

**REAL ESTATE PURCHASE AGREEMENT**

**THIS REAL ESTATE PURCHASE AGREEMENT** (this "Agreement") is entered into with an effective date as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022 (the "Effective Date"), by and between J.P. Riverfront, LLC, an Illinois limited liability company ("Seller") and the City of Peoria ("Purchaser"), an Illinois municipal corporation, located in Peoria County, State of Illinois.

**WITNESSETH**

**WHEREAS**, Seller is the owner of certain parcels of real estate located within the City of Peoria, State of Illinois, as are more particularly described upon Exhibit A ("Real Estate") having the following described Parcel Identification Numbers, to-wit:

- 18-09-376-030
- 18-09-376-024
- 18-09-376-023
- 18-09-376-022
- 18-09-376-021
- 18-09-376-020
- 18-09-376-019
- 18-09-376-018
- 18-09-376-017
- 18-09-376-016
- 18-09-376-015
- 18-09-376-014
- 18-09-376-013
- 18-09-376-012
- 18-09-376-011

**WHEREAS**, the Purchaser desires to buy and thereafter develop and use the Real Estate as hereinafter described; and

**WHEREAS**, Seller is willing to sell said Real Estate to Purchaser, and the Seller and Purchaser desire to set forth their understandings and objectives relating thereto;

**NOW, THEREFORE**, for and in consideration of the above and of the mutual obligations, covenants and agreements herein contained, the parties agree as follows:

**1. Property; Purchase Price.** Seller agrees to sell and Purchaser agrees to buy the Real Estate for the purchase price of One Million Six Hundred Ninety Thousand Nine Hundred Ninety Nine and 20/100 Dollars (\$1,690,999.20) representing a unit price of Ten Dollars (\$10.00) per square foot of the area of the Real Estate being acquired by Purchaser. Within five (5) business days of the Effective Date, Purchaser shall pay to the hereinafter named Title Insurer, as Escrowee, the sum of Twenty-Five Thousand Dollars (\$25,000.00), as Earnest Money, to be applied on such Purchase Price. At closing, Purchaser shall pay the balance of the Purchase Price, plus or minus credits, and prorations provided for herein, (i) in cash, (ii) by bank wire transfer

of collected federal funds, or (iii) by a check drawn on the fiduciary trust account of a title insurance company or agent that the closing agent reasonably believes contains sufficient solvent funds. At Closing, the Escrowee shall pay such Earnest Money to the Seller or otherwise apply such Earnest Money deposit upon obligations of the Purchaser as authorized by approved closing statement(s) executed in connection with, and as a part of, the Closing.

**2. Conveyance of Title.** At Closing, Seller shall deliver to Purchaser a Special Warranty Deed, which shall be subject only to the hereinafter described Permitted Exceptions. All state, county, and municipal transfer and conveyance taxes (if any) shall be paid by Seller, it being recognized by the parties that such transfer and conveyance to be provided hereunder is expected to be exempt from any such taxes such that none are currently contemplated to be due and owing. All recording fees shall be paid by Purchaser. Title to the Real Estate shall be marketable and free from all liens and encumbrances, except the Permitted Exceptions. Seller shall be responsible for the obtaining of any and all approvals for the conveyance (e.g., zoning certificate) as may be required by any governmental body or regulatory agency. For purposes of the foregoing, "Permitted Exceptions" shall include only the following:

- a. The lien of general taxes not yet due;
- b. Covenants, easements and restrictions of record as are not violated and as shall not materially impair the development or use of the Real Estate as described and provided herein;
- c. Any other matters waived or approved by the Purchaser, in writing.

**3. Survey.** No later than thirty (30) days after the Effective Date, Seller shall provide, at Seller's cost and expense, a current survey of the Real Estate (the "Survey") certified in favor of Purchaser and the Title Insurer to a date no earlier than six (6) months prior to the Effective Date (which Survey shall set forth the following):

- a. The legal description of the Real Estate and the dimensions and total square feet of area of the Real Estate;
- b. Interior lot lines, if any, and the location of adjoining streets and rights of way; and
- c. The location and dimensions of any encroachments from adjoining properties (if any) and encroachments from the Real Estate upon adjoining properties.

