

**PURCHASE AND SALE AGREEMENT
(4995 Washington Street)**

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) made and entered into as of the Effective Date, between the **CITY AND COUNTY OF DENVER**, a home rule city and municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, Colorado 80202 (the “**City**”), and **TRE 4995 LLC**, a Colorado limited liability company, whose address is 1550 Larimer Street, Suite 634, Denver, Colorado 80202 (“**Seller**”). City and Seller are collectively referred to herein as the “**Parties**” and individually as a “**Party**.”

RECITALS

A. Tributary Real Estate, LLC, a Colorado limited liability company (“**Tributary**”), is the “Purchaser” under that certain Purchase and Sale Agreement dated as of August 30, 2018 (the “**Salzano PSA**”), pursuant to which Bertina Salzano, as attorney-in-fact for Vincent Salzano, an individual (“**Owner**”), has agreed to sell, and Tributary has agreed to purchase, certain real Property (as defined in Section 1 below) in the City and County of Denver, State of Colorado, in accordance with the terms and conditions of the Salzano PSA; and

B. Prior to the Effective Date (as defined below) of this Agreement, Tributary has assigned its right, title and interest in and to the Salzano PSA to Seller, and Seller has assumed the same from Tributary, which assignment is permitted without the consent of Owner pursuant to Section 13(n) of the Salzano PSA; and

C. Subject to the terms of this Agreement and contingent on the consummation of the transaction contemplated by the Salzano PSA, Seller agrees to sell and the City agrees to purchase the Property for any allowable City purpose; and

D. Seller would like to retain, on behalf of Owner, a 30-day license to allow Owner to remove its personal property from the Property and the City is willing to do this.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and obligations set forth herein, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. SUBJECT PROPERTY. Subject to the terms of this Agreement, the City shall purchase and the Seller shall sell the real property interests generally located at 4995 Washington Street, Denver, Colorado 80216, more particularly described in **Exhibit 1**, attached hereto and incorporated herein by reference (the “**Land**”), together with Seller’s interest, if any, in: (i) all easements, rights of way and vacated roads, streets and alleys appurtenant to the Land; (ii) all buildings, fixtures and improvements on the Land (the “**Improvements**,” and together with the Land, the “**Real Property**”); (iii) all of Seller’s right, title and interest in and to all utility taps, licenses, permits, contract rights, and warranties and guarantees associated with the Real Property (the “**Intangible Property**”); (iv) all water rights and conditional water rights that are appurtenant to or that have been used or are intended for use in connection with the Real Property, including without limitation, (a) any ditch, well, pipeline, channel, spring, reservoir or storage rights, whether or not adjudicated or evidenced by any well, decree, order, stock certificate, permit or other instrument, (b) all rights with respect to nontributary or not tributary groundwater (and other groundwater that is subject to the provisions of Colorado

Revised Statutes Section 37-90-137(4) or the corresponding provisions of any successor statute) underlying the land, (c) any permit to own, use or construct any water well on or about the land (including those from which water is intended to be used in connection with the land), and (d) all of Grantor's right, title and interest in, to or under any decreed or pending plan of augmentation or water exchange plan (collectively the “**Water Rights**”); and (v) any and all minerals and mineral rights appurtenant to or otherwise benefitting the Land (the “**Mineral Rights**”). The Real Property, the Intangible Property, the Water Rights and the Mineral Rights are collectively referred to herein as the “**Property**”)

2. PURCHASE PRICE.

- a. The total purchase price for the Property to be paid by the City at Closing (as defined in this Agreement) is **SIX MILLION AND 00/100 DOLLARS (\$6,000,000.00)** (“**Purchase Price**”), which shall be paid in good funds which comply with all applicable Colorado laws and any requirements of the Title Company (as defined below), including cash, certified check, cashier’s check or electronic wire transfer.
- b. Earnest Money Deposit. Prior to the earlier to occur of ten (10) days after mutual execution of this Agreement and delivery by the City to the Seller of the fully executed Agreement or the Closing Date (as hereinafter defined), the City shall deposit an earnest money deposit, in certified funds, in the amount of **FIFTY THOUSAND AND 00/100 DOLLARS (\$50,000.00)** (“**Earnest Money Deposit**”) with Land Title Guarantee Company (“**Title Company**”). The Title Company will hold such money as the Earnest Money Deposit hereunder pursuant to the terms and provisions of this Agreement. At Closing, the Earnest Money Deposit shall be applied against the Purchase Price.

3. ENVIRONMENTAL CONDITION.

- a. Environmental Information. By the timeframe set forth in Section 7(a), Seller shall disclose, in writing, to the City all information Seller has actual knowledge of regarding any environmental contamination (including asbestos-contaminated soils) or the presence of any hazardous substances or toxic substances on, under, or about the Property. If Seller acquires any actual knowledge of any additional information regarding environmental contamination, Seller has the ongoing duty to provide such information to the City up to the time of Closing, and will do so within five (5) days of the receipt of such additional information. For purposes of this Agreement: “hazardous substances” means all substances listed pursuant to regulation and promulgated under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C., § 9601 *et seq.*, or applicable state law, and any other applicable federal or state laws now in force or hereafter enacted relating to hazardous waste disposal; provided, however, that the term hazardous substance also includes “hazardous waste” and “petroleum” as defined in the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6901 *et seq.* §6991(1). The term “toxic substances” means and includes any materials present on the Property that are subject to

regulation under the Toxic Substance Control Act (“TSCA”), 15 U. S. C. § 2601 *et seq.*, applicable state law, or any other applicable federal or state law now in force or later enacted relating to toxic substances. The term “toxic substances” includes, but is not limited to, asbestos, polychlorinated biphenyls (PCB’s), and lead-based paints.

