

**RESOLUTION NO. 3364**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY IN THE TOWN FOR A REVITALIZATION PROJECT ALONG MAIN STREET IN DOWNTOWN PAYSON, AUTHORIZING AND DIRECTING THE MAYOR, TOWN MANAGER AND TOWN ATTORNEY TO ACQUIRE TITLE TO CERTAIN PARCELS OF REAL PROPERTY ON BEHALF OF THE TOWN BY DONATION, EMINENT DOMAIN OR PURCHASE FOR AN AMOUNT NOT TO EXCEED FAIR MARKET VALUE OF THE PROPERTY, PLUS ACQUISITION AND CLOSING COSTS.**

**WHEREAS**, the continued growth and development of the Town of Payson requires the acquisition of certain real property as described in the Real Estate Purchase Contract attached hereto as Exhibit A; and

**WHEREAS**, the Mayor and Council of the Town of Payson finds that acquisition of the property described is necessary for public purposes for a revitalization project along Main Street in downtown Payson, and it is in the public interest to acquire such property, and

**WHEREAS**, the Council of the Town of Payson has considered alternatives available to it, has balanced the public good and the private injury resulting from the acquisition of the property, and has determined that locating the public improvements on the property results in the greatest public good and the least private injury.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA:**

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. That the Mayor, Town Manager and Town Attorney are hereby authorized and directed to acquire title to and possession of the real property described in Exhibit 1 by donation, eminent domain or purchase for an amount not to exceed fair market value, plus acquisition and closing costs; and

Section 3. That the Mayor, Town Manager and Town Attorney are authorized to perform all acts necessary to acquire said property for the purposes described in this resolution on behalf of the Town.

**PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA**, this \_\_\_\_ day of December, 2023, by the following vote:

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSTENTIONS \_\_\_\_\_ ABSENT \_\_\_\_\_

\_\_\_\_\_  
Chris Higgins, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Tracie Bailey, Town Clerk

\_\_\_\_\_  
Jon Paladini, Pierce Coleman PLLC  
Town Attorney



**EXHIBIT A  
TO  
RESOLUTION NO. 3364**

[Real Estate Purchase Contract]

See following pages.

## REAL ESTATE PURCHASE AND DONATION CONTRACT

- A. The Parties to this Real Estate Purchase and Donation Contract (the “Contract”) are Linnie Armstrong Raichert and Mary Armstrong Schuck, Co-Trustees of the Olive Henry Matus Revocable Trust, dated July 10, 2015, as amended (hereinafter “Seller”), and the Town of Payson, Arizona, a municipal corporation that is a political subdivision of the State of Arizona having among its permitted purposes and powers the acquisition on behalf of the public of open space, scenic and recreational lands and the recovery, rehabilitation, restoration and re-channeling of flood-plain lands (hereinafter “Buyer” or “Town”), (collectively the “Party” or “Parties”).
- B. Buyer represents and warrants to Seller that Buyer is described in Section 170(c)(1) of the Internal Revenue Code, that Buyer is eligible to receive tax-deductible charitable donations of undeveloped real property and that the Property will be used by the Buyer exclusively for public purposes.
- C. The Parties agree to the terms and conditions set forth below:

### 1. LEGAL DESCRIPTION

The Property to be conveyed by the Seller to the Buyer under this Contract is legally described in **Exhibit 1** (the “Property”), attached hereto and made a part hereof.

### 2. PROPERTY BEING PURCHASED BY TOWN.

2.1 The total purchase price for the Property described in **Exhibit 1** is \$550,000.00 to be paid by the Buyer to the Seller in immediately available funds upon close of escrow. This sale is a “special needs” transaction in which the Buyer is purchasing land of unique and special value and utility solely to Buyer due to its size, location and relationship to other municipal property and/or improvements.

### 3. DONATION TO TOWN.

3.1 The purchase price for the Property herein may be less than the fair market value of the Property as of the date hereof, and Seller intends that any difference shall be a tax-deductible donation to Buyer. In accordance with **Exhibit 2** hereto, Buyer shall execute a completed IRS Form 8283 and shall participate in the donation in good faith, provided that the donation is supported by a qualified independent appraisal conforming to United States Treasury Department regulations.

