

RESOLUTION NO. 2503

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A REAL ESTATE PURCHASE CONTRACT AND A PROPOSAL FOR ARCHITECTURAL SERVICES ALL RELATING TO THE PURCHASE OF APPROXIMATELY ONE ACRE OF UNIMPROVED REAL PROPERTY LOCATED ADJACENT TO THE SOUTHEAST CORNER OF RIM CLUB DRIVE AND HIGHWAY 260 IN THE TOWN OF PAYSON (Third Fire Station).

WHEREAS, the Town of Payson ("Town") has negotiated the purchase of a parcel of real property which is suitable for the construction of a third fire station in the Town (the "Property"); and

WHEREAS, the Town has received a Real Estate Purchase Contract through ERA Young Realty; and

WHEREAS, the seller of the Property is an architect and he has submitted a proposal for architectural services for the development of a fire station on the Property from the seller of the Property which includes a donation to the Town of a large portion of such architectural services; and

WHEREAS, the Town desires to complete the purchase of the Property,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the Real Estate Purchase Contract attached hereto as Exhibit "A" and made a part hereof be and is hereby approved in substantially the form attached.

Section 2. That the Proposal for Architectural Services attached hereto as Exhibit "B" and made a part hereof be and is hereby approved in substantially the form attached.

Section 3. That Kenny J. Evans, Mayor of the Town of Payson be and is hereby authorized to execute said Real Estate Purchase Contract in substantially the form attached as Exhibit "A."

Section 4. That Kenny J. Evans, Mayor of the Town of Payson, be and is hereby authorized to execute the Proposal for Architectural Services in substantially the form attached as Exhibit "B."

Section 5. That the Town of Payson be and hereby is authorized to take such other and further actions as are necessary or appropriate to carrying out the purposes of this Resolution No. 2503, including but not limited to the opening and closing of an escrow for the purchase of the Property.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2009, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Added 7-21-09 2:00pm JUL 23 2009 G.3.A

Kenny J. Evans
Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith
Town Clerk

Samuel I. Streichman
Town Attorney

EXHIBIT "A"

to Resolution No. 2503

ERA Young Realty - Payson

ARIZONA ASSOCIATION OF REALTORS®

BUYER ATTACHMENT



This attachment should be given to the Buyer prior to the submission of any offer and is not a part of the Vacant Land/Lot Contract's terms.

ATTENTION BUYER!

You are entering into a legally binding agreement.

1. **Read the entire contract before you sign it.**
2. **Review the Seller's Property Disclosure Statement (See Section 4a).** This information comes directly from the Seller. Investigate any blank spaces, unclear answers or any other information that is important to you.
3. **Review the Inspection Paragraph (see Section 6a).**
Verify square footage/acreage (see Section 6b)
Verify whether the property is served by sewer or septic or whether it is available (see Section 6d)
4. **Apply for your loan now, if you have not done so already, and provide your lender with all requested information (see Section 2d).** It is your responsibility to make sure that you and your lender deliver the necessary funds to escrow in sufficient time to allow escrow to close on the agreed upon date.
5. **Read the title commitment within five days of receipt (see Section 3c).**
6. **Read the CC&R's and all other governing documents within five days of receipt (see Section 3c).**
7. **Conduct a thorough final inspection (see Section 6n).** If the property is unacceptable, speak up. After the closing may be too late.

You can obtain information through the Buyer's Advisory at <http://www.aaronline.com>. **Remember, you are urged to consult with an attorney, inspectors, and experts of your choice in any area of interest or concern in the transaction.** Be cautious about verbal representations, advertising claims, and information contained in a listing. Verify anything important to you.

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Phone: 928.474.4554

Fax: 928.474.1307

Judi Holgate

Highlands Comm

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ERA Young Realty - Payson

VACANT LAND/LOT PURCHASE CONTRACT



If subdivided land (less than 36 acres) or unsubdivided land (36 acres to 160 acres) is being sold by a subdivider, i.e., a person who owns 6 or more lots, a public report will generally be required and an Addendum regarding subdivided or unsubdivided land must be executed by the Seller and Buyer.

The printed portion of this contract has been approved by the ARIZONA ASSOCIATION OF REALTORS® ("AAR"). This is intended to be a binding contract. No representation is made as to the legal validity or adequacy of any provision or the tax consequences thereof. If you desire legal, tax or other professional advice, consult your attorney, tax advisor, insurance agent or professional consultant.

1. PROPERTY

- 1a. 1. BUYER: Town of Payson A Municipal Corporation BUYER'S NAME(S)
- 2. SELLER: Highlands Commercial LLC SELLER'S NAME(S) or as identified in Section 9c.
- 3. Buyer agrees to buy and Seller agrees to sell the real property with all improvements, fixtures, and appurtenances thereon
- 4. or incidental thereto, if any, plus the personal property described herein (collectively the "Property").
- 5. Property Address: A portion of 304-61-142B Zoning: C-2
- 6. Assessor's #: A portion of 30 / _____
- 7. City: Payson County: Gila AZ, Zip Code: 85541
- 8. Legal Description: Long legal to be provided, approximately 1 acre of NW portion or see attached legal description.
- 9. \$ 300,000.00 Full Purchase Price, paid as outlined below
- 10. \$ 5,000.00 Earnest money Within 72 hours of contract acceptance.
- 11. \$ 295,000.00 Cash prior to close of escrow.
- 12. \$ _____
- 13. _____
- 14. Incidental Improvements: Buyer is purchasing the Property as vacant land. Any improvements, fixtures and appurtenances thereon are incidental thereto, plus any personal property on the Property are merely incidental, are being transferred in their existing condition ("AS IS") and Seller makes no warranty to Buyer, expressed or implied, as to their condition.
- 17. Close of Escrow: Close of Escrow ("COE") shall occur when the deed is recorded at the appropriate county recorder's office.
- 18. Buyer and Seller shall comply with all terms and conditions of this Contract, execute and deliver to Escrow Company all closing documents, and perform all other acts necessary in sufficient time to allow COE to occur on
- 20. August 20th, 2009 ("COE Date"). If Escrow Company or recorder's office is closed on
MONTH DAY YEAR
- 21. COE Date, COE shall occur on the next day that both are open for business.
- 22. Buyer shall deliver to Escrow Company a cashier's check, wired funds or other immediately available funds to pay any down
- 23. payment, additional deposits or Buyer's closing costs, and instruct the lender, if applicable, to deliver immediately available funds
- 24. to Escrow Company, in a sufficient amount and in sufficient time to allow COE to occur on COE Date.
- 25. Possession: Seller shall deliver access to keys and/or means to operate all locks, mailbox, and all common area facilities, subject to
- 26. the rights of tenants under existing leases, to Buyer at COE or _____ . Broker(s) recommend that the parties seek appropriate
- 27. counsel from insurance, legal, tax, and accounting professionals regarding the risks of pre-possession or post-possession of the Property.
- 28. Addenda Incorporated: Assumption/Carryback Buyer Contingency Domestic Water Well H.O.A.
- 29. Additional Clause On-site Wastewater Treatment Facility Addendum to Vacant Land
- 30. Other: Exhibit 'A'
- 31. IF THIS IS AN ALL CASH SALE, GO TO SECTION 3.

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SELLER SELLER		BUYER BUYER

2. FINANCING

(If financing is to be other than new financing, see attached addendum.)