- b. Environmental Review. City, at its sole option and expense, may conduct or cause to be conducted environmental audits and perform other environmental tests on the Property to identify any existing or potential environmental problems located in, on, or under the Property, including but not limited to, the presence of any hazardous waste, hazardous substances or toxic substances. Seller hereby grants the City and any of its employees and consultants access to the Property to perform such audits and tests in accordance with the terms and conditions of Section 4.
- c. Notice of Unacceptable Environmental Conditions, Cure, City Election. No later than five days prior to the expiration of the Due Diligence Period (as defined below), the City shall give notice to Seller of any unacceptable environmental condition relating to the Property. Seller may elect (in Seller’s sole discretion), at Seller’s sole cost and expense, to agree to cure such unacceptable environmental conditions by delivering written notice to the City within two days of receipt of the City’s notice. In the event Seller declines to cure the unacceptable environmental conditions or fails to respond to City’s notice within the foregoing two-day period, Seller will be deemed to have elected not to cure any such matters and the City in its sole discretion may proceed in accordance with Section 7(d) of this Agreement.

4. INSPECTION/SURVEY. The City has the right to inspect the physical condition of the Property. Prior to the Effective Date, Seller has, at its sole cost and expense, provided to the City (a) copies of any surveys of the Property in its possession or under its control and (b) an ALTA survey which is certified to Seller, the City and Land Title Guarantee Company. This right to inspect is in addition to the right of the City to obtain an environmental audit pursuant to Section 3.

All such investigations, tests and surveys will be at the sole cost and expense of the City. The City will cause any contractors, agents or other third parties conducting inspections of the Property (“Contractors”) to indemnify Seller for any expenses, damages and liabilities, including reasonable attorneys’ fees that Seller or Owner may suffer or incur arising out of any claims for property damage, personal injury or claims from materialmen, or laborers that arise from the City’s investigations under this Agreement, provided that the Contractors’ obligations hereunder will not include coverage for any claims related to any latent conditions or “hazardous substances” not caused by the City, or resulting from the negligence or intentional misconduct of Seller or Owner. The City will not cause any mechanic’s liens to be filed against the Property, and in the event any mechanic’s liens are filed against the Property as a result of the action or inaction of the City, the City will cause such mechanic’s liens to be removed within 30 days of receipt of notice thereof.

Seller has, prior to the Effective Date, delivered to City copies of any and all agreements, contracts or arrangements for management, service, maintenance or operation with respect to the

Property in Seller's possession or control ("**Service Contracts**"), and will cause any such Service Contracts to be terminated on or before the Closing Date, without any cost or expense to the City.

5. TITLE.

- a. Title Review. Seller shall obtain at its expense, a title commitment for the Property from the Title Company, including updates thereto (the "**Commitment**"), and all copies or abstracts of instruments or documents identified in the Commitment ("**Title Documents**"). Seller has the right to review the Title Documents. The Seller shall provide a copy of the Title Documents to the City within seven (7) days of the Effective Date of this Agreement.
- b. Matters Not Shown by the Public Records. Prior to the Effective Date, Seller has delivered to the City complete and accurate copies of all lease(s) and survey(s) in Seller's possession pertaining to the Property that are not included in the Title Documents and has disclosed, in writing, to the City all easements, licenses, right to use agreements, liens or other title matters not shown by the public records of which Seller has actual knowledge that are not included in the Title Documents. In addition, Seller has provided all documents that pertain to the Property in Seller's possession or control, including but not limited to soil reports, geo tech reports, traffic studies, surveys, leases, operating expenses and any other documents in their possession that would affect one's decision to purchase the Property.
- c. Notice of Unacceptable Condition, Cure, and City Elections. The City shall give notice of any unacceptable condition of title to Seller no later than five days prior to the expiration of the Due Diligence Period. At Seller's sole cost and expense, Seller may agree to cure such unacceptable conditions by delivering written notice to the City within two days of receipt of the City's notice. In the event Seller declines to cure such unacceptable conditions or fails to respond to the City's notice thereof within the foregoing two-day period, Seller will be deemed to have elected not to cure any such matters and the City in its sole discretion may proceed in accordance with Section 7(d) of this Agreement. If this Agreement does not terminate pursuant to Section 7(d) hereof, then the exceptions to title disclosed in the last Commitment reviewed by the City and approved by the City in writing prior to the expiration of the Due Diligence Period, excluding (i) any delinquent taxes or assessments, (ii) any monetary liens or encumbrances that are not a result of the action of the City, its representatives, agents or contractors, and (iii) any standard printed exceptions, will be the "**Permitted Exceptions**" hereunder.
- d. Subsequently Discovered Defects. At any time prior to Closing if any matter affecting title to the Property shall arise or be discovered by the City which is not set out in the Commitment or disclosed to the City by Seller prior to the expiration of the Due Diligence Period ("**Defect**"), the City shall have the right to object to such Defect by the delivery to Seller of notice of such Defect within the earlier of five (5) days after the City discovers such Defect or the