**4. Preliminary Title Evidence; Title Policy.** As soon as practical, but no later than thirty (30) days after the Effective Date, Seller's at Seller's cost and expense, shall deliver to Purchaser a title commitment for an ALTA owner's title insurance policy issued by Chicago Title Insurance Company, Attorneys' Title Guaranty Fund, or other reputable title insurance company (the "Title Insurer") in the amount of the Purchase Price, covering title to the Real Estate on or after the date hereof showing title vested in the Seller subject only to the Permitted Exceptions and other title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may, with Seller's written approval and direction, be removed by the payment of money from the Seller's sale proceeds at the time of Closing. The title commitment shall be conclusive evidence of title as therein shown as to all matters insured by the policy, subject only to exceptions as therein stated. Seller shall also furnish Purchaser at Closing a Seller's Affidavit

in customary form as that approved and suggested by the Real Estate Committee of the Peoria County Bar Association. The owner's policy in the form described herein shall be delivered to Purchaser as soon as possible after Closing. If the title commitment or plat of Survey discloses either unpermitted exceptions or survey matters that are not approved by Purchaser ("Title Defects"), Seller shall, at Seller's cost and expense, have thirty (30) days from the date of delivery thereof to have the Title Defects removed from the title commitment or to correct such Title Defects or to have the Title Insurer satisfactorily commit to insure against loss or damage that may be occasioned by such Title Defects. If Seller fails to have the exceptions removed or to correct any Title Defects, or in the alternative, to obtain the commitment for title insurance specified above as to such Title Defects, then, Purchaser **(i)** terminate this Agreement, and thereupon Seller shall direct Escrowee to promptly refund to Purchaser the Earnest Money deposit; or **(ii)** Purchaser may elect, upon written notice to Seller within seven (7) business days after the expiration of the said thirty (30) day period, to take title as it then exists as described and set forth in the Title Commitment.

## **5. Default and Conditions Precedent to Closing.**

(a) In all events, the obligations of Purchaser to make the payments and to close this transaction are contingent upon satisfaction of the following conditions precedent (i) Purchaser, at the end of the 60 day Due Diligence period shall have determined in its sole and absolute discretion, to proceed with the transaction set forth in this Agreement; (ii) title to the Real Estate being shown to be as required by this Agreement or being accepted by the Purchaser; (iii) the representations and warranties of Seller contained in this Agreement being true and accurate or waived by Purchaser in writing as of the closing date; and (iv) Seller having performed all of its material covenants and otherwise having performed all of its material obligations and fulfilled all conditions required of it in order to close.

(b) Subject to the following paragraph (c), in the event that a condition precedent to the Purchaser's obligation to close is not satisfied, Purchaser's remedies are to (i) terminate this Agreement or (ii) proceed to close the transaction notwithstanding such non-satisfaction.

(c) In the event of any of Seller's representations or warranties or of Seller failing to perform its covenants or otherwise failing to perform any of its obligations hereunder, Purchaser may, at its option and after notifying seller of such breach or failure and allowing seller ten (10) days after delivery of notice of such breach or failure of Seller in which to cure said breach or failure (a) elect to enforce the terms hereof by action for specific performance, (b) proceed to close this transaction notwithstanding such breach or failure (without waiving any right or remedy which might otherwise be available to Purchaser at law or in equity arising from such breach or failure) or (c) terminate this Agreement without waiving its right to seek damages and other relief available at law or equity.

(d) In all events, the obligations of Seller to convey the Real Estate and to close this transaction are contingent upon satisfaction of the following conditions precedent (i) Purchaser, Seller, and the Roszell-Sealtest Building Condominium Association at the Closing contemporaneously executing a Redevelopment Agreement (covering various matters in connection with the future redevelopment of the Real Estate) mutually satisfactory to both Purchaser and Seller; (ii) Seller terminating any current occupancy rights of any tenants whose rights may under any current leases or other occupancy arrangements on or prior to the date of Closing; (iii) the representations and warranties of Purchaser contained in this Agreement being true and accurate or waived by Seller in writing as of the Closing date; and (iv) Purchaser having

made all payments and having performed all of its material covenants and otherwise having performed all of its material obligations and fulfilled all conditions required of it in order to close.

