

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement ("Agreement") is made this ____ day of _____ 2021 ("Effective Date"), by and between Dodge County, 435 N Park St. and the City of Fremont, 400 E Military Ave, both from Fremont, NE 68025, and both political subdivisions organized and existing under the laws of the State of Nebraska, collectively, "Seller", and ALLO Fremont, LLC, 330 S 21st Street, Lincoln, NE 68510, a Nebraska limited liability company, hereinafter called "Purchaser".

1. Real Property. Sellers hereby agree to sell and Purchaser hereby agrees to purchase the following-described real estate more particularly described as:

A TRACT OF LAND COMPOSED OF A PORTION OF OUTLOT "A", FREMONT TECHNOLOGY PARK REPLAT OF OUTLOT "A", LOCATED IN THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 17 NORTH, RANGE 8 EAST OF THE 6TH P.M., CITY OF FREMONT, DODGE COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 3, FREMONT TECHNOLOGY PARK REPLAT OF OUTLOT "A", SAID POINT BEING A SOUTHWEST CORNER OF OUTLOT "A", FREMONT TECHNOLOGY PARK REPLAT OF OUTLOT "A", SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE NORTHERLY ON A WEST LINE OF SAID OUTLOT "A", ON AN ASSUMED BEARING OF N02°26'20"W, A DISTANCE OF 100.00' TO A POINT; THENCE N87°57'07"E, ALONG A LINE THAT IS 100.00' NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID OUTLOT "A", A DISTANCE OF 100.00' TO A POINT; THENCE S02°26'20"E, ALONG A LINE THAT IS 100.00' EAST OF AND PARALLEL WITH THE WEST LINE OF SAID OUTLOT "A", A DISTANCE OF 100.00' TO A NORTHEAST CORNER OF SAID LOT 3, SAID POINT BEING A SOUTHWEST CORNER OF SAID OUTLOT "A"; THENCE S87°57'07"W, ON A NORTH LINE OF SAID LOT 3, SAID LINE BEING A SOUTH LINE OF SAID OUTLOT "A", A DISTANCE OF 100.00' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 10,000.23 SQUARE FEET OR 0.23 ACRES, MORE OR LESS, , ALL SURFACE RIGHTS AND ALL SUBSURFACE AND MINERAL RIGHTS THEREUNDER (THE "PROPERTY") AS SHOWN ON EXHIBIT 1.

The Property shall include all rights, privileges, rights of way, easements and rights appurtenant thereto and all improvements on the Property, and all signage, machinery, equipment, inventory and fixtures on the Property, but not personal property.

2. Deed and Title. The legal description of the Property shall be confirmed with the title insurance commitment and, at Purchaser's option, a survey. Seller agrees to convey title to Purchaser, or Purchaser's nominees, by General Warranty Deed, free and clear of all liens, encumbrances, or special assessments levied or assessed or estimated to be assessed for projects constructed or under construction, except easements and restrictions of record.

3. Purchase Price, Manner of Payment, and

A. **Purchase Price.** Purchaser agrees to pay to Seller for the Property the sum of Thirty-two Thousand Five Hundred and No/100 Dollars per surveyed acre or a total purchase price of Seven Thousand Five Hundred Dollars and No Cents (\$7,500.00) (the "Purchase Price") as follows:

B. **Earnest Money.** At the signing of the Agreement, which shall occur within 30 days

following the expiration of the remonstrance period as provided by Neb. Rev. Stat. §16-202, Purchaser shall pay earnest money of One Thousand and No/100 Dollars (\$1,000.00), to be deposited with Dodge County Title Company; and

C. **Remaining Balance.** The Purchaser shall pay the balance in cash or certified check at time of closing and delivery of Deed.

4. **Conditions to Closing.**

a. Purchaser's Conditions of Closing. Unless waived by Purchaser in writing, the obligations of Purchaser under this Agreement are subject to fulfillment of the following conditions:

- i. **General Warranty Deed and Title Insurance Commitment.** Purchaser shall receive at Closing a General Warranty Deed for the Property and a commitment for title insurance in accordance with this Agreement.
- ii. **Condition of Property.** No later than five (5) days from the date of Closing, Purchaser has approved the physical condition of the Property and that any conditions, limitations, requirements, rules and regulations of any governmental agency having jurisdiction over the Property or its intended use are acceptable to Purchaser.
- iii. **Representations and Warranties.** There have been no material inaccuracies in the representations and warranties of Seller and such representations and warranties shall be true as of Closing as though made on and as of such date and Purchaser shall have received a certificate dated as of Closing to that effect.

b. Seller's Conditions of Closing. Unless waived by Seller in writing, the obligations of Seller under this Agreement are subject to fulfillment of the following conditions:

- i. **Payment.** At Closing, Seller shall receive from Purchaser a certified or cashier's check or direct deposit in an amount equal to the Purchase Price less any prorates and adjustments.
- ii. **Representations and Warranties.** There have been no material inaccuracies in the representations and warranties of Purchaser and such representations and warranties shall be true as of Closing as though made on and as of such date and Seller shall have received a certificate dated as of Closing to that effect.
- iii. **Remonstrance.** The passage and approval of an ordinance by the City Council of the City of Fremont and publication of notice of sale and right of remonstrance as provided by Neb. Rev. Stat. §16-202. Closing shall not occur until the lapse of thirty (30) days following the last day of publication with no remonstrance.

5. Reserved

6. Possession and Closing. Closing of this sale shall take place on a date mutually agreed upon by Purchaser and Seller but no later than sixty (60) days following the expiration of the remonstrance period associated with this transaction.

7. Taxes. The Property has been exempt from real estate taxes for tax year 2020 and prior years. Upon the sale and transfer of the Property to Purchaser, the Property shall lose the exemption and Purchaser shall be responsible for the applicable real estate taxes.

8. Inspections. Purchaser and its employees and agents shall have the right to conduct customary and reasonable due diligence, including without limitation financial, accounting, technical and legal due diligence, and shall have the right to enter upon the Property to survey and to perform such tests and inspections as it deems necessary to determine suitability of the Property for Purchaser's intended use. Upon request, Seller shall promptly cooperate with Purchaser or any of Purchaser's agents to perform tests and inspections at the Property. Purchaser and Seller may be present during inspections.

9. Title Insurance. No later than five (5) calendar days after the Effective Date, Seller shall furnish title insurance showing merchantable title of record in Seller to the Property. In the event of defects in title, Seller shall be notified and Seller shall proceed immediately to have said defects cured within a reasonable time after notice. Closing may be extended for a short reasonable time necessary to cure said title defects upon the mutual written agreement of Purchaser and Seller. The cost of said title insurance shall be split equally between the parties. If there are defects in the title which cannot be cured as specified above, the earnest money is to be refunded to Purchaser.

10. Revenue Stamps. The transfer and conveyance to Purchaser shall qualify for the exemption available under Neb. Rev. Stat. § 76-902(2).

11. Closing Costs. The Seller shall pay all costs of survey platting of the Property and revenue stamps. Purchaser shall pay the cost of title insurance and the cost of the closing fee and filing the Deed. Each party shall pay their own attorney fees incurred in connection with this transaction.

12. Insurance. Any risk of loss to the Property shall be borne by the Seller until title has been conveyed to the Purchaser. In the event, prior to closing, the structures on the Property are materially damaged by fire, explosion or any other cause, Purchaser shall have the right to rescind this agreement, and Seller shall then refund the Deposit to Purchaser. Purchaser agrees to provide its own hazard insurance as of the date of closing.

13. Condition of Property. Property is being sold "as is", with no representation or warranties, expressed or implied, by the Seller with respect to health, safety or environmental conditions. Purchaser represents that it has had the opportunity to examine said Property and that its decision to purchase the property is based upon its own examination and not upon any representation of the Seller or any of the Seller's agents.

14. Representations and Warranties.

a. Representations and Warranties of Seller. Seller represents and warrants to Purchaser as follows:

- i. Organization; Power; Good Standing. Seller has all requisite power and authority to own and operate its property and carry on its business as now being conducted and to enter into and perform this Agreement.
- ii. Authority Relative to Agreement. This Agreement has been duly executed and delivered by the Seller and constitutes a legally binding obligation of the Seller, enforceable in accordance with its terms.