Closing Date. Upon receipt of notice of the City's objection to any such Defect, Seller shall have the right, but not the obligation, to cure such Defect to the satisfaction of the City and the Title Company for a period of five (5) days from the date of such notice; provided, however, that if any of such exceptions has not been cured by Seller within the earlier of 30 days from the date upon which Seller receives notice of the exception (from the City or otherwise) or the Closing Date, and the City does not elect in writing to waive such exception or requirements, in the City's sole and absolute discretion, the City will be entitled to all rights and remedies therefor to the extent available to Seller under the Salzano PSA, including without limitation the right to terminate this Agreement and obtain a refund of the Deposit, whereupon this Agreement will terminate and the parties will be relieved of all further obligations and liabilities hereunder, except for any liabilities and obligations that expressly survive termination of this Agreement. If, in Seller's attempt to cure a Defect, other Defects not set out in the Commitment or Survey are discovered, such additional Defects shall be subject to the procedure set forth above. If the City elects to waive any Defects in writing pursuant to this Section 5(d), such Defects will be deemed Permitted Exceptions hereunder.

6. CLOSING PRE-CONDITIONS.

- a. Seller shall fully cooperate with the City to do all things necessary, including execute affidavits as necessary and provide adequate assurances necessary for the Title Company remove from the Commitment, on or before the Closing Date, any (i) delinquent taxes or assessments, (ii) any monetary liens or encumbrances that are not a result of the action of the City, its representatives, agents or contractors and (iii) any standard preprinted exceptions. Owner shall have terminated the Service Contracts unless such Service Contract has been assumed in writing by City. Seller's aforementioned obligation to execute necessary affidavits and provide adequate assurances for the removal of the standard exceptions from title insurance to be issued is a condition precedent to the City's obligation to purchase the Property.
- b. The Parties acknowledge that the Owner has certain obligations and has made certain covenants in the Salzano PSA with respect to the continued operation of the Property, including without limitation, that Owner: (a) shall operate and maintain the Property in the manner that it is currently being operated and maintained by Owner; and (b) shall not enter into any new agreement or amend any existing agreement. Seller shall not amend or consent to any modifications to such covenants without the prior written consent of the City, which may be withheld in the City's reasonable discretion.
- c. If any condition specified in this Section 6 is not satisfied on or before the Closing Date, the City may, at its option, (y) waive such condition and proceed to Closing, or (z) terminate this Agreement by written notice thereof to Seller, in which case the Deposit will be returned to the City.

7. **TIMEFRAMES.**

- a. Seller's Disclosure. Seller shall deliver any documents and make the disclosures required by this Agreement, including as required under Sections 3(a) and 5(b) of this Agreement, no later than 5 p.m. local time five (5) days after the Effective Date (or, as applicable, promptly upon obtaining actual knowledge thereof).
- b. City's Objection Notice. The City shall notify Seller in writing of any unacceptable environmental, physical, survey, title conditions and all other unacceptable matters under Sections 3(c), 4 and 5(c) of this Agreement, above, no later than five days prior to the expiration of the Due Diligence Period.
- c. Seller's Cure. Seller may agree to cure such unacceptable conditions by delivering written notice to the City within two days from the date of City's objection notice, including any objection notice under Sections 3(c), 4, 5(c) and 7(b) of this Agreement. In the event Seller declines to cure such unacceptable conditions or fails to respond to the City's notice thereof within the foregoing two-day period, Seller will be deemed to have elected not to cure any such matters and the City in its sole discretion may proceed in accordance with Section 7(d) of this Agreement.
- d. City's Election. The City may, in its sole and absolute discretion, by written notice to Seller delivered no later than 5 p.m. local time fifteen (15) days after the Effective Date ("**Due Diligence Period**") elect to (i) waive any uncured objections and proceed to Closing or (ii) terminate this Agreement, for any reason or no reason. If the City does not provide any such written notice prior to the expiration of the Due Diligence Period, then the City will be deemed to have elected to terminate this Agreement pursuant to clause (ii) above. In the event the City terminates or is deemed to have terminated this Agreement pursuant to this Section 7(d), then (1) this Agreement will terminate and the Earnest Money Deposit will be returned to the City, (2) the City will, as consideration for the investigation privileges afforded to the City by Seller hereunder, deliver to Seller, without any representation or warranty, copies of all assignable, non-confidential and non-proprietary studies, inspection reports and similar matters made for the City by third parties engaged by the City to do so during the Inspection Period concerning the Property, and (3) both parties will be relieved from any further liability hereunder, except for any liabilities and obligations that by their terms survive any termination of this Agreement.
- e. Deadlines. In the event any date for a party's performance occurs on a Saturday, Sunday or national holiday, the date for such performance shall occur on the next regular business day following such weekend or national holiday.