- 2a. 32. **Loan Status Report:** The AAR Vacant Land/Lot Loan Status Report ("LSR") with, at a minimum, the Buyer's Loan Information section
- 33. completed, describing the current status of the Buyer's proposed loan, is attached hereto and incorporated herein by reference.
- 2b. 34. **Financing:** This sale is is not contingent upon Buyer obtaining a satisfactory financing commitment within Financing
- 35. Commitment Contingency Period. (If sale is not contingent on a financing commitment, go to Section 2g.)
- 2c. 36. **Financing Commitment Contingency Period:** If the sale is contingent upon Buyer obtaining a satisfactory financing
- 37. commitment, Buyer shall have thirty (30) days or _____ days after the Contract acceptance ("Financing Commitment
- 38. Contingency Period") to obtain a financing commitment satisfactory to Buyer in Buyer's sole discretion, for a loan to purchase the
- 39. Property or Buyer may cancel this Contract and receive a refund of the Earnest Money. **PRIOR TO THE EXPIRATION OF THE FINANC-**
- 40. **ING COMMITMENT CONTINGENCY PERIOD, BUYER SHALL DELIVER TO SELLER AND ESCROW COMPANY NOTICE THAT**
- 41. **BUYER HAS NOT RECEIVED SUCH SATISFACTORY FINANCING COMMITMENT OR BUYER SHALL BE DEEMED TO HAVE**
- 42. **WAIVED THE FINANCING COMMITMENT CONTINGENCY AND ANY RIGHT TO CANCEL DUE TO FINANCING.**
- 2d. 43. **Financing Application:** Unless previously completed, within ten (10) days or _____ after Contract acceptance, Buyer shall
- 44. submit a formal loan application to a lender of Buyer's choice. Buyer and Seller shall promptly provide to such lender all materials
- 45. and documents lender deems appropriate to facilitate such lender's processing of such loan application. Buyer instructs the lender
- 46. to provide loan status updates to Broker(s) and Seller. The AAR Loan Status Update Form is available for this purpose.
- 2e. 47. **Appraisal Contingency:** Buyer's obligation to complete this sale is contingent upon an appraisal of the Property by an appraiser
- 48. acceptable to lender for at least the sales price during the Financing Commitment Contingency Period.
- 2f. 49. **Loan Costs:** Buyer shall pay all costs of obtaining the loan, except as provided herein.
- 50. Discount points shall be paid by: Buyer Seller Other _____
- 51. Discount points shall not exceed: _____ total points (Does not include loan origination fee)
- 52. A.L.T.A. Lender Title Insurance Policy shall be paid by Buyer Seller
- 53. Loan Origination Fee (Not to exceed _____ % of loan amount) shall be paid by Buyer Seller
- 54. Appraisal Fee, when required by lender, shall be paid by: Buyer Seller Other _____
- 2g. 55. **Partial Release:** Buyer and Seller agree that any partial releases will be addressed under Additional Terms and Conditions
- 56. or attached Addendum.
- 2h. 57. **Subordination:** If applicable, Seller carryback financing is is not to be subordinated to a construction loan. If Seller
- 58. agrees to subordination, such subordination shall only be allowed if the Seller Carryback financing is not in default and if the
- 59. Seller approves the terms and conditions of the construction loan to be recorded as a senior loan. Approval will not be
- 60. unreasonably withheld. **IF SELLER SUBORDINATES THE SELLER CARRYBACK FINANCING TO A SENIOR LOAN, THE**
- 61. **SELLER ACKNOWLEDGES THAT IN ORDER TO PROTECT THE SELLER CARRYBACK FINANCING, THE SELLER**
- 62. **MAY HAVE TO MAKE PAYMENTS ON THE SENIOR LOAN IF THE SENIOR LOAN IS IN DEFAULT.**

3. TITLE AND ESCROW

- 3a. 63. ~~Escrow:~~ This Contract shall be used as escrow instructions. ~~The Escrow Company employed by the parties to carry out the~~
- 64. ~~terms of this Contract shall be:~~
- 65. Pioneer Title Agency (928) 474-3235
- "ESCROW/TITLE COMPANY" PHONE
- 66. _____
- FAX EMAIL
- 67. 421 S. Beeline Hwy, Payson, AZ 85541
- ADDRESS
- 3b. 68. **Title and Vesting:** Buyer will take title as determined before COE. Taking title may have significant legal, estate planning
- 69. and tax consequences. Buyer should obtain legal and tax advice.
- 3c. 70. **Title Commitment and Title Insurance:** Escrow Company is hereby instructed to obtain and deliver to Buyer and Seller directly,
- 71. addressed pursuant to 8s and 9c or as otherwise provided, a Commitment for Title Insurance in sufficient detail for the issuance
- 72. of an Extended Owner's Title Insurance Policy together with complete and legible copies of all documents that will

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SELLER SELLER		BUYER BUYER

73. remain as exceptions to Buyer's policy of Title Insurance ("Title Commitment"), within fifteen (15) days after Contract acceptance.
 74. Buyer shall have five (5) days after receipt of Title Commitment and after receipt of notice of any subsequent exceptions to pro-
 75. vide notice to Seller of any items disapproved. Buyer shall be provided at Seller's expense a Standard Owner's Title insurance
 76. Policy showing the title vested in Buyer. Buyer may acquire extended coverage(s) at Buyer's own additional expense.

77. Seller shall convey title by general warranty deed or _____ deed.

3d. 78. **Additional Instructions:** (i) Escrow Company shall promptly furnish notice of pending sale that contains the name and address
 79. of the Buyer to any homeowner's association in which the Property is located. (ii) If the Escrow Company is also acting as the title
 80. agency but is not the title insurer issuing the title insurance policy, Escrow Company shall deliver to the Buyer and Seller, upon
 81. deposit of funds, a closing protection letter from the title insurer indemnifying the Buyer and Seller for any losses due to fraudu-
 82. lent acts or breach of escrow instructions by the Escrow Company. (iii) All documents necessary to close this transaction shall be
 83. executed promptly by Seller and Buyer in the standard form used by Escrow Company. Escrow Company shall modify such doc-
 84. uments to the extent necessary to be consistent with this Contract. (iv) Escrow Company fees, unless otherwise stated herein,
 85. shall be allocated equally between Seller and Buyer. (v) Escrow Company shall send to all parties and Broker(s) copies of all
 86. notices and communications directed to Seller, Buyer and Broker(s). (vi) Escrow Company shall provide Broker(s) access to
 87. escrowed materials and information regarding the escrow. (vii) If an Affidavit of Disclosure is provided, Escrow Company shall
 88. record the Affidavit at COE.

3e. 89. **Prorations, Expenses and Adjustments:**
 90. **Taxes:** Real property taxes payable by the Seller shall be prorated through COE, based upon the latest tax bill available. The
 91. parties agree that any discrepancy between the latest tax bill available and the actual tax bill when received shall be handled
 92. as a Post Closing Matter and Buyer or Seller may be responsible for additional tax payments to each other.
 93. **Insurance:** If Buyer takes an assignment of the existing casualty and/or liability insurance that is maintained by Seller, the
 94. current premium shall be prorated through COE.
 95. **Rents, Interest and Expenses:** Rents; interest on existing notes, if transferred; utilities; and operating expenses shall be pro-
 96. rated through COE. The Parties agree to adjust any rents received after COE as a Post Closing Matter.
 97. **Deposits:** All deposits held by Seller pursuant to rent/lease agreement(s) shall be credited against the cash required of Buyer
 98. at COE or paid to Buyer by Seller at COE.

3f. 99. **Post Closing Matters:** The parties shall promptly adjust any item to be prorated that is not determined or determinable at COE as
 100. a Post Closing Matter by appropriate cash payment to the other party outside of the escrow when the amount due is
 101. determined. Seller and Buyer agree that Escrow Company and Broker(s) are relieved of any responsibility for said adjustments.

3g. 102. **Release of Earnest Money:** In the event of a dispute between Buyer and Seller regarding any Earnest Money deposited with Escrow
 103. Company, Buyer and Seller authorize Escrow Company to release Earnest Money pursuant to the terms and conditions of this
 104. Contract in its sole and absolute discretion. Buyer and Seller agree to hold harmless and indemnify Escrow Company against any
 105. claim, action or lawsuit of any kind, and from any loss, judgment, or expense, including costs and attorney fees, arising from or
 106. relating in any way to the release of Earnest Money.

3h. 107. **Insurance:** Buyer shall ensure that any fire, casualty, or other insurance desired by Buyer, or required by any Lender, is in
 108. place at COE. Buyer specifically releases Broker(s) from any obligations relating to such insurance.

