



# City of Lawton

Lawton City Hall  
212 SW 9th Street  
Lawton, Oklahoma  
73501-3944

## Lawton Economic Development Authority

### Agenda

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Tuesday, July 15, 2025

3:00 PM

Lawton City Hall  
3rd Floor Conference Room

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#### Meeting Called to Order and Roll Call

#### Statement of Compliance with Oklahoma Open Meeting Act, 25 O.S. 301-314

#### Executive Session

1. Pursuant to Section 307C.11, Title 25, Oklahoma Statutes, consider convening in executive session for the purpose of conferring on matters pertaining to economic development, including the transfer of property, financing, and the creation of a proposal to entice a business to locate within their jurisdiction if the public disclosure of which would violate the confidentiality of prospective business entities.
2. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the status of an ongoing investigation concerning a fraudulent wire transfer and other related matters, and if necessary, take appropriate action in open session.

#### Business Items

1. Consider approving a Purchase and Sale Agreement for Lot Eight (8) of Block One (1), Lawton Downtown Center, Part 2.

#### Adjournment

## **PURCHASE AND SALE AGREEMENT**

**THIS PURCHASE AND SALE AGREEMENT** (this “**Agreement**”) is dated as of Effective Date (defined below) by and between the Lawton Economic Development Authority, a public trust (“**Seller**”), and JAA Armada Acquisitions, LLC, a Texas limited liability company (“**Buyer**”). Seller and Buyer are each a “**Party**” or collectively the “**Parties**.”

In consideration of the mutual covenants and obligations contained in this Agreement, the receipt and sufficiency of which the Parties hereby acknowledge, Buyer and Seller agree as follows:

**1. Agreement to Sell and Purchase.** Subject to the terms and conditions of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, approximately 10.8779 acre tract of unimproved real property located in the City of Lawton, Comanche County, State of Oklahoma, and which is more particularly described on Exhibit A attached hereto and made a part hereof and depicted on Exhibit “A-1”) (the “**Land**”), together with all right, title, and interest of Seller in and to the Land and any other appurtenances belonging thereto, including all rights, privileges, warranties, and easements benefiting, belonging, or pertaining thereto (including, without limitation, all development rights, and wastewater utility capacity and other entitlements related thereto) but specifically less and except all oil, gas and other mineral interests lying in, to or under the Land and less and except as a reservation in favor of the City of Lawton all groundwater, including all percolating water and all water in known aquifers or aquifers to be identified in the future, and any right therein to produce such groundwater, provided in no event shall such reservation of groundwater rights include the right to interfere with the surface of any portion of the Land nor use or occupy any portion of the surface of the Land for the purpose of drilling wells or the placement of any fixtures, equipment, buildings, or structures of any kind (which surface rights are expressly waived) (collectively, the “**Property**”).

**2. Purchase Price.** Subject to the adjustments and prorations herein described, the purchase price for the Property is \$947,682.65 (“**Purchase Price**”). The Purchase Price will be paid as follows:

**2.1 Earnest Money Deposit.** Upon its execution of this Agreement, Buyer shall deposit with the Title Company (defined below) Twenty Thousand and No/100 Dollars (\$20,000) (“**Initial Earnest Money**”) by bank or certified check or federal wire transfer of immediately available funds (“**Good Funds**”). The Initial Earnest Money and any Additional Earnest Money, to the extent actually deposited by Buyer with the Title Company pursuant to Section 5.2, is collectively referred to herein as the “**Total Earnest Money Deposit.**” The Title Company shall deposit the Total Earnest Money Deposit in a federally-insured, interest-bearing account through a bank or other financial institution located in the State of Oklahoma. All interest accrued shall be considered part of the Total Earnest Money Deposit. Escrow Agent shall hold, refund, and disburse, as the case may be, the Total Earnest Money Deposit in accordance with the terms of this Agreement.

**2.2 Independent Consideration.** Notwithstanding anything herein to the contrary, a portion of the Earnest Money in the amount of One Thousand Dollars (\$1,000.00) (the “**Independent Consideration**”), shall be non-refundable to Buyer and deemed earned by Seller

and will be paid over to Seller upon any termination of this Agreement as independent consideration for Seller's performance under this Agreement. Any term or provision herein which provides for the return of the Earnest Money to Buyer shall mean the Total Earnest Money Deposit, less the Independent Consideration.

**2.3 Payment at Closing.** At Closing (defined in Section 10), the Seller shall be delivered: (a) the Total Earnest Money Deposit by the Escrow Agent, and (b) subject to the adjustments and prorations herein set forth, the remaining balance of the Purchase Price, in Good Funds, delivered by the Buyer. The Buyer shall perform its obligations hereunder by delivering the remaining balance of the Purchase Price in Good Funds to Escrow Agent on the Closing Date.

**2.4 Purchase Price Adjustment.** The Purchase Price is based on an estimated area of 10.8779 acres, as reflected on Seller's existing survey and will be adjusted upward or downward based on the actual number of square feet of land within the Property, shown on the New Survey (defined in Section 6.2), if obtained by the Buyer. The actual amount of the Purchase Price to be delivered by the Buyer to Seller at Closing, less the Total Earnest Money Deposit (defined below), shall be calculated by multiplying (i) Two and No100 Dollars (\$2.00) per square foot, by (ii) the exact number of square feet contained with the total acreage of the Property, as determined by the New Survey, computed to the nearest one-ten thousandth (1/10,000<sup>th</sup>) of an acre. Should the Buyer elect not to obtain the New Survey, the Purchase Price shall be in the amount stated in Section 2 above.

**3. Escrow; Effective Date.** Within three (3) Business Days of Buyer's receipt of a copy of this Agreement executed by Seller, Buyer shall open an escrow with Stewart Title Company located at 1717 Main Street, Suite 3500, Dallas, TX 75201 (the "**Title Company**"), attention Angie Williams ("**Escrow Agent**"), by depositing with the Title Company the Initial Earnest Money Deposit and a copy of this Agreement executed by Seller and Buyer. The "**Effective Date**" of this Agreement shall mean the date when the Title Company receives the Initial Earnest Money, as evidenced by the date inserted by the Title Company beneath its signature of receipt of this Agreement. The Seller and the Buyer agree to execute and deliver such instructions as the Escrow Agent might reasonably request from time to time to delineate the Escrow Agent's obligations, rights and liabilities with respect to the Total Earnest Money Deposit.

**4. Due Diligence Materials.** Within five (5) Business Days after the Effective Date, Seller shall deliver or cause to be delivered to Buyer the following documents which are in Seller's possession or direct control: (i) copy of all contracts relating to the Property; (ii) copy of current title insurance policy, (iii) copy of the existing survey, which may include additional land ("**Existing Survey**"); (iv) copy of any soil, geotechnical, engineering, flood, and environmental studies, tests, or reports, plans, drawings, surveys, permits; and (v) copy of the most recent tax statements and assessments for the Property (the "**Seller Due Diligence Materials**"). Buyer acknowledges and agrees that Seller makes no representation or warranty concerning the accuracy, reliability, scope or completeness of any of the studies, statements, information, analysis, conclusions or recommendations made in the Seller Due Diligence Materials. Such Seller Due Diligence Materials are only provided to Buyer at Buyer's request in order to assist Buyer with its own due diligence and Buyer agrees to solely rely on its own due diligence.

## 5. Inspection Period.

5.1 The Seller agrees the Buyer and any employee, agent, or principal of, or independent contractor of Buyer (collectively, "**Buyer Agents**"), shall have from the Effective Date until 5:00 p.m., Central Time on the date that is one hundred twenty (120) days after the Effective Date (the "**Inspection Period**") to physically inspect the Property during customary business hours and to conduct certain tests, surveys and inspections, collectively the "**Inspections**," including without implied limitation, soil tests and environmental audits, provided the Buyer gives prior notice to the Seller identifying the nature and extent of such Inspections. Notwithstanding anything herein to the contrary, if the Buyer proposes to make any tests in connection with any environmental report or any other test which involves drilling, boring or other similar intrusive or invasive action on or under the Property, then the Buyer will obtain the Seller's written consent prior to making any such tests, which consent may be withheld in the Seller's sole and absolute discretion. All costs and expenses of the Buyer's inspection and investigation shall be borne solely by the Buyer. Buyer and Buyer Agents will exercise due care and prudence in performing inspections of the Property and will not exercise a right to inspect in a manner that unreasonably interferes with the operation of the Property. If the Closing does not occur, the Buyer, at the Buyer's expense, shall restore any damage to the Property caused by the Buyer's inspection of the Property, to the substantial condition in which it existed immediately preceding the Inspections.