8. **DATE OF CLOSING.** The closing of this transaction will be on January 9, 2019, or any other date mutually agreeable to by the City and Seller ("**Closing Date**"). It is understood

by the Parties that the Seller may wish to exchange the proceeds of the sale for purchase of another property. The City shall cooperate with Seller in effectuating an exchange. Closing may be on a date as otherwise agreed by the Parties in writing signed by the Director of the Division of Real Estate on behalf of the City and by the Seller.

9. CLOSING. The Closing shall take place at the offices of the Title Company and shall be completed on or before 4:00 p.m. Mountain Standard Time on the Closing Date (“**Closing**”). Seller or Buyer may elect to close in escrow without attending the Closing.

a. Obligations of Seller at Closing. The following events shall occur at the Closing:

- i. Seller shall execute and deliver: (i) a Special Warranty Deed in substantially the form set forth as **Exhibit 2** herein (“**Deed**”) to the City at Closing conveying the Real Property subject only to the Permitted Exceptions (with proration as provided herein).
- ii. Seller shall execute, have acknowledged and deliver to the City a bill of sale and assignment conveying to City all of Seller’s right, title and interest in and to any personal property located on the Real Property and the Intangible Property.
- iii. Seller shall execute and deliver to the City a notice to all tenants or other occupants of the Property under any occupancy agreement regarding the sale of the Property to the City.
- iv. Seller shall deliver such other instruments and documents as may be reasonably necessary or required to transfer title to the Property to City in the condition herein contemplated, including without limitation any affidavit or agreement required by the Title Company.
- v. Seller shall deliver an assignment or similar document from the Owner authorizing the assignment of the Salzano Representations to the City, as well as any other applicable contract rights.

b. Obligations of City at Closing: The following events shall occur at Closing:

- i. City shall deliver or cause to be delivered to the Title Company good funds payable to the order of Seller in the amount of the Purchase Price.
- ii. Such delivery may be made pursuant to a closing instruction letter.
- iii. The City shall deliver such other instruments and documents as may be reasonably necessary or required to transfer title to the Property to City in the condition herein contemplated, including without limitation any affidavit or agreement required by the Title Company.

c. Closing Costs. Closing costs shall be as provided for in Section 13 below.

10. POSSESSION. Possession of the Property shall be delivered to the City at Closing; provided, however, that the Parties acknowledge that, pursuant to the terms of the Salzano PSA, Owner and the City will enter into a license agreement (“**License Agreement**”) for a term of no more than 30 days, pursuant to which Owner will be permitted to remain on the Property in order to remove personal property associated with Owner’s car sales business. The License Agreement will be on substantially a form provided by the City at least ten (10) days prior to the Closing Date. If agreed upon by the City, Seller and Owner in accordance with the terms hereof and the terms of the Salzano PSA, the License Agreement will be deemed a Permitted Exception hereunder.

11. REPRESENTATIONS AND WARRANTIES.

- a. The Parties acknowledge that the Salzano PSA includes certain representations and warranties with respect to the Property (the “**Salzano Representations**”), which Salzano Representations survive Closing per the terms of the Salzano PSA. At Closing, Seller shall provide a document signed by the Owner authorizing the assignment of the Salzano Representations to the City, as well as any other applicable contract rights. Seller shall promptly notify the City following Seller’s discovery of any inaccuracies or errors in such Salzano Representations, and shall assign to the City any and all Seller’s interest in and to the Salzano Representations pursuant to the bill of sale and assignment contemplated by Section 9(a)(ii) above. The City acknowledges that, as of the Effective Date, Seller has delivered to the City a copy of the Salzano PSA and the City has had a reasonable opportunity to review the same, including without limitation the Salzano Representations.
- b. Each Party hereto represents to the other Party that:
 - i. It has the requisite power and authority to execute and deliver this Agreement and the related documents to which such Party is a signatory;
 - ii. The execution and delivery of this Agreement by such Party has been duly authorized by all requisite action(s) and creates valid and binding obligations of such Party, enforceable in accordance with its terms subject to the effect of general principles of equity, including without limitation concepts of materiality, reasonableness, good faith and fair dealing, the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law, and subject to or limited by bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws relating to or affecting the rights of creditors;
 - iii. To the actual knowledge of (a) the Director of the Division of Real Estate for the City; and (b) Seller: neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate any constitution, statute, regulation, rule, injunction, judgment, order, decree or other restriction of any governmental authority or conflict with, result in a breach of, or constitute a default

under any contract, lease, license instrument or other arrangement to which such Party is bound;

- iv. It is authorized to execute this Agreement on behalf of its officers, directors, representatives, employees, subsidiaries, affiliates, members/shareholders, agents, trustees, beneficiaries, attorneys, insurers, successors, predecessors and assigns. Each person who signs this Agreement in a representative capacity represents that he or she is duly authorized to do so;
 - v. It has not sold, assigned, granted or transferred to any other person, natural or corporate, any chose in action, demand or cause of action encompassed by this Agreement; and
 - vi. IT IS FREELY AND VOLUNTARILY ENTERING INTO THIS AGREEMENT UNCOERCED BY ANY OTHER PERSON AND THAT IT HAS READ THIS AGREEMENT AND HAS BEEN AFFORDED THE OPPORTUNITY TO OBTAIN THE ADVICE OF LEGAL COUNSEL OF ITS CHOICE WITH REGARD TO THIS AGREEMENT IN ITS ENTIRETY AND UNDERSTANDS THE SAME.
- c. By selling the Property, Seller does not transfer, nor is it released from, any liability for the cleanup, removal or remediation of any hazardous or toxic substances from the Property or any liability, cost or expense for the oversight, management or removal of any asbestos (including asbestos contaminated soils) or underground storage tank from the Property, to the extent such liability may exist and be attributed to Seller under federal, state or local law.
- d. This Section 11 will survive Closing for a period of 18 months from the Closing Date, however, the Salzano Representations shall survive Closing indefinitely in accordance with the terms of the Salzano PSA and assignment to the City.