3i. 109. **Assessment Liens:** The amount of any assessment, other than homeowner's association assessments, that is a lien as of
 110. the COE shall be: paid in full by Seller prorated and assumed by Buyer paid in full by Buyer. Any assessment
 111. that becomes a lien after COE is the Buyer's responsibility.

3j. 112. **IRS and FIRPTA Reporting:** Seller agrees to comply with IRS reporting requirements. If applicable, Seller agrees to complete, sign,
 113. and deliver to Escrow Company a certificate indicating whether Seller is a foreign person or a non-resident alien pursuant to the
 114. Foreign Investment in Real Property Tax Act (FIRPTA). Buyer and Seller acknowledge that if the Seller is a foreign person, the Buyer
 115. (or Escrow Company, as directed by Buyer) must withhold a tax equal to 10% of the purchase price, unless an exemption applies.

3k. 116. **Agricultural Foreign Investment Disclosure Act:** If applicable, Buyer and Seller shall comply with the Agricultural Foreign
 117. Investment Disclosure Act and make the required disclosures to the U.S. Department of Agriculture.

3l. 118. **TAX DEFERRED EXCHANGE:** Seller and Buyer are advised to consult a professional tax advisor regarding the advisability
 119. of a tax-deferred exchange pursuant to I.R.C. §1031 or otherwise. Seller and Buyer agree to cooperate in a tax deferred
 120. exchange provided that COE is not delayed. All additional costs in connection with any such tax deferred exchange shall be
 121. borne by the party requesting the exchange. The non-requesting party and Broker(s) shall be indemnified and held harmless
 122. from any liability that may arise from participation in the tax deferred exchange.

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SELLER SELLER		BUYER BUYER

4. DISCLOSURES

- 4a. 123. Vacant Land/Lot Seller Property Disclosure Statement ("VLSPPS"): Seller shall deliver a completed AAR VLSPPS form 124. to the Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any SPDS items disapproved with 125. in the Inspection Period or five (5) days after receipt of the SPDS, whichever is later.
- 4b. 126. Additional Seller Disclosures and Information: Seller shall provide to Buyer the following disclosures and information pertinent 127. to the Property within five (5) days after the Contract acceptance: (i) any information known to Seller that may adversely affect the 128. Buyer's use of the Property, (ii) any known pending special assessments, association fees, claims, or litigation, (iii) articles of incor- 129. poration; by-laws; other governing documents; and any other documents required by law, (iv) financial statements, current rent rolls, 130. lists of current deposits, personal property lists, leases, rental agreements, service contracts, (v) soils, Phase I, or other environ- 131. mental reports in Seller's possession, (vi) the most recent survey, if available, and (vii) any and all other agreements, documents, 132. studies, or reports relating to the Property in Seller's possession or control provided, however, that Seller shall not be required to 133. deliver any report or study if the written contract that Seller entered into with the consultant who prepared such report or study 134. specifically forbids the dissemination of the report to others.
- 4c. 135. Road Maintenance Agreement: Seller shall provide to Buyer, within five (5) days after the Contract acceptance, a copy 136. of any known road maintenance agreement affecting the Property.
- 4d. 137. Seller's Obligations Regarding Wells: If a well is located on the Property, or if the Property is to be served by a shared well, 138. the AAR Domestic Water Well Addendum is attached hereto and incorporated by reference. At COE, if applicable, Seller shall 139. assign, transfer and convey to the Buyer all of the water rights, or claims to water rights, if any, held by Seller that are asso- 140. ciated with the Property.
- 4e. 141. No Seller or Tenant Bankruptcy, Probate or Insolvency Proceedings: Seller represents that Seller has no notice or knowl- 142. edge that any tenant on the Property is the subject of a bankruptcy, probate or insolvency proceeding. Further, Seller is not 143. the subject of a bankruptcy, insolvency or probate proceeding.
- 4f. 144. Seller's Notice of Violations: Seller represents that Seller has no knowledge of any notice of violations of City, County, State, or 145. Federal building, zoning, fire, or health laws, codes, statutes, ordinances, regulations, or rules filed or issued regarding the Property.
- 4g. 146. Environmental Disclosure: Seller has only not knowingly caused or permitted the generation, storage, treatment, release or disposal of 147. any hazardous waste or regulated substances at the Property except as otherwise disclosed.
- 4h. 148. Affidavit of Disclosure: If the Property is located in an unincorporated area of the county, and five or fewer parcels of 149. property other than subdivided land are being transferred, the Seller shall deliver a completed Affidavit of Disclosure in the 150. form required by law to the Buyer within five (5) days after Contract Acceptance. Buyer shall provide notice of any Affidavit 151. of Disclosure items disapproved within the Inspection Period or five (5) days after receipt of the Affidavit of Disclosure, whichever 152. is later.
- 4i. 153. H.O.A. / Condominium / Planned Community: The Property is is not located within a homeowners' association/ 154. condominium/planned community. If yes, the HOA addendum is attached hereto and incorporated by reference.
- 4j. 155. Changes During Escrow: Seller shall immediately notify Buyer of any changes in the Property or disclosures made herein, in 156. the SPDS, or otherwise. Such notice shall be considered an update of the SPDS. Unless Seller is already obligated by 157. Section 5a, or otherwise by this Contract or any amendments hereto, to correct or repair the changed item disclosed, Buyer 158. shall be allowed five (5) days after delivery of such notice to provide notice of disapproval to Seller.

5. WARRANTIES

- 5a. 159. Seller Warranties: Seller warrants and shall maintain and repair the Property so that at the earlier of possession or COE the 160. Property and any personal property included in the sale, will be in substantially the same condition as on the date of Contract 161. acceptance; and all personal property not included in the sale and all debris will be removed from the Property.
- 5b. 162. Warranties that Survive Closing: Seller warrants that Seller has disclosed to Buyer and Broker(s) all material latent defects 163. and any information concerning the Property known to Seller, excluding opinions of value, which materially and adversely 164. affect the consideration to be paid by Buyer. Prior to the COE, Seller warrants that payment in full will have been made for 165. all labor, professional services, materials, machinery, fixtures, or tools furnished within the 150 days immediately preceding 166. the COE in connection with the construction, alteration, or repair of any structure on or improvement to the Property. Seller 167. warrants that the information regarding connection to a sewer system or on-site wastewater treatment facility (conventional 168. septic or alternative) is correct to the best of Seller's knowledge.

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SELLER SELLER		BUYER BUYER

5c. 169. **Buyer Warranties:** Buyer warrants that Buyer has disclosed to Seller any information that may materially and adversely affect the
 170. Buyer's ability to close escrow or complete the obligations of this Contract. At the earlier of possession of the Property or COE,
~~171. Buyer warrants to Seller that Buyer has conducted all desired independent inspections and investigations and accepts the~~
 172. Property. Buyer warrants that Buyer is not relying on any verbal representations concerning the Property
 173. except disclosed as follows:
 174. _____

6. DUE DILIGENCE

6a. 175. **Inspection Period:** Buyer's Inspection Period shall be fifteen (15) days or 15 days after the Contract acceptance.
 176. During the Inspection Period, Buyer, at Buyer's expense, shall: (i) conduct all desired physical, environmental, and other
 177. types of inspections and investigations to determine the value and condition of the Property; (ii) make inquiries and consult
 178. government agencies, lenders, insurance agents, architects, and other appropriate persons and entities concerning the fea-
 179. sibility and suitability of the Property for the Buyer's intended purpose and the surrounding area; (iii) investigate applicable
 180. building, zoning, fire, health, and safety codes including applicable swimming pool barrier regulations to determine any poten-
 181. tial hazards, violations or defects in the Property; and (iv) verify any material multiple listing service ("MLS") information. If
 182. the presence of sex offenders in the vicinity or the occurrence of a disease, natural death, suicide, homicide or other crime
 183. on or in the vicinity is a material matter to the Buyer, it must be investigated by the Buyer during the Inspection Period. Buyer
 184. shall keep the Property free and clear of liens, shall indemnify and hold Seller harmless from all liability, claims, demands,
 185. damages, and costs, and shall repair all damages arising from the inspections. Buyer shall provide Seller and Broker(s) upon
 186. receipt, at no cost, copies of all inspection reports concerning the Property obtained by Buyer. If Buyer cancels this Contract,
 187. Buyer shall return all documents provided by the Seller and provide Seller with copies of all reports or studies generated by
 188. Buyer, provided, however, that Buyer shall not be required to deliver any such report or study if the written contract that Buyer
 189. entered into with the consultant who prepared such report or study specifically forbids the dissemination of the report or study
 190. to others. Buyer is advised to consult the Arizona Department of Real Estate *Buyer Advisory* provided by AAR to assist in
 191. Buyer's due diligence inspections and investigations.

