

CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

October 21, 2024

TO: Dan Lewis, President, City Council

FROM: Timothy M. Keller, Mayor

SUBJECT: Lease Agreement between Townsite QO21 and the City for property located at 501 Tijeras NW

The General Services Department would like to enter into a Lease Agreement with Townsite QO21 for the property located at 501 Tijeras NW. The property consists of 29,475 square feet of space and is located in the Downtown area. The proposed lease is to provide additional office space for City Departments and is in close proximity to additional City offices and services. The initial term of the lease is for 2 years and the City will have the option to purchase the property after the 2-year term of the lease.

The proposed annual cost for the initial 2-year term of the lease is \$842,496.00 with the option to extend for 3 consecutive periods and each period shall be for 1 year. The option to extend will be subject to a three percent (3%) annual escalation.

The General Services Department will also have the option to purchase the property after the initial 2-year lease term or during the renewal term. The City will receive a \$150,000 lease credit to be applied to the purchase price. The final purchase price will be \$3,000,000.00.

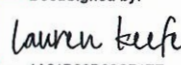
This Lease Agreement is forwarded to City Council for approval.

TITLE/SUBJECT OF LITIGATION: Lease Agreement between Townsite QO21 and the
the City for property located at 501 Tijeras NW

Approved:


Approved as to Legal Form:

 10/28/24
Samantha Sengel, EdD Date
Chief Administrative Officer

DocuSigned by:
 10/28/2024 | 2:55 PM MDT
1A21D96D32C74EE...
Lauren Keefe Date
City Attorney

DS
BR

Recommended:

DocuSigned by:
 10/28/2024 | 2:24 PM MDT
FAFFE6F4576C4G5...
Nathan Martinez, Director Date
General Services Department

Cover Analysis

1. What is it?

Lease agreement between the Townsite AO21LLC and the City for 501 Tijeras with the option to purchase.

2. What will this piece of legislation do?

Enter into a new lease agreement for 501 Tijeras NW for General Services Department to lease office space for City Departments including space for the expanded CPOA space needs. The proposed lease agreement and the option to purchase will be between Townsite AO21LLC and the City and the City will have the option to purchase the property.

3. Why is this project needed?

The property is located in the Downtown area and located near many City offices and facilities. General Services Department wishes to lease the property to provide additional office space for City Departments.

4. How much will it cost and what is the funding source?

The proposed lease agreement will cost \$842,496.00 for the initial 2 year term of the lease. The City will have the option to purchase the property at the end of the 2-year lease term or during the renewal term. The City will receive a \$150,000.00 lease credit to be applied to the purchase price. The final purchase price will be \$3,000,000.00.

5. Is there a revenue source associated with this contract? If so, what level of income is projected?

There is no revenue source associated with this lease agreement.

6. What will happen if the project is not approved?

As City Departments continue to grow it will become more difficult to find office space located in the Downtown area near current City offices and services.

7. Is this service already provided by another entity?

No

FISCAL IMPACT ANALYSIS

TITLE: Lease Agreement - 501 Tjeras

R:
FUND: 110

O:

DEPT: Various

- ☐ No measurable fiscal impact is anticipated, i.e., no impact on fund balance over and above existing appropriations.
- ☒ (If Applicable) The estimated fiscal impact (defined as impact over and above existing appropriations) of this legislation is as follows:

	2025	Fiscal Years 2026	2027	Total
Base Salary/Wages				-
Fringe Benefits at Subtotal Personnel	-	-	-	-
Operating Expenses				-
Property	210,624	421,248	210,624	842,496
Indirect Costs	-	-	-	-
Total Expenses	\$ 210,624	\$ 421,248	\$ 210,624	\$ 842,496
[] Estimated revenues not affected				
[] Estimated revenue impact				
Revenue from program				0
Amount of Grant				
City Cash Match				
City Inkind Match				
City IDOH	-	-	-	-
Total Revenue	\$ -	\$ -	\$ -	\$ -

These estimates do not include any adjustment for inflation.
* Range if not easily quantifiable.

Number of Positions created

COMMENTS: The proposed lease agreement will total \$842,496 for the initial two-year term, with an annual cost of \$421,248, payable in monthly installments of \$35,104. The lease is set to commence on January 1, 2025, and will expire on December 31, 2027. Departments occupying the space will contribute to the lease costs based on the square footage they occupy.

COMMENTS ON NON-MONETARY IMPACTS TO COMMUNITY/CITY GOVERNMENT:

PREPARED BY:

DocuSigned by:
Elizabeth Jones 10/28/2024 | 2:06 PM MDT
FISCAL ANALYST

APPROVED:

DocuSigned by:
Nathan Hastings 10/28/2024 | 2:24 PM MDT
DIRECTOR

REVIEWED BY:

Signed by:
Stephen Morales 10/28/2024 | 2:31 PM MDT
EXECUTIVE BUDGET ANALYST

DocuSigned by:
Isabella Davis 10/28/2024 | 2:40 PM MDT
BUDGET OFFICER

Signed by:
Kevin E. Turner 10/28/2024 | 2:43 PM MDT
CITY ECONOMIST

**LEASE AGREEMENT
BETWEEN
CITY OF ALBUQUERQUE
AND
TOWNSITE QO21 LLC**

This LEASE AGREEMENT (“**Lease**”) made and entered into between the Townsite QO21 LLC, a New Mexico limited liability company (“**Landlord**”), and the City of Albuquerque, a New Mexico municipal corporation (“**City**” or “**Tenant**”) on the date as set forth. Tenant and Landlord may each be referred to herein individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, the Landlord owns that certain real estate located at 501 Tijeras NW, in Albuquerque, Bernalillo County, New Mexico 87102 (the “**Property**”) on which is situated a building with (the “**Building**”) including the Premises as hereinafter defined and as shown on **Exhibit A**; and

WHEREAS, Landlord is willing to lease to Tenant, and Tenant is able and wishes to lease the Building designated as the Premises (defined below); from Landlord, to be used by the City of Albuquerque for office space; and

WHEREAS, Landlord shall provide to Tenant an option to purchase the Property; from Landlord upon expiration of the Base Term of the lease (the “Option to Purchase”) as shown on **Exhibit B**; and

WHEREAS, the Landlord and Tenant desire to enter into this Lease and option to purchase agreement.

NOW, THEREFORE, the Landlord for and in consideration of the covenants and agreements herein contained to be kept and performed by Tenant, upon the terms and conditions herein contained, does let, lease and demise as set out below, Tenant hereby leases the Premises from Landlord, and the Parties mutually agree to the following:

I. BASIC LEASE PROVISIONS.

A. THE PREMISES.

The “**Premises**” shall mean the entire 1st and 2nd floor of the Building, consisting of **23,181** and the basement consisting of **6,294** square feet as shown on **Exhibit A**.

B. BASE TERM.

1. The “**Base Term**” shall be for two (2) years beginning on the Lease Commencement Date and ending on the Expiration Date.

2. Tenant shall have the option to extend this Lease in accordance with the terms and provisions of Section G below.

3. In the event that the Base Term of this Lease is extended pursuant to the provisions hereof, all of the terms and provisions of this Lease shall extend to and be applicable during the Renewal Term, except and to the extent as may be otherwise specifically set forth herein.

C. EFFECTIVE DATE AND OTHER KEY DATES.

This Lease will not be binding upon the Parties until it is approved by the Albuquerque City Council and signed by the City of Albuquerque Chief Administrative Officer or her authorized designee (hereinafter the “**Effective Date**”). In addition, the following critical dates shall apply to this Lease:

1. The “**Lease Commencement Date**” shall be January 1, 2025.
2. The “**Rent Commencement Date**” shall be January 1, 2025.
3. The “**Expiration Date**” shall be December 31, 2027, unless the Term is properly extended in accordance with Section G below.

D. BASE RENT.

Tenant shall pay Landlord, in advance, without notice, on the first day of each calendar month, beginning on the Rent Commencement Date, rent (“**Base Rent**”) or (“**Rent**”). Rent shall be calculated at a rate of \$16.00/square foot for the 1st and 2nd floor consisting of 23,181 square feet and \$8.00/square for the basement consisting of 6,294 square feet for an annual Base Rent of Four Hundred Twenty-One Thousand Two Hundred Forty-Eight Dollars and 00/100 Dollars (\$421,248.00), to be paid in monthly installments of Thirty-Five Thousand One Hundred Four Dollars and 00/100 Dollars (\$35,104.00).

1. The Base Rent shall be paid on the first of each month as is more specifically set forth below in the Annual Base Rent Schedule. The Base Rent shall increase annually effective on January 1, 2027 by 3% over the Base Rent paid during the previous Lease year.

2. Annual Base Rent Schedule.

Period	Annual Base Rent for 1 st & 2 nd floor @ \$16/sq ft. 23, 181 square feet	Annual Base Rent for Basement \$8.00/square foot based on 6,294 sq.ft.	Monthly Payments	Annual Base Rent
01.01.2025 thru 12.31.2025	\$370,896.00	\$50,352.00	\$35,104.00	\$421,248.00
01.01.26 thru 12.31.26	\$370,896.00	\$50,352.00	\$35,104.00	\$421,248.00

Extended Term Lease Years (if properly exercised) 3% annual

01.01.2027 thru 12.31.2027	\$16.48/Sq.Ft. 1 st & 2 nd Floor \$8.24/Sq.ft Basement	\$36,157.12	\$433,885.44
01.01.2028 thru 12.31.2028	\$16.97/Sq.Ft. 1 st & 2 nd Floor \$8.49/Sq.ft Basement	\$37,234.80	\$446,817.63
01.01.2029 thru 12.31.2029	\$17.48/Sq.Ft. 1 st & 2 nd Floor \$8.74/Sq.ft Basement	\$38,351.12	\$460,213.44

E. LANDLORD'S OBLIGATIONS.

Landlord shall provide the following hereunder:

1. Utilities including gas, electric, water, sewer, and trash collection, (“**Required Services**”).
2. Payment of all real property taxes on the Building, inclusive of the land, but excluding all special and general assessments of any kind levied upon the City’s personal property, furniture, fixtures, or equipment.

3. Any/all replacements, improvements and/or installations of all or some portion of the roof, HVAC heating and cooling systems, plumbing systems, electrical systems, elevator system (if applicable), and exterior surfaces of the Building.

4. All general extermination, fire extinguisher service, emergency lighting, backflow testing, annual fire alarm testing, and lock maintenance and repairs (other than Tenant installed cypher, locks and or other locks),

5. Landlord has provided the following tenant improvements ("Tenant Improvements"), prior to the commencement of the Lease and Tenant has approved same: (1) the carpet was replaced with Building standard carpet; (2) the interior of the Premises were painted throughout with a Building standard color approved by Tenant; and (3) the Premises were cleaned and any stained ceiling tiles were replaced; and (4) Landlord has confirmed that the utilities and mechanical equipment serving the Premises are all functioning.

F. USE OF PREMISES.

1. During the Term, the Tenant shall have the exclusive use and occupancy of the Premises. Throughout the Term, Tenant shall continuously occupy and use the Premises solely for general government offices, and for no other purpose without the prior written consent of the Landlord.

2. Tenant shall continuously (except for short term closures due to fire, casualty, condemnation, weather, Landlord approved Tenant remodeling not exceeding sixty (60) days, or other causes beyond Tenant's control ("**Permitted Closures**") use the leased Premises, subject to the terms, conditions, and limitations set forth in this Lease.

3. Tenant shall operate and maintain the Premises in a safe, sanitary and operable condition.

4. Tenant shall properly handle and dispose of all Hazardous Substances pursuant to Environmental Laws (as each is defined herein). Tenant shall take all appropriate measures necessary to prevent the release on or from the Premises of any Hazardous Substances. Neither Party shall create or bring on the Premises any Hazardous Substances or permit any third party to do so in violation of Environmental Laws. Tenant shall be responsible for all damages to the Property and/or incurred by Landlord as a result of Hazardous Substances being brought on the Property by Tenant and/or any violation of Environmental Laws during the Base Term and any extension of the Base Term pursuant to this Lease. Should Tenant become aware of the existence of any Hazardous Substance on the Premises, Tenant shall immediately notify Landlord of such Hazardous Substance.

5. Tenant shall not use, occupy or permit the Premises to be used or occupied for any unlawful purposes or for purposes not specified in this Lease.