5.2 **Options to Extend Inspection Period.** If Buyer has not terminated this Agreement on or before the expiration of the Inspection Period, the Buyer may, in its sole discretion, upon written notice to Seller on or before the expiration of the Inspection Period, extend the Inspection Period by thirty (30) days ("**First Inspection Period Extension**"). If the Seller timely exercises the First Inspection Period Extension, Buyer shall deposit an additional, non-refundable earnest money deposit in the amount of Five Thousand and No/100 Dollars (\$5,000.00) in Good Funds with the Title Company. Buyer may, in its sole discretion, extend the First Inspection Period Extension by thirty (30) days from the First Inspection Period Extension ("**Second Inspection Period Extension**") by giving written notice to Seller and delivering a second non-refundable earnest money deposit in the amount of Five Thousand and No/100 Dollars (\$5,000.00) in Good Funds with the Title Company prior to the expiration of the First Inspection Period Extension. For each extension exercised, the additional earnest money deposit delivered to the Title Company (each and collectively, the "**Additional Earnest Money Deposit**") shall be delivered to the Buyer by the Escrow Agent, in the event the Buyer delivers a Termination Notice pursuant to Section 5.5. Otherwise, if the Buyer does not provide a Termination Notice to the Seller, the Additional Earnest Money Deposit delivered to the Title Company shall be credited to the Purchase Price.

Notwithstanding the expiration of the Inspection Period, Buyer and Buyer Agents shall have continued access to the Property during normal business hours through the Closing Date, upon reasonable prior notice to Seller, for the limited purpose of conducting non-invasive Inspections. Such access shall not serve as grounds for termination or reinstate any right of termination that has expired. Buyer's obligation to close shall remain in full force and effect, subject only to the express conditions set forth in this Agreement. Buyer shall remain responsible for any damage caused in connection with such Inspections and shall comply with all indemnity and insurance requirements set forth in Section 5.3.

**5.3 Insurance; Indemnity.** Neither Buyer nor any Buyer Agent shall enter upon the Property to perform any Inspection for any purpose whatsoever, unless and until Seller has been furnished with a certificate of general liability and property damage insurance insuring Seller against any loss or liability arising from the activities to be conducted by Buyer and Buyer Agents, said liability insurance to be written by insurers reasonably acceptable to Seller, to be on an occurrence basis, to name Seller as additional insureds, and to be in an amount of at least \$1,000,000.00 per occurrence. Such insurance limits shall not constitute the limit of liability of Buyer under this paragraph. Buyer agrees to indemnify Seller against, and to hold Seller harmless from, any damages, liabilities, expenses, costs or liens asserted or claimed against Seller or the Property due to Buyer and/or its agents conducting Inspections prior to the Closing; provided that in no event shall Buyer be obligated to indemnify Seller with respect to any damages, liabilities, expenses, costs or liens arising out of or relating to the negligence, misconduct, fraud or illegal acts of Seller or any of Seller's agents, employees or contractors, or the mere discovery by Buyer of any pre-existing conditions in or on the Property. Such indemnification shall survive the Closing or any earlier termination of this Agreement.

**5.4 Expiration.** If the Buyer does not provide the Termination Notice (defined in Section 5.5) to the Seller prior to the expiration of the Inspection Period, the Buyer will be deemed to have inspected the Property to the Buyer's satisfaction and approved: (a) the physical condition of the Property; (b) the presence or absence of Hazardous Materials on the Property; (c) the Property's compliance or noncompliance with applicable Environmental Laws, building codes, zoning and other use restrictions; and (d) all other matters relating to the Property theretofore delivered by the Seller to the Buyer. The sole obligation of the Seller with respect to the physical condition of the Property will be to deliver possession of the Property to the Buyer in substantially the condition (normal wear and tear and casualty loss excepted) which existed on the Expiration Date. If the Buyer does not provide the Termination Notice to the Seller prior to the Expiration Date, the Buyer agrees to accept delivery of the Property on the Closing Date in an AS IS CONDITION, WITH ALL FAULTS, WITHOUT EXPRESS OR IMPLIED WARRANTY AS TO FITNESS FOR ANY PARTICULAR USE, except as expressly represented and warranted by the Seller herein or as otherwise set forth in any document delivered at the Closing (by way of example only and without limitation, the Deed).

**5.5 Termination.** At any time during the Inspection Period, the Buyer may terminate the Buyer's obligation to purchase the Property, for any or no reason, by delivering a written notice to Seller ("**Termination Notice**"). On such delivery of the Termination Notice, the Escrow Agent shall deliver to the Seller: (a) the Independent Consideration, (b) the Additional Earnest Money Deposit, if any, (c) the costs incurred by the Seller to provide to the Buyer the Title Commitment and the Exception Documents, and (d) any other information requested from Seller by the Buyer. The remainder of the Total Earnest Money shall be delivered to the Buyer and this Agreement shall terminate. Upon any such termination of this Agreement and disbursement of the Total Earnest Money Deposit to the Seller and the Buyer, the Escrow Agent, the Seller and the Buyer will be discharged from the performance of the terms of, and all liabilities under, this Agreement, except those specifically stated herein to survive termination of this Agreement.

## 6. Title Commitment; Survey; Objections.

**6.1 Title Information.** The Seller shall request the Title Company to deliver to the Buyer within fifteen (15) days after the Effective Date a commitment for title insurance ("**Commitment**") for an owner's policy of title insurance ("**Title Policy**") dated not earlier than the Effective Date, legally describing the Property, showing good and marketable title vested in Seller, proposing to insure Buyer, and committing to insure title to the Property, in the amount of the Purchase Price. The Commitment shall list all exceptions to title which will appear in the Title Policy and shall include embedded hyperlinks to all recorded documents constituting such exceptions (the "**Exception Documents**"). Buyer shall have the right, at any time prior to Closing, to cause the Title Company to issue such endorsements to the Title Policy ("**Buyer Endorsements**") as Buyer may deem necessary, at Buyer's sole cost and expense and without obligation on the part of Seller to obtain such Buyer Endorsements.

**6.2 Survey.** Within ten (10) days after receipt of the Title Commitment and Exception Documents, Buyer may obtain, at Buyer's expense, an update of the Existing Survey or a new survey of the Property prepared by a professional land surveyor selected by Buyer in Buyer's sole discretion, certified to Seller, Buyer and the Title Company, as made in conformance with Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, and reflecting the number of Total Acres contained within the Property (the "**New Survey**"), and deliver a copy to the Seller for review and approval to confirm the location and configuration of the real property and the computation of the square footage of the Property. In the event that the computation of the number of square feet of the Property, as set forth on the New Survey does not equal the total square feet of land indicated in the Existing Survey, the Purchase Price shall be adjusted pursuant to Section 2.4.

