost of all of Buyer's inspections, evaluations, approvals, and other due diligence investigations, (b) the premiums of any lender's title insurance policies, (c) one-half of the Title Agent's escrow closing fee, (d) any fees attributable to any financing of Buyer (including any mortgage tax), (e) Buyer's attorneys' fees and expenses and (g) any other costs of Buyer specified elsewhere in this Agreement. In addition to the foregoing, Buyer will pay the entire cost of any title insurance endorsements required by the Buyer.

5.6.3 Other Costs. Any costs of the Transaction or Closing not specifically allocated above or elsewhere in this Agreement shall be shared equally by Buyer and Seller.

5.6.4 Costs in the Event of a Termination. If Buyer terminates the transaction pursuant to its rights hereunder, the parties shall bear the costs incurred to the date of the termination as provided above.

## 6. Post-Closing Obligations.

6.1 Seller's Post-Closing Obligations. The Seller, after Closing, shall construct at Seller's expense medians on Cleveland Street and Garriott Road of design similar to existing medians, with construction to be completed not later than six (6) months after Closing, allowing for reasonable extensions of time because of delays caused by events of force majeure; provided, however, Seller shall not construct any median that restricts vehicular left-turn access

to either entrance to the Property from west-bound traffic on Garriott Road. At Seller's written request, Buyer will provide an estimate of the expense for Buyer to construct the medians.

6.2 Buyer's Post-Closing Obligations.

6.2.1 Buyer, after Closing, at Buyer's expense shall (1) clear the Property of existing structures, streets, drives and trees, including demolition of existing improvements, to prepare the Property for re-development, (2) construct driveways of approximately 33 feet in width entering the Property on the north and west sides as shown on the Development Plan which shall be made available for access to the employees, patrons and guests of any business which may operate on the Property, (3) construct a new water line as shown on the Development Plan and (4) construct a new sewer line as shown on the Development Plan. Purchaser shall have no obligation to construct, cause or pay for the construction of any other improvement shown on the Development Plan including without limitation any building, infrastructure, grading, landscaping, street, drive or parking area except as expressly described immediately above with respect to preparing the Property for re-development. Buyer shall satisfy his post-Closing obligations set forth in this Section 6.2.1 of the Agreement within one (1) year after Closing, allowing for reasonable extensions of time because of delays caused by events of force majeure

6.2.2 If the Seller delivers a written request to Buyer within thirty-six (36) months after Closing, Buyer shall donate to Seller that approximately 7.40 acre parcel in the southeast corner of the Property identified on the Development Plan as including the "Cinema" as more particularly described on Exhibit "C" hereto (the "**Cinema Tract**"), together with all improvements thereon including those improvements made after Closing, if any; provided, however, (1) the donation will be for a public purpose which may include economic development, (2) the donation will be accomplished by quitclaim deed free from any expense to the Seller and free of liens, claims and encumbrances made by, through or under Buyer, but without representation or warranty of any kind, (3) the Cinema Tract shall remain subject to the new plat, easements, covenants and restrictions imposed in satisfaction of Section 3.2 of this Agreement, and (4) the donation shall occur at a time of Buyer's choosing but not later than ninety (90) days after the Seller's written request is delivered to Buyer.

7. Drainage, Storm Water & Utilities. Buyer shall not be obligated for (1) downstream or off-site storm water improvements that may be desirable, necessary or required by virtue of the development, clearing or construction of improvements on the Property, excepting Buyer's construction of a convenience store on the northwest corner of the Property and (2) charges from utilities (OG&E, ONG, AT&T and Suddenlink) in connection with the development of the Property including without limitation expenses associated with extending or re-locating lines, cable and similar.

8. Brokerage Commissions. Buyer hereby represents and warrants to Seller that Buyer has not incurred, and shall not have incurred as of the Closing Date, any liability for the payment of any brokerage fee or commission in connection with the transaction contemplated in this Agreement. Seller hereby represents and warrants to Buyer that Seller has not incurred, and

shall not have incurred as of the Closing Date, any liability for the payment of any brokerage fee or commission in connection with the transaction contemplated in this Agreement.

9. Risk of Loss. Through and including the Closing Date, risk of loss to the Property, ordinary wear and tear excepted, will be on the Seller. After the Closing Date, risk of loss to the Property will be on the Buyer.

10. Default. If Seller defaults under this Agreement, or if Seller wrongfully refuses to close the sale of the Property under the terms of this Agreement, Buyer shall be entitled to receive the Earnest Money from the Title Agent and to exercise all remedies available under Oklahoma law, at law or in equity, including, without limitation, the right to seek specific performance and injunctive relief (prohibitive or mandatory). If Buyer defaults hereunder or if Buyer wrongfully refuses to close the purchase of the Property under the terms of this Agreement, Seller shall be entitled, as its sole remedy, to direct the Title Agent to pay the Earnest Money Deposit to Seller, which Seller shall be entitled to retain in full satisfaction of any liability of Buyer hereunder.