4. BROKERAGE COMMISSION

The Seller has not been represented by a real estate broker, agent or agency to market and sell the Property. Seller is solely responsible for compensating costs contained within any brokerage, agency, agent or other commission agreements, and hereby indemnifies the Buyer against any claim for commission (including all costs and attorneys' fees expended in defending against such claim) arising from or related to the transaction set forth in this Contract. This indemnity shall survive termination of this Contract subject to the statute of limitations in respect of any such indemnification claim.

5. RISK OF LOSS

Except as otherwise provided in this Contract, all risk of loss related to ownership and possession of the Property, including liability to third persons, shall be the responsibility of the Seller until the title and possession of the Property passes to the Buyer at Close of Escrow. Seller shall indemnify and hold Buyer harmless for all such loss, damage, liability, fees or costs of any kind whatsoever, except those caused by the Buyer and except those caused prior to ownership of the Property by Seller. This indemnity shall survive termination of this Contract but only for the statute of limitations in respect of any such indemnification claim.

6. ESCROW, TITLE INSURANCE; CLOSING COSTS AND PRORATIONS

6.1 Jennifer Siverio with Pioneer Title Agency, 1550 East Missouri Avenue, Phoenix, Arizona 85014, Phone: 602-328-8925, shall serve as Escrow Agent.

6.2 Opening of Escrow is defined to be the date that this Contract, signed by both Parties, is delivered to the Title Officer and for the Property described in **Exhibit 1**, Earnest Money is deposited by Buyer in the amount of \$10,000.00. Seller will pay all escrow fees and other costs related to the conveyance of the Property. Escrow Agent shall issue or cause to be issued an ALTA extended coverage owner's policy of title insurance for the Property in the amount of the purchase price for the Property Purchased by Buyer and naming Buyer as the insured. Buyer shall bear the cost of such title policy. Buyer shall bear the cost of any and all environmental studies and reports, hazardous waste and substance studies and reports, ALTA or other land surveys, flood plain studies and reports, engineering studies and reports and all other costs and expenses incurred in connection with due diligence and inspection of the Property. Buyer shall be responsible for all pro-rated taxes and assessments levied against the Property after the close of Escrow. Seller's only costs or expenses shall be for property taxes and assessments levied and due against the Property pro-rated to the close of Escrow.

6.3 All of the above-referenced costs that are the responsibility of the Buyer that have not been fully paid by Buyer prior to the opening of Escrow shall be paid into escrow on or before the Close of Escrow in addition to the purchase price. All costs that are the responsibility of the Seller as referenced above shall be paid from the proceeds of the sale price to which the Seller is entitled.

7. CLOSE OF ESCROW

Close of Escrow shall occur on or before December 31, 2023 provided any and all lender releases and/or consents have been obtained by Title. Close of Escrow will be at the offices of the Escrow Agent set forth in Paragraph 6 herein. At the Close of Escrow, both the title to and possession of the Property shall be transferred from the Seller to the Buyer. Any monetary encumbrances existing against the Property at the Close of Escrow shall be satisfied from the proceeds of the sale price.

8. TITLE WARRANTY

Title to the Property shall be transferred by the Seller to the Buyer at the Close of Escrow by Special Warranty Deed, which shall include conveyance of all surface and ground water rights and any other appurtenances owned by Seller related to the Property. Seller makes no warranty, or any representation or covenant of any kind whatsoever with respect to title except as to acts of Seller or third parties from and after ownership of the Property by Seller, including without limitation those easements, licenses, hypothecations, liens, encumbrances, claims, mining claims, and any other exceptions, defects, failures, or omissions to title, as set forth in Paragraph 10.12 below. Buyer is obligated to accept title to the Property at Close of Escrow only if (1) the Property shall be free and clear of all defects, exceptions, easements, covenants, conditions, restrictions, mining claims, liens and encumbrances; and (2) the Buyer, at its sole discretion, is otherwise satisfied with the condition of title as reflected in the above-referenced title report and policy and any investigation made by Buyer pursuant to Paragraph 8. Buyer shall have until Close of Escrow to file its objections to the condition of title.

9. INVESTIGATIONS

Buyer shall have until ten days prior to Close of Escrow to make such investigations of the Property as Buyer deems necessary to assure Buyer that the Property is suitable for Buyer's intended purposes and that no hazardous wastes or substances are located on or under the Property.