6b. 192. **Square Footage/Acreage:** BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE/ACREAGE OF
 193. THE PROPERTY, BOTH THE REAL PROPERTY (LAND) AND IMPROVEMENTS THEREON IS APPROXIMATE.
 194. IF SQUARE FOOTAGE/ACREAGE IS A MATERIAL MATTER TO THE BUYER; IT MUST BE INVESTIGATED DURING
 195. THE INSPECTION PERIOD.

6c. 196. **Flood Hazard:** Flood hazard designations or the cost of flood hazard insurance shall be determined by Buyer during the
 197. inspection Period. If the Property is situated in an area identified as having any special flood hazards by any governmental
 198. entity, the lender may require the purchase of flood hazard insurance. Special flood hazards may also affect the ability to
 199. encumber or improve the Property.

6d. 200. **Sewer or On-site Wastewater Treatment System:** The Property does does not contain an on-site wastewater
 201. treatment system. If the Property is served by a septic or alternative system, the AAR On-site Wastewater Treatment Facility
 202. Addendum is incorporated herein by reference.

203. IF A SEWER CONNECTION, OR THE AVAILABILITY OF A SEWER CONNECTION, IS A MATERIAL MATTER TO THE
 204. BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.

205. (BUYER'S INITIALS REQUIRED) _____
 BUYER BUYER

6e. 206. **Site/Soil Evaluation:** A site/soil evaluation (which may include percolation or other tests) shall shall not be
 207. performed to determine the suitability of the Property for installation of an on-site wastewater treatment facility.

208. If site/soil evaluation is to be performed, Seller Buyer shall complete site/soil evaluation within Inspection Period
 209. or _____ days after Contract acceptance and the cost of the site/soil evaluation shall be paid by
 210. Seller Buyer or Other: _____

211. Buyer and Seller are aware that the site/soil evaluation is intended to determine whether an on-site wastewater treatment
 212. facility can be installed on the Property in accordance with state laws, rules and regulations, however, the site/soil evaluation
 213. is not binding on the State-delegated County agency in any future permitting decision as to the suitability of the design or
 214. type of facility for the Property. Buyer shall have five (5) days after receipt of the site/soil evaluation report to provide notice
 215. of disapproval to the Seller.

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SELLER SELLER		BUYER BUYER

6f. 216. ~~LAND DIVISIONS: LAND PROPOSED TO BE DIVIDED FOR PURPOSES OF SALE OR LEASE IS SUBJECT TO STATE, COUNTY AND MUNICIPAL LAWS, ORDINANCES AND REGULATIONS. IF STATE, COUNTY AND MUNICIPAL REQUIREMENTS RELATING TO THE DIVISION OR SPLITTING OF THE PROPERTY ARE A MATERIAL MATTER TO THE BUYER, THEY MUST BE VERIFIED BY BUYER DURING THE INSPECTION PERIOD. BROKER(S) HAVE MADE NO REPRESENTATIONS, EXPRESS OR IMPLIED, REGARDING THE ABILITY TO DIVIDE OR SPLIT THE PROPERTY.~~

217. _____

218. _____

219. _____

220. _____

221. _____

(BUYER'S INITIALS REQUIRED) _____ BUYER BUYER

6g. 222. ROADS: IF ROADWAYS, COST AND RESPONSIBILITY FOR ROAD MAINTENANCE, IMPROVEMENTS OR ACCESS IS A MATERIAL MATTER TO BUYER, IT MUST BE INVESTIGATED BY BUYER DURING INSPECTION PERIOD.

223. _____

6h. 224. Survey: A survey shall shall not be performed. If yes, the survey shall be performed by a licensed surveyor within the inspection Period or _____ days after Contract acceptance.

226. Cost of the survey shall be paid by Seller Buyer Other: _____

227. The survey shall be performed in accordance with the Arizona State Board of Technical Registration's "Arizona Land Boundary Survey Minimum Standards".

228. _____

6i. 229. Survey instructions are:

230. A boundary survey and survey plat showing the corners either verified or monumentation.

231. A survey certified by a licensed surveyor, acceptable to Buyer and the Title Company, in sufficient detail for an American Land Title Association ("ALTA") Owner's Policy of Title Insurance with boundary, encroachment or survey exceptions and showing all improvements, utility lines and easements on the Property or within five (5) feet thereof.

232. _____

233. _____

234. _____

235. _____

236. _____

237. _____

238. _____

239. _____

240. Buyer shall have five (5) days after receipt of results of survey or map to provide written notice of disapproval to the Seller.

241. _____

(BUYER'S INITIALS REQUIRED) _____ BUYER BUYER

6j. 242. WELL WATER/WATER RIGHTS: IF WELL WATER/WATER RIGHTS IS/ARE A MATERIAL MATTER TO THE BUYER, IT MUST BE VERIFIED BY BUYER DURING THE INSPECTION PERIOD.

243. _____

6k. 244. BUYER ACKNOWLEDGMENT: BUYER RECOGNIZES, ACKNOWLEDGES AND AGREES THAT BROKER(S) ARE NOT QUALIFIED, NOR LICENSED, TO CONDUCT DUE DILIGENCE WITH RESPECT TO THE PROPERTY OR THE SURROUNDING AREA. BUYER IS INSTRUCTED TO CONSULT WITH QUALIFIED LICENSED PROFESSIONALS TO ASSIST IN BUYER'S DUE DILIGENCE EFFORTS. BECAUSE CONDUCTING DUE DILIGENCE WITH RESPECT TO THE PROPERTY AND SURROUNDING AREA IS BEYOND THE SCOPE OF THE BROKERS EXPERTISE AND LICENSING, BUYER EXPRESSLY RELEASES AND HOLDS HARMLESS BROKER(S) FROM LIABILITY FOR ANY DEFECTS OR CONDITIONS THAT COULD HAVE BEEN DISCOVERED BY INSPECTION OR INVESTIGATION.

245. _____

246. _____

247. _____

248. _____

249. _____

250. _____

251. _____

(BUYER'S INITIALS REQUIRED) _____ BUYER BUYER

6l. 252. Inspection Period Notice: Prior to expiration of the Inspection Period, Buyer shall deliver to Seller a signed notice of any items disapproved. The AAR Vacant Land/Lot Buyer's Inspection Notice and Seller's Response Form is available for this purpose. Buyer shall conduct all desired inspections and investigations prior to delivering such notice to Seller and all Inspection Period items disapproved shall be provided in a single notice.

253. _____

254. _____

255. _____

6m. 256. Buyer Disapproval: If Buyer, in Buyer's sole discretion, disapproves of item(s) as allowed herein, Buyer shall deliver to Seller notice of the items disapproved and state in the notice that Buyer elects to either:

257. _____

258. (1) immediately cancel this Contract and all Earnest Money shall be released to Buyer, or

259. (2) provide the Seller an opportunity to correct the items disapproved, in which case:

260. (a) Seller shall respond in writing within five (5) days or _____ days after delivery to Seller of Buyer's notice of items disapproved. Seller's failure to respond to Buyer in writing within the specified time period shall conclusively be deemed Seller's refusal to correct any of the items disapproved.

261. _____

262. (b) If Seller agrees in writing to correct item(s) disapproved, Seller shall correct the items, complete any repairs in a workmanlike manner and deliver any paid receipts evidencing the corrections and repairs to Buyer three (3) days or _____ days prior to COE Date.