**6.3 Title Objections.** Buyer shall have until 5:00p.m. Central Time on the fifteenth (15<sup>th</sup>) day after Buyer's receipt of the last of the Commitment, Exception Documents, and New Survey, if applicable ("**Title Review Period**") to notify Seller of any matters contained in the Title Commitment and the Survey to which Buyer objects ("**Title Objections**"). Any matters in the Title Commitment and Survey to which Buyer does not timely object shall constitute "Permitted Exceptions" in the Deed (defined below); provided, however, that certain so-called "standard exceptions" in the Commitment, including those relating to unrecorded matters such as zoning ordinances, shall not be deemed Permitted Exceptions to the extent they are affirmatively deleted from the Commitment or insured over by endorsement in the Title Policy. Any recorded matters which first arise after the effective time of the Title Commitment and before the Closing shall be deemed Title Objections, unless Buyer otherwise waives the same in writing or proceeds without written objection (which action shall constitute a waiver of any such objection) (and Buyer shall have the same rights and remedies with respect thereto as to other prior Title Objections). Seller agrees to notify Buyer promptly upon Seller obtaining knowledge of any other matters impacting title coming into existence after the date of the Title Commitment. Notwithstanding the foregoing, any delinquent real property taxes, mortgages, deeds of trust, judgments and mechanics liens arising out of the acts or omissions of Seller or its agents (collectively, the "**Monetary Liens**") disclosed on the Title Commitment shall be automatically deemed Title Objections by Buyer without any further action or notice thereof to Seller, and Seller shall cause all such Monetary Liens to be satisfied and removed from the Title Commitment on or before the Closing

Date. Seller shall additionally terminate all existing tenancy rights affecting the Property and remove all parties in possession of the Property or portions thereof (collectively, "**Tenancy Rights**"), all of which shall constitute Title Objections. Within ten (10) days after receipt of Buyer's Title Objections, Seller shall notify Buyer in writing whether Seller will seek to remove, correct, and/or satisfy the Title Objections. Seller shall have until Closing to cure the Title Objections but except as otherwise provided herein, Seller shall not be obligated to cure any Title Objection except any Monetary Liens and Tenancy Rights. In the event that all Title Objections are not cured by the Closing Date, Buyer's exclusive rights under this Agreement shall be either (a) to waive any one or more of the objections and proceed to Closing, or (b) to the extent such Title Objections relate to Monetary Liens, Buyer may direct the Title Company at Closing to pay the amounts necessary to cause any such Monetary Liens to be fully paid, satisfied and removed from the Title Commitment (or insured over by the Title Company if acceptable to Buyer) from the purchase proceeds otherwise to be paid to Seller at Closing, or (c) to terminate this Agreement, in which event the Total Earnest Money less the Independent Consideration shall be returned to Buyer. Upon such termination of this Agreement and disbursement of the Total Earnest Money Deposit to the Seller and the Buyer, the Escrow Agent, the Seller and the Buyer will be discharged from the performance of the terms of, and all liabilities under, this Agreement, except those specifically stated herein to survive termination of this Agreement.

**7. Additional Covenants.** Buyer acknowledges that a material inducement for Seller's agreement to enter this transaction Buyer's acceptance of covenants set forth in this Section 7, each of which shall be binding upon Buyer and its successors and assigns and shall survive Closing:

7.1 **Use Restriction.** Buyer shall acquire the Property subject to a covenant ("**Use Restriction**") requiring that after the completion of construction, the Property shall be primarily developed, used, and operated for the Primary Approved Use (defined below) for at least one day. This Use Restriction is intended to ensure that the Property is developed and activated in a manner that delivers the public benefits contemplated by the Lawton Downtown Economic Development Project Plan and the Redevelopment Agreement (defined below). The Use Restriction shall constitute a covenant running with the land for the benefit of Seller and shall be binding upon the Property and upon Buyer and its permitted successors and assigns. The Use Restriction and other terms of the Redevelopment Agreement shall be incorporated into the Deed and shall be enforceable by Seller through any remedy available at law or in equity, including injunctive relief. The specific language for the Use Restriction to be used in the Deed shall be delivered by Seller no later than the 45<sup>th</sup> day after the Effective Date and which shall be agreed to prior to the expiration of the Inspection Period.

As used herein, the term "**Primary Approved Use**" means the development, ownership, leasing, and operation of a building comprising not less than 40,000 square feet to be used as a full-service grocery store, whether by Buyer or a third-party operator under a lease approved by Seller. The Primary Approved Use may also include a separate building operated as a business engaged in the sale and dispensing of gasoline and other motor vehicle fuels, and which may also sell food, beverages, and other convenience products for off-premises consumption or use.

7.2 **Redevelopment Agreement.** As a condition to Closing, Buyer and Seller shall execute a Redevelopment Agreement in a form prepared by Seller and approved by Buyer and the

City Council of the City of Lawton (“**Redevelopment Agreement**”), the form of which shall be delivered by Seller no later than the 45<sup>th</sup> day after the Effective Date and which shall be agreed to prior to the expiration of the Inspection Period. The Redevelopment Agreement shall set forth, among other matters, Buyer’s obligations concerning the development, operation, and maintenance of the Property. Without limitation, such obligations shall include: (a) submitting the lease for the Primary Approved Use for Seller’s prior written approval, which may be granted or withheld in Seller’s reasonable discretion; (b) submitting the proposed use of the remaining portions of the Property for Seller’s prior written approval, which shall not be unreasonably withheld, conditioned or delayed; (c) submitting all construction and site development plans for Seller’s prior written approval, which shall not be unreasonably withheld, conditioned or delayed; (d) establishing commencement and completion deadlines for construction of the Primary Approved Use; (e) achieving a specified minimum level of annual sales tax revenues from the operation of the Primary Approved Use; and (f) employing and maintaining a specified minimum number of full-time employees in connection with the Primary Approved Use.

In exchange, and subject to the terms of the Redevelopment Agreement, Seller will provide financial assistance authorized by the Oklahoma Local Development Act, 62 O.S. § 850 *et seq.*, and the Lawton Downtown Economic Development Project Plan, as amended.

7.2.1 **Assistance in Development Financing**. Provided that Buyer is not in default under the Redevelopment Agreement, the Covenant Agreement, or any other definitive agreement, Seller may provide assistance in development financing, subject to the terms and conditions of the Redevelopment Agreement. Such assistance may include: (a) reimbursement of the costs of certain public improvements necessary to support the Primary Approved Use, subject to Seller’s prior approval of such improvements, cost estimates, and the use of funds; (b) reimbursement or direct payment of costs associated with the demolition and removal of existing concrete or other improvements from the Property; and (c) reimbursement of a portion of the ad valorem real property taxes assessed against and paid on the improved Property by the Buyer, its tenant, or operator, for an agreed-upon period.

7.3 **Covenant Agreement**. If required by the Redevelopment Agreement, it shall be a further condition to closing that Buyer and Seller execute a Covenant Agreement, in form prepared by Seller and approved by Buyer (which, if required shall be delivered by Seller no later than the 45<sup>th</sup> day after the Effective Date and which shall be agreed to prior to the expiration of the Inspection Period), to be recorded against the Property immediately following the recording of the Deed. The Covenant Agreement shall obligate Buyer, and its successors and assigns, to make annual minimum payments of ad valorem taxes (the “**Minimum Tax Payment Obligation**”) for the term stated therein. The amount of the Minimum Tax Payment Obligation, and the portion eligible for reimbursement under the Redevelopment Agreement, shall be established in the final executed versions of the Covenant Agreement and Redevelopment Agreement.

## **8. Seller Covenants and Representations and Warranties.**

8.1 Prior to the Closing Date, Seller covenants and agrees that:

- (a) The Property shall be operated, managed and maintained in its present condition, reasonable wear and tear excepted; Seller will not initiate or consent to any material zoning reclassification of the Property or any material change to any approved site plan, special use permit, planned unit development approval or other land use entitlement affecting the Property;
- (b) Seller shall not enter into any written or oral leases, service contracts or other agreements with respect to the Property without Buyer's prior consent, which may be withheld in Buyer's sole discretion; and
- (c) Seller shall notify Buyer in writing of Seller's receipt of any written notice of any Violations (defined below) between the Effective Date and the Closing Date.
- (d) Seller will advise the Buyer promptly of any litigation, arbitration proceeding or administrative hearing (including condemnation, foreclosure or bankruptcy) before any governmental authority which affects the Seller or the Property.
- (e) Seller will deliver to Buyer promptly after receipt thereof copies of any notices of violations or other notices regarding the Property received by the Seller.
- (f) Seller will use commercially reasonable efforts to obtain and deliver to Buyer any estoppels Buyer may reasonably require in connection with the Permitted Encumbrances (each individually an "**Declaration Estoppel**", and collectively the "**Declaration Estoppels**"); provided, however, Seller shall not be obligated to incur any non de-minimis expense or fee to so obtain Declaration Estoppels other than may be required by the terms of the Permitted Exception and the delivery of the same shall not be a condition to Closing.