(e) In the event of any of Purchaser's representations or warranties or of Purchaser failing to perform its covenants or otherwise failing to perform any of its obligations hereunder, Seller may, at its option and after notifying Purchaser of such breach or failure and allowing Seller ten (10) days after delivery of notice of such breach or failure of Seller in which to cure said breach or failure (a) elect to enforce the terms hereof by action for specific performance, (b) proceed to close this transaction notwithstanding such breach or failure (without waiving any right or remedy which might otherwise be available to Seller at law or in equity arising from such breach or failure) or (c) terminate this Agreement without waiving its right to seek damages and other relief available at law or equity.

**6. Taxes and Assessments.** All general real estate taxes prior to 2020 shall be paid by Seller prior to Closing. Such taxes for the years 2020 and 2021 shall be prorated from January 1, 2020, to Closing based upon the latest available assessment and applicable rate (including any anticipated or applied multiplier, if known), and Purchaser shall receive a credit against the Purchase Price for the Seller's share of such proration. Seller shall also pay the full amount of any special assessment or special service area balance confirmed against the Real Estate prior to Closing.

**7. Possession and Closing.** Seller shall deliver exclusive possession of the Real Estate at Closing, free and clear of all tenancies or other rights to possession unless otherwise agreed. Seller covenants that the Real Estate and any improvements thereon will be maintained in substantially their present condition, ordinary wear and tear excepted.

Closing shall occur at the office of the Escrowee, and shall take place on that date which is mutually agreed upon by and between the parties, but no later than that date which is ten (10) days after Purchaser's Due Diligence Conditions set forth under paragraph 8 hereinafter are satisfied or waived by Purchaser. At Closing, Seller shall deliver a Special Warranty Deed conveying the Real Estate subject only to the Permitted Exceptions, at which time Purchaser shall pay to Seller the balance due hereunder as set forth herein.

**8. Purchaser's Due Diligence Conditions.** This Agreement is subject to the following conditions for the benefit of Purchaser and solely waivable by Purchaser:

**a. Inspection.** Purchaser obtaining, at Purchaser's expense, a report or reports of inspection of the physical condition of the Real Estate so as to determine that, in the Purchaser's sole discretion and determination, that the Real Estate is suitable and acceptable by the Purchaser for the intended uses set forth in the Redevelopment Agreement described hereinafter (the "Permitted Uses").

**b. Adequate Access/Services.** The Purchaser obtaining written evidence that adequate water, storm sewer, sanitary sewer, and utility services are available to the Real Estate to serve the Permitted Uses; and

**c. Environmental Assessment.** Purchaser, at Purchaser's expense, obtaining a written Phase I environmental assessment report (together with a Phase II environmental assessment report if such Phase I report suggests, but is inconclusive or incomplete as to, the existence of possible environmental risk or

violation) prepared by an engineering firm acceptable to Purchaser verifying that the Real Estate is free from any environmental risk or environmental violation of any applicable environmental law so as to prohibit or impair the use of the Real Estate for the Permitted Uses.

In the event that the above Purchaser's Due Diligence Conditions are not fulfilled to Purchaser's sole and absolute discretion and satisfaction within sixty (60) days from the Effective Date, then, unless Purchaser shall have waived the conditions which have not been so fulfilled or satisfied, this Agreement shall continue in full force and effect until such time as either party hereto elects in writing to terminate it; provided, however, that if, within seven (7) days from any notice from the Seller purporting to terminate this Agreement pursuant to the foregoing, Purchaser notifies the Seller in writing that Purchaser has waived all of the conditions of this paragraph, then this Agreement shall not terminate but shall continue in full force and effect (i.e., upon such waiver by the Purchaser, the Seller's previous notice of termination shall be rendered null and void), and both parties shall thereafter proceed with the Closing. Upon any effective termination pursuant to this paragraph, whether by the Seller or the Purchaser, the entire Earnest Money shall be returned to the Purchaser, and thereafter neither party shall have any further obligation or liability to the other.