6. Tenant shall not use, occupy or permit the Premises or any part of the Premises to be used or occupied, or do or permit anything to be done in or on the Premises in any manner which would:

- a. Cause or be likely to cause structural damage to the Premises or any part thereof, adversely affect the mechanical, electrical, plumbing or other building systems, or exceed the weight limits of any floor.
- b. Cause, permit or suffer any waste or damage, disfigurement or injury to the Premises or the fixtures or equipment thereof, other than due to normal wear and tear.
- c. Cause the cancellation of any insurance policies related to the Premises. Tenant shall reimburse Landlord for any increases in insurance premiums payable by Landlord as a result of Tenant's use of the Premises or the nature of Tenant's business. All property kept, stored or maintained by Tenant within the Premises shall be there at Tenant's sole risk, and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by the leakage or bursting of water pipes, steam pipes, or other pipes, by theft or from any other cause, no part of said loss or damage is to be charged to or borne by Landlord, unless due to the negligence or willful misconduct of Landlord, its employees, agents or contractors.
- d. Constitute waste or a public or private nuisance.
- e. Unreasonably disturb other tenants, occupants, and/or users at the Property, if any.
- f. Place or install any signs, racks, stands, trade fixtures, pedestal signs or other displays of products or services, advertisement, notice, lettering or decoration on any part of the outside of the Premises or on the outside of the building, the grounds of the Premises, the right-of-way or adjacent properties, without the express prior written approval of the Landlord, and approval will not be unreasonably withheld or delayed. Tenant, at its expense, may install its standard signs and logos so long as they are in compliance with applicable signage codes. All signs shall be kept in good condition and in proper operating order at all times.

G. OPTION TO EXTEND.

1. Provided that this Lease shall be in full force and effect and that Tenant shall not be in Default (as defined below) under any of the terms or conditions hereof beyond the applicable cure periods set forth herein, either at the time of exercising an Option to Extend or at the start of the Renewal Term, and provided that Tenant's use of Premises is in accordance with the terms of this Lease, Tenant shall have an option to extend the Base Term of this Lease for three (3) consecutive periods (each, an "**Option to Extend**"), each period of a one year (1) term (each extension period, a "**Renewal Term**"), with the additional one-year term to commence upon the expiration of the then current term.

2. An Option to Extend, shall be exercised by Tenant giving written notice thereof to Landlord a minimum of one hundred-twenty (120) days prior to the expiration of the then current term.

3. In the event that the Base Term of this Lease is extended pursuant to the provisions hereof, all of the terms and provisions of this Lease shall extend to and be applicable during the Renewal Term, except and to the extent as may be specifically set forth in this Section G or Section D (2.) to the contrary.

H. HOLDING OVER.

In the event Tenant remains in possession of the Premises after the expiration of this Lease without the written consent of Landlord, it shall be deemed to be occupying said Premises on a month-to-month basis at a Rent equal to the Rent for the previous monthly period plus an additional fifty percent (50 %). Notwithstanding the foregoing, in the event Tenant remains in possession of the Premises after the expiration of this Lease with Landlord's written consent, but without the execution of a new Lease, it shall be deemed to be occupying said Premises as a tenant from month-to-month at a rental equal to the then existing Rent plus an additional two percent (2%), and shall otherwise be subject to all the conditions, provisions and obligations of this Lease. Should the month-to-month hold over tenancy consented to by Landlord continue for more than one (1) year, the monthly Rent will increase on the annual anniversary of the hold over tenancy by two percent (2%). A hold over month-to-month tenancy may be terminated by either party upon one (1) month prior, written notice to the other party. In addition, during any hold over occupancy, Tenant shall pay Landlord all other monies owed by Tenant to Landlord pursuant to the terms of this Lease. This section is expressly intended to survive the termination of this Lease by Tenant.

I. ACCEPTANCE OF PREMISES.

TENANT ACCEPTS THE PREMISES “AS -IS” WITH ALL FAULTS, IF ANY. Tenant acknowledges that it has examined the Premises and that it has determined by its own independent evaluation that the Premises are suitable and useable for the purposes, uses and activities intended by Tenant as provided in this Lease. Tenant acknowledges that the Landlord has made no representations, warranties or guarantees, expressed or implied, that the Premises will be suitable or useable for the purposes or uses which Tenant intends to make of the Premises.

J. QUIET ENJOYMENT.

Subject to Tenant paying the Rent provided for herein and performing all the covenants and conditions of this Lease on its part to be performed, Tenant shall and may peaceably and quietly have, hold, and enjoy the Premises during the Term hereof. Tenant acknowledges that the exercise by Landlord of any of the rights conferred on Landlord under this Lease, and Landlord’s exercise of a right of entry upon the Premises conferred by this Lease shall not be deemed to be a constructive or actual eviction of Tenant and shall not be considered to be a breach of Landlord’s covenant of quiet enjoyment. Landlord hereby warrants and represents that Landlord has full right and sufficient title to lease the Premises for the Term and upon the terms and conditions set forth herein.

K. COMPLIANCE WITH LAW.

1. Tenant shall at all times during the Term of this Lease at its own expense, comply with all federal, state, county, municipal and other governmental statutes, ordinances, laws, rules and regulations, now or hereafter enacted or amended, affecting the Premises, or occasioned by or affecting the use thereof by Tenant, including, but not limited to, the Americans With Disabilities Act.

2. Tenant shall have the right to contest by appropriate legal proceedings, without cost or expense to Landlord, the validity of any law, ordinance, order, rule, regulation or requirement affecting Tenant’s use and/or occupancy of the Premises. If compliance by Tenant may be legally held in abeyance during the contest without subjecting Landlord or Tenant to any liability whatsoever for failure to so comply, Tenant may postpone compliance until the conclusion of the proceedings.

3. Tenant shall procure, at its sole expense, any permits and licenses required for the transaction of business in the Premises and otherwise comply with all applicable laws, ordinances and governmental regulations. Tenant shall immediately notify Landlord in the event

any permit, license, or approval necessary for the operation of Tenant's business from the Premises is revoked or suspended. If such revocation or suspension is not corrected within twenty (20) days after notice to Landlord (or such longer period as is reasonable so long as Tenant initiates such correction within the twenty (20) day period and thereafter diligently and continuously works towards correcting the revocation or suspension), then it shall be an automatic event of Default under this Lease.

L. UTILITIES.

Tenant shall not install any equipment or fixtures, or use the same, in any manner that exceeds the safe and lawful capacity of any utility equipment or lines serving the Premises. Landlord shall not be liable in damages or otherwise for any failure, variation, shortage, or interruption of these utilities or services, and Tenant shall not be entitled to terminate this Lease or abate any portion of the Rent as a result of such failure, variation, shortage, or interruption. All other utilities for the Premises, including but not limited to telephone, internet, and cable, shall be arranged directly by Tenant with the utility supplier, including the posting of any required deposits, and paid directly by Tenant to the utility supplier when due. Tenant shall be responsible, at its sole cost and expense for the installation of any phone or internet service for the Premises.

1. Janitorial: Tenant shall be responsible for janitorial services for the interior of building alone, up to and including the changing of interior light bulbs.

M. RESPONSIBILITIES.

1. Landlord shall not in any event be liable for and Tenant releases Landlord in connection with any acts or omissions of Tenant or its agents, servants, employees or independent contractors (collectively, "**Tenant Parties**") or for any condition resulting from the operations or activities of Tenant, its agents, servants, employees or independent contractors either as to Tenant or to any other person, including any and all claims, losses, damages, and expenses relating to any of the foregoing.

2. Landlord agrees to pay for all damage to third parties from personal injury or property damage that occurs in the Premises and/or at the Property caused by the intentional misuse or gross neglect by Landlord or Landlord's agents, servants, employees, guests, invitees or independent contractors.

3. To the extent not prohibited by law, and to the extent arising directly out of the actions or omissions of the Tenant or any party for whom the Tenant is legally responsible, Tenant releases Landlord from any and all liability incurred by Landlord in connection with the Tenant's exercise of its rights under this Lease. Notwithstanding the foregoing any liability incurred in

connection with this Lease by Tenant is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1 et seq., NMSA 1978, as amended (the “NMTCA”).

4. Tenant releases Landlord for all claims, liability, and damages to the extent arising out of the actions or omissions of Tenant or its agents, servants, employees, or independent contractors.

N. INSURANCE.

1. Tenant represents that it is adequately self-insured pursuant to the requirements set forth in the NMTCA, and that Tenant’s municipal self-insurance program includes the following types of coverage in appropriate amounts:

a. Special Form property insurance covering the contents owned by Tenant in the Premises.

b. Comprehensive General Liability Insurance.

c. Workmen’s Compensation Insurance.

d. Automobile Liability Insurance.

2. Evidence of Coverage. Tenant shall deliver to Landlord a letter evidencing self-insurance, if required and requested by Landlord at the time of or following execution of the Lease.

**O. REPAIRS AND MAINTENANCE; TENANT’S NEGLIGENCE;
SUBSTANTIAL DAMAGE.**

Landlord shall keep the roof, the foundation, structural elements of the Building and Premises (including molding, locks and hardware, (other than cypher locks and other locks installed by Tenant), painting or other treatment of interior walls), pipes and conduits of the Building and Premises in good condition and repair in accordance with standards then prevailing for comparable properties of like age and character, except that Landlord shall not be required to make any repairs occasioned by the act or negligence of Tenant, its agents, employees, subtenants, guests, contractors, invitees, licensees and concessionaires, which repairs shall be promptly made by Tenant at Tenant’s expense. In the event that the Premises should become in need of major repairs and/or replacements for major components that impact the Building as a whole, including but not limited structural repairs to the Building, repairs to the exterior of the Building including but not limited to the roof, or repairs to the HVAC or major building systems, said repairs and/or replacements shall be the responsibility of the Landlord, unless the need for the major repairs and/or replacements is caused by the act or omission of Tenant, its agents, employees, subtenants, guests, contractors, invitees, and licensees. In such event, Tenant, at Tenant’s expense, shall

promptly perform the major repairs and/or replacements. Tenant shall give immediate written notice of the requested repair to Landlord and Landlord shall take prompt and appropriate steps to initiate such repairs following delivery of such written notice, except in exigent circumstances, in which case Landlord shall take such steps immediately and without delay. An exigent circumstance is when, without the necessary major repair or replacement, the Landlord receives notice that the Premises are unusable by Tenant and/or when the lack of the necessary repair or replacement places Tenant's property in substantial danger of being ruined. If the major repair or replacement causes an exigent or emergency circumstance and Landlord fails or is unable to take material steps (such as requesting bids from contractors) regarding the repair or replacement within ten (10) calendar days after notice from Tenant to Landlord, , and Tenant is able to make repairs or replacements more quickly, then upon written notice to Landlord, Tenant may immediately make the repairs or replacement and Landlord shall reimburse Tenant for the reasonable cost of such repairs or replacement, provided, however, that Landlord shall not be responsible for reimbursing Tenant for overtime labor. Notwithstanding any other provision of this Lease, Tenant, (not Landlord), shall be responsible, at Tenant's expense, to repair all broken and/or damaged windows. Landlord shall have no liability for any damages or injury arising out of any condition or occurrence causing a need for such repairs unless the damage results from the Landlord's negligence, delay or willful misconduct. Landlord shall not be liable or responsible for breakdowns or temporary interruptions in access or utilities nor for interference with Tenant's business or Tenant's access to the Premises during the course of repairs or remedial work, unless and to the extent resulting from the gross negligence or willful misconduct of the Landlord.

P. AMERICANS WITH DISABILITIES ACT.

Tenant agrees to meet all applicable accessibility requirements, including the Americans with Disabilities Act of 1990, as amended, and all applicable rules and regulations, as amended, (the "ADA"), that are imposed directly on Tenant as a public entity or that would be imposed on the Landlord.

Q. RIGHT TO ENTER.

The Landlord, its agents and other representatives, shall have the right to enter into and upon the Premises or any part thereof at reasonable times for the purpose of inspecting the Premises, making repairs, showing the Premises to prospective lenders, purchasers of the Premises or prospective tenants upon reasonable notice to Tenant. In the event of an emergency as determined by the Landlord, the Landlord, its agents and other representatives, may enter at any time, without notice and without the presence of Tenant. Tenant will permit Landlord at any time within six (6) months

prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs, and permit potential tenants to inspect the Premises, provided Tenant is given reasonable notice of such inspections and such inspections do not unreasonably interfere with the operations of Tenant.

R. ALTERATIONS.

Tenant agrees that Tenant shall not make or permit to be made any alterations, additions, or improvements at the Property without the prior written consent of Landlord which shall not be unreasonably delayed or withheld; provided, however, that any consent, if given, shall be subject to the express condition that all work must be done at Tenant's expense and in accordance with all applicable statutes, rules, ordinances, laws, and regulations, including but not limited to applicable building codes. All work also must be done in a good and workmanlike manner by licensed contractors acceptable to Landlord. All plans and specifications are subject to Landlord's prior review and written approval which shall not be unreasonably withheld or delayed. Tenant agrees that under no circumstance, and at no time, shall any lien be filed against the Property as a result of any action or inaction by Tenant. Landlord may post "Notices of Non-Responsibility" prior to the commencement of any alteration, addition or improvement at the Property approved by Landlord.