8.2 Notwithstanding anything to the contrary contained in Section 8.1, Seller's efforts to propose, pursue, or secure an amendment or update to the existing Urban Renewal Plan, or any related approvals from the Urban Renewal Authority or other governmental authority, shall not constitute a breach of any covenant set forth in Section 8.1; provided, however, that no such amendment or update shall materially limit or impair Buyer's intended use of the Property as disclosed to Seller in writing prior to the expiration of the Inspection Period.

In the event that Seller fails to comply with the foregoing, then as of the Closing Date, the Buyer shall be entitled to (i) waive any such matters and proceed to Closing, (ii) extend the Closing Date until such matters are fully complied with to Buyer's satisfaction or to the extent applicable, proceed to Closing and deduct the reasonable costs of repair or replacement of the subject matter from the purchase proceeds otherwise to be paid to Seller at Closing, or (iii) terminate this Agreement by providing written notice to Seller, in which event the Total Earnest Money Deposit shall be returned to Buyer, less the Independent Consideration. Upon such termination of this Agreement and disbursement of the Total Earnest Money Deposit to the Seller and the Buyer, the Escrow Agent, the Seller and the Buyer will be discharged from the performance of the terms of, and all liabilities under, this Agreement, except those specifically stated herein to survive termination of this Agreement.

8.3 Seller's Warranties and Representations. The matters set forth in this Section 8.3 constitute representations and warranties by Seller which shall, in all material respects, at Closing be true and correct. If Seller has or becomes aware of any reason to believe that any of the

following representations and warranties are not true, have ceased to be true, or may cease to be true, Seller shall give prompt notice to Buyer (which notice shall include copies of the instrument, correspondence, or document, if any, upon which Seller's notice is based). As used in this Section 8.2, the phrase "**to Seller's Knowledge**" shall mean the actual knowledge of any of Seller's current trustees and officers. To the extent Buyer has or acquires actual knowledge that these representations and warranties are inaccurate, untrue or incorrect in any way, Buyer shall promptly notify Seller of same.

(a) Power and Authority. Seller has the legal power, right and authority to enter into and deliver this Agreement to Buyer and to consummate the transactions contemplated hereby. Seller has been duly organized and is validly existing in the state of its formation, and is in good standing and is qualified to do business in the state in which the Land is located. Seller has the full right, power and authority and has obtained any and all consents required to enter into all of the documents to be delivered by Seller on or prior to the Closing Date. This Agreement has been, and all of the documents to be delivered by Seller on or prior to the Closing Date will be, authorized and properly executed and constitutes, or will constitute, as appropriate, the valid and binding obligation of Seller, enforceable in accordance with their terms.

(b) Proceedings. Seller has not received notice overtly threatening any of the following: (I) annexation, condemnation or similar proceeding affecting all or any portion of the Land; (ii) proceedings to change or redefine the zoning classification or zoning requirements applicable to any portion of the Land; (iii) changes in road patterns or grades which may adversely affect access to any roads providing a means of ingress to or egress from the Land; or (iv) proceedings that otherwise materially and adversely affect the Property.

(c) Contravention. Seller is not prohibited from consummating the transactions contemplated by this Agreement by any law, regulation, agreement, instrument, restriction, order, or judgment.

(d) Termination of Certain Contracts. Except as delivered to Buyer in the Seller Due Diligence Materials, there are no contracts, management agreements or other agreements related to the operation or maintenance of all or any portion of the Property ("Contracts") that cannot be canceled at Buyer's option without penalty and on no more than thirty (30) days' prior notice, or that, upon such cancellation, would create, give rise to, or form the basis of, a lien or other encumbrance on the Property, or any portion thereof. The copies of Contracts delivered to Buyer as part of the Seller Due Diligence Materials are true, correct, and complete copies of all the Contracts affecting the Property. Neither Seller nor, to Seller's knowledge, any other party is in default under any Contract. Other than this Agreement, the Permitted Exceptions, the Contracts, and the LTC Agreement (defined in Section 8.2(e) below), there are no contracts or agreements of any kind relating to the Property to which Seller is a party and which would be binding on Buyer after the Closing Date. On the Closing Date, there will be no unpaid bills for services rendered or labor performed pursuant to any such service contracts or agreements with respect to the

Property or, at the option of Seller, sufficient funds will be delivered to Buyer by Seller at Closing to pay these amounts.

(e) No Property Interests. Except as provided below, no person, firm or entity has any rights to acquire or to lease all or any portion of the Property or otherwise to obtain any interest therein, and there are no outstanding options, rights of first refusal or negotiation, rights of reverter or rights of first offer relating to all or any portion of the Property or any interest therein. Pursuant to that certain Amended Redevelopment Agreement between Lawton Town Center, LLC ("LTC") and Seller dated July 26, 2012, as thereafter amended ("LTC Agreement"), LTC was granted certain options to purchase and develop the Property. Seller represents and warrants that any and all rights of LTC with respect to the Property under the LTC Agreement shall be terminated prior to the expiration of the Inspection Period.

(f) Compliance. To Seller's Knowledge, the Property is in material compliance with all applicable laws. Seller has received no notice of, nor has Seller any knowledge of: (i) any violations (collectively, "Violations", and individually, a "Violation") of any applicable local, state or federal law, municipal ordinances or regulations, orders, rules or requirements of any federal, state or municipal department or agency having jurisdiction over or affecting the Property (collectively, "Legal Requirements") whether officially noted or issued, or (ii) any condition relating to the Property which to Seller's Knowledge would constitute a Violation, and, to Seller's knowledge, no such violations current exist and no conditions that would give rise to any such Violation currently exists. Seller shall provide Buyer with notice of any Violations of which Seller obtains notice or knowledge between the Effective Date and the Closing Date. Seller shall be responsible for the removal or correction of all Violations, if any, issued with respect to the Property to and including the Closing Date, and on the Closing Date the Property will be in material compliance with all Legal Requirements.

(g) Change in Legal Requirements. No notice has been received by Seller from any governmental authority with respect to any pending or contemplated change in any Legal Requirement which may adversely affect the use, ownership, management or operation of the Property.

(h) Litigation. To Seller's Knowledge, there is no pending or threatened litigation affecting the Property (including any condemnation) before any civil court of law or equity or any regulatory or arbitral forum.

(i) Environmental Compliance. Except as disclosed in the Seller Due Diligence Materials, Seller has not generated, used, transported, treated, stored, released or disposed of, or has suffered or permitted anyone else to generate, use, transport, treat, store, release or dispose of any Hazardous Substances (as defined below) in violation of any Legal Requirements. To Seller's Knowledge, no asbestos or polychlorinated biphenyl or underground storage tank is contained in or located on the Property. To Seller's Knowledge, any Hazardous Substances, if any, handled or dealt with in any way in connection with the ownership, operation, maintenance or occupancy of the Property,

during Seller's ownership thereof has been and is being handled or dealt with in all respects in compliance with applicable Legal Requirements. "**Hazardous Substances**" as used herein shall mean toxic or hazardous materials, substances, wastes or other environmentally regulated substances (including without limitation, asbestos, polychlorinated biphenyls ("**PCBs**"), petroleum products, radon gas, toxic or radioactive materials, ammonia, chlorine, pesticides, bulk chemicals, solvent mixtures, waste oils, substances listed in the United States Department of Transportation Table or by the Environmental Protection Agency (or any successor agency) as hazardous substances, or which are classified as hazardous or toxic under local, state or federal laws, rules or regulations, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, the Superfund Amendments and Reauthorization Act of 1986, as amended, the applicable requirements issued by the Occupational Safety and Health Administration ("**OSHA**"), including without limitation OSHA regulations set forth in 29 C.F.R. § 1910.1030 and OSHA's Bloodborne Pathogen Standard and revised Center for Disease Control recommendations relating to handling and disposal of infectious waste, 29 C.F.R. § 1910.1030, and any regulations promulgated thereunder and any State counterparts thereof.