In connection with the satisfaction of any of the Purchaser's Due Diligence Conditions, including engineering studies, core borings, drillings, environmental studies and hazardous waste studies, the Purchaser and the Purchaser's agents and representatives shall be permitted reasonable access to the Real Estate for same; provided, however, that the Purchaser shall indemnify and hold Seller harmless of and from any and all damages, claims, causes of action or fees (including reasonable attorneys' fees) as may be incurred or threatened against the Seller by reason of Purchaser's entry upon the Real Estate for such purposes. To the extent that any such testings require any intrusions within, upon or under the Real Estate, Purchaser shall keep such intrusions to the least as are reasonably possible and practicable, and upon completion of same shall restore the Real Estate to substantially its same condition as existed prior to such entry or intrusion.

**9. Seller's Representations and Warranties.** Seller covenants, represents and warrants unto the Purchaser as follows:

**a.** Seller has been duly organized in, and is now a validly existing limited liability company and is in good standing under the laws of the State of Illinois.

**b.** That there are no service or maintenance agreements or other agreements, licenses, or permits affecting the Real Estate which cannot be terminated upon thirty (30) days' prior written notice;

**c.** That Purchaser, by reason of the purchase of the Real Estate will not be required to satisfy any obligations of Seller other than those expressly assumed by Purchaser (or expressly set forth as an obligation of Purchaser) pursuant to the terms of this Agreement. Seller, subject to the terms and conditions of this Agreement, covenants that Seller shall, on or after the Closing, pay and discharge any and all liabilities of each and every kind arising out of or by virtue of the conduct of any business or other operation conducted on, or arising out of, the Real Estate up to and including the Closing;

d. Subject to Seller's satisfaction of that condition set forth in paragraph 5(d) above, Purchaser shall not, by reason of entering into or closing under this Agreement become subject to or bound by any agreement, contract, lease, license, invoice, bill, undertaking or understanding which it shall not have previously or as a part of the Closing (e.g. the above referenced Redevelopment Agreement) agreed in writing to accept.

e. Seller has not received any written notice from any governmental agency of violations of any laws or ordinances, rules, regulations or orders (including but not limited to, those relating to zoning, condemnation, building, fire, environmental, health or safety) with respect to the Real Estate or any operations being conducted thereupon that have not been resolved to the satisfaction of the issuer of the notice.

f. As of the Closing there shall be no liens, security interests, charges or encumbrances against the Real Estate except the Permitted Exceptions and except to the extent that same shall be released at or prior to Closing or to the extent that same shall be set forth in the hereinafter described Redevelopment Agreement as continuing upon and with respect to the Real Estate after the Closing; and

g. Seller shall maintain through to and including the date of Closing any and all insurance coverage presently in effect with respect to the Real Estate, including policies of public liability, property damage and fire insurance.

(h) To Seller's knowledge, there are no (i) Hazardous Substances, in violation of any Environmental Law or in amounts requiring remediation under any Environmental Law as that term is hereinafter defined, in, or on or at the Real Estate, (ii) no reportable spills, releases, discharges or disposal of Hazardous Substances, in, on or onto the Real Estate, that have not been fully and finally remediated in accordance with all Environmental laws and (iii) no reportable spills or disposal of Hazardous Substances off the Real Estate as a result of any construction on or operation and use of the Real Estate that have not been fully and finally remediated in accordance with all Environmental Laws. To the Seller's knowledge, in connection with the operation and use of the Real Estate, there has been no failure to comply with all applicable local, state and federal Environmental Laws, regulations, ordinances and administrative and judicial orders relating to the generation, recycling, reuse, sale, storage, handling, transport, and disposal of any Hazardous Substances.