263. _____

264. _____

265. _____

Initials: <u>VP</u>	©ARIZONA ASSOCIATION OF REALTORS® Form VLPC 8/07	Initials: <u>/</u>
SELLER SELLER		BUYER BUYER

266. (c) If Seller is unwilling or unable to correct any of the items disapproved, Buyer may cancel this Contract within five
 267. (5) days after delivery of Seller's response or after expiration of the time for Seller's response, whichever occurs first,
 268. and all Earnest Money shall be released to Buyer. If Buyer does not cancel this Contract within the five (5) days as
 269. provided, Buyer shall close escrow without correction of those items that Seller has not agreed in writing to correct.

270. VERBAL DISCUSSIONS WILL NOT EXTEND THESE TIME PERIODS. Only a written agreement signed by both parties will
 271. extend response times or cancellation rights.

272. BUYER'S FAILURE TO GIVE NOTICE OF DISAPPROVAL OF ITEMS OR CANCELLATION OF THIS CONTRACT WITHIN
 273. THE SPECIFIED TIME PERIOD SHALL CONCLUSIVELY BE DEEMED BUYER'S ELECTION TO PROCEED WITH THE
 274. TRANSACTION WITHOUT CORRECTION OF ANY DISAPPROVED ITEMS.

6n. 275. **Inspection(s):** Seller grants Buyer and Buyer's inspector(s) reasonable access to conduct inspection(s) of the Property for
 276. the purpose of satisfying Buyer that any corrections agreed to by the Seller have been completed and that the Property is in
 277. substantially the same condition as on the date of Contract acceptance. If Buyer does not conduct such
 278. inspection(s), Buyer releases Seller and Broker(s) from liability for any defects that could have been discovered.

7. REMEDIES

7a. 279. **Cure Period:** A party shall have an opportunity to cure a potential breach of this Contract. If a party fails to comply with any
 280. provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If
 281. the non-compliance is not cured within three (3) days after delivery of such notice ("Cure Period"), the failure to comply shall
 282. become a breach of Contract.

7b. 283. **Breach:** In the event of a breach of Contract, the non-breaching party may cancel this Contract and/or proceed against the
 284. breaching party in any claim or remedy that the non-breaching party may have in law or equity, subject to the Alternative
 285. Dispute Resolution obligations set forth herein. In the case of the Seller, because it would be difficult to fix actual damages in
 286. the event of Buyer's breach, the Earnest Money may be deemed a reasonable estimate of damages and Seller may, at Seller's
 287. option, accept the Earnest Money as Seller's sole right to damages. An unfulfilled contingency is not a breach of Contract.

7c. 288. **Alternative Dispute Resolution ("ADR"):** Buyer and Seller agree to mediate any dispute or claim arising out of or relating to this
 289. Contract in accordance with the REALTORS® Dispute Resolution System, or as otherwise agreed. All mediation costs shall be paid
 290. equally by the parties. In the event that mediation does not resolve all disputes or claims, the unresolved disputes or claims shall
 291. be submitted for binding arbitration. In such event, the parties shall agree upon an arbitrator and cooperate in the scheduling of an
 292. arbitration hearing. If the parties are unable to agree on an arbitrator, the dispute shall be submitted to the American Arbitration
 293. Association ("AAA") in accordance with the AAA Arbitration Rules for the Real Estate Industry. The decision of the arbitrator shall
 294. be final and nonappealable. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdic-
 295. tion. Notwithstanding the foregoing, either party may opt out of binding arbitration within thirty (30) days after the conclusion of the
 296. mediation conference by notice to the other and in such event either party shall have the right to resort to court action.

7d. 297. **Exclusions from ADR:** The following matters are excluded from the requirement for ADR hereunder: (i) any action brought in the Small
 298. Claims Division of an Arizona Justice Court (up to \$2,500) so long as the matter is not thereafter transferred or removed from the small
 299. claims division; (ii) judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or agreement
 300. for sale; (iii) an unlawful entry or detainer action; (iv) the filing or enforcement of a mechanic's lien; or (v) any matter that is within the
 301. jurisdiction of a probate court. Further, the filing of a judicial action to enable the recording of a notice of pending action ("lis pendens"),
 302. or order of attachment, receivership, injunction, or other provisional remedies shall not constitute a waiver of the
 303. obligation to submit the claim to ADR, nor shall such action constitute a breach of the duty to mediate or arbitrate.

7e. 304. **Attorneys Fees and Costs:** The prevailing party in any dispute or claim between Buyer and Seller arising out of or relating
 305. to this Contract shall be awarded their reasonable attorney fees and costs. Costs shall include, without limitation, attorney
 306. fees, expert witness fees, fees paid to investigators, and arbitration costs.

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8. ADDITIONAL TERMS AND CONDITIONS

- 8a. 307. Sellers to provide complete drawings for a fire station including architectural,
- 308. structural engineering, electrical engineering and mechanical engineering.
- 309. _____
- 310. See Exhibit 'A'
- 311. _____
- 312. Buyers to receive plans no later than December 5,2009. This service is included as a
- 313. donation to the town. See Exhibit 'A', *OR A MINIMUM OF 105 DAYS N.P.*
- 314. *AFTER CONTRACT ACCEPTANCE.*
- 315. Buyer to pay for and provide any civil engineer for this project. See Exhibit 'A'.
- 316. _____
- 317. Buyer to pay for minor land division.
- 318. _____
- 319. This contract is subject to Seller obtaining a release and reconveyance on subject
- 320. property from Sellers lending institution.
- 321. _____
- 322. Sale is subject to the fitness and suitability for use as a fire station as
- 323. determined by the Buyer during the Buyer's Inspection period.
- 324. _____
- 325. Delete line #304 - #306.
- 326. _____
- 327. Section 7e. to read Attorneys fees and costs: In any dispute or claim between Buyer
- 328. and Seller arising out of or relating to the contract neither party shall be awarded
- 329. attorney fees or costs. Each party shall pay their respected attorney fees and costs
- 330. without contribution from the other party.
- 331. _____
- 332. _____
- 333. _____
- 334. _____
- 335. _____
- 336. _____

- 8b. 337. Risk of Loss: If there is any loss or damage to the Property between the date of Contract acceptance and COE or possession,
- 338. whichever is earlier, by reason of fire, vandalism, flood, earthquake, or act of God, the risk of loss shall be on the Seller,
- 339. provided, however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the purchase price,
- 340. either Seller or Buyer may elect to cancel the Contract.

- 8c. 341. Permission: Buyer and Seller grant Broker(s) permission to advise the public of this Contract.

- 8d. 342. Arizona Law: This Contract shall be governed by Arizona law and jurisdiction is exclusively conferred on the State of Arizona.

- 8e. 343. Time is of the Essence: The parties acknowledge that time is of the essence in the performance of the obligations
- 344. described herein.

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SELLER SELLER		BUYER BUYER

8f. 345. **Compensation:** Seller and Buyer acknowledge that Broker(s) shall be compensated for services rendered as previously agreed by
 346. separate written agreement(s), which shall be delivered by Broker(s) to Escrow Company for payment at COE, if not previously paid.
 347. If Seller is obligated to pay Broker(s), this Contract shall constitute an irrevocable assignment of Seller's proceeds at COE. If Buyer
 348. is obligated to pay Broker(s), payment shall be collected from Buyer as a condition of COE. COMMISSIONS PAYABLE FOR THE
 349. SALE, LEASING, OR MANAGEMENT OF PROPERTY ARE NOT SET BY ANY BOARD OR ASSOCIATION OF REALTORS®, OR
 350. MULTIPLE LISTING SERVICE, OR IN ANY MANNER OTHER THAN BETWEEN THE BROKER AND CLIENT.

8g. 351. **Copies and Counterparts:** A fully executed facsimile or electronic copy of the Contract shall be treated as an original
 352. Contract. This Contract and any other documents required by this Contract may be executed by facsimile or other
 353. electronic means and in any number of counterparts, which shall become effective upon delivery as provided for herein.
 354. All counterparts shall be deemed to constitute one instrument, and each counterpart shall be deemed an original.