12. PAYMENT OF ENCUMBRANCES. Seller is responsible for paying all monetary encumbrances, other than any such encumbrances created by, through or under the City, at or before Closing from the proceeds of this transaction or from any other source.

13. CLOSING COSTS, DOCUMENTS AND SERVICES. Seller shall pay for a title insurance policy to be issued by the Title Company on the Property for the benefit of the City and one-half of all fees for real estate closing services. The City shall pay for one-half of all fees for real estate closing services and the cost of any endorsements required by the City other than those that Seller agrees to obtain in writing. The City and Seller shall sign and complete all customary or required documents at or before Closing, including the Deed. Any documents executed before Closing shall be held in escrow until all conditions of Closing are satisfied. The City's Director of Real Estate or his designee, shall sign all such closing documents, including, if necessary, an escrow agreement, on behalf of the City.

14. PRORATIONS. Seller shall pay, or cause to be paid, any and all taxes and special assessments accrued and owed on the Property prorated through the date of Closing. Based on the most recent levy and the most recent assessment, at or before Closing, Seller shall pay or cause to be paid all utility, water and sewer charges, and other items related to the Property, prorated through the date of Closing.

15. TIME IS OF THE ESSENCE/REMEDIES. Time is of the essence in this Agreement. All the agreements and representations set forth in this Agreement shall be binding upon and for the benefit of each Party's successors and assigns. If any payment due in accordance with this Agreement is not paid, honored or tendered when due, or if any other obligation under this Agreement is not performed or waived as provided in this Agreement, or if any representation or warranty hereunder is breached, then the non-defaulting Party shall have the following remedies, as applicable:

- a. If City Is In Default. If the City fails to perform any of its obligations hereunder or breaches any representation or warranty hereunder and such failure to perform or breach continues uncured for three business days after the City receives notice thereof from Seller, Seller may terminate this Agreement by written notice to the City and the Earnest Money Deposit hereunder shall be paid to Seller and retained by Seller as liquidated damages, and not a penalty, and the Parties shall thereafter be released from all other obligations under this Agreement. The City and Seller agree that it would be impractical and extremely difficult to estimate the damages which Seller would suffer in the event of the City's default and failure to complete the purchase of the Property in accordance with the terms of this Agreement. In such event, Seller expressly waives the remedies of specific performance and additional damages, including delay damages and attorney fees, or both, or any other legal or equitable remedy.
- b. If Seller Is In Default. If Seller fails to perform any of its obligations hereunder or breaches any representation or warranty hereunder and such failure to perform or breach continues uncured for three business days after Seller receives notice thereof from the City, the City may elect to (i) terminate this Agreement, whereupon the Earnest Money Deposit will be returned to the City, any things of value received by a Party under this Agreement shall be returned to the providing party, and the Parties shall thereafter be released from all obligations under this Agreement; or (ii) treat this Agreement as being in full force and effect and seek specific performance and actual damages, including attorney fees, or both; provided, however, that Seller shall not be obligated to pay any damages incurred by the City as a result of Owner's default under the Salzano PSA unless Seller has recovered such damages pursuant to the terms and conditions of the Salzano PSA. Nothing herein waives, impairs, limits or modifies the City's power and authority of condemnation.

16. TERMINATION. So long as neither Party is in default hereunder, if this Agreement is terminated, then all things of value received by a Party under this Agreement shall be returned to the providing party, and the Parties shall be relieved of all obligations under this Agreement, except as otherwise set forth herein.

17. COOPERATION OF THE PARTIES. In the event that any third party brings an action against a Party to this Agreement regarding the validity or operation of this Agreement, the other Party will reasonably cooperate in any such litigation. Any Party named in an action shall bear its own legal costs.

18. BROKER'S FEES. The City and Seller represent to each other that they have had no negotiations through or brokerage services performed by any broker or intermediary other than Tributary Real Estate, LLC. Seller shall pay any and all commissions payable related to this transaction to any party claiming by, through or under Seller, including without limitation Tributary Real Estate, LLC. If any broker other than Tributary Real Estate, LLC or other intermediary alleges a brokerage fee is owed through the acts or conduct of Seller, Seller shall be solely responsible to pay or otherwise resolve the demanded fee. Any commissions or fees owed to any broker or intermediary by the Seller shall be paid pursuant to a separate agreement. Seller hereby agrees to defend, indemnify, and hold harmless the City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suites or demand for damages for any commissions or fees claimed by any broker, intermediary or other third party. This Section 18 will survive Closing for a period of 18 months from the Closing Date.