For purpose hereof:

(A) The term "Hazardous Substances" means:

(i) pollutants, contaminants, pesticides, radioactive substances, solid wastes or hazardous or extremely hazardous, special, dangerous or toxic wastes, substances, chemicals or materials within the meaning of any Environmental Law, including without limitation any (A) "hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et. seq.*, as amended and reauthorized ("CERCLA"), and (B) any "hazardous waste" as defined in the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6902 et. seq., and all amendments thereto and authorizations thereof;

(ii) even if not prohibited, limited or regulated by Environmental Laws, all pollutants, contaminants, hazardous, dangerous or toxic chemical materials, wastes or any other substances, including without limitations, any industrial process or pollution control waste (whether or not hazardous within the meaning of RCRA) which could pose a hazard to the environment or the health and safety of any person, or impair the use or value of any portion of the Real Estate; and

(iii) solid waste (as defined in Section 1004 of RCRA); oil or petroleum products, chemical liquids or solid, liquid, or gaseous products; asbestos; polychlorinated biphenyls; explosives, radioactive materials; or any other substance determined by any agency with jurisdiction to pose a present or potential hazard to human health or environment.

(B) The term "Environmental Law" means all federal, state and local statutes, regulations, ordinances, rules, regulations and policies, all court orders and decrees and arbitration awards, and the common law, which pertain to protection of the environmental, environmental matters or contamination of any type whatsoever. Environmental Laws include, without limitations, those relating to: manufacture, processing, use, distribution, treatment, storage, disposal, generation or transportation of Hazardous Substances; air, surface or ground water or noise pollution; releases of Hazardous Substances into the environment; protection of wildlife, endangered species, wetland or natural resources; tanks; health and safety of employees and other persons; and notification requirements relating to the foregoing; including, without limiting the generality of the foregoing, any of the following: the Clean Air Act, 42 U.S. C. § 7401 *et. seq.*; Clean Water Act 33 U.S.C. 1251 *et. seq.*; CERCLA; the Solid Waste Disposal Act, as amended by RCRA; as any of them may be or have been amended from time to time, together with all regulations promulgated thereunder, and any similar state or local laws. In the event any Environmental Law is amended prior to the Date of Closing to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment.

**10. Mutual Representations.** Seller represents and warrants to Purchaser and Purchaser represents and warrants to the Seller that the execution hereof does not result in the material breach of any legally binding written or oral agreement or agreement to which the party making the representation or warranty is bound; and that all covenants, representations and warranties of the party making the representation or warranty are binding upon and enforceable against said party in accordance with their respective terms; and that the party so making the representation or warranty has full authority to enter into this Agreement as well as any and all documents pertaining to this transaction.

**11. Mutual Assistance and Cooperation.** Purchaser and Seller hereby mutually agree that they will cooperate in all activities required hereunder, whether express or implied, to effectuate and consummate the transaction contemplated hereunder and to do or cause to be done, execute, acknowledge and deliver, including (without limitation) any such documents required to comply with the Foreign Investment In Real Property Tax Act, all such further acts, instruments and assurances and to take or cause to be taken all such further action before and after the Closing as shall be reasonably necessary or desirable to carry out fully this Agreement, provided that any expenses incurred in carrying out such acts shall, unless expressly provided to the contrary in this Agreement, be borne by the party that requested such action be performed.

**12. Redevelopment Agreement.** The parties acknowledge and recognize that the Real Estate is being conveyed by Seller to the Purchaser with the understanding that the Real Estate shall be developed and used for parking and other improvements appurtenant thereto and shall support and serve other properties (and their current or future uses and operations) as bound upon or are within the vicinity of the Real Estate.

**13. Miscellaneous.**

**a. Risk of Loss; Condemnation.** If, prior to the delivery of the Special Warranty Deed hereunder, any improvements on the Real estate shall be destroyed or materially damaged by fire or other casualty, Purchaser shall have the option of declaring this Agreement null and void and receiving a refund of the Earnest Money, or of accepting the Real Estate as destroyed or damaged, together with the proceeds of any insurance payable as a result of the destruction or damage, in which latter case the Seller shall assign such insurance proceeds to the Purchaser.

If condemnation proceedings are threatened or commenced against the Real Estate between the date hereof and the Closing, then this Agreement shall, at Purchaser's sole election, immediately terminate and be null and void, and the Earnest Money shall be returned to Purchaser. If Purchaser does not elect to terminate this Agreement pursuant to its right in the foregoing sentence, then this Agreement shall be consummated, and the condemnation proceeds shall be assigned to Purchaser or, at Purchaser's election, Purchaser shall be credited at Closing with a prorated reduction in the Purchase Price based upon the amount of the Real Estate taken or proposed to be taken by condemnation.