8h. 355. **Days:** All references to days in this Contract shall be construed as calendar days and a day shall begin at 12:00 a.m. and
 356. end at 11:59 p.m.

8i. 357. **Calculating Time Periods:** In computing any time period prescribed or allowed by this Contract, the day of the act or event
 358. from which the time period begins to run is not included and the last day of the time period is included. Contract acceptance
 359. occurs on the date that the signed Contract (and any incorporated counter offer) is delivered to and received by the appropriate
 360. Broker. Acts that must be performed three days prior to the COE Date must be performed three full days prior (i.e., if COE
 361. Date is Friday the act must be performed by 11:59 p.m. on Monday).

8j. 362. **Entire Agreement:** This Contract, and any addenda and attachments, shall constitute the entire agreement between Seller and
 363. Buyer, shall supersede any other written or oral agreements between Seller and Buyer and can be modified only by a writing
 364. signed by Seller and Buyer. The failure to initial any page of this Contract shall not affect the validity or terms of this Contract.

8k. 365. **Subsequent Offers:** Buyer acknowledges that Seller has the right to accept subsequent offers until COE. Seller understands that
 366. any subsequent offer accepted by the Seller must be a backup offer contingent on the cancellation of this Contract.

8l. 367. **Cancellation:** A party who wishes to exercise the right of cancellation as allowed herein may cancel this Contract by
 368. delivering notice stating the reason for cancellation to the other party or to the Escrow Company. Cancellation shall become
 369. effective immediately upon delivery of the cancellation notice.

8m. 370. **Notice:** Unless otherwise provided, delivery of all notices and documentation required or permitted hereunder shall be in writing
 371. and deemed delivered and received when: (i) hand-delivered; (ii) sent via facsimile transmission; (iii) sent via electronic mail,
 372. if email addresses are provided herein; or (iv) sent by recognized overnight courier service, and addressed to Buyer as
 373. indicated in Section 8q, to Seller as indicated in Section 9a and to the Escrow Company indicated in Section 3a.

8n. 374. **Earnest Money:** Earnest Money is in the form of: Personal Check Other _____
 375. If applicable, Earnest Money has been received by Broker named in Section 8q and upon acceptance of this offer will be
 376. deposited with: Escrow Company Broker's Trust Account

8o. 377. **RELEASE OF BROKER(S):** SELLER AND BUYER HEREBY EXPRESSLY RELEASE, HOLD HARMLESS AND INDEMNIFY
 378. BROKER(S) IN THIS TRANSACTION FROM ANY AND ALL LIABILITY AND RESPONSIBILITY REGARDING FINANCING, THE
 379. CONDITION, SQUARE FOOTAGE/ACREAGE, LOT LINES, BOUNDARIES, VALUE, RENT ROLLS, ENVIRONMENTAL
 380. PROBLEMS, SANITATION SYSTEMS, ABILITY TO DIVIDE OR SPLIT THE PROPERTY, BUILDING CODES, GOVERNMENTAL
 381. REGULATIONS, INSURANCE OR ANY OTHER MATTER RELATING TO THE VALUE OR CONDITION OF THE PROPERTY.

(BUYER'S INITIALS REQUIRED) _____
 BUYER BUYER

8p. 383. **Terms of Acceptance:** This offer will become a binding Contract when acceptance is signed by Seller and
 384. a signed copy delivered in person, by mail, facsimile or electronically, and received by Broker named in Section 8q
 385. by July 28, 2009 at 5:00 a.m. / p.m., Mountain Standard Time.
 386. Buyer may withdraw this offer at any time prior to receipt of Seller's signed acceptance. If no signed acceptance is received
 387. by this date and time, this offer shall be deemed withdrawn and the Buyer's Earnest Money shall be returned.

388. THIS CONTRACT CONTAINS TEN PAGES EXCLUSIVE OF ANY ADDENDA AND ATTACHMENTS. PLEASE ENSURE THAT
 389. YOU HAVE RECEIVED AND READ ALL TEN PAGES OF THIS OFFER AS WELL AS ANY ADDENDA AND ATTACHMENTS.

Initials: <u>J.P.</u> SELLER SELLER	©ARIZONA ASSOCIATION OF REALTORS® Form VLPC 8/07	Initials: <u>/</u> BUYER BUYER
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8q. 390. Broker on behalf of Buyer:

391. Team Swartwood/Holgate ERA Young Realty & Investment
 PRINT SALESPERSON'S NAME AGENT CODE PRINT FIRM NAME FIRM CODE

392. 424 S. Beeline Hwy PO Box 1600 AZ 85547
 FIRM ADDRESS STATE ZIP CODE

393. (928) 474-4554 (928) 472-3570 judi.holgate@erayoung.net
 TELEPHONE FAX EMAIL

8r. 394. Agency Confirmation: The Broker named in Section 8q above is the agent of (check one):

395. the Buyer the Seller or both the Buyer and Seller

8s. 396. The undersigned agree to purchase the Property on the terms and conditions herein stated and acknowledge receipt of a 397. copy hereof including the Buyer Attachment.

398. 07/17/2009 BUYER'S SIGNATURE MO/DA/YR
Town of Payson A Municipal Co BUYER'S SIGNATURE MO/DA/YR
Kenny J. Evans, Mayor

399. 303 N. Beeline Highway ADDRESS
 ADDRESS

400. Payson, AZ 85541 CITY, STATE, ZIP CODE
 CITY, STATE, ZIP CODE

9. SELLER ACCEPTANCE

9a. 401. Broker on behalf of Seller:

402. Team Swartwood/Holgate ERA Young Realty & Investment
 PRINT SALESPERSON'S NAME AGENT CODE PRINT FIRM NAME FIRM CODE

403. 424 S. Beeline Hwy PO Box 1600 Payson AZ 85547
 FIRM ADDRESS STATE ZIP CODE

404. (928) 474-4554 (928) 472-3570 judi.holgate@erayoung.net
 TELEPHONE FAX EMAIL

9b. 405. Agency Confirmation: The Broker named in Section 9a above is the agent of (check one):

406. the Seller or both the Buyer and Seller

9c. 407. The undersigned agree to sell the Premises on the terms and conditions herein stated, acknowledge receipt of a 408. copy hereof and grant permission to Broker named in Section 9a to deliver a copy to Buyer.

409. Counter Offer is attached, and is incorporated herein by reference. Seller should sign both this offer and the Counter Offer.

410. If there is a conflict between this offer and the Counter Offer, the provisions of the Counter Offer shall be controlling.

411. Arnold B. Palmer 7/20/09 SELLER'S SIGNATURE MO/DA/YR
MANAGER SELLER'S SIGNATURE MO/DA/YR

412. Highlands Commercial LLC SELLER'S NAME PRINTED
 SELLER'S NAME PRINTED

413. 8560 E. Shea Blvd #130 ADDRESS
 ADDRESS

414. Scottsdale, AZ 85260 CITY, STATE, ZIP CODE
 CITY, STATE, ZIP CODE

415. OFFER REJECTED BY SELLER: _____ MONTH _____ DAY _____ YEAR (SELLER'S INITIALS)

For Broker Use Only:
 Brokerage File/Log No. _____ Manager's Initials _____ Broker's Initials _____ Date _____ MO/DA/YR

This form is available for use by the entire real estate industry. The use of this form is not intended to identify the user as a REALTOR®. REALTOR® is a registered collective membership mark that may be used only by real estate licensees who are members of the NATIONAL ASSOCIATION OF REALTORS® and who subscribe to its Code of Ethics. ©Arizona Association of REALTORS® 2007 • This form is available through your local association of REALTORS® • Form VLPC 8/07

CONSENT TO LIMITED REPRESENTATION ("CONSENT")

BROKER REPRESENTS BOTH SELLER AND BUYER OR BOTH LANDLORD AND TENANT

Document updated:
December 2002



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- 1. Buyer/Tenant ("Buyer"): Town of Payson A Municipal Corporation
- 2. Seller/Landlord ("Seller"): Highlands Commercial LLC
- 3. Subject Property: A portion of 304-61-142B, Payson, AZ 85541
- 4. Firm Name ("Broker"): ERA Young Realty & Investment

5. **Consent:** Buyer and Seller consent that Broker, acting through the Licensee(s) named below, will represent both parties in the transaction.