10. SELLER'S REPRESENTATIONS, WARRANTIES, AND COVENANTS

Subject to Paragraph 10.12 below, Seller warrants, represents, and covenants (with the understanding that Buyer is relying on these warranties, representations, and covenants) that:

10.1. Except as reflected in the preliminary title report at the time of execution of the Contract, there are no claims, actions, suits, or other proceedings pending or threatened by any governmental department or agency or any other corporation, partnership, entity, or person whomsoever, nor any voluntary actions or proceedings contemplated by Seller, which in any manner or to any extent may detrimentally affect Buyer's right, title, or interest in and to the Property or the value of the Property or Seller's ability to perform Seller's obligations under this Contract.

10.2. Seller owns the Property in fee simple absolute, subject only to the matters reflected in the preliminary title report.

10.3. There is no pending or threatened condemnation or similar proceeding affecting any part of the Property, and Seller has not received any notice of any such proceeding and has no knowledge that any such proceeding is contemplated.

10.4. No work has been performed or is in progress at the Property and no materials have been furnished to the Property that might give rise to mechanic's, materialman's, or other liens against any part of the Property.

10.5. Seller is not prohibited from consummating the transactions contemplated by this Contract or any law, regulation, agreement, instrument, restriction, order or judgment.

10.6. There are no parties in adverse possession of the Property; there are no parties in possession of the Property except Seller; and no Party has been granted any license, lease, or other right relating to the use of possession of the Property.

10.7. There are no attachments, executions, assignments for the benefit of creditors, receiverships, conservatorships, or voluntary or involuntary proceedings in bankruptcy or pursuant to any other laws for relief of debtors contemplated or filed by Seller or pending against Seller or affecting or involving the Property.

10.8. There is no default, nor has any event occurred which with the passage of time or the giving of notice or both would constitute a default in any contract, mortgage, deed of trust, lease, or other instrument which relates to the Property, or which affects the Property in any manner whatsoever.

10.9. There are no contracts or other obligations outstanding for the sale, exchange, or transfer of all or any part of the Property.

10.10. There are no violations of laws, rules, regulations, ordinances, codes, covenants, conditions, restrictions, instructions, or agreements applicable to the Property. Seller has not received notices from any insurance companies, governmental agencies, or any other person with respect to violations concerning the Property. If any notices of violations are received prior to Close of Escrow, Seller shall immediately submit copies to Buyer and Buyer's review and acceptance shall be a condition precedent to Close of Escrow.

10.11. Seller will not at any time prior to Close of Escrow grant to any person an interest in the Property.

**10.12 All and each and every representation, warranty and covenant set forth above in this Paragraph 10, and the respective subdivisions thereof, and elsewhere in this Contract, are expressly subject to, and conditioned upon the following: Seller, by the special warranty deed to be delivered to Buyer and otherwise hereunder, conveys only and**



**not more than the Seller's interest in the Property, and accordingly, Seller makes no representations, warranties or covenants of any kind whatsoever with respect to any easement, license, lien, encumbrance, hypothecation, burden, claim, mining claim, condition, restriction or any other exception, defect, omission or failure in title to the Property (or any appurtenances thereto), or any claims whatsoever against the Property (or any appurtenance thereto) by third parties, except those that may have arisen from acts of Seller or any third parties from and after the date Seller acquired title.**

11. EMINENT DOMAIN/CONDEMNATION

Should, for any reason, all or any portion of the Property be purchased prior to Close of Escrow by any government entity by eminent domain or condemnation, any proceeds from such transaction shall belong solely to the Seller. Upon condemnation of all or any portion of the Property, Seller shall be responsible to pay all escrow costs and fees related to this Contract and all rights and obligations of the Parties under this Contract shall terminate.