**b. Notices.** Any notice which shall be required to be given hereunder shall be deemed to have been given when served personally or mailed certified United States mail, postage prepaid, return receipt requested, to the parties as follows:

Purchaser:	City of Peoria Attn: City Clerk 419 Fulton Street, Suite 401 Peoria, IL 61602
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With copy to:	City of Peoria Attn: Legal Department 419 Fulton Street, Suite 403 Peoria, IL 61602
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Seller:	J.P. Riverfront, LLC, c/o Patrick Sullivan 100 State Street Peoria, IL 61602 Telephone: Telecopier:
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With Copy to:

Robert C. Hall, Esq.  
Miller, Hall & Triggs, LLC  
416 Main Street, Suite 1125  
Peoria, IL 61602  
Telephone: (309) 671-9600  
Telecopier: (309) 671-9616

Each such notice or other communication shall be deemed delivered (i) on the date delivered if by personal delivery, (ii) on the date of transmission prior to 5:00 p.m. if by written confirmed facsimile transmission and (iii) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by postal authorities as not deliverable, as the case may be.

**c. Entire Agreement.** The undersigned declare that this instrument contains the entire agreement between the parties and it is subject to no understandings, conditions, or representations other than those contained herein. There may be no modification or amendment of this Agreement except in writing executed by all the parties hereto.

**d. Headings.** Section headings and numbers herein are included for convenience only, and this Agreement is not to be construed with reference thereto. If there is any conflict between such numbers and headings in the text hereof, then the text shall control.

**e. Agreement Supersedes Prior Agreements.** This Agreement supersedes all previous agreements, negotiations, statements and undertakings which are merged herein and its terms and conditions, including all representations, covenants and warranties, shall remain in full force and effect and shall not merge or terminate on the Closing.

**f. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

**g. Counterparts.** This Agreement may be signed in counterparts all of which shall be deemed originals. Scanned and electronic copies of originals shall be deemed an original; and electronic signatures (such as that affixed and implemented by services such as doc-u-sign) shall serve as original signatures when implemented in accordance with recognized procedures established in connection therewith.

**h. Time of Essence; Attorneys' Fees.** Time shall be of the essence of each and every obligation of this Agreement.

If either party should find it necessary to retain an attorney for the enforcement of any of the provisions hereunder or for other reasons occasioned by the default of the other party, the party not in default shall be entitled to recover for reasonable attorneys' fees and court costs incurred whether the attorneys' fees are incurred for the purpose of negotiation, trial, appellate or other legal or support services.

**i. Utility Prorations.** All utilities will be adjusted as of the date of Closing, and Seller will pay any expenses therefor incurred or accrued with respect to the Real Estate prior to Closing.

**j. Escrow Closing.** At the election of either of the parties, the Closing contemplated hereby shall be through the Escrowee as and pursuant to what is commonly referred to as an escrow closing. In such case, the parties shall equally share any fees of the Escrowee for services in connection therewith.

**k. Broker's Commission.** Each of the parties warrants unto the other that neither has engaged the services of a real estate broker or engaged in any conduct as will permit a broker to claim that such broker was the procuring cause of this transaction or Purchaser's decision to acquire the Real Estate. Each party agrees to indemnify and hold the other harmless of and from any and all claims, causes of action, damages, costs, expenses, fees (including reasonable attorney's fees) as may be incurred or threatened against the other party by a breach of the foregoing representation.

**l. Assignability.** The rights, obligations and benefits of this Agreement shall be fully assignable by either or both of the parties hereto, and in such event the provisions hereof shall enure to the benefit of and be binding upon the successors and assigns of any party making any such assignment.

**SIGNATURE PAGES FOLLOW**

**IN WITNESS WHEREOF**, the Purchaser and Seller have affixed their hands and seals the day and year first above written.

**SELLER:**

**J.P. RIVERFRONT, LLC, an Illinois limited liability company**

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

Its: \_\_\_\_\_

**PURCHASER:**

**CITY OF PEORIA, an Illinois municipal  
corporation**

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

**EXHIBIT A**  
**LEGAL DESCRIPTION**