

## AGREEMENT

THIS AGREEMENT, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, by and between the City of Tescott, Ottawa County, Kansas, hereinafter referred to as ("City"), and \_\_\_\_\_, hereinafter referred to as ("Buyer(s)").

NOW, THEREFORE, for and in consideration of the terms and covenants set forth in this Agreement, the parties hereto agree as follows:

### I. SUBJECT OF AGREEMENT.

Subject to the terms and conditions set forth in this Agreement, City shall convey and Buyer(s) shall receive title to the real estate described on Exhibit A attached hereto and incorporated herein (the "Property"). Title to the Property shall be conveyed subject to rights of reversion to City, easements, restrictions, zoning ordinances, covenants, and rights of way of record.

### II. CONSIDERATION.

For and in consideration of the transfer of the Property to Buyer(s), Buyer(s) represents, warrants, and agrees to the following terms and conditions:

1. Buyer(s) shall construct on the Property a single family residence the minimum floor area of which: for a one-floor structure, exclusive of basement, garages, open porches, terraces, patios and open areas, shall be no less than 1,000 square feet; and for a one and one-half or two story structure, exclusive of basement, garages, open porches, terraces, patios and open areas, shall be no less than 840 square feet on the ground floor with no less than 460 square feet on the second floor; which said residence shall not be a manufactured or mobile home (excepting those more specifically described in the Declaration of Restrictions and Covenants dated the \_\_\_\_\_ of \_\_\_\_\_, 2007 issued by the of the City of Tescott, Ottawa County, Kansas; and which said residence must further comply with all zoning, restrictions, covenants, and other building requirements for said Property and real property located within the City. Also allowed are two family dwellings that meet the restrictions and covenants outlined in a separate document.

2. Within six (6) months after the Property is conveyed to Buyer(s), Buyer(s) shall enter into a contract with a qualified construction company/contractor for the construction of the residence described in paragraph 1 above and shall provide proof of financing satisfactory to the City.

3. Buyer(s) shall complete the pouring of the foundation or basement of the residence within (12) months after the date the Property is conveyed to the Buyer(s).

4. Buyer(s) shall have “substantially completed” the residence on the Property within 18 months after the date the Property is conveyed to the Buyer(s). “Substantially complete” is defined as the stage in progress in building the residence when the entire single family residence is sufficiently complete so that the Buyer(s) and his/her family can fully occupy and utilize the home for residential purposes, including, but not limited to completion of all plumbing work and HVAC installation.

### III. TITLE.

City will convey title to the Property to Buyer(s), free and clear of all liens, encumbrances, defects and burdens, except: easements, restrictions, and rights of reversion stated herein, and rights of way, by a special warranty deed to be delivered at “Closing”. Closing shall take place at (*title company*) on or before the 45<sup>th</sup> day after the full execution of this Agreement (the “Closing Date”).

### IV. PROOF OF TITLE.

Buyer(s) shall obtain, at Buyer(s)’s sole cost and expense, at the time of the conveyance, a standard owners policy of title insurance from (*title company, a licensed title company*), (*title company*), (*address*), (*city*), Kansas (*zip code*) in an amount not less than the cost of construction of the residence. The cost of such title insurance shall be paid by Buyer(s).

In the event Buyer(s) has valid objections to the marketability of the title to the Property, City may satisfy said valid objections or City may declare this Agreement null and void in which event Buyer(s) shall convey the Property to City by special warranty deed similar in form and content to that executed by City.

Buyer(s) hereby waives any and all claims, causes of action, and its right to recover any damages, costs, expenses or losses which result out of or are incurred by Buyer(s) in connection with this Agreement and/or the development, design, and construction of the residence on the Property.

### V. PAYMENT OF EXPENSES.

City shall have no liability of any cost, fees, obligations, real estate taxes, or any other cost related hereto and all cost of including but not limited to financing, title insurance, closing, appraisals, mortgages and registration fees and any and all other costs related to this Agreement or the transfer of the Property shall be paid by

Buyer(s). Buyer(s) accepts this risk of paying all of said cost, even if City cannot deliver marketable title, as the benefit to Buyer(s) in potentially receiving the Property is significant.

## VI. TAXES AND ASSESSMENTS.

City shall pay all taxes and assessments for the years prior to Closing. Buyer(s) shall pay all taxes and assessments for years subsequent to Closing. Taxes and assessments for the year of Closing shall be paid by Buyer(s) and shall not be prorated.

## VII. ASSIGNMENT

Buyer(s) shall not sell, assign, or transfer this Agreement or any interest under it or any interest in or to Property, without first obtaining the written consent of City. Additionally, Buyer(s) shall not sell, transfer or convey the above described Property, while the reversionary interest of City exists, without first obtaining the written consent of City.

## VIII. DEFAULT

In the event Buyer(s) fails to comply with any term or warranty in this Agreement, then title to the Property shall immediately revert to City and this Agreement shall immediately become null and void, whereupon all rights of the Buyer(s) hereunder shall end all at the option of City. Buyer(s) specifically understands that should this Agreement be declared null and void and should a reversion of title to the Property occur, that Buyer(s) shall have no claim against City for any damages, cost, or claim for specific performance and the failure to comply with the terms of this Agreement shall be solely at the risk of Buyer(s) without liability or obligation on behalf of the City.

**BUYER(S) HEREBY GRANTS TO THE MAYOR OF THE CITY OF TESCOTT POWER OF ATTORNEY TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO PROPERLY REVEST TITLE TO THE PROPERTY IN THE CITY INCLUDING, BUT NOT LIMITED TO, THE RIGHT OF EXECUTE DEEDS, LIEN RELEASES, AND AFFIDAVITS.**

## IX. RIGHTS OF REVERSION.

Title to the Property shall revert to City in the event Buyer(s) fails, in any respect, to comply with the terms and provisions of this Agreement including, but not limited to, the duties imposed upon Buyer(s) which duties arise subsequent to the date of transfer of the Property.

The reversionary interest shall be shown on the deed given to Buyer(s). City agrees to subordinate its reversionary interest to that of a lender providing Buyer(s) financing for the construction of the required residence on the above-described real estate. Such subordination shall be on terms and conditions deemed acceptable to City and lender.

## X. ALTERNATIVE TO REVERSION

As an alternative to the reversion, if Buyer(s) acts in such a way as to cause a reversion, Buyer(s) shall have the option to purchase the lot for the full purchase price of \$8,000.00.

## XI. TIME

Time and punctuality are hereby made of the essence of this Agreement.

## XII. CONTINGENCIES

This Agreement is subject to the following contingencies (if none are listed, then there are no contingencies):

- (1) This Agreement is subject to a certain Declaration of Restrictions and Covenants dated the \_\_\_\_ of \_\_\_\_\_, 2007 issued by the City Commission of the City of Tescott, Ottawa County, Kansas.
- (2) As a condition precedent, Buyer(s) MUST have at least one (1) child under the age of 18 that is enrolled in the Tescott Public Schools, or if preschool ages, will be enrolled upon attainment of required age at the time of execution and Closing to qualify for the free lot.

## XIII. CONDITION OF PROPERTY.

City makes no representations or warranties of any kind whatsoever, express or implied, regarding the condition of the Property or the condition of title to the Property (except as noted in the special warranty deed). Buyer(s) acknowledges that City has made no representations or warranties, express or implied, as to the condition of the Property or the condition of title to the Property. Buyer(s) is granted up to the day prior to the Closing Date the right to access the Property and have it inspected at Buyer(s)'s sole cost and expense. Any damages caused by said inspections shall be paid by Buyer(s). Buyer(s) agrees that it will rely solely upon the results of any inspections it has conducted. Buyer(s) agrees that it is taking title to the Property in its "as is, where is" condition. In the event any inspection conducted by Buyer(s) reflects a condition which is unacceptable to Buyer(s), Buyer(s) shall have the right to terminate this Agreement at any time prior to the Closing in which event the parties will be relieved of any further right, duty or obligation set forth in this Agreement.

City makes no representations or warranties of any kind whatsoever, express or implied, relative to the inclusion or exclusion of the real estate described-above from a flood fringe area or flood-way area, as the same are defined by the Federal Emergency Management Agency (FEMA). Buyer(s) agrees to make any and all inquiries deemed appropriate or required in said regard, and further agree that the exclusion of the real estate

described-above from said described areas is not a condition to the Closing of this Agreement.

**XIV. TERMS SURVIVE CLOSING.**

All terms and conditions of this Agreement shall survive Closing, and be enforceable at law or equity.

**XV. ENTIRE AGREEMENT.**

This Agreement and all exhibits hereto, if any, contain the entire understanding between parties and no other warranty, representations or agreements shall be binding upon the parties unless heretofore set forth in writing.

**XVI. KANSAS LAW.**

This Agreement shall be governed exclusively by the provisions hereof and by the laws of the State of Kansas.

**XVII. BINDING EFFECT.**

This Agreement shall inure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, successors and permitted assigns.

IN WITNESS WHEREOF, the parties have executed this instrument on the day and year first above written.

City of Tescott

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

Attest: \_\_\_\_\_  
City Clerk

Buyer(s)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

State of Kansas        )  
                        )  
                        ) ss  
Ottawa County        )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_, before me, the undersigned, a notary public in and for the county and state aforesaid came \_\_\_\_\_, Mayor of the City of Tescott and \_\_\_\_\_, City Clerk of the City of Tescott, who are personally known to me to be the same persons who executed the within instrument of writing and such person duly acknowledge the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Appointment Expires:

\_\_\_\_\_  
Notary Public

State of Kansas        )  
                        )  
                        ) ss  
Ottawa County        )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_, before me, the undersigned, a notary public in and for the county and state aforesaid came \_\_\_\_\_, who is/are personally known to me to be the same person(s) who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Appointment Expires:

\_\_\_\_\_  
Notary Public