11. Miscellaneous. It is further understood and agreed as follows:

11.1 Liabilities. Buyer shall not, by the execution or performance of this Agreement or any instrument or agreement pursuant hereto, assume, become responsible for or incur any liability or obligation, of any nature, of Seller.

11.2 Survival. The portions of this Agreement which expressly impose obligations and duties upon the parties after Closing, including without limitation, Sections 3.6, 6.1, 6.2 and 7 of this Agreement shall survive Closing and shall remain binding upon the parties after the Closing without any further act, notice, approval or other matter whatsoever.

11.3 Severability. If any provision of this Agreement shall be held to be void or unenforceable for any reason, the remaining terms and provisions hereof shall not be affected thereby.

11.4 Time. Time is of the essence of each of the provisions of this Agreement.

11.5 Binding Effect; Assignment. The provisions of this Agreement shall inure to the benefit of and bind the legal representatives, successors, and assigns of the parties hereto, and the Buyer will be entitled to assign this Agreement to an entity controlled by or under common control with Buyer.

11.6 Section Headings; Construction. Section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation hereof. As used herein, the plural shall include the singular and vice versa and the neuter shall include the masculine and the feminine, and vice versa, as applicable. Seller and Buyer acknowledge and stipulate that they and their respective legal counsel have reviewed and revised the form of this Agreement prior to its execution. The parties agree that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party) or party creating the ambiguity shall not be employed in the interpretation of this Agreement.

11.7 Amendment and Waiver. This Agreement may be amended at any time in all respects, but only by an instrument in writing executed by Seller and Buyer. A copy of any such amendment shall be sent to the Title Agent. Either Buyer or Seller may waive any requirement to be performed by the other, provided that said waiver shall be in writing and executed by the party waiving the requirement.

11.8 Integrated Agreement. This Agreement, together with the Exhibit(s) hereto, constitutes the entire agreement between Buyer and Seller relating to the sale and purchase of the Property, and there are no agreements, understandings, restrictions, warranties or representations with respect to the Property between Buyer and Seller other than those set forth herein and in the documents executed pursuant hereto.

11.9 Choice of Law. It is the intention of Seller and Buyer that the laws of Oklahoma shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and obligations of Buyer and Seller hereunder.

11.10 Execution; Counterparts. This Agreement shall not be deemed fully executed and binding on the parties unless and until Buyer and Seller have each executed this Agreement or separate counterparts and delivered a copy of its signed counterpart to the other party. When exchanged as provided herein, facsimile signatures of the parties on counterparts of this Agreement will be binding as if such signatures were originals. The Title Agent's execution of this Agreement shall not be required for full execution of this Agreement but shall merely evidence the Title Agent's acceptance of its obligations hereunder.

11.11 Signer is Authorized. Each individual (a "Signer") who has executed this Agreement in a representative capacity on behalf of a party hereto (the "Executing Party") warrants to the other party that this Agreement has been duly authorized, executed and delivered by the Signer on behalf of the Executing Party. Each Signer agrees to indemnify and hold the other party harmless from and against any loss, damage, cost or expense incurred by the other party in the event the foregoing representation by the Signer is incorrect.

11.12 Title Agent. Buyer and Seller agree that the Title Agent shall not incur any liability to Buyer or Seller, nor shall the Title Agent incur any expense or suffer any damage for any act or omission of the Title Agent so long as the Title Agent has acted, or refrained from acting, in good faith in carrying out its responsibilities under this Agreement. In the event of any ambiguity in the Title Agent's obligations hereunder (as determined in the good faith judgment of the Title Agent) or in the event of any disagreement or controversy arising out of this Agreement from any cause, the Title Agent, at its option, may hold the Earnest Money Deposit until the ambiguity, disagreement, or controversy has been settled to the Title Agent's satisfaction or may interplead the Earnest Money Deposit into court.

IN WITNESS WHEREOF, the parties have executed this Agreement on the separate signature pages attached as a part hereof.

[The remainder of this page is intentionally blank.]

SIGNATURE PAGE TO PURCHASE AND SALE AGREEMENT

**THE CITY OF ENID, OKLAHOMA an  
Oklahoma municipal corporation**

By: William E. Shewey  
Bill Shewey, Mayor

[seal]

Alinak Jack  
CITY CLERK

(the "**Seller**")

Date of Seller's execution: Feb 21<sup>st</sup>, 2019

[Signature]  
**KYLE WILLIAMS**

(the "Buyer")

Date of Buyer's execution: Feb 21<sup>st</sup>, 2019

**RECEIPT AND AGREEMENT BY TITLE AGENT**

The Title Agent hereby acknowledges receipt of the Earnest Money Deposit and agrees to hold and apply the same in accordance with the terms of the foregoing Agreement.

"Title Agent": \_\_\_\_\_

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

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

Title: \_\_\_\_\_

**EXHIBIT "A"**

**The Land**

[Legal Description to be supplied by title company.]

**EXHIBIT "A-1"**

**The Development Plan**



**EXHIBIT "B"**

**Restaurant Tract**

[Legal Description to be supplied by title company.]

**EXHIBIT "C"**

**Cinema Tract**

[Legal Description to be supplied by title company.]