S. TERMINATION.

1. **Early Termination.** This Lease may be terminated by either party upon a minimum one hundred eighty (180) days written notice to the other Party of the intent to terminate. If Tenant elects to terminate the Lease under the terms of this Section, Tenant will pay the unamortized amount of the Tenant Improvements associated with the remaining Lease term as of the Termination Date. This payment shall be due within thirty (30) days following the City's written notice of termination. If the Landlord elects to terminate the Lease under the terms of this Section, Landlord and Tenant shall have no further rights, obligations or liabilities as between the Landlord and Tenant as provided in this Lease and all future payment obligations and liabilities in this Lease will cease upon the date of termination, except as otherwise provided in this Lease, including, without limitation, as to liabilities expressly stated to survive termination of the Lease. Upon termination of this Lease, Tenant's option to purchase the Property shall automatically terminate. The effective date of the termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. No rent shall accrue after the effective date of termination.

2. **Removal and Repair.** At the expiration of the Base Term of this Lease, or

Renewal Term if the Lease is extended as permitted pursuant to its terms, or upon its earlier termination as provided hereunder, Tenant shall surrender the Premises to the Landlord in as good condition as Premises was in at the beginning of the Term; reasonable use, wear and tear excepted, clean and free of debris. Tenant shall remove Tenant's personal property from the Premises. Any and all improvements made to the Premises during the Term hereof shall, unless Landlord requests their removal, belong to the Landlord without compensation, allowance or credit to Tenant, except movable trade fixtures, furnishings and equipment of the Tenant, which can be removed without defacing the Premises, including the underlying and related property. Tenant shall repair any damage to the Premises occasioned by the installation or removal of Tenant's trade fixtures, furnishings and equipment. Any of Tenant's personal property left by Tenant on or about the Premises at the expiration or termination of this Lease shall, at the option of the Landlord, become the property of the Landlord and the Landlord shall be entitled to use, sell or otherwise dispose of such personal property.

T. DEFAULT AND REMEDIES.

1. **Default.** The occurrence of any one or more of the following events, after thirty (30) days notice from Landlord to Tenant and Tenant's failure to cure in the thirty (30) day period, shall constitute a Default (a "**Default**") by Tenant:

- a. Failure to make payment when due.
- b. The abandonment of the Premises by Tenant for a period of thirty (30) consecutive calendar days.
- c. Any material representation or warranty by Tenant to Landlord set forth in this Lease is false or untrue.
- d. The failure by Tenant to observe or perform any of the material, express covenants or provisions of this Lease, where such failure shall continue for a period of fifteen (15) consecutive calendar days after written notice thereof from the Landlord to Tenant, provided that if the nature of Tenant's Default is such that more than fifteen (15) consecutive calendar days are reasonably required for its cure, then Tenant shall not be deemed to be in Default if Tenant commences to cure within the fifteen (15)-day period, and thereafter diligently and continuously prosecutes such cure to completion.
- e. Tenant assigns this Lease or subleases all or any portion of the Premises without Landlord's prior written consent.

f. Tenant: (i) files, or consents by answer or otherwise to the filing against it, of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or liquidation or to take advantage of any bankruptcy or insolvency law of any jurisdiction; (ii) makes an assignment for the benefit of its creditors; (iii) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of itself or of any substantial part of its property; or (iv) takes action for the purpose of any of the foregoing.

g. A court or governmental authority of competent jurisdiction, without consent by Tenant, enters an order appointing a custodian, receiver, trustee or other officer with similar powers with respect to Tenant or with respect to any substantial portion of its property, or enters an order for relief or approving a petition for relief or reorganization or any other petition in bankruptcy or insolvency law of any jurisdiction, or enters an order decreeing the dissolution, winding up or liquidation of Tenant, or if any such petition is filed against Tenant and such petition is not dismissed within one hundred eighty (180) days.

A notice pursuant to this Section shall constitute a notice under the New Mexico forcible entry and detainer statute shall constitute a notice of default under this Lease.

2. **Landlord's Remedies.** Upon the occurrence of any Default by Tenant, as defined above, the Landlord, in addition to any other remedies set forth in this Lease, may, without further notice or demand, and without limiting Landlord from the exercise of any right or remedy which Landlord may have by reason of such default, Landlord may:

a. Terminate Tenant's right to possession of the Premises. In such event, Tenant agrees to immediately surrender possession of the Premises to Landlord.

b. Recover from Tenant all damages incurred by Landlord by reason of Tenant's default, including, but not limited to, the cost of recovery of possession of the Premises and unamortized improvements to the Premises paid for by Landlord.

c. Unamortized Tenant Improvement Costs. Upon early termination, Tenant will pay Landlord any unamortized portion of Tenant Improvements as detailed in Section I.E. in the manner calculated and detailed in Exhibit B, based on the date that the City vacates the Premises as amortized over a five (5) year term, provided however that the Tenant's obligations to pay for unamortized Tenant Improvement costs is not applicable to a termination of the Lease resulting from non-appropriation of funds (as described in Section I.AA.), The Tenant is only obligated to pay for unamortized Tenant Improvement costs for that portion of the amortization period during which the

demised Premises remains vacant, and relative to the percentage of the Premises that remains vacant (if it is partially re-tenanted). Tenant's obligation to pay for unamortized Tenant Improvement costs should exist only if the Landlord is making a reasonable effort to re-lease the vacant Premises, and Tenant's obligation to pay for unamortized Tenant Improvement costs cannot create a debt of the City in violation of N.M. Const. Art. IV, § 14.

e. Maintain Tenant's right to possession, in which case this Lease shall continue in effect, whether or not Tenant shall have abandoned or surrendered, or attempted to abandon or surrender, the Premises.

f. Exercise Landlord's statutory lien rights and/or take possession of and sell any of the Tenant's personal property located in the Premises; provided, however, in no event shall this sentence give Landlord the right to take or sell any personal property located at the Premises which is not owned by Tenant.

f. Exercise any "self-help" remedy available to Landlord, including but not limited to the changing of locks, the plugging of locks or the erection of barriers. Tenant specifically consents to all such "self-help" remedies.

g. Initiate legal proceedings, as deemed appropriate by Landlord.

h. Terminate this Lease.

i. Pursue any other remedy now or hereafter available to Landlord at law, in equity, pursuant to this Lease, or otherwise.

j. Except when otherwise agreed to in writing by Landlord, Tenant shall remain liable to Landlord following any surrender or attempted surrender of the Premises as provided herein. Landlord can re-enter the Premises and relet the Premises at a fair market rental rate. In such event, Tenant shall only be responsible to Landlord for such amounts as are not mitigated and recovered by the re-letting of the Premises. The initiation of legal proceedings, by Landlord against Tenant including, but not limited to, a forcible entry and detainer action, shall not be deemed to terminate this Lease. Upon exercise of any remedy by Landlord, at Landlord's election, all options (including the option to purchase) established by this Lease and/or related to the Premises shall immediately and automatically terminate without further action and/or further notice by Landlord to Tenant.

k. In addition to other remedies, if this Lease is terminated for any reason, Landlord or Landlord's agents and employees, without further notice, immediately or at any time

thereafter, may enter upon and/or reenter the Premises or any part thereof, and possess or repossess itself thereof either by summary process proceedings, ejectment, or by any suitable action or proceeding at law or by agreement, or by force or otherwise, and may dispossess and remove Tenant and all other persons and property from the Premises without being liable to Tenant. The words “enter” or “reenter”, “possess” or “repossess” as used herein, are not restricted to their technical legal meaning.

l. In the event of any default or threatened default by Tenant of any of the material agreements, terms, covenants or conditions contained in this Lease, Landlord may enjoin such default or threatened default and shall have the right to invoke any right and remedy allowed at law, in equity, pursuant to this Lease, or otherwise.

m. Each right and remedy of Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy. The exercise of any right or remedy shall not preclude the simultaneous or later exercise by Landlord of any other right or remedy provided for in this Lease or now or hereafter existing at law, in equity, by contract, or otherwise. The doctrine of “election of remedies” shall not apply to this Lease.

3. Default by Landlord and Tenant’s Remedies.

Landlord will be in default under this Lease if Landlord fails to cure any default within thirty (30) days after Tenant gives written notice of default to Landlord. If Landlord fails to timely cure the default, Tenant, as Tenant’s sole remedy, may elect to:

- a. Seek specific performance of Landlord’s obligations under this Lease; or
- b. Terminate this Lease.

U. HAZARDOUS SUBSTANCES.

1. Definitions: For the purposes of this Lease, the following terms have the following meanings:

a. **“Environmental Law”** means any Federal, state or local law, statute, ordinance or regulation, rules or guidelines, now or hereafter in effect, pertaining to or governing Hazardous Substances or which relate to the protection of human health, safety, or that of the environment, including, without limitation, **CERCLA** (Comprehensive Environmental Response, Compensation and Liability Act of 1980), **RCRA** (Resources Conservation and Recovery Act of 1976) and **SARA** (Superfund Amendments and Reauthorization Act of 1986).

b. **“Hazardous Substance”** means any substance, material, waste, pollutant, or oil, which is, or becomes designated, classified or regulated as being “toxic”, “hazardous”, “radioactive”, “dangerous” or a “pollutant”, or any similar term, which is or becomes similarly designated, classified or regulated, under any Environmental Law, including asbestos, petroleum and petroleum products.

2. **Tenant’s Responsibilities:** At its own expense, Tenant will procure, maintain in effect, and comply with all conditions of any and all permits, licenses and other governmental and regulatory approvals required for Tenant’s use of the Premises. Tenant will not cause or permit any Hazardous Substance to be brought upon, kept or used in or about the Premises by Tenant, its agents, employees, contractors or invitees without the prior written consent of Landlord, except this paragraph 2 does not pertain to any hazards that may have been on the Premises prior to the Effective Date of this Lease. Tenant will cause any and all Hazardous Substances brought upon the Premises by Tenant to be removed from the Premises and transported solely by duly licensed haulers to duly licensed facilities for final disposal of such materials and wastes. Tenant will, in all respects, handle, treat, deal with and manage any and all Hazardous Substances in, on, under or about the Premises in total conformity with all applicable Environmental Laws and prudent industry practices regarding management of such Hazardous Substances. Upon expiration or earlier termination of the Term of this Lease, Tenant will cause all Hazardous Substances placed on, under or about the Premises by Tenant or at Tenant’s direction to be removed and transported for use, storage or disposal in accordance and compliance with all applicable Environmental Laws. Tenant will not take any remedial action in response to the presence of any Hazardous Substances in or about the Premises, nor enter into any settlement agreement, consent decree or other compromise in respect to any claims relating to any Hazardous Substances in any way connected with the Premises without first notifying Landlord of Tenant’s intention to do so and affording Landlord ample opportunity to appear, intervene or otherwise appropriately assert and protect Landlord’s interests with respect thereto.

3. **Landlord’s Representation:** Landlord represents and warrants that, to the best of its knowledge, the Premises does not contain Hazardous Substances.

4. **Environmental Audit.** At any time and from time to time, Landlord may retain an environmental consultant or engineer to conduct an environmental audit or environmental assessment of the Premises and Tenant’s compliance with applicable laws, rules and regulations. Tenant shall extend its full cooperation with such audit or investigation. If Tenant is found not to be substantially in compliance with applicable law, then Tenant shall pay all reasonable costs associated with such audit or assessment to Landlord upon demand; otherwise all costs shall be borne by Landlord. In addition, Tenant, at Landlord’s request from time to time, shall complete

such questionnaires and provide such information with respect to Tenant's activities and operations on the Premises as Landlord shall reasonably require.

5. Contamination Notice. If the Premises become contaminated in any manner Tenant shall immediately notify Landlord of the release or discharge of the Hazardous Substance.

V. FIRE OR OTHER CASUALTY LOSS TO PERSONAL PROPERTY.

The Landlord shall not be liable for any damage or loss of the Tenant's personal property on the Premises from any cause, including, but not limited to, bursting or leaking of water pipes, leaking roof, fire, theft and negligence of co-Tenants. Tenant shall be solely responsible for obtaining and paying for insurance covering Tenant's personal property in the Premises, operations losses and liability insurance. Tenant shall not be insured for such losses by the Landlord and shall not be entitled to make loss claims under the insurance coverage of the Landlord.

W. ASSIGNMENT AND SUBLETTING.

Tenant shall not assign or sublease this Lease or any of its rights and responsibilities hereunder in whole or in part regarding the Building or the Premises at any time for any reason without the Landlord's prior written approval, which approval shall not be unreasonably withheld. In the event of an assignment or a sublease by Tenant, contemporaneously with the granting of consent by the Landlord, the Tenant shall cause the assignee or sublessee to expressly assume in writing and agree to perform all of the covenants, duties and obligations of the Tenant as set forth in this Lease and such assignee or sublessee shall be jointly and severally liable therefor along with the Tenant unless otherwise released therefrom in writing by the Landlord.

X. TAXES AND ASSESSMENTS.

Landlord shall promptly pay to Bernalillo County the property taxes, including any additional assessments or exactions assessed or assessable, relating to the Property, Building and Premises. Landlord will pay any and all additional exactions assessed or assessable. Tenant shall promptly pay all taxes and assessments based upon Tenant's personal property at the Property. Landlord shall not allow any of said Bernalillo County property taxes to become delinquent and Landlord will not allow any additional assessment to become delinquent. Tenant shall pay all license and permit fees applicable to the Tenant's operation, and acquire and keep current all licenses, whether municipal, state or federal, required as a result of the Tenant's operation on the Premises, and shall not allow any of said fees to become delinquent.