6. One Licensee: _____ (NAME)

7. Two Licensees: Team Swartwood/Holgate, who, through the Broker, has been representing the Buyer; (NAME)

8. and Team Swartwood/Holgate, who, through the Broker, has been representing the Seller. (NAME)

9. **Duties and Limitations:** The Broker now represents both Buyer and Seller and both parties understand that neither Broker nor Broker's Licensee(s) can represent the interests of one party to the exclusion or detriment of the other party. The parties understand and further consent to the following:

- 10. a) The Licensee or each Licensee represents both the Buyer and the Seller with limitations of the duties owed to the Buyer and the Seller, such as:
 - 11. 1) The Licensee(s) will not, without written authorization, disclose to the other party that the Seller will accept a price or terms other than stated in the listing or that the Buyer will accept a price or terms other than offered;
 - 12. 2) There will be conflicts in the duties of loyalty, obedience, disclosure and confidentiality. Disclosure of confidential information may be made only with written authorization. This does not relieve each Licensee of any legal obligation to disclose all known facts which materially and adversely affect the consideration to be paid by any party to the transaction.
 - 13. 3) Pursuant to A.R.S. §32-2156, Sellers, Lessors and Broker/Licensee(s) are not obligated to disclose that the Subject Property is or has been: (1) the site of a natural death, suicide, homicide, or any crime classified as a felony; (2) owned or occupied by a person exposed to HIV, or diagnosed as having AIDS or any other disease not known to be transmitted through common occupancy of real estate; or (3) located in the vicinity of a sex offender.
- 14. b) The Licensee(s) shall exercise reasonable skill and care in the performance of their duties.
- 15. c) The Licensee(s) shall be obligated at all times to deal honestly with all parties.
- 16. d) The duties of the Licensee(s) in this transaction do not relieve the Seller or the Buyer from the responsibility to protect their own interests.

26. **Compensation:** Compensation to the Broker shall be paid pursuant to separate agreement(s).

27. **Prior Agreements:** Seller and Buyer understand this Consent does not replace prior agreements entered into with Broker and such agreements shall remain in effect. However, to the extent that the terms of this Consent contradict or conflict with the terms of prior agreements, this Consent shall supersede.

30. **Termination:** If the Seller and Buyer do not enter into a contract relating to the Subject Property or if the transaction between the Seller and the Buyer fails to close, the parties agree that this Consent is terminated, and the parties shall have no further rights or obligations pursuant to this Consent.

33. **Indemnification:** Seller and Buyer agree to indemnify and hold Broker harmless against any and all claims, damages, losses, expenses or liabilities including attorneys' fees and costs incurred by Broker in any defense thereof arising from Broker's role of limited representation.

36. THE UNDERSIGNED PARTIES ACKNOWLEDGE THAT THEY HAVE THOROUGHLY READ, UNDERSTOOD AND APPROVED THIS CONSENT AND ACKNOWLEDGE RECEIPT OF A COPY.

38. Town of Payson A Municipal Co MO/DA/YR Arnold A. Palmer MO/DA/YR
 ^ BUYER'S SIGNATURE ^ BUYER'S SIGNATURE

39. Highlands Commercial LLC MO/DA/YR MANAGING MEMBER MO/DA/YR
 ^ SELLER'S SIGNATURE ^ SELLER'S SIGNATURE

REAL ESTATE AGENCY DISCLOSURE AND ELECTION

Document updated:
January 2009



The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.



1. Firm Name ("Broker") ERA Young Realty & Investment
 2. acting through Team Swartwood/Holgate hereby makes the following disclosure.
 LICENSEE'S NAME

DISCLOSURE

3. Before a Seller or Landlord (hereinafter referred to as "Seller") or a Buyer or Tenant (hereinafter referred to as "Buyer") enters into a discussion with a real estate broker or licensee affiliated with a broker, the Seller and the Buyer should understand what type of agency relationship or representation they will have with the broker in the transaction.
4. **I. Buyer's Broker:** A broker other than the Seller's broker can agree with the Buyer to act as the broker for the Buyer. In these situations, the Buyer's broker is not representing the Seller, even if the Buyer's broker is receiving compensation for services rendered, either in full or in part, from the Seller or through the Seller's broker:
5. a) A Buyer's broker has the fiduciary duties of loyalty, obedience, disclosure, confidentiality, and accounting in dealings with the Buyer.
6. b) Other potential Buyers represented by broker may consider, make offers on, or acquire an interest in the same or similar properties as Buyer is seeking.
7. **II. Seller's Broker:** A broker under a listing agreement with the Seller acts as the broker for the Seller only:
8. a) A Seller's broker has the fiduciary duties of loyalty, obedience, disclosure, confidentiality, and accounting in dealings with the Seller.
9. b) Other potential Sellers represented by broker may list properties that are similar to the property that Seller is selling.
10. **III. Broker Representing both Seller and Buyer (Limited Representation):** A broker, either acting directly or through one or more licensees within the same brokerage firm, can legally represent both the Seller and the Buyer in a transaction, but only with the knowledge and informed consent of both the Seller and the Buyer. In these situations, the Broker, acting through its licensee(s), represents both the Buyer and the Seller, with limitations of the duties owed to the Buyer and the Seller:
11. a) The broker will not, without written authorization, disclose to the other party that the Seller will accept a price or terms other than stated in the listing or that the Buyer will accept a price or terms other than offered.
12. b) There will be conflicts in the duties of loyalty, obedience, disclosure and confidentiality. Disclosure of confidential information may be made only with written authorization.
13. Regardless of who the Broker represents in the transaction, the Broker shall exercise reasonable skill and care in the performance of the Broker's duties and shall be truthful and honest to both the Buyer and Seller and shall disclose all known facts which materially and adversely affect the consideration to be paid by any party. Pursuant to A.R.S. §32-2156, Sellers, Lessors and Brokers are not obligated to disclose that a property is or has been: (1) the site of a natural death, suicide, homicide, or any crime classified as a felony; (2) owned or occupied by a person exposed to HIV, or diagnosed as having AIDS or any other disease not known to be transmitted through common occupancy of real estate; or (3) located in the vicinity of a sex offender. Sellers or Sellers' representatives may not treat the existence, terms, or conditions of offers as confidential unless there is a confidentiality agreement between the parties.
14. **THE DUTIES OF THE BROKER IN A REAL ESTATE TRANSACTION DO NOT RELIEVE THE SELLER OR THE BUYER FROM THE RESPONSIBILITY TO PROTECT THEIR OWN INTERESTS. THE SELLER AND THE BUYER SHOULD CAREFULLY READ ALL AGREEMENTS TO INSURE THAT THE DOCUMENTS ADEQUATELY EXPRESS THEIR UNDERSTANDING OF THE TRANSACTION.**

ELECTION

33. **Buyer or Tenant Election** (Complete this section only if you are the Buyer.) The undersigned elects to have the Broker (check any that apply):
34. represent the Buyer as Buyer's Broker.
35. represent the Seller as Seller's Broker.
36. show Buyer properties listed with Broker's firm and Buyer agrees that Broker shall act as agent for both Buyer and Seller provided that the Seller consents to limited representation. In the event of a purchase, Buyer's and Seller's informed consent should be acknowledged in a separate writing other than the purchase contract.
37. **Seller or Landlord Election** (Complete this section only if you are the Seller.) The undersigned elects to have the Broker (check any that apply):
38. represent the Buyer as Buyer's Broker.
39. represent the Seller as Seller's Broker.
40. show Seller's property to Buyers represented by Broker's firm and Seller agrees that Broker shall act as agent for both Seller and Buyer provided that Buyer consents to the limited representation. In the event of a purchase, Buyer's and Seller's informed consent should be acknowledged in a separate writing other than the purchase contract.
41. The undersigned Buyer(s) or Seller(s) acknowledge that this document is a disclosure of duties. This document is not an employment agreement.
42. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE.
43. Town of Payson A Municipal Co ^ PRINT NAME ^ PRINT NAME
44. ^ SIGNED MO/DA/YR ^ SIGNED MO/DA/YR

Buyer's Supplemental Disclosure Statement

Property Address and/or Parcel #: A portion of 304-61-142B, Payson, AZ 85541

A portion of 30

Tree dangers:

Buyer[s] is/are aware that bark beetles, mistletoe and other insects, along with weather conditions, are a danger to trees. The trees that are currently alive, both on the property they are buying, and the entire surrounding area, could succumb to these dangers and could die. If this is a material consideration for the buyer they are advised to seek the services of an arborist.