(j) Patriot Act. Seller is in compliance with the requirements of Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) (the "**September Order**") and other similar requirements contained in the rules and regulations of the Office of Foreign Assets Control, Department of the Treasury ("**OFAC**") and in any enabling legislation or other Executive Orders or regulations in respect thereof (the September Order and such other rules, regulations, legislation, or orders are collectively called the "**Orders**"). Further, Seller covenants and agrees to make its policies, procedures and practices regarding compliance with the Orders, if any, available to Buyer for its review and inspection during normal business hours and upon reasonable prior notice. Neither Seller nor any beneficial owner of Seller:

- (1) is listed on the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to the September Order and/or on any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Orders (such lists are collectively referred to as the "**Lists**");
- (2) has been determined by any competent authority to be subject to the prohibitions contained in the Orders; or
- (3) is owned or controlled by, or acts for or on behalf of, any person or entity on the Lists or otherwise subject to the Orders.

Seller hereby covenants and agrees that if, at any time prior to the Closing Date, Seller or any of its beneficial owners becomes has been listed on any of the Lists or has been indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Seller shall promptly notify Buyer in writing. In such event, the Buyer shall be entitled, to the extent permitted by applicable law (i) to waive any such matters and proceed to Closing, (ii) to extend the Closing Date until such matters are resolved to Buyer's satisfaction or to the extent applicable, and proceed to Closing, or (iii) to terminate this Agreement by providing written notice to Seller, in which event the Total Earnest Money Deposit shall be returned to Buyer, less the

Independent Consideration. Upon any such termination of this Agreement and disbursement of the Total Earnest Money Deposit to the Seller and the Buyer, the Escrow Agent, the Seller and the Buyer will be discharged from the performance of the terms of, and all liabilities under this Agreement, except those specifically stated herein to survive termination of this Agreement.

The representations, warranties and covenants of Seller set forth in Section 8.3 shall be continuing and shall be true and correct on and as of the Closing Date with the same force and effect as if made at that time, and the representations, warranties and covenants set forth above shall survive the Closing for a period of six (6) months.

8.4. EXCEPT AS SET FORTH IN THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING AND SPECIFICALLY DISCLAIMS ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR REPRESENTATIONS AS TO MATTERS OF TITLE (OTHER THAN SELLER'S WARRANTY OF TITLE SET FORTH IN THE SPECIAL WARRANTY DEED TO BE DELIVERED AT CLOSING), ZONING, TAX CONSEQUENCE, AVAILABILITY OF ACCESS, INGRESS OR EGRESS, OPERATING HISTORY OR PROJECTIONS, VALUATIONS, GOVERNMENTAL APPROVALS OR REGULATIONS, MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS INCORPORATED INTO OR THE STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, PHYSICAL OR ENVIRONMENTAL CONDITIONS, THE VALUE, CONDITION, MERCHANTABILITY, PROFITABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE OF THE PROPERTY. EXCEPT AS SET FORTH HEREIN, BUYER HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY OF SELLER OR ANY AGENT OF SELLER. BUYER REPRESENTS THAT IT IS A KNOWLEDGEABLE BUYER OF REAL ESTATE AND THAT IT IS RELYING SOLELY ON ITS OWN EXPERTISE AND THAT OF BUYER'S CONSULTANTS IN PURCHASING THE PROPERTY. BUYER WILL CONDUCT SUCH INSPECTIONS AND INVESTIGATIONS OF THE PROPERTY AS BUYER DEEMS NECESSARY, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AND SHALL RELY UPON SAME. UPON CLOSING BUYER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, BUT NOT LIMITED TO, ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY BUYER'S INSPECTIONS AND INVESTIGATIONS. EXCEPT AS SET FORTH HEREIN, BUYER ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER SHALL SELL AND CONVEY TO BUYER AND BUYER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS," WITH ALL FAULTS. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT THERE ARE NO ORAL AGREEMENTS, WARRANTIES OR REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE PROPERTY BY SELLER, ANY AGENT OF SELLER OR ANY THIRD PARTY. THE TERMS AND CONDITIONS OF THIS PARAGRAPH SHALL EXPRESSLY SURVIVE THE CLOSING, NOT MERGE WITH THE PROVISIONS OF ANY CLOSING DOCUMENTS AND SHALL BE INCORPORATED INTO THE SPECIAL WARRANTY DEED. SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS, OR INFORMATION PERTAINING TO

THE PROPERTY FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE, SERVANT OR OTHER PERSON, UNLESS THE SAME ARE SPECIFICALLY SET FORTH OR REFERRED TO HEREIN. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT THE PROVISIONS OF THIS SECTION 8.4 WERE A MATERIAL FACTOR IN THE DETERMINATION OF THE PURCHASE PRICE FOR THE PROPERTY.

9. **Buyer Representations and Warranties.** Buyer hereby represents and warrants to Seller, as of the Effective Date and as of (but not surviving) the Closing Date, that:

(a) **Power and Authority.** Buyer is a Texas limited liability company, duly organized and in good standing under Texas law, authorized to do business in the State of Oklahoma, in good standing under Oklahoma law, with full right, power and authority to enter into this Agreement and to fulfill its obligations hereunder. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Buyer are and shall be duly authorized to sign the same on Buyer's behalf and to bind Buyer thereto. This Agreement and all documents to be executed pursuant hereto by Buyer are and shall be binding upon and enforceable against Buyer in accordance with their respective terms. Neither the execution, delivery or performance of this Agreement by Buyer, nor the consummation of the transactions contemplated hereby will (a) violate or conflict with any provision of the organizational documents of Buyer, or (b) violate any order, judgment, injunction, award or decree of any court or arbitration body, by or to which Buyer is or may be bound or subject.

(b) **Proceedings.** Buyer has not received any written notice of, nor is there any suit, action, arbitration, legal, administrative or other proceeding or inquiry, pending or threatened against or relating to Buyer that would affect Buyer's ability to perform its obligations under this Agreement.

(c) **Patriot Act.** Buyer is in compliance with the requirements of the Orders. Neither Buyer nor, to Buyer's knowledge, any beneficial owner of Buyer:

- (1) is listed on any of the Lists;
- (2) has been determined by any competent authority to be subject to the prohibitions contained in the Orders; or
- (3) is owned or controlled by, or acts for or on behalf of, any person or entity on the Lists or otherwise subject to the Orders.

Buyer hereby covenants and agrees that if, at any time prior to the Closing Date, Buyer obtains knowledge that Buyer or any of its beneficial owners has been listed on any of the Lists or has been indicted, arraigned, or custodially detained on charges involving money laundering or predicate crimes to money laundering, Buyer shall promptly notify Seller in writing. In such event, the Seller shall be entitled, to the extent permitted by law (i) to waive any such matters and proceed to Closing, (ii) to extend the Closing Date until such matters are resolved to Seller's satisfaction or to the extent applicable, and proceed to Closing, or (iii) to terminate this Agreement by providing written notice to Buyer, in which event the Total Earnest Money Deposit shall be returned to Buyer, less the Independent Consideration. Upon such termination of this Agreement and disbursement of the Total Earnest Money Deposit to the Seller and the Buyer, the Escrow Agent, the Seller and the Buyer will be discharged from the performance of the terms of, and all liabilities

under, this Agreement, except those specifically stated herein to survive termination of this Agreement.

**10. Closing.** The Buyer and the Seller agree that the purchase of the Property will be consummated as follows:

**10.1 Closing.** Provided this Agreement has not been previously terminated pursuant to this Agreement and all conditions precedent set forth herein have been satisfied, the closing of the transaction contemplated by this Agreement (the "**Closing**") shall take place at the Title Company's office (or remotely) within thirty (30) days after the expiration of the Inspection Period ("**Closing Date**"). The Parties shall prepare or cause to be prepared all closing documents in advance to allow for the execution of all closing documents by the authorized representatives of the Parties prior to the Closing Date. Neither party shall have the obligation to have an authorized representative physically present at the Closing. All documents and payments shall be delivered on or before the Closing Date in escrow at the place of Closing specified herein pending recordation of the Deed in the appropriate recording offices in the county where the Property is located and it shall be a condition of Closing that all matters of payments, execution and delivery of the documents by each party to the other, as provided herein, and the acceptance for recordation of the Deed in such offices shall be deemed to be concurrent requirements, and it is specifically agreed that nothing will be deemed to be complete at the Closing until everything required as a condition precedent at the Closing has been paid, executed and delivered and until the Deed has been accepted for recordation.