Y. CONDEMNATION AND CASUALTY.

1. If during the Term all or any part of the Premises is taken or purchased by right of eminent domain or in lieu of condemnation, and if in the reasonable opinion of Landlord or Tenant substantial alteration or reconstruction of the portion of the Premises is necessary or desirable as a result thereof, or the amount of parking available to the portion of the Premises is materially and adversely affected, Landlord and/or Tenant shall have the right to terminate this Lease by giving the other Party at least sixty (60) days' written notice of such termination.

2. Landlord shall be entitled to receive and retain the entire condemnation award or consideration for the Property (including the affected lands and improvements), and Tenant shall not have, or advance, any claims against Landlord for (i) the value of the Property or its leasehold estate, (ii) the costs of removal or relocation, (iii) the unexpired Term of this Lease, and (iv) business interruption expense or any other damages arising out of the taking or purchase. Nothing herein shall give Landlord any interest in, or preclude Tenant from seeking and recovering on its own account from the condemning authority any separate condemnation award of compensation attributable to the taking or purchase of Tenant's chattels or trade fixtures or attributable to Tenant's relocation expenses provided that any such separate claim by Tenant shall not reduce or adversely affect the amount of Landlord's condemnation award. If any such separate award made or compensation paid to Tenant specifically includes a condemnation award or amount for Landlord, Tenant shall promptly account therefor to Landlord.

3. If the Premises or Building shall be damaged or destroyed by fire or other casualty, Tenant promptly shall notify Landlord. Subject to the conditions set forth in this Section, Landlord shall repair such damage and restore the Premises to substantially the same condition in which it was immediately prior to such damage or destruction. Landlord shall notify Tenant in writing, within thirty (30) days after the date of the casualty, if Landlord anticipates that the restoration will take more than one hundred eighty (180) days from the date of the casualty to complete; in such event, either Landlord or Tenant may terminate this Lease effective as of the date of casualty by giving written notice to the other within thirty (30) days after Landlord's notice. Upon termination of the Lease pursuant to this section, Tenant's option to purchase the Property shall automatically terminate. Further, if a casualty occurs during the last six (6) months of the Term or any extension thereof Landlord may cancel this Lease. If Tenant does not exercise its right to terminate this Lease as a result of any casualty as aforesaid, all Rent and other sums due hereunder shall abate either proportionally in the case of partial casualty or entirely in the case of total casualty until such time as when possession is delivered to Tenant. Notwithstanding the foregoing, if the damage or destruction was caused by Tenant and/or its subtenants, employees, agents, contractors, customers, guests, licensees, or invitees, Tenant shall restore the Premises, at Tenant's expense.

Z. DISCRIMINATION PROHIBITED.

In the operation and use of the Premises, the Tenant shall not on the grounds of race, color, religion, sexual orientation, sexual preference, national origin or ancestry, or age, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Title 49 CFR Parts 21 and 23, the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, the Rehabilitation Act of 1973, and the New Mexico Human Rights Act. Without limiting the generality of the foregoing, the Tenant shall not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual orientation, sexual preference, national origin or ancestry, age, or physical or mental handicap. Such action will include, but not be limited to: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and disciplinary actions and grievances. The Tenant agrees to post in conspicuous places available to employees, and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

AA. LEASE EXEMPT FROM BATEMAN ACT; APPROPRIATIONS.

By virtue of the provisions of NMSA 1978, §6-6-12 (1999), this Lease is exempt from the Bateman Act, including, without limitation as set out in NMSA 1978, §6-6-12 (1968), and it does not constitute the creation of debt. Nonetheless, as a result of Tenant's requirements and demands, if in any fiscal year of the City of Albuquerque during the Term of this Lease, sufficient appropriations and authorizations are not made by the City Council to fund this Lease, this Lease may be terminated by the Tenant at the end of the Tenant's then current fiscal year, upon three (3) months' written notice given by the Tenant to the Landlord. Such event shall not constitute an event of Default under this Lease. Within ten (10) business days following the delivery of notice of its intent to terminate as outlined in this Section, Tenant shall pay the rent due for the subsequent three (3) months to Landlord. Upon termination of this Lease as provided in this Section, the Landlord and the Tenant shall have no further rights, obligations or liabilities as between the Landlord and Tenant as provided in this Lease and all payments obligations and liabilities of the Tenant and of its interest in this Lease will cease upon the date of termination, except as otherwise provided in this Lease, including, without limitation, as to liabilities expressly stated to survive termination of the Lease.

BB. SIGNS.

Tenant shall not place or install any signs, racks, stands, trade fixtures, pedestal signs, or other displays of products or services, advertisement, notice, lettering, or decoration, on any part of the

outside of the Premises or on the outside of the Building, the grounds of the Property, or on adjacent properties, without the express prior written approval of the Landlord, which approval will not be unreasonably withheld or delayed. Subject to compliance with the provisions of this section, Tenant, at Tenant's expense, may install panels on the existing monument sign located at the southeast corner of the Property. Tenant, at its expense, may install its standard signs and logos on the interior of the Building on the first floor in locations/directories specified by Landlord and on the second floor in proximity to the Premises. All such interior signs shall be in a form, color, content, and location acceptable to Landlord. All signs shall comply with the requirements of governmental authorities. All signs shall be kept in good condition and in proper operating order by Tenant, at Tenant's expense, at all times. Prior to the end of the Term, Tenant, at Tenant's expense, shall remove all of Tenant's signs and repair all damage caused by the removal of the signs

CC. MISCELLANEOUS

1. Waiver of Default. No failure by the Landlord or Tenant to insist upon the strict performance of any term, condition, or covenant of this Lease or to exercise any right or remedy available on the breach thereof, and no acceptance of full or partial Rent during the continuance of any breach will constitute a waiver of any breach or of any term, condition, or covenant. No obligation of this Lease that Tenant or Landlord is required to perform and no breach thereof, will be waived, altered, or modified, except by written instrument executed by the Landlord and Tenant.

2. Time Is of The Essence. Time is of the essence in the performance of this Lease.

3. Exhibits. All certificates, documents, exhibits, attachments, riders, and addenda, if any, referred to in this Lease, including but not limited to the exhibits referred to in this Lease, are hereby incorporated into this Lease by reference and are made a part hereof as though set forth in full in this Lease to the extent they are consistent with the terms and conditions of this Lease.

4. No Partnership or Agency. Nothing contained in this Lease is intended or shall be construed in any respect to create or establish any relationship other than that of Landlord and Tenant, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Tenant the general representative or agent of Landlord or Landlord the general representative or agent of Tenant for any purpose whatsoever.

5. Force Majeure. In the event Landlord or Tenant is delayed, hindered or prevented from performing any act or thing required hereunder by reason of strikes, lockouts, labor troubles, casualties, failure or lack of utilities, governmental laws or regulations, riots, insurrection, war, acts of God, public health emergencies, pandemic or other causes beyond the reasonable control of Landlord or Tenant, neither Party shall be liable for the delay, and the period for the performance by either Party shall be extended for a period equivalent to the period of such delay. The foregoing shall be inapplicable to the payment of Rent by Tenant and to the delivery of the Premises by Landlord. In the event that such Force Majeure period of delay shall extend for a period of six (6) months or more, either Party shall have the right, in their discretion, to terminate this Lease by providing the other Party with written notice thereof, in which case the Parties shall proceed as though the Lease has expired upon its own terms as of the date of termination specified by the terminating Party.

6. Contract Review. Landlord and Tenant acknowledge that they have thoroughly read this Lease including all exhibits thereto and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein. Landlord and Tenant further acknowledge that this Lease is the result of negotiations between them and that this Lease shall not be construed against either Party hereto by reason of that Party's preparation of all or part of this Lease.

7. Notices. Any notice from one Party to the other must be in writing and shall be deemed duly given three (3) days after deposit in the United States Mail if mailed by registered or certified mail, return receipt requested, or upon receipt or refusal to accept if personally delivered or upon delivery by a national overnight deliver courier (for next business day delivery) who obtains written confirmation of delivery, addressed to the other Party at the address set below, or such other address as either Party may designate in writing. The Parties shall be responsible for notifying each other of any change of address. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent.

Notice to Landlord:

Townsite QO21 LLC
8301 Lomas Boulevard NE
Albuquerque, NM 87107

Notice to the Tenant:

City of Albuquerque
One Civic Plaza, 11th Floor
Attn: Chief Administrative Officer

P.O. Box 1293
Albuquerque, New Mexico 87103

With a copy to:

Real Property Division Manager
City of Albuquerque
P.O. Box 1293
Albuquerque, New Mexico 87103

If and when included within the term “Tenant” and “Landlord” as used in this instrument there are more than one person, firm or corporation, all shall jointly arrange amongst themselves and specify some individual at some specific address for the receipt of notices and payments. All parties included with terms “Landlord” and “Tenant” respectively, shall be bound by notices and payments given in accordance with the provisions of this Section CC to the same effects as if each had received such notice or payment.

8. Estoppel Certificates. Tenant and Landlord shall at any time within ten (10) days after written request from either Party execute, acknowledge and deliver to the other Party a statement in writing: (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the Rent and any other charges are paid in advance, if any; (b) confirming the commencement and expiration dates of the Term; (c) confirming the amount of the security deposit held by Landlord, if any; (d) acknowledging that there are not, to the certifying Party’s knowledge, any uncured Defaults on the part of the other Party hereunder, or specifying such Defaults if any are claimed; and (e) confirming such other matters as the requesting Party may reasonably request. A prospective purchaser or encumbrancer of the Premises may conclusively rely upon any such statement. If the responding Party fails to respond within the required period, the responding Party shall conclusively be deemed to have certified, confirmed and acknowledged all matters requested by the requesting Party. If Landlord desires to finance or refinance the Property, Tenant shall sign all subordination agreements requested by Landlord in conjunction with any refinancing of the Property. Tenant hereby agrees to deliver to any lender designated by Landlord such financial statements of Tenant as may be reasonably required by such lender. All such financial statements shall be used only for the purposes herein set forth.

9. Binding Effect. Once this Lease is made, the covenants, terms and conditions of this Lease will be binding upon and inure to the benefit of the Parties, their successors, assigns,

subtenants and sublessees. The lease is not final or binding until approved by City Council and signed by the City's Chief Administration Officer or his designee.

10. Entire Agreement. This Lease, including the attached **Exhibits A and B**, constitutes the full and final agreement of the Parties and incorporates all of the conditions, agreements, and understandings between the Parties concerning the subject matter of this Lease, and all such conditions, understandings and agreements have been merged into this written Lease. All prior negotiations and agreements are merged into this Lease. No prior condition, agreement, or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this Lease.

11. Modification. No subsequent agreement may modify this Lease unless it is in writing and signed by the Parties. This Lease represents the entire contract between the Parties and, except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the Parties hereto.

12. Further Actions. At any time and from time to time, each Party agrees, without further consideration, to take such actions and to execute and deliver such documents as may be reasonably necessary to effectuate the purposes of this Lease so long as no liability or risk is incurred and so long as no additional cost is incurred.

13. Severability. In the event any covenant, condition or provision herein is held to be void, voidable, invalid, illegal, or unenforceable by any court of competent jurisdiction, such covenant, condition or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable, or, if it cannot be so amended, without materially altering the intention of the Parties, it shall be stricken. If stricken, all other covenants, conditions and provisions of this Lease shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the Landlord or Tenant in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Lease.

14. Authorization: If Landlord executes this Lease as a corporation or partnership, then Landlord and the person(s) executing this Lease on behalf of Landlord, represent and warrant that such entity is duly qualified to do business in the State of New Mexico and that the individuals executing this Lease on Landlord's behalf are duly authorized to execute and deliver this Lease on Landlord's behalf. Landlord represents and warrants that it is the fee simple owner of the Premises, and that it has all requisite authority and approval to enter into this Lease.

15. Waiver: No waiver or failure by either Party to enforce any breach of any provision of this Lease shall be construed to be a waiver of any subsequent breach, regardless of time, nature or form of the subsequent breach.

16. Headings and Captions. Captions of sections and paragraphs are for convenience, not limitation, and are not to be construed as modifying text.

17. Attorneys' Fees. If either Party to this Lease institutes any action or proceeding in court to enforce any provision hereof, for damage by reason of an alleged breach of any provision of this Lease, for a declaration of such Party's rights or obligations hereunder, or for any other judicial remedy, each Party shall be responsible for its own attorneys' fees (including the reasonable fees and disbursements and charges of internal legal counsel) and litigation expenses, including, but not limited to expert witness fees, and service of process fees.