12. USE OF SUBJECT PROPERTY

**Seller shall have the exclusive right to use the Property until Close of Escrow. Seller agrees to maintain the Property through Close of Escrow in the same condition the Property exists at the execution of this Contract. Seller shall not remove any fixtures or improvements from the Property unless otherwise agreed to by the Buyer in writing. The Buyer does not have any right to use or enter upon the Property until completion of the Close of Escrow and transfer of title, unless otherwise agreed to by the Seller.**

13. NO RIGHT TO ENCUMBER

Subject to Paragraph 10.12 above, and to Seller's knowledge, the Property shall be free and clear of all liens and encumbrances at the time of transfer of title from Seller to Buyer. Seller shall not voluntarily encumber the Property after execution of this Contract. Seller agrees that all encumbrances existing against the Property at Close of Escrow that arose from and after Seller acquired title shall be satisfied from the proceeds of the sale.

14. ENVIRONMENTAL LIABILITY

14.1 Neither Seller nor, to the Seller's knowledge, any other person ever caused or permitted any Hazardous Material to be placed, held, located, or disposed of on, under, or at the Property or any part thereof or from the Property or any part thereof into the atmosphere or any watercourse, body of water, or wetlands and neither the Property nor any part thereof has ever been used (by Seller or, to the best of Seller's knowledge, by Seller's predecessors, or by any other person) as a treatment, storage, or disposal (whether permanent or temporary) site for any Hazardous Material. For purposes of this Contract, "Hazardous Material" means and includes any petroleum product and any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act; any so-called "Superfund" or "Superlien" law; the Toxic Substances Control Act;

or any other federal, state, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or material, as now or at any time hereafter in effect; and asbestos or any substance or compound containing asbestos, PCB's, or any other hazardous, toxic, or dangerous waste, substance, or material. Seller has not, nor to Seller's knowledge have Seller's predecessors or any other person installed any underground tanks.

14.2 If Buyer closes Escrow, Seller hereby indemnifies Buyer and agrees to pay, defend, and hold Buyer harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses, and claims of any and every kind whatsoever, including reasonable attorneys' fees paid, incurred or suffered by, or asserted against, Buyer for, with respect to, or as a direct or indirect result of, the placement of any Hazardous Material on the Property by Seller, or an agent or employee of Seller, or the escape, seepage, leakage, spillage, discharge, emission, or release from the Property into or upon any land, the atmosphere, or any watercourse, body of water, or wetland of any Hazardous Material placed on the Property by Seller or an agent or employee of Seller, including, without limitation, any losses, liabilities, damages, injuries, costs, expenses, or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, or any other federal, state, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Material which occurred because of the actions of Seller or any agent or employee of Seller during the period Seller owned the Property.

14.3 If the Property is found to contain hazardous wastes or substances in quantities unacceptable to the Buyer, or underground storage tanks requiring removal or abatement as may be determined by subsequent reports or inspection by independent experts hired by the Buyer, the Buyer has the right to terminate or rescind this Contract, and any indemnity in respect thereof shall be null and void and of no force and effect.

## 15. ASSIGNABILITY

Neither Seller nor Buyer may assign any of its rights or obligations under this Contract without the other Party's advance written consent. This Contract shall be binding upon Seller and Buyer and their respective successors and assigns.

## 16. DEFAULT

16.1 Default by Seller: All provisions of this Contract are hereby deemed to be material. The Buyer shall have all rights and remedies available to it under Arizona law. Should Seller breach any of the provisions under this Contract, Buyer shall immediately be entitled to the return of all amounts it paid pursuant to the Contract, to terminate the Contract, and to damages and to specific performance by Seller. Should Seller breach any provision of this

Contract, the terms of this Contract shall not in any way be construed as a waiver of the Buyer's rights, as a municipal corporation, to obtain the Property by condemnation or eminent domain should the Seller fail to perform their obligations under this Contract.

16.2 Default by Buyer: All provisions of this Contract are hereby deemed to be material. The Parties agree that Seller's remedies for Buyer's breach of this Contract, shall be such rights and remedies available to them under Arizona law.

16.3 Each Party shall be responsible for its own costs and attorneys' fees incurred should legal action be necessary by either Party to enforce the terms of this Contract.

17. SUPERSEDING AGREEMENT

This Contract constitutes the entire contract of the Parties relating to the Property and the Parties agree that the terms of this Contract shall supersede all previous oral and written Contracts between them.

18. MODIFICATION

The terms of this Contract may only be modified upon written approval of all Parties to this Contract.