**10.2 Closing Documents.** The following documents or actions shall be delivered or shall occur on the Closing Date:

**10.2.1 Seller's Deliveries.** At Closing, the Seller will deliver or cause to be delivered to the Buyer or the Title Company the following items: (a) a special warranty deed conveying the Property to the Buyer, subject only to the Permitted Exceptions and the Use Restriction (defined in Section 7), in substantially the form provided by Seller ("**Deed**"), which Deed contains a waiver of surface rights with respect to the reserved minerals; (b) the Redevelopment Agreement (defined in Section 7) and if required thereunder, the Covenant Agreement (defined in Section 7), executed by Seller and any other definitive agreements required thereunder; (c) any title affidavits, non-foreign affidavits, and evidence of authority as may be reasonably requested by the Title Company or Buyer; (d) the document prepared by the Title Company to be duly executed by the Buyer and the Seller at Closing to record the proration of receipts and disbursements relating to the Property, the payment of the costs described in this Agreement and the adjustments to the Purchase Price, pursuant to this Agreement (the "**Closing Statement**"); (e) for any existing survey provided by Seller an affidavit of no change sufficient for Buyer to obtain survey deletion or similar coverage or endorsement to the final owner's policy to be issued, if Buyer elects not to get a New Survey; (f) an owner's/lien/parties-in-possession/gap affidavit with respect to the Property sufficient to enable Buyer to obtain title insurance on the Property, including extended coverage, if required by Buyer, subject only to the Permitted Exceptions; (g) a quit-claim bill of sale to the extent there exists any tangible and intangible property owned by Seller, including any and all guaranties and warranties; and (h) such additional documents as might

be reasonably requested by the Buyer or the Title Company to consummate the sale of the Property to the Buyer.

10.2.2 **Buyer's Deliveries.** At Closing, the Buyer will deliver or cause to be delivered to the Seller or the Title Company the following items: (a) the Total Earnest Money Deposit and the balance of the Purchase Price, in accordance with Paragraph 2; (b) the Redevelopment Agreement and if required thereunder, the Covenant Agreement, executed by Buyer and any other definitive agreements required thereunder; (c) any title affidavits, non-foreign affidavits, and evidence of authority as may be reasonably requested by the Title Company or Seller; (d) the Closing Statement (it being understood that Buyer may require its own separate Closing Statement); and (e) such additional documents as the Seller or the Title Company might reasonably request to consummate the sale of the Property to the Buyer.

10.2.3 **Buyer's Conditions to Closing.** The obligations of Buyer under this Agreement are subject to satisfaction or written waiver by Buyer of each of the following conditions or requirements on or before the Closing Date:

(a) Seller's warranties and representations under this Agreement shall be true and correct in all material respects when made and at Closing, and Seller shall not be in default hereunder.

(b) The obligations of Seller contained in this Agreement shall have been performed in all respects and Seller shall not be in default under any material covenant, restriction, right-of-way, easement, or other agreement affecting the Property.

(c) Buyer shall receive a title insurance commitment insuring Buyer's interest in the Property which shall have been issued and "marked down"/"date down" through Closing, subject only to Permitted Exceptions.

(d) The physical and environmental condition of the Property shall not have changed in any material adverse respect from the Effective Date.

(e) Buyer shall have received the required documents for Closing as set forth above in form reasonably satisfactory to Buyer. Seller shall use good faith efforts to provide, or cause the Title Company to provide, drafts of such documents at least five (5) days prior to the Closing Date to allow a reasonable time for review; provided that the failure to deliver such drafts within that time frame shall not, in and of itself, constitute a failure of this condition or extend the Closing Date, unless the form or timing of such documents materially impairs Buyer's ability to review and reasonably approve them prior to Closing.

(f) All deeds of trust, mortgages, liens, and other charges against the Property shall have been paid and canceled by Seller at or prior to Closing.

(g) Applicable zoning ordinances and land use regulations permit the development of a fuel station shall be a permitted use by right on at least one (1) designated outparcel of the Property, and the Primary Approved Use shall be a permitted use.

(h) Buyer shall have approved the Covenant Agreement and Redevelopment Agreement, which shall not be unreasonably withheld, conditioned, or delayed.

If all of the foregoing conditions are not satisfied by the Closing Date (or waived in writing by Buyer), then Buyer shall have the rights set forth in Section 11 below.

**10.2.4 Seller's Conditions to Closing.** The obligations of Seller under this Agreement are subject to satisfaction or written waiver by Seller of each of the following conditions or requirements on or before the Closing Date:

(a) Buyer's representations and warranties under this Agreement shall be true and correct in all material respects when made and at Closing, and Buyer shall not be in default hereunder.

(b) The obligations of Buyer contained in this Agreement, including delivery of the Purchase Price and all required documents and approvals, shall have been performed in all respects.

(c) Buyer shall not have become the subject of any bankruptcy, insolvency, reorganization, or similar proceeding under applicable law.

(d) The City of Lawton ("City") and Seller shall have approved the Redevelopment Agreement and Covenant Agreement, including without limitation any assistance in development financing in support of the Primary Approved Use, and any public financing thereof. In addition, any material obligations of Buyer under the Redevelopment Agreement that are identified therein as conditions to closing shall have been satisfied to Seller's reasonable satisfaction or waived in writing by Seller. For the avoidance of doubt, the Seller shall not be required to close unless the lease for the Primary Approved Use is with a grocery operator on lease terms acceptable to Seller.

(e) Buyer and Seller shall have executed the Covenant Agreement and Redevelopment Agreement.

If all of the foregoing conditions are not satisfied by the Closing Date (or waived in writing by Seller), then Seller shall have the rights set forth in Section 11 below.

**10.3 Prorations.** All receipts and disbursements relating to the Property will be prorated at Closing as of 11:59 p.m. on the day preceding the Closing Date and the Purchase Price will be adjusted as provided in the Closing Statement. Unless otherwise requested by the Seller, all prorations and costs owing by the Seller will be deducted from amounts owing to the Seller at Closing and paid by the Buyer as a credit against amounts owing to the Seller by the Buyer.

**10.3.1 Taxes.** All ad valorem taxes and installments of special assessments, if any, for the calendar years preceding the year in which the Closing Date occurs will be paid by the Seller. All ad valorem taxes and installments of special assessments, if any, for the calendar year in which the Closing Date occurs will be prorated to the Closing Date, based on the latest available tax rate and assessed valuation.

**10.4 Closing Costs.** Seller shall pay all applicable transfer, stamp and conveyance taxes, the cost to prepare the deed from Seller, and the cost of recording all documents necessary to correct or remove defects in or encumbrances upon Seller's title to the Property (if applicable) and the cost of a base premium for an Owner's Policy of title insurance. Buyer shall pay the cost of the New Survey, any endorsements or extended title insurance coverage, any title examination fees or other due diligence costs, the cost of preparing and/or recording all documents to be recorded other than those referred to in the preceding sentence, and any other costs related to the Closing. Each party shall pay its own attorneys' fees. The Seller and Buyer shall each pay one-half (½) of the cost of the Title Company to close this transaction.

**10.5 Possession.** Possession of the Property will be delivered by the Seller to the Buyer on the Closing Date free from all persons claiming rights to possession of or having claims against the Property, other than as claimants under the Permitted Exceptions. Effective on the recording of the Deed, the beneficial ownership and the risk of loss of the Property will pass from the Seller to the Buyer.