18. Applicable Law and Parties Bound. This Lease shall be governed by and construed under the laws of the State of New Mexico. The Parties agree that venue for any suit, action, or proceeding arising out of this Agreement shall be in Bernalillo County, New Mexico. The Parties irrevocably admit themselves to, and consent to, the jurisdiction of said court. In any litigation between Landlord and Tenant, the matter shall be decided by a judge sitting without a jury, and accordingly each Party hereby waives its right to a jury trial. The Parties further acknowledge that they have fully and fairly bargained for the terms of this paragraph 18. The provisions of this paragraph 18 shall survive the expiration or earlier termination of this Lease.

19. Final Dates. If the final date of any deadline falls upon a Saturday, Sunday, or holiday recognized by the U.S. Postal Service, then in such event the time of such deadline shall be extended to the next day that is not a Saturday, Sunday, or holiday recognized by the U. S. Postal Service. Whenever the word "days" is used herein, it shall be considered to mean "calendar days" and not "business days" unless an express statement to the contrary is made or the term "business days" is used. The term "business day" means any day except a Saturday, Sunday or other day on which the City of Albuquerque is authorized to be closed to the public for business.

20. Multiple Counterparts. The Lease may be signed in multiple counterparts or with detachable signature pages, but in either, or both, circumstances shall constitute one instrument, binding upon all parties thereto as if all parties signed the same document.

21. Electronic Signatures. Authenticated electronic signatures are legally acceptable pursuant to Section 14-16-7 NMSA 1978. The Parties agree that this Lease may be electronically signed and that the electronic signatures appearing on the Lease are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

22. Subordination. This Lease is subordinate to all existing and future liens of Landlord's lenders on the Property. Tenant shall sign reasonable subordination agreements requested by Landlord.

23. End of Lease. At the end of the Term or earlier termination of this Lease, unless otherwise agreed upon in writing between Landlord and Tenant at that time, Tenant shall deliver the Property in good condition, broom clean, except for reasonable wear and tear from the uses permitted by this Lease. Tenant, at Tenant's expense, shall remove Tenant's signs and all of Tenant's property from the Premises. Tenant, at Tenant's expense, shall repair all damage resulting from removal of Tenant's signs and/or property from the Premises. The expiration or earlier termination of this Lease shall not relieve Tenant from any obligation pursuant to this Lease, including the payment of Rent, arising prior to such date. This section is expressly intended to survive the termination of this Lease by Tenant.

24. No Recording. This Lease shall not be recorded.

25. Sale of the Property by Landlord. If the Property is sold, traded, gifted, transferred, or otherwise conveyed by Landlord, the transferee of the Property shall be deemed, to have assumed and agreed to carry out all of the obligations of Landlord pursuant to this Lease without the necessity of an amendment to the Lease or further agreement. In the event of a sale, trade, gift, transfer, foreclosure or other conveyance of the Property, Landlord shall be released from all liability to Tenant pursuant to this Lease.

26. Exculpation. The obligations to Landlord under this Lease do not constitute personal obligations of Landlord. Tenant agrees to look solely to Landlord's interest in the Property, and to no other assets of Landlord, for satisfaction of any liability of Landlord to Tenant. Tenant agrees to not seek recourse personally against Landlord and/or any owner, member, shareholder, manager, employee, officer, and/or director of Landlord.

27. Security. Tenant, at Tenant's expense, shall be responsible for all security of the Building and the Property.

DD. wwindoURCHASE.

Landlord grants Tenant an option ("**Option**") to purchase the Property pursuant to the terms of this section. If Tenant wishes to exercise the Option, Tenant shall give Landlord written notice no later than six (6) months prior to the end of the Initial Term. If Tenant timely gives its notice of Tenant's exercise of the Option, Landlord and Tenant shall enter into the Real Estate Purchase Agreement attached to this Lease as Exhibit B ("**Purchase Agreement**").

1. Parties agree the appraised value for the Property is \$3,150,000.00. Landlord agrees to credit the Tenant \$150,000.00 for rent paid to Landlord during the Base Term, of the Lease.

2. Parties agree the purchase price for Property is \$3,000,000.00, (“Purchase Price”)to be paid by Tenant at Closing subject to the terms and conditions set forth in the Purchase Agreement.

3. Notwithstanding any other provision in this Lease, the Closing of the sale pursuant to the Option shall not occur prior to January 2, 2027.

4. Parties agree if Tenant does not exercise Tenant’s right to purchase the Property during the Initial Term, Tenant shall have the right to continue to lease the Property and Tenant shall have the option to purchase the Property, at its sole discretion, during any subsequent Renewal Term at the Purchase Price above so long as Tenant provides Landlord six (6) months notice of its intent to purchase .

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SIGNED THIS AGREEMENT AS OF THE DATE indicated by each signature, and the Lease is effective after approval by the City Council and then only upon the signature of the City’s Chief Administrative Office or his authorized designee.

SIGNATURE PAGES TO FOLLOW

CITY OF ALBUQUERQUE
A New Mexico Municipal Corporation

Approved by the City Council
Date and EC#

Date: _____

EC# _____

Samantha Sengel, EdD
Chief Administrative Officer

Date: _____

RECOMMENDED BY:

Nathan Martinez, Director
General Services Department

Date: _____

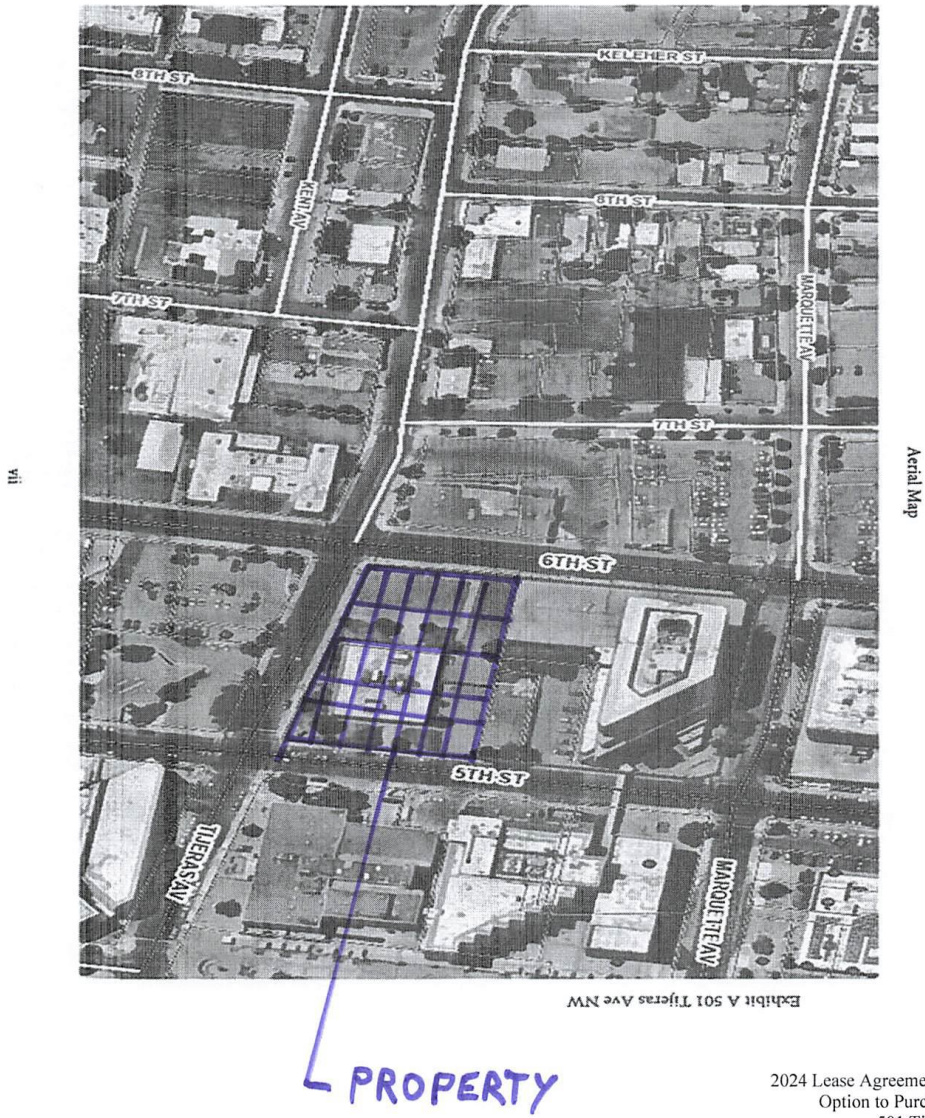
TOWNSITE Q021 LLC
A New Mexico limited liability company

By: _____
Edward T. Garcia, Managing Member

Date: _____

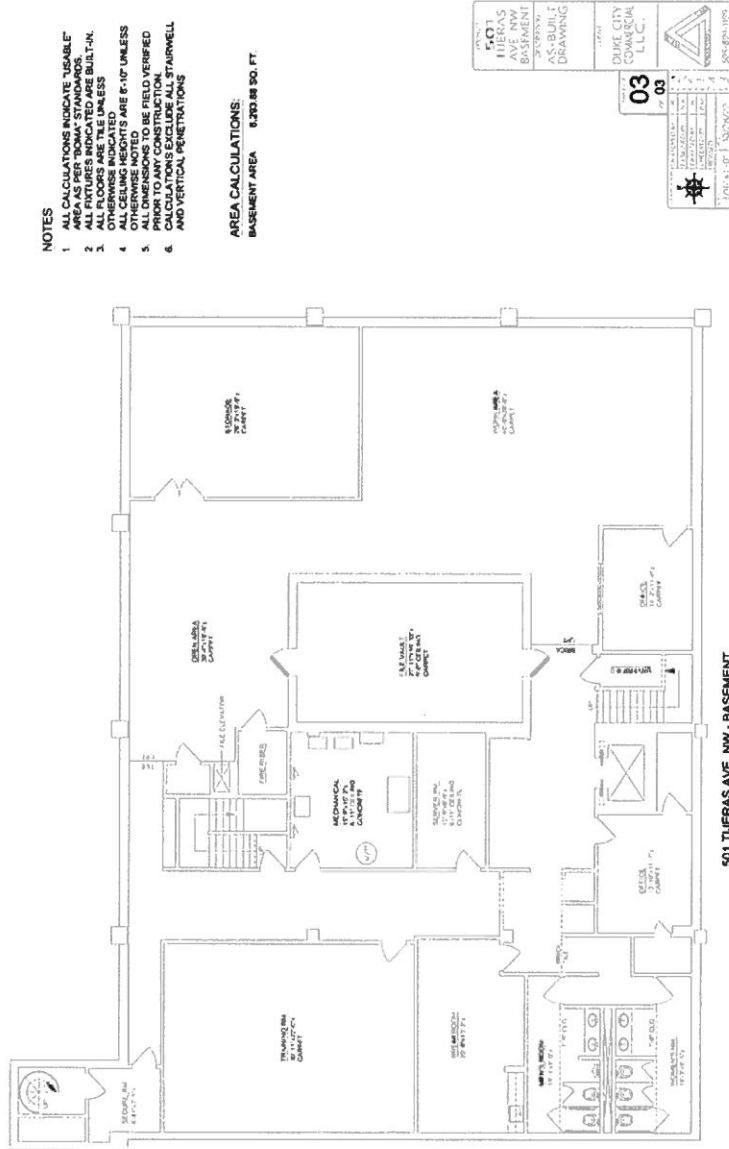
MSS/Garcia/501 Tijeras/Lease City/8 Lease MSS BL 101824

EXHIBIT A



2024 Lease Agreement &
Option to Purchase
501 Tijeras
Page 30 of 54

Exhibit A 501 Tijeras Ave NW



BROWNING COMMERCIAL APPRAISAL, INC.