19. SEVERABILITY

In the event any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

20. ARIZONA LAW

Seller and Buyer both acknowledge that this Contract is executed in Gila County, Arizona, and relates to property located in Gila County, Arizona. Should legal action be necessary to enforce the terms of this Contract, all Parties agree that the laws of the State of Arizona shall apply. All Parties agree that the proper venue for any lawsuit shall be Gila County, Arizona.

21. AMBIGUITY

This Contract was drafted by the Town with the assistance of their attorneys. Neither the Town nor its attorneys at the law firm of Pierce Coleman PLLC, have rendered legal or other advice to Seller regarding sale of the subject property or the specific terms of this Purchase and Donation Contract. Seller is aware of its right to obtain independent professional and/or legal assistance with this Contract and, upon signing of the Contract, represents that they have taken

all steps they deem necessary (including but not limited to, seeking the advice of professionals and/or attorneys) to assist them with this transaction. Consequently, the ambiguity in this Contract shall not be construed against either Party.

22. CONFLICT OF INTEREST

The Seller recognizes that the Buyer is a political subdivision of the State of Arizona. Pursuant to A.R.S. § 38-511, the Buyer may cancel this Agreement within three (3) years after its execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating this Contract on behalf of the Buyer is, at any time while the Contract or any extension thereof is in effect, an employee or agent of the Seller in any capacity or a consultant to the Seller with respect to the subject matter of this Contract. Notice of any such cancellation shall be given by the Buyer to the Seller with respect to the subject matter of this Contract. Notice of any such cancellation shall be given by the Buyer to the Seller pursuant to the terms of A.R.S. § 38-511. Should cancellation occur under this provision, the Seller shall return to the Buyer all moneys paid by the Buyer under this Contract. Additionally, Seller shall be responsibility for payment of all escrow fees. Buyer shall convey back the Property to the Seller.

23. AUTHORITY TO EXECUTE

The Seller and Buyer both acknowledge that the persons whose signatures appear below have appropriate authority to execute this Contract on behalf of the Seller and Buyer. This Contract may be executed in several counterparts which together shall constitute an original.

24. NOTICES

Notices required or permitted by this Contract shall be given in writing and personally delivered or sent by first class mail, postage prepaid to:

Seller:

The Olive Henry Matus Revocable Trust  
Lynnie Armstrong Raichert, Co-Trustee  
411 West Summit Street  
Payson, Arizona 85541

Mary Armstrong Schuck, Co-Trustee  
2608 East Rim Club Drive  
Payson, Arizona 85541

Buyer:

Town Manager  
Town of Payson  
303 North Beeline Highway  
Payson, Arizona 85541

With a copy to:

Dennis G. Bassi, Esq.  
Law Offices of Dennis G. Bassi, P.L.L.C.  
2733 North Power Road, Ste 102-352  
Mesa, Arizona 85215

With a copy to:

Town Attorney  
Town of Payson  
303 North Beeline Highway  
Payson, Arizona 85541

25. INTERNAL REVENUE CODE

Seller agrees to comply with Section 1445 of the Internal Revenue Code and will complete and submit to Buyer the form attached as **Exhibit 3**.

26. WAIVER OF ATTORNEY'S FEES; COURT COSTS

The Parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither Party shall be entitled to an award of attorneys' fees, either pursuant to the Contract, pursuant to A.R.S. § 12-341.01(A) and (B), or pursuant to any other state or federal statute, court rule, or common law.

27. WAIVER OF JURY TRIAL

EXCEPT AS PROHIBITED BY LAW, THE PARTIES SHALL, AND THEY HEREBY DO, EXPRESSLY WAIVE TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF, CONNECTED WITH, OR RELATING TO THIS AGREEMENT OR THE RELATIONSHIP CREATED HEREBY. WITH RESPECT TO ANY MATTER FOR WHICH A JURY TRIAL CANNOT BE WAIVED, THE PARTIES AGREE NOT TO ASSERT ANY SUCH CLAIM AS A COUNTERCLAIM IN, NOR MOVE TO CONSOLIDATE SUCH CLAIM WITH, ANY ACTION OR PROCEEDING IN WHICH A JURY TRIAL IS WAIVED. THE PROVISIONS OF THIS PARAGRAPH 27 SHALL SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT

28. SURVIVAL

All warranties, indemnities, representations, and covenants herein shall survive Closing.