19. SEVERABILITY. In the event that any provision of this Agreement would be held to be invalid, prohibited, or unenforceable in any jurisdiction for any reason unless narrowed by construction, this Agreement shall, as to such jurisdiction, be construed as if such invalid, prohibited, or unenforceable provision had been more narrowly drawn so as not to be invalid, prohibited, or unenforceable in any jurisdiction for any reason. Such provision, as to such jurisdiction, shall be ineffective to the extent of such invalidity, prohibition, or unenforceability, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

20. NO DISCRIMINATION IN EMPLOYMENT. In connection with the performance duties under the Agreement, the Seller agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability, and further agrees to insert the foregoing provision in all subcontracts relating to the Agreement.

21. WHEN RIGHTS AND REMEDIES NOT WAIVED. In no event shall any performance under this Agreement constitute or be construed to be a waiver by either Party of any breach of covenant or condition or of any default that may then exist. The rendering of any such performance when any breach of default exists in no way impairs or prejudices any right of remedy available with respect to the breach of default. Further, no assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of this Agreement may be deemed or taken to be a waiver or any other default or breach.

22. SUBJECT TO LOCAL LAWS; VENUE. This Agreement is subject to and is to be construed in accordance with the laws of the City and County of Denver and the State of Colorado, without regard to the principles of conflicts of law, including, but not limited to, all matters of formation, interpretation, construction, validity, performance, and enforcement. Venue for any action arising out of this Agreement will be exclusively in the District Court of the City and County of Denver, Colorado.

23. NOTICES. All notices provided for in this Agreement must be in writing and be personally delivered, sent via electronic mail or mailed by registered or certified United States mail, postage prepaid, return-receipt requested, if to the Seller at the addresses or email address listed below and if to the City at the addresses or email address given below; provided, however, that any notices delivered by electronic mail must be accompanied by notice delivered by another method permitted hereunder. Notices delivered personally or sent electronically are effective when sent. Notices sent by certified or registered mail are effective upon receipt. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered; however, these substitutions will not become effective until actual receipt of written notification.

If to City:

Lisa Lumley
Division of Real Estate
Department of Finance
201 West Colfax Avenue, Department 1010
Denver, Colorado 80202
e-mail: lisa.lumley@denvergov.org

With copies of termination and similar notices to:

Mayor
City and County of Denver
1437 Bannock Street, Room 350
Denver, Colorado 80202

and

Denver City Attorney's Office
201 W. Colfax Ave. Dept. 1207
Denver, Colorado 80202

If to Seller:

TRE 4995 LLC
c/o Tributary Real Estate, LLC
1550 Larimer Street, Suite 634
Denver, Colorado 80202
Email: bill@tributaryre.com

and

Otten Johnson Robinson Neff & Ragonetti
950 17th Street, Suite 1600
Denver, Colorado 80202
Email: crutz@ottenjohnson.com
Email: jjohnson@ottenjohnson.com

24. RIGHT TO ALTER TIME FOR PERFORMANCE. The Parties may alter any time for performance set forth in this Agreement by a letter signed by the Director of the Division of Real Estate and an authorized representative of Seller.

25. AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS. This Agreement is intended as the complete integration of all understandings between the Parties. No

prior or contemporaneous addition, deletion or other amendment to this Agreement will have any force or effect whatsoever, unless embodied in writing in this Agreement. Except as expressly provided for in this Agreement, no subsequent novation, modification, renewal, addition, deletion, or other amendment to this Agreement shall have any force or effect unless embodied in a written amendatory or other agreement executed by both Parties.

26. THIRD-PARTY BENEFICIARY. It is the intent of the Parties that no third party beneficiary interest is created in this Agreement except for any assignment pursuant to this Agreement. The Parties are not presently aware of any actions by them or any of their authorized representatives that would form the basis for interpretation construing a different intent, and in any event expressly disclaim any such acts or actions, particularly in view of the integration of this Agreement.

27. APPROPRIATION BY CITY COUNCIL. All obligations of the City under and pursuant to this Agreement are subject to prior appropriations of monies expressly made by the City Council for the purposes of this Agreement and paid into the Treasury of the City.

28. REASONABLENESS OF CONSENT OR APPROVAL. Whenever under this Agreement “reasonableness” is the standard for the granting or denial of the consent or approval of either Party, such Party shall be entitled to consider public and governmental policy, moral and ethical standards, as well as business and economic considerations.

29. NO PERSONAL LIABILITY. No elected official, director, officer, agent or employee of the City nor any director, officer, employee or personal representative of Seller shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.

30. CONFLICT OF INTEREST BY CITY OFFICER. Seller represents that to the best of Seller’s information and belief no officer or employee of the City is either directly or indirectly a party to or in any manner interested in this Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee.