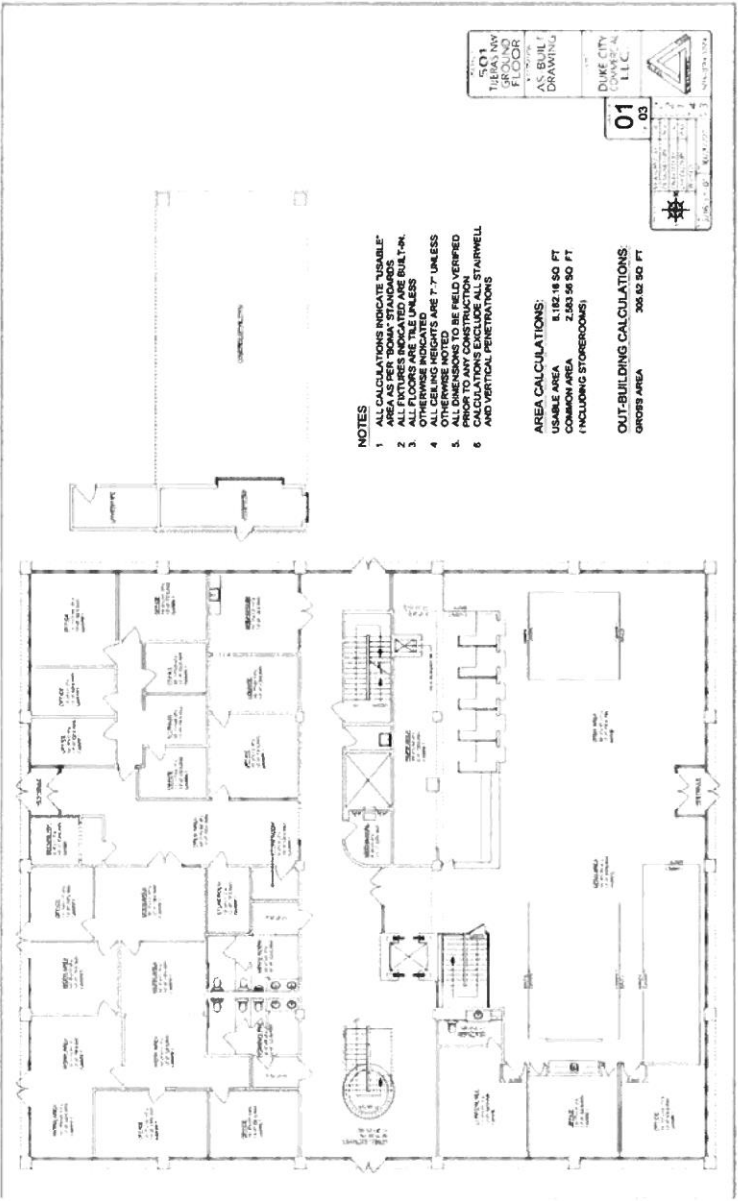
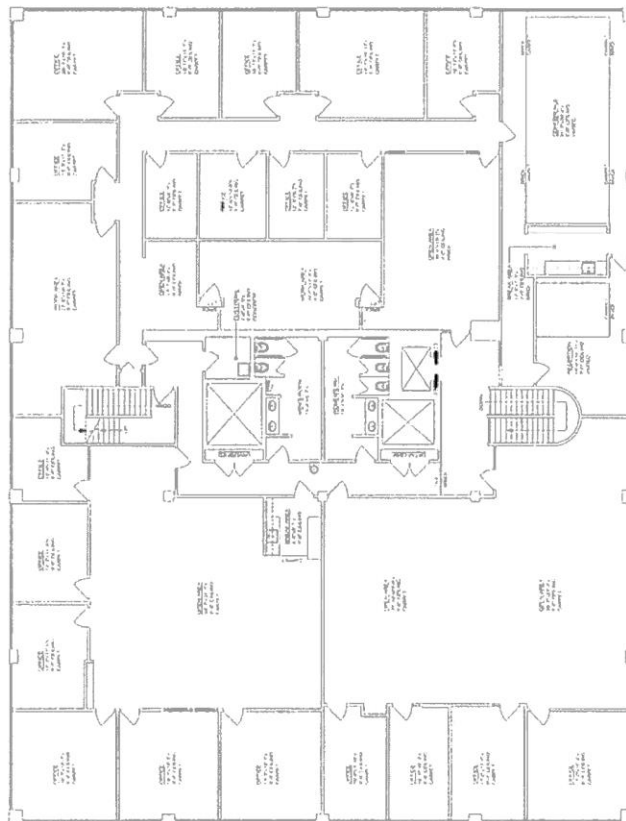


Exhibit A 501 Tijeras Ave NW



501 TIJERAS AVE NW, SECOND FLOOR

- NOTES**
1. ALL CALCULATIONS INDICATE "USABLE" AREA AS PER "BOMA" STANDARDS
 2. ALL FUTURES INDICATED ARE BUILT-IN
 3. ALL FLOORS ARE TILE UNLESS OTHERWISE INDICATED
 4. ALL CEILING HEIGHTS ARE 8'-0" UNLESS OTHERWISE NOTED
 5. ALL DIMENSIONS TO BE FIELD VERIFIED PRIOR TO ANY CONSTRUCTION
 6. CALCULATIONS EXCLUDE ALL STAIRWELL AND VERTICAL PENETRATIONS

AREA CALCULATIONS:

SUITE AREA	11,537.14 SQ. FT.
COMMON AREA	884.85 SQ. FT.

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EXHIBIT B

Real Estate Purchase Agreement

[to be attached]

EXHIBIT B

REAL ESTATE PURCHASE AGREEMENT

(501 TIJERAS)

BETWEEN

THE CITY OF ALBUQUERQUE,

AS BUYER

AND

TOWNSITE QO21 LLC,

A NEW MEXICO LIMITED LIABILITY COMPANY

AS SELLER

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement ("Agreement") is hereby made and entered into by and between the CITY OF ALBUQUERQUE, a New Mexico municipal corporation ("City"), and Townsite QO21 LLC, a New Mexico limited liability company ("Seller"), as of the date on which this Agreement is executed by the City's Chief Administrative Officer (the "Effective Date") City and Seller may be referred to herein each individually as a "Party" and collectively as the "Parties."

I. RECITALS

WHEREAS, the City has identified the need for real property by the City for Albuquerque General Services Department, to be used for Office Space; and

WHEREAS, Seller is the owner of the Property as defined in more specificity herein and on **Exhibit A**, attached hereto and made a part hereof; and

WHEREAS, the City is willing to purchase and Seller is willing to sell the Property in accordance with the terms hereof and subject to the Lease Agreement covering the Property between City, as Tenant, and Seller, as Landlord ("Lease") attached as **Exhibit A**.

II. PURCHASE AGREEMENT

NOW, THEREFORE, for mutual consideration, the receipt of which is hereby acknowledged, and further upon the terms and conditions set forth herein, the City and Seller agree as follows:

1. **Sale.**

The Seller shall sell and the City shall purchase that certain tract of real estate in Bernalillo County, New Mexico generally known as 501 Tijeras, Albuquerque, NM 87102 and containing approximately 1.25 acres +/- together with all singular rights and appurtenances pertaining to such property, including any right, title, and interest of Seller in and to adjacent streets, alleys, or rights-of-way, all as more specifically described and shown on **Exhibit A**, attached hereto and made a part of this Agreement (the "Property").

2. **Purchase Price.**

The purchase price ("Purchase Price") of the Property is Three Million one hundred fifty thousand Dollars (\$3,150,000.00) plus or minus the prorations payable by the City to the Seller at Closing (as defined herein). This purchase is subject to the Lease attached as **Exhibit B**. Seller will credit \$150,000.00 to be applied towards the purchase price upon closing at the end of the current lease.

2.1 Parties agree the appraised value for the Property is \$3,150,000.00. Landlord agrees to credit the Tenant \$150,000.00 for rent paid to Landlord during the Base Term, of the Lease.

2.2 Parties agree the purchase price for Property is \$3,000,000.00, to be paid by

Tenant at Closing subject to the terms and conditions set forth in the Purchase Agreement.

2.3 Parties agree if Tenant does not exercise Tenant's right to purchase the Property, Tenant shall continue to lease the Property and Tenant will have no further right to purchase the property.

III. SURVEY, TITLE COMMITMENT AND TITLE POLICIES

1. Title Insurance.

The City, at its expense, has caused or will cause *Stewart Title* having offices at *7801 Academy Road NE, Building 1, Suite 101, Albuquerque, NM 87109* ("Title Company"), to deliver to the City a commitment ("Title Commitment") for a policy of title insurance issued by the Title Company and covering the Property, together with legible copies of documents shown on Schedule B as exceptions. In the Title Commitment, the Title Company or its underwriter will agree to issue to the City, upon the recording of a special warranty deed conveying title to the Property from the Seller to the City, an owner's policy of title insurance ("Title Policy") in the amount of the Purchase Price and insuring the title of the City in the Property free and clear of all liens, encumbrances, and taxes, subject only to the Permitted Exceptions (defined below).

2. Survey.

The Parties recognize that it is mutually beneficial if the City begins the survey process once the Parties have arrived at an agreement in principle, Seller has executed the Agreement, and the Agreement is being routed for review through the City's internal process with the expected result of execution by the City's Chief Administrative Officer (CAO) (the "Agreement in Principle Date"). The Parties therefore agree that once the Agreement has reached this point, and provided that the City agrees to act in good faith to move the Agreement through its internal process with the goal of timely execution, the City, at the City's expense, shall pursuant to this Agreement obtain, and Seller will cooperate with the City in obtaining, a survey of the Property to be purchased (the "Survey"), and the City may begin this process once the Agreement has reached the stage described above ("Agreement in Principle"). The Survey, which is to be prepared in accordance with the "2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys"¹ (effective February 23, 2021), and shall include "Table A" optional items 1 – 6(a), 8, 11, 13, and 16-19.² The Survey(s) obtained pursuant to this paragraph shall:

- (i) state that the Survey is prepared for the City, the Seller, the Title Company (as defined herein) and the underwriter of the Title Company;

¹ See: https://www.nsps.us.com/resource/resmgr/alta_standards/2021_Standards_20201030_grk.pdf

² See: https://cdn.ymaws.com/www.nsps.us.com/resource/resmgr/alta_standards/table_a_from_2021_alta_stand.pdf

- (ii) contain a full, accurate, written legal description of the Property;
- (iii) be certified by a New Mexico licensed surveyor ("Surveyor") as of a date no more than sixty (60) days before the date of Closing;
- (iv) be in form and content acceptable to the City;
- (v) be sufficient to delete all survey exceptions from and to satisfy all requirements for issuance of the Title Policy;
- (vi) contain a certification by the Surveyor of the exact area of the Property in square feet or acres; and
- (vii) show, without limitation, the exact location of all existing or proposed streets, easements, encroachments, protrusions, overlaps, overhangs, utilities, set-backs, restrictions and/or any other encumbrances affecting the Property.

3. Title and Survey Review Period - Notice of Objections.

3.1 Within fifteen (15) business days after receipt by the City of the Survey (the "Survey Review Period"), the City will give written notice to the Seller of any objections the City may have to any matter shown on the Survey ("Survey Objections"). If the City fails to object to any matter shown on the Survey within the Survey Review Period, the City shall be deemed to have waived such Survey Objections.

3.2 Within fifteen (15) business days after receipt by the City of the Title Commitment (the "Title Review Period"), the City will give written notice to the Seller of any objections the City may have as to the condition of title to the Property as shown in the Title Commitment ("Title Objections"). If the City fails to object to any matter shown on the Property as reflected in the Title Commitment within the Title Review Period, the City shall be deemed to have waived such Title Objections.

3.3 The Seller will attempt to eliminate or modify all Title Objections and /or Survey Objections (collectively, the "Objection(s)") to the satisfaction of the City. If the Seller is unwilling or unable to satisfy the Objections before Closing (the "Cure Period"), then the Seller will give notice to the City at least ten (10) business days before the date of the Closing of those Objections that the Seller will not be able to satisfy prior to Closing, and the City shall have the following options, one of which shall be exercised by the City providing the Seller with written notice thereof no later than five (5) days prior to Closing:

- (i) if the Seller has indicated that it will attempt to cure the Objection(s) but it has not been able to do so, the City may agree to an additional period of time up to thirty (30) days in which the Seller may continue

to attempt to satisfy the Objections;

- (ii) the City will give written notice to the Seller that the City will accept title to the Property subject to any unsatisfied Objections, in which event the unsatisfied Objections will be deemed to be waived for all purposes; or
- (iii) if the City does not exercise options (i) or (ii), the City may terminate this Agreement in which event the Seller and the City will have no further rights, obligations, or liabilities to one another under this Agreement except to the extent the Parties have agreed that such rights, obligations, or liabilities should survive termination. Termination of this Agreement shall in no way limit any other remedies or rights available to the Parties at law or equity. Upon termination of this Agreement, the Lease will continue.

3.4 If the City does not deliver written notice to the Seller five (5) days prior to Closing electing one of the above options, the City shall be deemed to have waived the unsatisfied Survey Objections and/or Title Objections for all purposes pursuant to item (ii) above.

3.5 Seller shall cause Title Company to remove from the Title Policy at Closing all deeds of trust, mortgages, liens and other interests in the Property or any part thereof (collectively, "Seller's Financing Documents"), and Seller's Financing Documents and property liens shall not be deemed Permitted Exceptions (defined below) hereunder.

4. Permitted Exceptions.

For purposes of this Agreement and the special warranty deed, "Permitted Exceptions" shall mean: (i) the "Standard Exceptions in Schedule B" set forth as New Mexico Administrative Code § 13.14.5.10, (ii) all matters identified as exceptions on the initial Title Commitment, any updated Title Commitment and on the Survey which the City approves or is deemed to have been approved pursuant to this paragraph 4, and (iii) any liens or encumbrances caused or created by the City or the City's employees, agents, or contractors.

5. Deed.

The Seller shall convey title to the Property to the City by statutory form Special Warranty deed, subject only to the Permitted Exceptions. The description of the Property to be contained in the special warranty deed shall conform to the description of the Property contained in the Survey, except that if a subdivision plat is required for Closing pursuant to the terms of this Agreement, the description of the Property in the special warranty deed shall conform to the description of the Property in the recorded subdivision plat.