- iii. Effect of Agreement. The execution, delivery and performance of this Agreement by the Seller does not require the consent, waiver, approval, license or authorization of any person, entity, or public authority.
- iv. Brokers. The Seller has not entered into any contract, arrangement or understanding with any person or firm which may result in the obligation of Purchaser to pay any finder's fee, brokerage or agent's commission or other like payment in connection with this Agreement, and the Seller is not aware of any claim or basis for any claim for payment of any finder's fee, brokerage or agent's commission or other like payment in connection with this Agreement.
- v. Hazardous Material. During the time Seller has held title to the Property, (a) there has been no hazardous or toxic material, substance, pollutant, contaminant, waste, asbestos or petroleum product released into the environment, or disposed, discharged, placed or disposed of at, or on the Property; (b) the Property has not been used by any person as a landfill or waste disposal site; (c) there has been no claim, litigation, administrative proceeding, actual or threatened, or judgment or order relating to any hazardous substance, hazardous waste, discharge, emission or other form of pollution relating in any way to the Property; and (d) there has been no hazardous substance or hazardous waste, as defined by the Resource Conservation Recovery Act, as amended (42 U.S.C. §§ 6901, et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. §§ 9601, et seq.), generated, manufactured, refined, transported, treated, stored, handled or disposed of on, at the Property, except as may be commonly used in the carwash and gasoline sales business. Seller has no knowledge of any storing, handling, or disposal of any such substance in violation of any applicable law or regulation.
- vi. Land Use and Zoning. Seller has no knowledge of any notice or claim that the Property or the use thereof is in violation of any land use or zoning law or regulation.
- vii. Special Assessments and Liens. No costs whatsoever associated with the present or past construction of any street, public walkway, common area, parking area or utility improvement surrounding or serving the area or the Property including, without limitation, the costs and expenses attributable to paving, curbs, water wells, extension of city water, sanitary sewer, storm sewer lines, street and parking lot lighting, street signs, engineering design and city engineering or inspections will be assessed against the Property.
- viii. Leases. Seller has entered into no leases or agreements for occupancy or use of the Property or any portion thereof and will not encumber the Property with any such lease or agreement prior to Closing.
- ix. Taxes. Seller has paid, or shall pay when due, all federal, state and local taxes of every kind, including, without limitation, all real estate taxes upon or in connection with the Property for all periods ending on or before the Closing.
- x. Title; Ownership. Seller has good, marketable and merchantable title to the Property, free and clear of all liens except the Permitted Exceptions. There are

no outstanding options, rights of first refusal or rights of first offer to purchase the Property, or any portion thereof or interest therein. There are no agreements, commitments or understandings by or between Seller and any third party pursuant to which Seller or its successors-in-interest are required to dedicate any part of the Property, or to grant any easement, water rights, rights of way, road or license with respect to any portion of the Property. "Permitted Exceptions" means any matter shown on the title commitment or on any survey which is not objected to by Purchaser.

15. Termination and Default. If the conditions of Closing for a party have not been satisfied and such noncompliance or nonperformance has not been waived by Closing, such party may terminate this Agreement and neither Purchaser or Seller shall have any liability one to the other. In the event the terminating party is the Purchaser, Purchaser shall be entitled to refund of the Earnest Money. If Purchaser's conditions of Closing have been satisfied or waived and Purchaser wrongfully fails to consummate the transaction, Seller may retain the Earnest Money or pursue any remedy at law or in equity. If Seller's conditions of Closing have been satisfied or waived and Seller wrongfully fails to consummate the transaction, Purchaser may pursue any remedy at law or in equity or terminate this Agreement and obtain the return of the Earnest Money.

16. Specific Performance. This Agreement conveys no title or right to take possession and both parties may seek specific performance of this Agreement If the other defaults.

17. Facsimile or Electronic Signatures. "Facsimile or electronic signatures", as the term is commonly used with reference to facsimile machines and/or email used in transmitting documents, signatures, photocopies, etc., will be and hereby are declared by each party to this contract to be the same as an original signature to this contract.

18. Flood Insurance. If flood Insurance is required in connection with financing of this purchase, Purchaser agrees to obtain such flood Insurance at or prior to closing.

19. Broker. Seller and Purchaser agree and acknowledge that Seller has no broker or agent to act on its behalf with regard to this transaction. Seller and Purchaser further agree and acknowledge that Purchaser has no broker or agent to act on their behalf.

20. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska and the laws of the federal government of the United States. The state and federal courts located in Lincoln, Nebraska shall have sole jurisdiction and venue over all controversies arising under this Agreement. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY PROCEEDING RELATING TO THIS AGREEMENT.

21. Exhibits. All Exhibits referenced and attached to this Agreement are incorporated as if fully set forth.

22. Notices. All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally or 48 hours after being mailed registered or certified mail, return receipt requested, postage prepaid, to the party at the following address or to such other address as any party may from time to time in writing designate to the other parties:

If to Purchaser: ALLO Fremont, LLC
330 S. 21st Street

Lincoln, NE 68510
Attention: Bradley A. Moline, President

with a copy to: ALLO Fremont, LLC
121 S. 13th Street, Suite 100
Lincoln, NE 68508
Attn: Legal Department

If to Seller: City of Fremont
400 E Military
Fremont, NE
Attention: Brian Newton, City Administrator

with a copy to: City of Fremont
400 E Military
Fremont, NE
Attention: Tyler Ficken, City Clerk

“SELLER”

DODGE COUNTY, NEBRASKA, a Nebraska political subdivision

Attest:

By: _____
Fred Mytty, County Clerk

By: _____
Bob Missel, Chairperson of the Board of County Supervisors

“SELLER”

THE CITY OF FREMONT, NEBRASKA, a Nebraska municipal corporation

Attest:

By: _____
Tyler Ficken, City Clerk

By: _____
Joey Spellerberg, Mayor

“PURCHASER”

ALLO Fremont, LLC a Nebraska limited liability company

By: _____

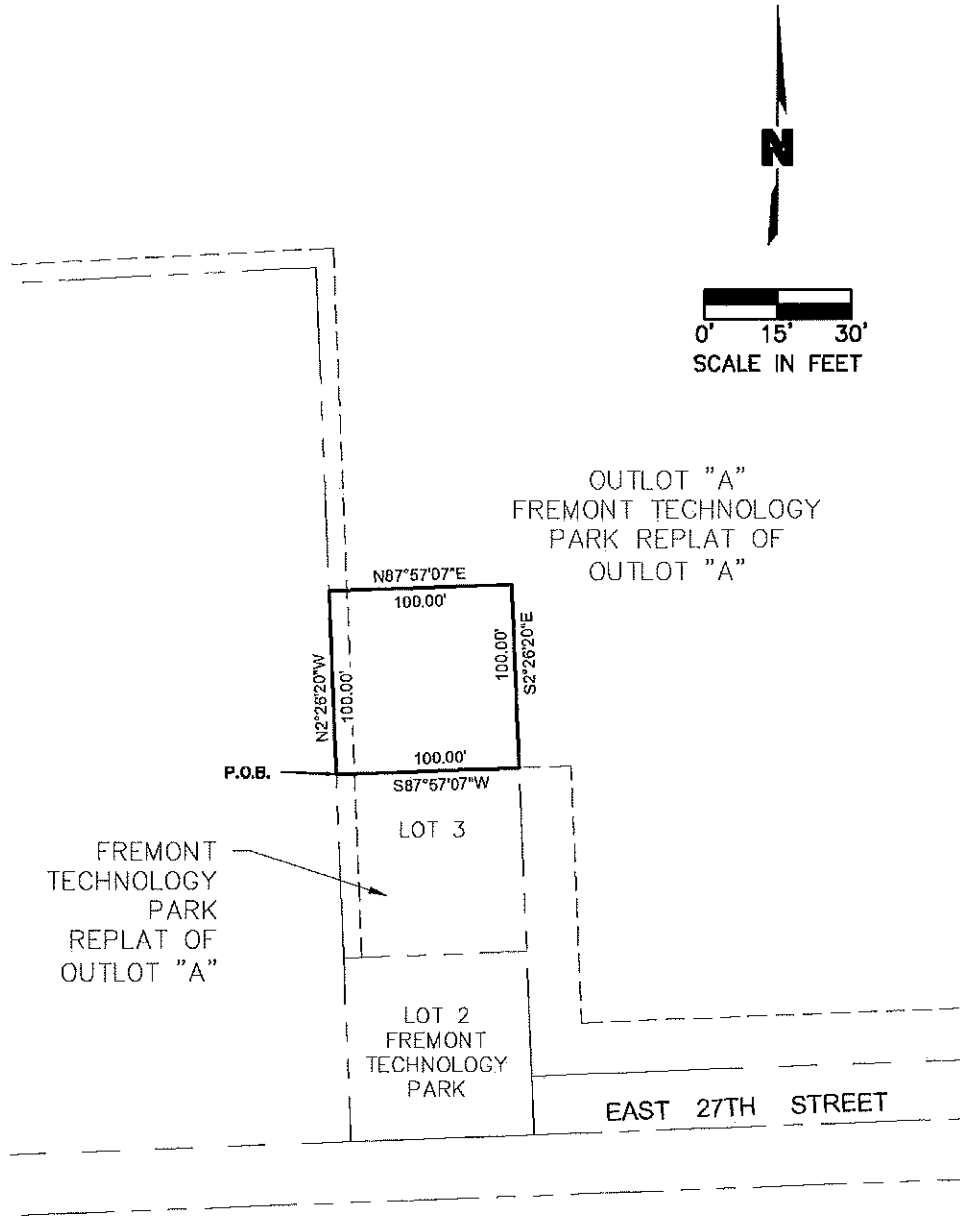
Name: Bradley A. Moline, President

LEGAL DESCRIPTION

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 DATE: Dec 18, 2020 11:29am
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 2019.02.21_GNCV_Fremont Site Layout
 XREFS: 19-02-21_GNCV_CityofFremontBusinessPark_Concept



PROJECT NO: 018-1554	olsson	501 P Street, Suite 200 P.O. Box 84608 Lincoln, NE 68508 TEL 402.474.6311	EXHIBIT
DRAWN BY: ALB			1
DATE: 12-16-2020			