31. NO MERGER; AS-IS. Except as expressly provided to the contrary in this Agreement, at Closing, the terms of this Agreement will merge into the Deed and will not survive Closing hereunder; provided, however, that the City acknowledges and agrees, for the City and the City’s successors and assigns, that (i) the City is being given a reasonable opportunity to inspect and investigate the Property and all aspects relating thereto, either independently or through agents, contractors, engineers or consultants of the City’s choosing; (ii) the City will inspect and investigate the Property and engage such qualified agents, contractors, engineers or consultants, including, without limitation, environmental consultants, as the City deems necessary to make all appropriate inquiry regarding the condition of the Property and adjacent property, including, without limitation, the presence thereon, or the condition thereof with respect to, any “hazardous substances”; (iii) if the City does not terminate this Agreement pursuant to Section 7(d), then at Closing, the City will acquire and accept the Property in its then-existing condition on an “AS IS, WHERE IS, AND WITH ALL FAULTS” basis, with no right of set-off or reduction in the Purchase Price; and (iv) except for Seller’s express representations and warranties set forth in Section 11(b) or in any instrument of

conveyance signed by Seller and delivered to the City at Closing, NEITHER SELLER NOR ANY AGENT, EMPLOYEE, OFFICER, DIRECTOR, BROKER, CONTRACTOR OR REPRESENTATIVE OF SELLER HAS MADE, AND SELLER SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY. Nothing in this Section 31 will be deemed to affect the terms and conditions of the Salzano PSA, as assigned to the City at Closing pursuant to Section 11(a) above.

32. CONSTRUCTION. This Agreement may not be interpreted in favor of or against either Seller or the City merely because of their respective efforts in preparing it. The rule of strict construction against the drafter does not apply to this Agreement. This instrument is subject to the following rules of construction:

- a. Specific gender references are to be read as the applicable masculine, feminine, or gender neutral pronoun.
- b. The words “include,” “includes,” and “including” are to be read as if they were followed by the phrase “without limitation.”
- c. The words “Party” and “Parties” refer only to a named party to this Agreement.
- d. Unless otherwise specified, any reference to a law, statute, regulation, charter or code provision, or ordinance means that statute, regulation, charter or code provision, or ordinance as amended or supplemented from time to time and any corresponding provisions of successor statutes, regulations, charter or code provisions, or ordinances.
- e. The recitals set forth in this Agreement are intended solely to describe the background of this Agreement and form no part of this Agreement. Headings and captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provisions hereof.

33. ASSIGNMENT. The City is not obligated or liable under this Agreement to any party other than Seller named in this Agreement. The City may not assign this Agreement or any portion hereof without the prior written approval of Seller. Seller understands and agrees that it may not assign any of its rights, benefits, obligations, or duties under this Agreement without the City’s prior written approval except (a) to the extent necessary for the Seller to effectuate and complete an IRS 1031 Tax Deferred Exchange as set forth in herein or (b) to an affiliated entity that has also assumed Seller’s rights and obligations under the Salzano PSA.

34. CITY EXECUTION OF AGREEMENT. This Agreement is subject to, and will not become effective or binding on the City until full execution by all signatories of the City.

35. COUNTERPARTS. This Agreement may be executed in two (2) counterparts, each of which is an original and together constitute the same document. This Agreement may be executed by facsimile or electronically scanned signatures which shall be deemed an original

36. EFFECTIVE DATE. The effective date shall be the date the City delivers a fully executed copy of this Agreement to the Seller.

37. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS. Each Party consents to the use of electronic signatures by the other Party. This Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the Parties in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

38. NO RELIANCE. The Parties expressly assume any and all risks that the facts and law that may be or become different from the facts and law as known to, or believed to be, by the Parties as of the date of this Agreement. In executing this Agreement, no Party has relied upon any information supplied by the other or by their attorneys, or upon any obligation or alleged obligation of the other Party to disclose information relevant to this Agreement other than the information specifically required to be disclosed by this Agreement.

39. 1031 EXCHANGE. Seller shall have the right to effectuate an IRS 1031 Tax Deferred Exchange (the “Exchange”) in conjunction with the sale of the Property and the City agrees to cooperate with Seller and any Qualified Intermediary or Accommodator regarding any such Exchange so long as there is no additional cost to the City associated with Seller’s Exchange.

[Remainder of Page Intentionally Left Blank]

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Contract Control Number: FINAN-201845109-00

Contractor Name: TRE 4995 LLC, a Colorado LLC

By: _____

Name: _____
(please print)

Title: _____
(please print)

ATTEST: [if required]

*See
attached
signature page*

By: _____

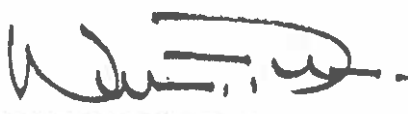
Name: _____
(please print)

Title: _____
(please print)



TRE 4995 LLC,
a Colorado limited liability company

Date: November 9, 2018

By: 
Name: William T. Parkhill
Title: Manager

“SELLER”



EXHIBIT 1

(Legal Description of Property)

PARCEL A:

THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., (BEING SHOWN ON THE PLAT OF W.H. CLARK'S SECOND SUBDIVISION), DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON A COUNTY ROAD 230 FEET SOUTH AND 60 FEET WEST OF THE NORTHEAST CORNER OF SAID SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE SOUTH AND PARALLEL WITH THE EAST LINE OF SAID SECTION, A DISTANCE OF 50 FEET; THENCE WEST AT RIGHT ANGLES, A DISTANCE OF 230.5 FEET; THENCE NORTH AT RIGHT ANGLES, A DISTANCE OF 50 FEET; THENCE EAST AT RIGHT ANGLES, A DISTANCE OF 230.5 FEET TO THE POINT OF BEGINNING, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL B:

THE NORTH 125 FEET OF PLOT 9, W.H. CLARK'S SECOND SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL C:

THE SOUTH 25 FEET OF THE EAST 50 FEET OF PLOT 10, W.H. CLARK'S SECOND SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL D:

THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., (BEING SHOWN ON THE PLAT OF W.H. CLARK'S SECOND SUBDIVISION), DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 15; THENCE NORTH ALONG THE EAST LINE OF SAID SECTION FOR 1100.8 FEET; THENCE WEST AT RIGHT ANGLES 60 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH AT RIGHT ANGLES 25 FEET; THENCE WEST AT RIGHT ANGLES 218 FEET MORE OR LESS TO THE EAST LINE OF PLOT 10, W.H. CLARK'S SECOND SUBDIVISION; THENCE SOUTH ALONG THE EAST LINE 25 FEET; THENCE EAST TO THE POINT OF BEGINNING, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL E:

THE EAST 50 FEET OF PLOT 10, EXCEPT THE SOUTH 25 FEET THEREOF, W.H. CLARK'S SECOND SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL F:

PLOT 1, W.H. CLARK'S SECOND SUBDIVISION,

EXCEPT THAT PART OF SAID PLOT 1, BEING A PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 15; THENCE NORTH ALONG THE EAST LINE OF SAID SECTION, A DISTANCE OF 1100.8 FEET; THENCE WEST AT RIGHT ANGLES, A DISTANCE OF 60 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH AT RIGHT ANGLES, A DISTANCE OF 25 FEET; THENCE WEST AT RIGHT ANGLES, A DISTANCE OF 218 FEET, MORE OR LESS, TO THE EAST LINE OF PLOT 10, W.H. CLARK'S SECOND SUBDIVISION; THENCE SOUTH ALONG SAID EAST LINE, A DISTANCE OF 25 FEET; THENCE EAST TO A POINT THAT IS 60 FEET WEST OF THE EAST LINE OF SAID SECTION 15, SAID POINT BEING THE TRUE POINT OF BEGINNING;

AND EXCEPT THAT PART OF SAID PLOT 1, BEING A PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., AS CONVEYED TO THE CITY AND COUNTY OF DENVER IN DEED RECORDED JANUARY 19, 1971 IN BOOK 273 AT PAGE 563, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL G:

THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 280 FEET SOUTH AND 60 FEET WEST OF THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 15; THENCE SOUTH 50 FEET; THENCE AT RIGHT ANGLES WEST 230 1/2 FEET; THENCE AT RIGHT ANGLES NORTH 50 FEET; THENCE AT RIGHT ANGLES EAST 230 1/2 FEET TO THE POINT OF BEGINNING, BEING A PART OF PLOT 2, W.H. CLARK'S SECOND SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

PARCEL H:

THE SOUTH 1/2 OF THE NORTH 1/2 OF THE SOUTH 1/2 OF PLOT 9, W.H. CLARK'S SECOND SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF COLORADO

PARCEL I:

THE SOUTH 1/2 OF THE SOUTH 1/2 OF PLOT 9, W.H. CLARK'S SECOND SUBDIVISION, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

NOTE: SAID PARCELS A THROUGH I ARE ALSO DESCRIBED AS FOLLOWS:

PLOT 1, EXCEPT THAT PART OF SAID PLOT 1 AS CONVEYED TO THE CITY AND COUNTY OF DENVER IN DEED RECORDED JANUARY 19, 1971 IN BOOK 273 AT

PAGE 563,
THE NORTH 1/2 OF PLOT 2,
ALL OF PLOT 9, AND
THE EAST 50 FEET OF PLOT 10,
ALL IN W.H. CLARK'S SECOND SUBDIVISION, CITY AND COUNTY OF DENVER,
STATE OF COLORADO

EXHIBIT 2
(Form of Special Warranty Deed)

After recording, return to:
Division of Real Estate
City and County of Denver
201 West Colfax Avenue, Dept. 1010
Denver, Colorado 80202

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED (“Deed”), made as of this _____ day of _____, 2019, by _____, a _____, whose address is 1550 Larimer Street, Suite 634, Denver, Colorado 80202 (“Grantor”) to the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation of the State of Colorado and home rule city, whose address is 1437 Bannock Street, Denver, Colorado 80202 (“Grantee”).

WITNESSETH, that the Grantor, for and in consideration of the sum of **SIX MILLION AND 00/100 DOLLARS (\$6,000,000.00)** and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and by these presents does hereby grant, bargain, sell, convey and confirm, unto the Grantee, and its successors and assigns forever, the real property described below, together with all improvements thereon, owned by the Grantor situate, lying and being in the City and County of Denver, State of Colorado, and being more particularly described on Exhibit A attached hereto and incorporated herein (“Property”);

TOGETHER WITH all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all of the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in, and to the above-bargained Property, together with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the Property above bargained and described with the appurtenances, unto the Grantee, and its successors and assigns forever. The Grantor, for itself and its successors and assigns does covenant and agree that it shall and will WARRANT AND FOREVER DEFEND the above-bargained Property in the quiet and peaceable possession of the Grantee, and its successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the Grantor, subject to the matters set forth on Exhibit B attached hereto and made a part hereof..

No separate bill of sale with respect to improvements on the Property will be executed.