IV. ENVIRONMENTAL INSPECTION

1. Definitions.

As used in this Agreement, the following terms shall have the following definitions:

A. "Environmental Condition" means any condition regarding the presence of Hazardous Materials (defined below) located on, in, under or originating from the Property or located within the improvements thereon with respect to air, soil, surface water, or groundwater, which require response under any Environmental Requirements (defined below) in effect at the time of their application.

B. "Environmental Requirements" means all applicable federal, state and local governmental agency environmental statutes, ordinances, rules, notices, regulations, standards, permits, orders and/or any other governmental action relating in any way (i) to indoor or outdoor air quality, surface or groundwater quality, consumption, diversion rights, use or quantity, or soil quality or contamination; or (ii) the generation, containment, release, emission, storage, disposal, treatment, or handling of Hazardous Materials; or (iii) the construction, operation, maintenance, repair, or closing of aboveground or underground storage tanks or impoundments containing Hazardous Materials.

C. "Hazardous Materials" means substances defined as such pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9601 et seq. or the regulations promulgated by pursuant to CERCLA; or as hazardous waste, as that term is defined under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. ch. 82 § 6901 et seq. and the regulations promulgated pursuant to RCRA; polychlorinated biphenyls (PCBs); petroleum hydrocarbons; and substances so defined pursuant to requirements prevailing and applicable on the Effective Date as so established by the State of New Mexico.

D. "Other Materials" means any materials or substances which do not come within the definition of Hazardous Materials, including, but not limited to, asbestos-containing material (ACM), radon or other radioactive substances, lead-based paint, nonhazardous wastes, or any toxic or polluting substances not otherwise included in the definition of Hazardous Materials.

E. "Documents" means all documents, photographs, maps, data, notes, reports, chromatograms, in digital form, print, videotape, or other media used to transmit information regarding the environmental condition of any aspect of the property, including, but not limited to the Phase I Report, the Phase II Report, if any, and the

Cleanup Plan, if any.

2. City Inspections.

A. The City shall have the right to conduct any and all investigations it desires to fully examine the environmental characteristics of the Property ("Due Diligence") including, but not limited to, the examination of any Documents related to the Property, any improvements located thereon, and the evaluation of the Environmental Condition of the Property for the presence of any Hazardous Materials or Other Materials located on, in, under or originating from the Property. City will coordinate with Seller so as to ensure that existing occupants and tenants (if any) of the improvements on the Property are not disturbed and shall restore the Property to as near its original condition as possible at the completion of the investigations conducted during the Due Diligence.

B. The City shall, at its sole expense to be paid at Closing, at any point in time following the Agreement in Principle Date, order the Phase I inspection report by a consultant approved by City. The period of time in which the City, together with its authorized agents, representatives, consultants, and engineers shall be permitted to conduct Due Diligence (the "Due Diligence Period"). The Due Diligence Period shall begin upon exercise of the City of its option to purchase through written notice to Seller and shall expire sixty (60) days thereafter.

C. In the event that a Phase II is needed, the Buyer shall order a Phase II report to include recommendations for a plan for remediation and cleanup (the "Cleanup Plan") from a consultant selected by Seller and approved by the City, which shall be at the sole expense of Seller.

(i) The Phase II Report and Cleanup Plan shall be approved by the City prior to the implementation of the Cleanup Plan.

(ii) Regardless of whether or not a Phase II Report is required and is being completed, if the City has a good faith belief that additional time is needed to complete a full environmental investigation of the Property then City may, at its option, exercisable by written notice to the Seller at any time during the Due Diligence Period (the "Due Diligence Notice"), may extend the Due Diligence Period an additional forty-five (45) days beyond the original end date for the Due Diligence Period.

(iii) The Due Diligence Period, as so extended, shall be used by the City solely for the purpose of conducting any further investigation or examination of the Environmental Condition of the Property as the City shall deem necessary or desirable including the right to perform intrusive soil sampling of and investigation to the land and improvements constituting the Property. The Seller shall provide the City with the unfettered opportunity to conduct its environmental investigations during the Due Diligence Period or any extension thereof pursuant to this section.

3. Termination.

If the City or the consultant identifies Hazardous Materials or Other Materials on, in, under or originating from the Property which cannot be cleaned up or remediated as required by applicable Environmental Requirements utilizing technological methods currently available or which in the sole and absolute judgment of the City will prevent the City from using the Property, the City may terminate this Agreement and upon termination, the City and the Seller shall have no further right or obligations as between the City and the Seller under this Agreement, and the Lease shall continue. In the event Seller elects not to proceed with a Phase II Report and Cleanup Plan, if required by the City, then City, at City's sole discretion, may terminate this Agreement and the Parties shall have no further rights or obligations under this Agreement. Seller shall have ten (10) days after receipt of the Phase I Report to provide written notice to the City of its intent not to proceed with a Phase II Report or Cleanup Plan and termination of this Agreement.

4. Notice of Violation.

If the Seller has received or receives notice of a violation of any Environmental Requirement with respect to the Property prior to the date of the Closing, then prior to the Closing, the Seller shall give to the City a letter from the governmental entity charged with the enforcement of the applicable Environmental Requirement stating that the matter has currently been resolved to the satisfaction of that governmental entity, or other equivalent language. If Seller does not resolve the issue, City may terminate the agreement.

V. WARRANTIES AND REPRESENTATIONS

1. Seller's Warranties.

To the best of Seller's current, actual knowledge, Seller warrants and represents to City that:

- A. The Seller has good, indefeasible, and marketable title to the Property.
- B. The Property is in compliance with all applicable laws, ordinances, rules, and regulations affecting and/or applicable to the Property and the use and occupancy of the Property.
- C. The Property has free and uninhibited access to and from a public street, road, alley, or other right-of-way.
- D. This Agreement and the documents provided for or contemplated by this Agreement will not violate, be in conflict with, result in the breach of, or constitute a default under any agreement, mortgage, indenture, special deed of trust, lien, order, judgment, or instrument to which the Seller is a party or by which the Seller is bound or affected.
- E. There are no unpaid bills or claims in connection with construction or repair work on the Property.
- F. There are no actions, suits, proceedings, or investigations pending or threatened against the Seller or relating to the Property in any court or before any governmental

department or agency which would in any material respect affect the validity of this Agreement or the obligations or ability of the Seller to perform under this Agreement, including the execution, acknowledgment, and delivery of the documents provided for or contemplated by this Agreement, and the Seller does not know of any basis for any such action, suit, proceeding, or investigation.

G. If the Property is subject to a mortgage, real estate contract, or deed of trust, the Seller is not in default and has not received notice of default under or breach of the mortgage, real estate contract, or deed of trust, or of the documents evidencing the indebtedness or other obligations secured by the mortgage, real estate contract, or deed of trust.

H. If Seller is a corporation, partnership, or other legal entity, Seller warrants that it is duly formed and validly existing under the laws of its domicile, is in good standing with and authorized to do business in the State of New Mexico, and has all requisite authorization and documentation to enter into and close this transaction, and the named corporate officer, partner or agent who executed, acknowledged, and delivered this contract, for and on behalf of the Seller, is and was, at all material times, the duly authorized corporate officer, member, partner, or agent of the Seller. I. Seller represents that this Agreement is entered into by the Seller without collusion on the part of the Seller with any person or firm, without fraud and in good faith. The Seller also represents that no gratuities, in the form of entertainment, gifts, or otherwise, were, or will be offered or given by the Seller or any agent or representative of the Seller to any officer or employee of the City with a view towards securing this Agreement or for securing more favorable treatment with respect to making any determinations with respect to performing this Agreement.

J. Seller has made a good faith search of its records and files, and there is no record or file in Seller's possession or control, and Seller hereby states and warrants that to the best of Seller's knowledge, the Property is free of hazardous substances as of the Effective Date of this Agreement, and the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry, or remediation.

K. Seller has not received any notice of a violation of any Environmental Requirement with respect to the Property.

Seller's representations and warranties shall survive the Closing for a period of six (6) months. The Closing and delivery of the special warranty deed shall not result in the merger or other elimination of the representations and warranties of Seller pursuant to this Agreement.

2. Real Estate Sales Commissions.

A. The Seller represents and warrants to the City that no broker, agent, finder or sales-person has been involved in the origination, negotiation, or consummation of this Agreement and no other fee, commission, compensation, or similar payment is due to any other broker, agent, finder, or sales-person as a result of the origination, negotiation, or consummation of this Agreement.

B. The Seller shall defend, indemnify, and hold the City harmless from and against any and all loss, cost, or expense (including attorneys' fees and expenses) resulting from any claim for any fee, commission, compensation, or similar payment by any broker, agent, finder, or salesman as a result of any action of the Seller related to the origination, negotiation, or consummation of this Agreement.

3. Survival of Warranties.

The warranties and representations of the Seller are a material inducement for the City to purchase the Property. The execution and delivery of the special warranty deed by the Seller shall constitute a confirmation and further representation and warranty by the Seller to the City, as of the date of the special warranty deed, as to the matters specified in this Agreement and shall survive the closing of the Sale and shall not be merged into the execution and delivery of the special warranty deed or any other document executed and delivered subsequently to the execution and delivery of this Agreement.

VI. CLOSING

1. Closing of Sale.

Within thirty (30) days after acceptance of title, the City will give the Seller notice of a proposed time and date of closing of the Sale ("Closing"). The Lease shall continue until the Closing. Notwithstanding any other provision in this Agreement, the Closing shall not occur prior to January 2, 2027. The Closing will be at the office of the Title Company, either (i) at the time and on the date stated in the notice, or (ii) at such other time, date and place as the Seller and the City may agree in writing. The Title Company shall perform duties relating to Closing as specifically set forth in this Section, provided that the conditions precedent to Closing required for each Party, as more specifically identified below, have been met:

A. Conditions Precedent to Obligations of City at Closing. Notwithstanding anything to the contrary contained herein, the obligation of City to close title and pay the Purchase Price in accordance with this Agreement is expressly conditioned upon the fulfillment by and as of the time of the Closing of each of the conditions listed below, provided that City, at its election, evidenced by written notice delivered to Seller at or prior to the Closing, may waive any or all such conditions:

(i) The Seller shall have: (a) executed and delivered to City, or the applicable party, all of the documents required to be delivered by Seller at the Closing; (b) taken all other action required of Seller at the Closing; and (c) performed and observed all of the obligations and covenants of and required by Seller pursuant to this Agreement prior to or as of the Closing date.

(ii) Seller's representations and warranties in Section V shall be true and correct in all material respects, both as of the date made and as of the Closing date.

(iii) The Title Company shall have issued the Title Insurance Policy insuring City's good, marketable, and insurable title to the Property subject only to the Permitted Exceptions and with all endorsements required by City.

(iv) There shall be no actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings, pending or threatened against Seller that would affect Seller's ability to perform its obligations under this Agreement.

(v) There shall be no uncured monetary default or material non-monetary default on the part of any tenant under any lease, nor any condition or

circumstance which, but for the notice and opportunity to cure, would constitute such a default.

(vi) Seller shall have cancelled and terminated all agreements, contracts, and leases with Seller affiliates, or as otherwise required pursuant to this Agreement and provided City with evidence of same.

(vii) There shall be no judicial, administrative, or other adversarial suit, action, or proceeding pending against Seller or the Property which was not disclosed to or discovered by City before the end of the Due Diligence Period and which will be binding against the Property or City from and after the Closing.

(viii) The Seller shall execute and deliver to the Title Company a special warranty deed conveying the Property to the City, subject only to the Permitted Exceptions.

B. Conditions Precedent to Obligations of Seller at Closing. Notwithstanding anything to the contrary contained herein, the obligation of City to close title in accordance with this Agreement is expressly conditioned upon the fulfillment by and as of the time of the Closing of each of the conditions listed below provided that Seller, at its election, evidenced by written notice delivered to City at or prior to the Closing, may waive any of such conditions:

(i) City shall have (i) executed and delivered to Seller all of the documents required to be delivered by City at the Closing; (ii) paid the full balance of the Purchase Price in accordance with Section II(2) above; (iii) paid all other sums of money required under this Agreement (if applicable); and (iv) performed all other obligations required to be performed by it under this Agreement on or prior to the Closing Date in all material respects.

(ii) Payment by City shall be made by check of the City or such other method of payment as may be required by the Title Company to make an immediate payment at the Closing of the Purchase Price due to the Seller as provided in this Agreement, or by such other method of payment as the Seller and the City may agree in writing.

C. Failure of Fulfillment of Conditions Precedent to Closing.

(i) If City is unable to timely satisfy (and Seller has not waived in writing) the conditions precedent to Seller's obligation to effect the Closing set forth in Section VI(1), then Seller, in Seller's sole and absolute discretion, may either: (i) terminate this Agreement by written notice thereof to City and Title Company, in such event the Lease shall continue, this Agreement shall terminate and have no further force or effect and neither Party shall have any further rights and/or obligations with respect to each other or this Agreement, except for any obligations that expressly survive termination; or (ii) waive any unsatisfied condition and consummate the transactions contemplated hereby.