**11. Default.** In the event a default occurs in the performance of either Party's obligations hereunder, the non-defaulting Party shall, as a condition of exercising its remedies hereunder, provide written notice of such default to the other Party. The defaulting party shall thereafter have ten (10) business days, commencing the day notice is deemed received, in which to remedy such default. The foregoing cure period shall not apply to any obligation to be performed on the Closing Date. If Seller defaults hereunder and fails to timely cure such default, or if Seller wrongfully refuses to close the sale of the Property under the terms of this Agreement, or if Seller's warranties and representations made in this Agreement are incomplete, untrue or misleading, then the Buyer will have the option to waive such default, to demand specific performance, or to terminate this Agreement and, on such termination, the Total Earnest Money Deposit (including by way of clarification all Additional Earnest Money Deposits), less the Independent Consideration, will be returned to the Buyer. If the Buyer defaults hereunder and fails to timely cure such default, or if Buyer wrongfully refuses to close the sale of the Property under the terms of this Agreement, or if Buyer's warranties and representations made in this Agreement are incomplete, untrue or misleading, then the Seller will have the option to waive such default, or as its sole and exclusive remedy, to terminate this Agreement; and on such termination, the Seller will be entitled to receive the Total Earnest Money Deposit as liquidated damages arising from such default. The Buyer agrees that the amount of actual damages which the Seller would suffer as a result of the Buyer's default would be extremely difficult to determine and has agreed, after specific negotiation relating thereto, that the amount of the Total Earnest Money Deposit is a reasonable estimate of the Seller's damages and, at the option of the Seller, is intended to constitute a fixed amount of liquidated damages in lieu of other remedies available to the Seller and is not intended to constitute a penalty. Except as otherwise set forth herein, on such termination and return or payment of the Total Earnest Money Deposit, the Parties will be discharged from any further obligations and liabilities under this Agreement, excepting only those specifically stated herein to survive termination of this Agreement.

In the event of a dispute between Buyer and Seller relating to the Total Earnest Money Deposit, the prevailing party shall have the right to recover all of its expenses and costs incurred by reason of the dispute including, but not limited to, attorney's fees, court costs, and costs of suit

preparation. Neither Party shall be entitled to consequential, special, or punitive damages in connection with a breach hereof.

**12. Assignment.** Buyer may not assign this Agreement and Buyer's rights and obligations under this Agreement to any person or entity without Seller's prior written consent, which may be withheld in Seller's sole discretion; provided, that, notwithstanding the foregoing, Buyer may assign this Agreement and Buyer's rights and obligations under this Agreement to an Affiliate without Seller's prior written consent, provided Buyer delivers to Seller an executed assignment agreement with respect thereto. For purposes of this Section, an "Affiliate" means any person, firm, or entity that directly or indirectly controls, is controlled by, or is under common control with Buyer, where "control" means the ownership of fifty percent (50%) or more of the beneficial interest in such firm or entity.

**13. Notice.** Any notices or other communications required or permitted by this Agreement shall be in writing and delivered personally, by email, as long as the sending party does not receive an undeliverable or similar bounce back notification and with confirmation of transmission, or by messenger, or by messenger or a nationally recognized overnight courier service, or alternatively, shall be sent by United States certified mail, return receipt requested. The effective date of any notice shall be the date of delivery of the notice, if by personal delivery, messenger or courier service, the date the same is sent if delivered by email transmission, or if mailed, on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as non-deliverable, as the case may be. The Parties hereby designate the addresses set forth below as their respective notice addresses under the Agreement.

If to Seller:                   Lawton Economic Development Authority  
212 S.W. 9<sup>th</sup> Street  
Lawton, OK 73501  
Attention: Chairman  
Email: [fleefitch@att.net](mailto:fleefitch@att.net)

With copy to:               Lawton Economic Development Authority  
212 S.W. 9<sup>th</sup> Street  
Lawton, OK 73501  
Attention: Executive Director  
Email: [richard@lawtonedc.com](mailto:richard@lawtonedc.com)

and

Center for Economic Development Law  
301 N. Harvey Avenue, Suite 200  
Oklahoma City, OK 73102  
Attention: Lisa M. Harden, Esq.  
Email: [lisaharden@econlaw.com](mailto:lisaharden@econlaw.com)

If to Buyer:                   JAA Armada Acquisitions, LLC  
Attn: Jesus Araiza [jesus@acpinvest.com](mailto:jesus@acpinvest.com)

Matt Ornstein [matt@acpinvest.com](mailto:matt@acpinvest.com)  
Kylie Fox [kylie@acpinvest.com](mailto:kylie@acpinvest.com)

With copy to: Pivnick Firm, PLLC

Attn: Rob Pivnick, Esq. [rob@pivnickfirm.com](mailto:rob@pivnickfirm.com)

**14. Brokers.** Buyer represents and warrants to Seller that Buyer has not dealt with any broker or finder in respect to the transaction contemplated hereby, other than Stuart Creason and Warren Creason of Creason Realty, who shall be paid per a separate written agreement by the Buyer. Seller Buyer represents and warrants to Buyer that Seller has not dealt with any broker or finder in respect to the transaction contemplated hereby, other than Ted Warkentin of Cummins Setters Commercial Partners LLC, who shall be paid by separate agreement with the Seller. Seller and Buyer agree that each will indemnify, defend and hold the other free and harmless from the claims of any brokers, representatives, employees, agents or other intermediaries claiming to have represented Seller or Buyer, respectively, or otherwise to be entitled to compensation in connection with this Agreement or in connection with the sale of the Property. The provisions of this Section 14 shall survive the Closing.

**15. Miscellaneous.** It is further understood and agreed as follows:

**15.1 Choice of Law.** It is the intention of Seller and Buyer that the laws of Oklahoma shall govern the validity of this Agreement, the construction of its terms, and the interpretation of the rights and obligations of Buyer and Seller hereunder. All actions with respect to this Agreement may be instituted in the courts of Comanche County, State of Oklahoma or the United States District Court sitting in Oklahoma City, Oklahoma. By execution of this Agreement, the Parties irrevocably and unconditionally submit to the jurisdiction (both subject matter and personal) of any such court and irrevocably and unconditionally waive: (a) any objection any party might now or hereafter have to the venue in any such court; and (b) any claim that any action or proceeding brought in any such court has been brought in an inconvenient forum.

**15.2 Amendment and Waiver.** This Agreement may be amended at any time in all respects, but only by an instrument in writing executed by Seller and Buyer, with a copy sent to the Title Company. Either Buyer or Seller may waive any requirement to be performed by the other, provided that said waiver shall be in writing and executed by the party waiving the requirement.

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

**15.4 Time.** Time is of the essence of this Agreement.

**15.5 Integrated Agreement.** This Agreement, together with the Exhibits hereto, constitutes the entire agreement between Buyer and Seller relating to the sale and purchase of the

Property, and there are no agreements, understandings, restrictions, warranties, or representations with respect to the Property between Buyer and Seller other than those set forth herein.

**15.6 Title Company.** Buyer and Seller agree that the Title Company shall not incur any liability to Buyer or Seller, nor shall the Title Company incur any expense or suffer any damage for any act or omission of the Title Company so long as the Title Company has acted or refrained from acting, in good faith in carrying out its responsibilities under this Agreement. In the event of any ambiguity in the Title Company's obligations hereunder (as determined in the good faith judgment of the Title Company) or in the event of any disagreement or controversy arising out of this Agreement from any cause, the Title Company, at its option, may hold the Earnest Money until the ambiguity, disagreement, or controversy has been settled to the Title Company's satisfaction or may interplead the Earnest Money Deposit into court. Buyer and Seller agree to indemnify and hold the Title Company harmless from any liability, loss, damage, cost, or expense, including reasonable attorney's fees, incurred in carrying out its obligations under this Agreement or in any way arising out of this Agreement or the transactions contemplated hereby, provided that the Title Company has acted, or refrained from acting, in good faith.

**15.7 Holidays and Weekends.** If the terms of this Agreement provide for the performance of any act or the expiration of any time period on a Saturday, Sunday or federal holiday, the due date or the expiration date shall take place on the next date that is not a Saturday, Sunday or federal holiday.