Initials _____

Water conservation/restrictions:

Buyer[s] is/are aware that water conservation measures may be in place in the community in which they are purchasing, resulting in water use restrictions up to and including water outages. Buyer[s] is/are advised to contact the local domestic water service provider to ascertain the water system status in their area.

Initials _____

Rivers and streams:

Buyer[s] is/are aware that surface water levels in streams and rivers in Gila County are subject to seasonal, augmentation and allocation fluctuations which will result in water level extremes. These extremes may range from dry riverbeds to flooding. If a particular stream or river flow is material to the purchase of a property the buyer[s] is/are advised to seek more information on the stability and viability of that stream or river.

Initials _____

Fire service/restrictions:

Buyer[s] is/are aware that fire department service may be limited, and/or fire restrictions may be in place in the community in which they are purchasing. Buyer is advised to contact the local fire department to ascertain the levels of service and fire restrictions for that community.

Initials _____

Surveys:

Buyer[s] understand[s] that property boundary markers may be incorrect. If the property boundaries are material consideration for the buyer they are advised to have the property surveyed by a licensed surveyor.

Initials _____

Forest Service/Tribal/Undeveloped Land:

Buyer(s) is/are aware that Forest Service land, Tribal land and undeveloped land may border property. It is possible that undeveloped areas may be traded and/or developed in the future. Buyer(s) is/are advised to consult local authorities if ownership of and/or plans for future use of land bordering property are material to Buyer(s).

Buyer's Signature

Town of Payson A Municipal Co

Buyer's Printed Name

Date

Buyer's Signature

Buyer's Printed Name

Date

Revised 12/2008

EXHIBIT "B"

to Resolution No. 2503



PALMER ARCHITECTS, LTD.

Proposal for Architectural Services

July 21, 2009

Town of Payson, a municipal corporation
303 North Beeline Highway
Payson, AZ 85541

Voice: (928) 474-5242
Fax: (928) 474-4610
E-mail: dgalbraith@ci.payson.az.us

RE: Design and construction documents for Town of Payson Fire Station
Adjacent to the southeast corner of Rim Club Drive and Highway 260
Payson, Arizona

Palmer Architects, Ltd ("Architect"), is pleased to provide design and construction documents and exhibit coordination for the development of a fire station on an approximately one acre lot located adjacent to the southeast corner of Rim Club Drive and Highway 260, Payson, Arizona.

A. ARCHITECTURAL SERVICES TO INCLUDE:

- I. Preliminary architectural design of site plan, floor plan and exterior elevations.
- II. Architectural construction documents for a 4,000 to 4,500 square foot fire station with a 2,400 to 2,600 square foot apparatus bay.
- III. Structural engineering for gravity and lateral analysis.
- IV. Mechanical, plumbing, electrical and fire sprinkler design and engineering.
- V. Town of Payson design review

- VI. Project construction specification book.

- VII. The date of completion of all the plan designs, documents and work to be performed by Architect hereunder, except for conditions to the contract, shall be December 5, 2009 ("Completion Date"), or a minimum of 105 days after contract acceptance.

B. OWNER'S RESPONSIBILITY:

- I. The Owner shall provide full information regarding requirements for the project, including a program which shall set forth the Owner's design objectives, constraints and criteria, including space requirements and relationships, flexibility, and expandability, special equipment, and systems and site requirements.
- II. The Owner shall provide all civil engineering required, including, but not limited to, grading and drainage design and soils report for foundation design and pavement design. Flow test for fire sprinkler system shall be by Town of Payson Fire Department.
- III. If Owner observes or otherwise becomes aware of any fault or defect in the project, or nonconformance with the contract documents, prompt written notice thereof shall be given to the Architect.
- IV. The Owner shall furnish required information and services, and shall render approval and decisions as expeditiously as necessary for the orderly progress of the Architect's service and of the work.

C. GENERAL CONDITIONS

- I. From time to time, progress sheets may be submitted to Owner for approval. Approval of such information shall be by signature, e-mail, or documented phone call.
 - a. All requests for changes, additions or revisions occurring after approval shall be in writing and shall constitute an "Addition to the Contract". Additions to the contract shall, at the discretion of the Architect, extend the completion date of the project as herein defined. All such work shall be done in an expeditious manner, taking into consideration the Architect's schedule of commitments and allowing for sufficient time to produce said work in a complete and professional manner. The time frame for extensions and additions shall be negotiated and agreed upon by Architect and Owner.

- b. Architect shall notify Owner in writing of such extensions of the completion date of this agreement. All additions shall be completed at an hourly basis as per the schedule following, not to exceed amount agreed to before commencing.
- c. Should the project be abandoned in part or in full during or after the drawings are completed, Architect shall be compensated by Owner for the work completed up to that time.

- II. All reproductions as requested by Owner, contractors, or the Town of Payson development services will be reimbursable at cost plus 15%. Payments shall be made ten (10) days from the date of billing.
- III. All governmental applications, reviews, permits, lot splits and filing fees shall be paid by Owner.
- IV. Hourly rate schedule:

Principal	\$140
Architect	\$110
Draftsman	\$65
Secretary	\$40

D. FEE SCHEDULE

I. PROFESSIONAL FEE

The professional fee for the preparation of the Design and Construction Documents, including structural, mechanical, plumbing and electrical engineering and fire sprinkler design and engineering shall be \$50,000.00. This fee is included in the purchase price of the land.

The standard AIA contract form, B141, 1997 Edition, shall be included by reference as a guide to additional terms and conditions. In the event of a conflict between the terms of this Proposal and the AIA contract form, the terms of Proposal shall control. This contract is subject to A.R.S. § 38-511, the terms of which are incorporated herein.

ARBITRATION:

All claims, disputes and other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining or by mediation unless the Parties mutually agree otherwise. No arbitration or mediation arising out of or relating to this Agreement shall include, by consolidation, joinder, or in any other manner, any

additional person not a party to this Agreement except by written consent containing specific reference to this Agreement and signed by the Parties hereto and any other person sought to be joined. Any consent to arbitration of any dispute not described therein or with any person not named or described therein. This agreement to arbitrate and any agreement to arbitrate with an additional person or persons duly consented to by the Parties to this Agreement shall be specifically enforceable under the prevailing law of the State of Arizona. Neither party shall be entitled to receive costs, expenses, or attorney's fees from the other party in the event of a dispute between the parties, but shall bear his/her/its own costs, expenses, or attorneys' fees without contribution from the other party.

All reports, plans, specifications, computer files, field data, notes and other documents and instruments of service prepared by Architects and its consultants shall remain the property of Architect and its consultants. The instruments of service shall be used solely for this project. Any unauthorized use shall be at Owner's sole risk and without risk to Architect or to its consultants. Architect also reserves the right to use images, reproductions, and photographs of the project for marketing purposes. Architect shall be credited as project architect in all reproductions and promotional printed materials.

Thank you for the opportunity to present our proposal for your new fire station project. We look forward to working with you and to completing a successful project.

Yours truly,



Jerry Palmer
Principal
PALMER ARCHITECTS, Ltd.

ACCEPTED: _____ DATE _____

Kenny V. Evans, Mayor
Town of Payson,
A municipal corporation