(ii) If any condition precedent to City's obligation to effect the Closing set forth in Section VI(1) has not been timely satisfied, then City, in City's sole and absolute discretion, may either: (i) terminate this Agreement by written notice thereof to Seller and Title Company, in such event the Lease shall continue, this Agreement shall terminate and have no further force or effect and neither Party shall have any further rights and/or obligations with respect to each other or this Agreement, except for any obligations that

expressly survive termination; or (ii) waive any unsatisfied condition and consummate the transactions contemplated hereby.

D. Title Company's Duties. At or promptly after the Closing, unless otherwise instructed by the Seller and the City, the Title Company will:

(i) record the special warranty deed in the records of Bernalillo County, New Mexico, and deliver the recorded special warranty deed to the City;

(ii) issue and deliver the Title Policy to the City as provided in the Title Commitment, except for any matters which have been eliminated or modified as provided in this Agreement; and

(iii) disburse to the Seller the balance of the Purchase Price due to the Seller and make all other disbursements as provided in the escrow closing statements to be prepared by the Title Company and signed by the Seller and the City at the Closing, including, but not limited to, any disbursements and payments necessary to discharge any obligations which are liens upon the Property, including, but not limited to, liens arising from judgments, taxes or debts secured by special warranty deed of trust or mortgage.

2. Possession.

The City shall have the right to possession of the Property as of the Closing, and the Seller shall put the City in both legal and actual possession of the Property as of the Closing.

3. Failure to Close.

If the Seller defaults or fails to close the sale for any reason, except as provided in this Agreement, and if the City has fully performed or tendered performance of all the obligations of the City as provided in this Agreement, then the City shall have the right to either terminate this Agreement or for specific performance. If the City defaults or fails to close the sale for any reason, except as provided in this Agreement, and if the Seller has fully performed or tendered performance of all of the obligations of the Seller as provided in this Agreement, then the Seller shall have the right to either terminate this Agreement or for specific performance. If this Agreement is terminated by either Party as provided in this paragraph, the City and the Seller shall have no further rights, obligations or liabilities as between the City and the Seller as provided in this Agreement, and the Lease shall continue.

4. Prorations; Closing Costs.

A. If and to the extent applicable, ad valorem taxes and standby or similar charges for utility services for the year in which the Closing occurs, and rents or other income from the Property, if any, will be prorated to the Closing between the City and the Seller. If the current figures cannot be obtained, the proration shall be based upon the figures for the last assessment period.

B. If the Property is within an improvement district created pursuant to Sections 3-33-1 through 3-33-34, NMSA 1978 as amended or replaced:

(i) The Seller shall, by the Closing, pay all assessments levied against the Property if the improvements for which the assessment has been levied have been

constructed; and

(ii) The assessments levied against the Property shall be prorated between the Seller and the City as of the Closing if the improvements for which the assessment has been levied have not been constructed.

C. The Seller shall pay all pro rata charges which are imposed on the Property for public utility facilities that were constructed prior to the effective date of this Agreement whether the obligation to pay the pro rata charges arises before or subsequent to the Closing.

D. As Closing costs, each Party shall pay fees as follows

(i) the City shall pay:

- One half any escrow charges and expenses charged by the Title Company;
- The Title Commitment fee;
- City's respective attorneys' fees;
- All costs of the Survey; and
- The filing fee for recording the special warranty deed.

(ii) the Seller shall pay:

- One half any escrow charges and expenses charged by the Title Company;
- Seller's respective attorneys' fees;
- Seller's brokers' fees;
- Costs and fees associated with obtaining a current Phase I Report, Phase II, and shall pay all costs for implementation of the Cleanup Plan, if applicable;
- The cost of the Title Policy, including premiums for deletion of exceptions 1 through 5 from the Title Policy; and
- Recording fees to remove or release any liens or Seller's financing documents from the title.

VII. MISCELLANEOUS.

1. Waiver of Default.

No failure by the City to insist upon the strict performance of any term, condition, or covenant of this Agreement or to exercise any right or remedy available on the breach thereof will constitute a waiver of any breach or of any term, condition, or covenant. No obligation of this Agreement that the Seller is required to perform and no breach thereof, will be waived, altered, or modified, except by written instrument executed by the City. No exercise or failure to exercise

any right or power of the Seller or of the City as provided in this Agreement will be considered to exhaust that right or power.

2. Time is of the Essence.

Time is of the essence in the performance of this Agreement.

3. Notices.

All notices, requests, demands, and other communications given under this Agreement will be in writing, and, unless otherwise specified in this Agreement, will be deemed to have been given: (i) if delivered in person, upon receipt thereof, or if delivery is refused, upon the date of refusal of delivery, (ii) if mailed by certified or registered mail, postage pre-paid, and addressed to the Seller or to the City at the following addresses, receipt is presumed three (3) days following the date of such mailing or (iii) if sent for next business day delivery by way of a nationally recognized overnight delivery service, on the date of delivery. Seller or City may change their respective address for notice by giving written notice of the change to the other. The addresses for notices are:

A. Notice to the Seller:

Townsite QO21 LLC
8301 Lomas Boulevard NE
Albuquerque, New Mexico 87110

B. Notice to the City:

City of Albuquerque
Municipal Development Department
P. O. Box 1293
Albuquerque, New Mexico 87103
Attn: Real Property Division Manager

4. Exhibits.

All certificates, documents, exhibits, attachments, riders, and addenda, if any, referred to in this Agreement, including but not limited to the exhibits referred to in this Agreement, are hereby incorporated into this Agreement by reference and are made a part hereof as though set forth in full in this Agreement to the extent they are consistent with the terms and conditions of this Agreement.

5. Further Action.

At any time and from time to time, each Party agrees, without further consideration, to take such actions and to execute and deliver such documents as may be reasonably necessary to effectuate the purposes of this Agreement.

6. Severability/invalidity.

In the event any covenant, condition, or provision herein is held to be void, voidable, invalid, illegal, or unenforceable by any court of competent jurisdiction, such covenant, condition, or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable, or, if it cannot be so amended, without materially altering the intention of the Parties, it shall be stricken. If stricken, all other covenants, conditions and provision of this Agreement shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially prejudice either the City or Seller in its respective rights and obligations contain in the valid covenants, conditions or provisions of this Agreement.

7. Governing Laws and Venue.

This Agreement is governed by the laws of the State of New Mexico. Both Seller and the City agree to the exclusive jurisdiction of the courts of the State of New Mexico for all purposes regarding this Agreement and further agree and consent that venue of any action brought hereunder shall be exclusively in the County of Bernalillo for the full duration of any such action through its complete resolution, whether through an adjudication or settlement.

8. Attorneys' Fees and Legal Costs

If either Party to this Agreement institutes any action or proceeding in court to enforce any provision hereof, for an alleged breach of any provision of this Agreement, for a declaration of such Party's rights or obligations hereunder, or for any other judicial remedy, each Party shall be responsible for its own attorneys' fees (including the reasonable fees and disbursements and charges of internal legal counsel) and litigation expenses, including, but not limited to expert witness fees and service of process fees.

9. Force Majeure.

If performance of part or any portion of this Agreement is made impossible by any prevention, delay, or stoppage caused by strikes; lockouts; labor disputes; acts of "God"; inability to obtain services, labor or materials or reasonable substitutes for those items; government or administrative actions; civil commotions, fire; flood or other casualty; epidemic, pandemic or other public health emergency; or other causes beyond the reasonable control of the Party obligated to perform, performance by that Party for a period equal to the period of that prevention, delay, or stoppage is excused.

10. Approval of the City; Binding Effect.

This Agreement is subject to approval and signature by the Chief Administrative Officer of the City or her designee. Upon execution of this Agreement by the Chief Administrative Officer, the covenants, terms, and conditions of this Agreement will be binding on and inure to the benefit of the City and of the Seller and of their respective heirs, devisees, personal representatives, successors, and assigns.

11. Effective Date.

The effective date of this Agreement shall be the date of approval and execution by the Chief Administrative Officer of the City or designee.

12. Final Dates.

If the final date of any deadline falls upon a Saturday, Sunday, or holiday recognized by the U.S. Postal Service, then in such event the time of such deadline shall be extended to the next day that is not a Saturday, Sunday, or holiday recognized by the U. S. Postal Service. Whenever the word “days” is used herein, it shall be considered to mean “calendar days” and not “business days” unless an express statement to the contrary is made.

13. Limitations on Liability.

Neither Party has any liability with respect to the obligations under this contract or otherwise for incidental, consequential, special, indirect, exemplary or punitive damages even if it has been advised of the possibility of such damages.

14. Representation.

Each Party hereto acknowledges that it has been represented, or has had ample opportunity to obtain representation of counsel with respect to this Agreement. Accordingly, each Party hereto represents to the other that it has read and understood the terms of this Agreement and the consequences of executing this Agreement and that, except as expressly set forth herein, no representations have been made by either Party to induce the other Party to execute this Agreement.

15. Multiple Counterparts.

The Agreement may be signed in multiple counterparts or with detachable signature pages, but in either, or both, circumstances shall constitute one instrument, binding upon all Parties thereto as if all Parties signed the same document. If so executed, each such counterpart of this Agreement is to be deemed an original for all purposes and all such counterparts will collectively constitute one agreement, but in the making of proof of this Agreement, it will not be necessary to produce or account for more than one such counterpart.

16. Audits and Inspections.

Seller understands and will abide by all provisions of the Accountability In Government Ordinance, §2-10-1 et seq. and Inspector General Ordinance, §2-17-1 et seq. R.O.A. 1994.

17. Headings and Captions.

Captions of sections and paragraphs are for convenience, not limitation, and are not to be construed as modifying text.

18. Public Document.

The City is a municipal corporation under the laws of the State of New Mexico. City and Seller acknowledge that this Agreement is subject to the New Mexico Inspection of Public Records Act, §14-2-1 et seq. NMSA 1978, and is a “public record” within the meaning of said Act.

19. Interpretation.

Whenever the context hereof will so require, the singular will include the plural, the male gender will include the female gender and the neuter and vice versa. The terms "include," "includes," "including," and similar terms will be construed to mean "without limitation." All references to Sections, subsections, paragraphs, Exhibits and/or Articles will be deemed references to Sections, subsections, paragraphs, and/or Articles of this Agreement and to Exhibits which are attached hereto and made a part hereof for all purposes.

20. Entire Agreement.

This Agreement, including the attached Exhibits, constitutes the full and final agreement of the Parties and incorporates all of the conditions, agreements and understandings between the Parties concerning the subject matter of this contract, and all such conditions, understandings and agreements have been merged into this written Agreement. All prior negotiations and agreements are merged into this Agreement. No prior condition, agreement, or understanding, verbal or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this Agreement. No subsequent agreement may modify this Real Estate Purchase Agreement unless it is in writing and signed by each of the Parties or their authorized agents. This Agreement represents the entire contract between the Parties and, except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the Parties hereto.

21. Electronic Signatures.

Authenticated electronic signatures are legally acceptable pursuant to Section 14-16-7 NMSA 1978. The Parties agree that this Agreement may be electronically signed and that the electronic signatures appearing on the Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

23. Like Kind Exchange.

Seller may elect to consummate this transaction as part of a so-called “like kind exchange” (“Exchange”) pursuant to Section 1031 of the Internal Revenue Code, provided that: (i) the Exchange, to the extent necessary, if at all, may be effected through an assignment of rights under this Agreement to a qualified intermediary; and (ii) City shall not be required to take an assignment of the purchase or sale agreement for any exchange or replacement property, be required to acquire or hold title to any real property for the purposes of consummating the Exchange, be required to expend any additional costs or expenses or incur any additional liability to effect the Exchange. The Parties agree to cooperate with each other in conjunction with an Exchange, including, to the extent necessary, the assignment of this Agreement to a qualified intermediary.

IN WITNESS WHEREOF, the Parties hereto have signed this Agreement as of the date indicated by each signature, and the Agreement is effective after approval and signature of the City's Chief Administrative Officer or her authorized designee.

[SIGNATURE PAGES IMMEDIATELY FOLLOWING]
The remaining space is intentionally left blank.

CITY OF ALBUQUERQUE:

RECOMMENDED:

Samantha Sengel, EdD
Chief Administrative Officer

Nathan Martinez
General Services Department

Date of Approval:

Date of Recommendation:

SELLER:
TOWNSITE 0021 LLC,
a New Mexico limited liability company

Ed Garcia, Managing Member

Date: _____

MSS/Garcia 501 Tijeras/Lease City/4 Purchase Agrec Ex B 102224

EXHIBIT A

**Lots 20-35, 31, 32, 33a, 33b, 33c, 33d, 34, 35, 40& 41AND PORTIONS OF VACATED
ALLEYS ADJ BLK3 PERFECTO ARMIJO ND BROTHERS ADDITION**

To be updated by the survey