**15.8 Business Days.** "**Business Day**" (or "**business day**") means, as to any party, any day that is not a Saturday, Sunday, or other day on which national banks are authorized or required to close in the state or jurisdiction where the Property is located. If the last day of any time period hereunder, or the last day for performance of any obligation, or for giving any notice, or for taking any other action hereunder falls on a day that is not a Business Day, then the last day of such time period shall be extended to the first day thereafter that is a Business Day.

**15.9 Force Majeure.** In the event performance by Buyer of any term, condition or covenant in this Agreement is delayed or prevented by any cause not within the control of Buyer, such as an act of God, strike, lockout, shortage of material or labor, material adverse change in circumstances or conditions with respect to the U.S. financial markets, disruption in the condition of the U.S. bond or equity markets, restriction by any governmental authority, civil riot, or flood, the period for performance of such term, condition or covenant shall be extended for a period equal to the period Buyer is so delayed or hindered.

**15.10 Third-Party Beneficiaries.** This Agreement does not and is not intended to confer any rights or remedies upon any person or legal entity other than the signatories.

**15.11 Attorneys' Fees.** If any Party institutes an action or proceeding against the other relating to the provisions of this Agreement or any default hereunder, the unsuccessful Party to such action or proceeding will reimburse the successful party therein for the reasonable attorneys' fees, disbursements and litigation expenses incurred by the successful Party.

**15.12 Binding Effect.** This Agreement shall not be binding upon any party signatory hereto until Buyer and Seller have each executed this Agreement and have initialed any changes hereto.

**15.13. Condemnation.** All risk of loss to the Property shall remain upon Seller until the conclusion of the Closing. If, prior to Closing, a condemnation or eminent domain proceedings shall be commenced by any public authority against the Property, or any part thereof, or if Seller shall receive notice of any pending or threatened condemnation or eminent domain proceedings, then Seller shall promptly provide Buyer with written notice thereof accompanied by reasonable supporting documentation. After any such notice is received by Buyer, Buyer shall have the option to: (i) accept the Property and proceed to Closing subject to the proceedings, whereupon any awards shall be paid to Buyer, and Seller hereby assigns to Buyer all of Seller's right, title, and interest in and to any such awards; or (ii) terminate this Agreement and receive a full refund of the Total Earnest Money Deposit (including by way of clarification all Additional Earnest Money Deposits) (less the Independent Consideration), whereupon the parties shall have no rights, duties, or obligations hereunder, except those specifically stated herein to survive termination of this Agreement.

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FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the Seller and the Buyer have executed this Purchase and Sale Agreement as of the date set forth above.

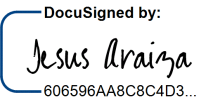
**SELLER:**

LAWTON ECONOMIC DEVELOPMENT AUTHORITY,  
a public trust

By: \_\_\_\_\_  
Fred L. Fitch, Chairman

**BUYER:**

JAA ARMADA ACQUISITIONS, LLC,  
a Texas limited liability company

By:  \_\_\_\_\_  
Jesus Araiza, Manager

**RECEIPT OF PURCHASE AND SALE AGREEMENT AND EARNEST MONEY**

The undersigned hereby acknowledges its receipt of the foregoing Purchase and Sale Agreement (the "Agreement") and the Initial Earnest Money Deposit in the form of immediately available funds in the amount of \$20,000 as described in Section 2.1 of the Agreement. The undersigned shall hold the Initial Earnest Money Deposit and the Additional Earnest Money Deposit, if any, in escrow in accordance with the terms of the Agreement.

STEWART TITLE COMPANY

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

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

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

Dated: \_\_\_\_\_

("Effective Date")

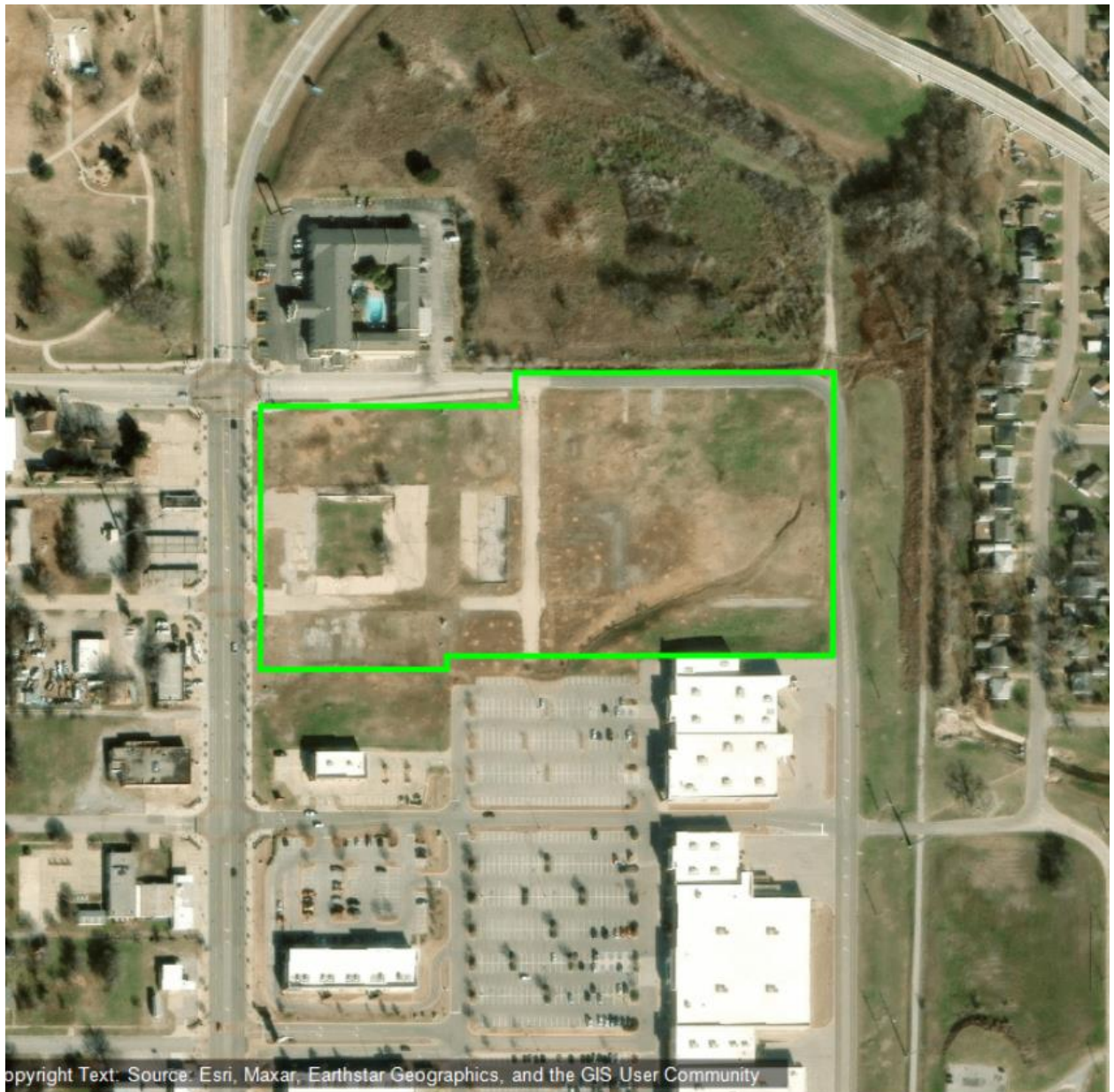
**EXHIBIT A**

LEGAL DESCRIPTION

Lot Eight (8) of Block One (1), LAWTON DOWNTOWN CENTER, PART 2, an addition to the City of Lawton, Comanche County, Oklahoma, according to the Plat thereof recorded in Plat Book 7, Pages 10-10B, as Document No. 2013000649 in the Office of the Comanche County Clerk, lying in the Southeast Quarter (SE/4) of Section Thirty (30), Township Two (2) North, Range Eleven (11) West of the Indian Meridian.

**EXHIBIT A-1**

DEPICTION OF PROPERTY



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