29. DATES OF PERFORMANCE

If any date for performance of any obligation or exercise of any right hereunder falls on a Saturday, Sunday or nationally established holiday, the time for performance of such obligation or exercise of such right shall be extended until the next business day following such date.

30. ENFORCEABILITY

If any provision of this Agreement is held to be illegal, invalid or unenforceable, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof.

31. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

SELLER:

THE OLIVE HENRY MATUS REVOCABLE TRUST,  
dated July 10, 2015, as Amended

By: DO NOT SIGN  
Lynnie Armstrong Raichert, Co-Trustee

By: DO NOT SIGN  
Mary Armstrong Schuck, Co-Trustee

[ADDITIONAL SIGNATURE ON FOLLOWING PAGE.]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**BUYER:**  
**TOWN OF PAYSON, ARIZONA**  
a municipal corporation

By: DO NOT SIGN  
Town Manager

**APPROVED AS TO FORM:**

By: DO NOT SIGN  
Jon Paladini, Town Attorney  
Pierce Coleman PLLC

**EXHIBIT 1**

PARCEL LEGAL DESCRIPTION(S)

Property being Purchased by Town

[See following pages.]



## **EXHIBIT 2**

The following provisions in this **Exhibit 2** are incorporated into and form a part of this Real Estate Donation Purchase and Contract to which it is attached (“Agreement”). Capitalized terms have the meaning assigned in the Agreement. The following are not intended as tax advice and may not be relied on as such by Seller; these are solely Buyer’s requirements for completing any transaction for which Seller may request Buyer to complete IRS Form 8283:

- 1) Seller is solely responsible for the calculation and determination of the value of any donation to Buyer.
- 2) Seller is advised that the Internal Revenue Code requires a qualified appraisal for all gifts of property in excess of Five Thousand Dollars (\$5,000).
- 3) In connection with any claimed donation, Seller is required to obtain a “qualified appraisal” in accordance with applicable Treasury Department regulations in effect at the time of the transaction. In general, the appraisal may not be dated earlier than sixty (60) days prior to the date of the claimed contribution and must also be dated prior to the due date for the for the tax return on which the donation is first claimed. If the appraisal is conducted after the date of the claimed contribution, it must reflect the value of the Property on the date of the donation.
- 4) Seller’s appraisal of the Property must adhere to the Uniform Standards of Appraisal Practice then in effect.
- 5) A complete copy of Seller’s appraisal must be supplied to Buyer in connection with any request for Buyer to execute IRS Form 8283 or otherwise confirm a donation.

### EXHIBIT 3

(Form of Non-Foreign Affidavit)

#### ENTITY TRANSFEROR

Personally appeared before me the undersigned officer, duly authorized to administer oaths, \_\_\_\_\_, who being duly sworn according to law, deposes and says on oath as follows:

1. The undersigned is presently \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ limited liability company (the "Company").
2. The undersigned is familiar with the affairs of the Company and has personal knowledge of the facts sworn to in this Affidavit and is authorized on behalf of the Company to make this Affidavit.
3. The Company is the owner of that certain property (the "Property") described on **Exhibit A** attached hereto and by this reference made a part hereof, and the Company has caused to be executed and delivered that certain deed, of even date herewith, conveying the Property to \_\_\_\_\_, a \_\_\_\_\_ partnership ("Buyer").
4. Section 1445 of the Internal Revenue Code provides that a Buyer of a U.S. real property interest must withhold tax if the seller is a foreign person. For U.S. tax purposes (including section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the Buyer that the withholding of tax is not required upon the disposition of the Property by the Company, the undersigned hereby certifies the following on behalf of the Company:
  - (a) The Company is not a disregarded entity as defined in Section 1.1445-2(b)(2)(iii);
  - (b) The Company's U.S. Employer Identification Number is \_\_\_\_\_;
  - (c) The Company's office address is \_\_\_\_\_.
5. The Company understands that this certification may be disclosed to the Internal Revenue Service by the Buyer and that any false statement contained herein could be punished by fine, imprisonment, or both.
6. Under penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Company.

GIVEN under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Sworn to and subscribed  
in the presence of:

\_\_\_\_\_ (SEAL)  
Notary Public

My Commission Expires: