RESOLUTION NO. 2613

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF TOLLESON, ARIZONA, APPROVING A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF TOLLESON, AS PURCHASER, AND DI-MOR BUSINESS FORMS INC., AS SELLER, FOR THE ACQUISITION OF REAL PROPERTY LOCATED AT 9360 W. VAN BUREN STREET, TOLLESON, ARIZONA, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS.

WHEREAS, the City of Tolleson, an Arizona municipal corporation, desires to purchase certain real property located at 9360 W. Van Buren Street, Tolleson, Arizona, identified as Maricopa County Assessor's Parcel Numbers 102-50-024, 102-50-025, 102-50-026, and 102-50-027 (the "Property"); and

WHEREAS, Di-Mor Business Forms Inc., an Arizona corporation, has agreed to sell the Property to the City of Tolleson pursuant to the terms of the Purchase and Sale Agreement (the "Agreement") attached hereto as Exhibit A; and

WHEREAS, the Mayor and City Council find that acquiring the Property is in the best interests of the residents and community of Tolleson.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TOLLESON, ARIZONA, as follows:

<u>Section 1.</u> The Purchase and Sale Agreement between the City of Tolleson, as purchaser, and Di-Mor Business Forms Inc., as seller, for the acquisition of the Property for the purchase price of $1,355,000.00 is hereby approved substantially in the form attached hereto as Exhibit A and incorporated herein by reference.

<u>Section 2.</u> The Mayor or City Manager are hereby authorized to execute and deliver the Agreement on behalf of the City. The Mayor, City Manager, City Clerk and City Attorney are hereby authorized and directed to take all steps necessary within their respective official capacities to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Tolleson, Arizona, on this 8th day of July, 2025.

____
Juan F. Rodriguez, Mayor

ATTEST: ______________________________
Crystal Zamora, City Clerk

APPROVED AS TO FORM: ______________________________
Justin Pierce, City Attorney

EXHIBIT A

TO

RESOLUTION NO. 2613

[Purchase and Sale Agreement]

See following pages.

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE ("Agreement") is made and entered by and between CITY OF TOLLESON, an Arizona municipal corporation, ("Purchaser"), and DI-MOR BUSINESS FORMS INC., an Arizona corporation, ("Seller"). Collectively, Purchaser and Seller is referred to as the "party" or "Parties". The "Effective Date" of this Agreement is the date on which the Agreement is executed by all parties hereto, as indicated by the latest date on the signature pages of this Agreement.

W I T N E S S E T H:

In consideration of the mutual covenants and promises herein contained and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, Purchaser and Seller do hereby covenant and agree as follows:

1. Agreement to Sell and to Purchase. Seller agrees to sell, and Purchaser agrees to purchase, upon the terms and conditions hereinafter set forth, the following:

(a) That certain real property located at 9360 West Van Buren Street, Tolleson, Arizona, Maricopa County Assessor's Parcel Numbers 102-50-024, 102-50-025, 102-50-026, and 102-50-027, as described on Exhibit "A", attached hereto and incorporated herein by this reference (the "Property").

(b) The total purchase price for the Property is $1,355,000.00 to be paid by the Purchaser to the Seller, upon close of escrow ("Purchase Price").

2. Opening of Escrow. Escrow Agent shall be Jennifer Siverio of Pioneer Title Agency, Inc. ("Escrow Agent"), 1550 East Missouri Avenue, Phoenix, Arizona 85014. Purchaser shall deliver to Escrow Agent this executed Agreement and an earnest money deposit in the amount of $10,000 (the "Earnest Money"). Escrow Agent shall then accept and sign this Agreement and promptly mail or deliver copies to Purchaser and Seller. The opening of escrow (the "Opening of Escrow") shall occur when the Escrow Agent signs this Agreement.

3. Title Insurance; Closing Costs And Prorations

(a) The costs attributed to the Closing of the Property shall be the responsibility of both Parties. The fees and costs related to the Closing shall include but not be limited to a title search, preparation of the deed, transfer taxes, recording fees, and any other costs by the title company that is in standard procedure with conducting the sale of a property. Seller agrees to pay any Broker's sales commission as outlined in paragraph 12 below . Escrow Agent shall issue or cause to be issued a standard coverage owner's policy of title insurance in the amount of the purchase price and naming Purchaser as the insured. Purchaser shall bear the cost of such title policy. Seller shall be responsible for all property taxes and assessments levied and due against the Property prior to closing. Purchaser shall be responsible for all taxes and assessments levied against the

Property after the closing date. Real property taxes for the year in which close of escrow occurs and that are payable by Seller shall be prorated at close of escrow between the parties based upon the latest tax information available.

(b) All of the above-referenced costs that are the responsibility of the Purchaser 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.

4. Feasibility Period; Property Materials; Title Report. Purchaser shall have from date of Opening of Escrow through **July 18, 2025** (the "Feasibility Period") to examine the Property at any time with any persons whom it shall designate, including engineers, architects, surveyors or other consultants. Purchaser shall have the Feasibility Period to investigate any and all matters concerning the Property, including zoning; access; ingress and egress requirements; easements; the availability of water, sewer, and other utilities and services to the Property; development potential; availability of financing; to assess requirements, and the requirements of relevant governmental agencies, including Arizona Department of Environmental Quality ("ADEQ") and Arizona Department of Water Resources ("ADWR") and any restrictions or other matters concerning the Property. Purchaser agrees to defend and indemnify Seller and hold Seller and Property free of any liens, loss or liability resulting from the activities or operations of Purchaser, its agents, consultants and employees on the Property. The foregoing defense and indemnity obligation shall survive Closing or any cancellation or termination of this Agreement. If Purchaser, after conducting in good faith such inspections, investigations, and tests, in light of its investigation and review and in its sole discretion, should determine that the Property is suitable for its purposes, then Purchaser shall, prior to the expiration of the Feasibility Period, provide Purchaser's written acceptance of the Property by notice to Escrow Agent and Seller ("Acceptance Notice"). Absent Purchaser's written Acceptance Notice, this Agreement shall be deemed cancelled and neither party shall have any further obligation or liability under this Agreement except as expressly provided herein.

Within **two (2) business days** after Opening of Escrow, Seller shall deliver to Purchaser, if any, all ALTA surveys, Phase I Environmental Assessment(s), and related surveys and assessments within the Seller's possession (the "Property Materials").

The Property Materials are delivered to Purchaser without any representation or warranty and are wholly subject to Purchaser's independent investigation and Purchaser agrees to fully release and discharge Seller from any claim arising from the use of the Property Materials.

As soon as is reasonably practicable after opening of Escrow, Seller shall cause Pioneer Title Agency, Inc. ("Title Company") to deliver to Purchaser for review a commitment (the "Title Report") and to issue its owner's extended coverage form of title insurance policy (the "Title Policy"). If Purchaser's examination of title should disclose any defects in title then Purchaser shall notify Seller, no later **than ten (10) business days** after receipt of the Title Report ("Purchaser's Objection Notice"). Seller, within **two (2) business days** of receipt of Purchaser's Objection Notice, shall notify Purchaser in writing ("Seller's Cure Notice") of any actions Seller intends to take and the anticipated effect on the matters to which Purchaser has objected. In the event Seller did not deliver Seller's Cure Notice or, alternatively, should Seller inform Purchaser in Seller's Cure Notice that Seller is unable to cure or unwilling to cure any objections raised in Purchaser's Objection Notice, Purchaser shall be entitled, prior to the expiration of the Feasibility Period, either (i) to terminate this Agreement or (ii) to waive such objection and proceed to close the transaction contemplated by this Agreement.

If Purchaser should cancel this Agreement, Purchaser shall then provide to Seller an itemization of any appraisals, reports, engineering studies, environmental reports, drawings, plats, surveys, applications or other information prepared on behalf or for Purchaser concerning the Property ("Purchaser's Materials"). Purchaser shall make available to Seller such of Purchaser's Materials that Seller may desire at Purchaser's cost. Notwithstanding anything to the contrary contained herein, in no event shall Purchaser be obligated to deliver to Seller any of Purchaser's financial projections, budgets, accounting or tax records or similar proprietary, confidential or privileged information.

5. <u>Title</u>. At Closing, Seller shall execute and deliver to Escrow Agent a special warranty deed for the Property, naming Purchaser as the grantee and warranting title against Seller's acts, free and clear of all liens and other encumbrances except only those encumbrances and exceptions approved by Purchaser in writing during the Feasibility Period ("Permitted Title Exceptions"). In all events, such title shall be insurable by Title Company's issuance of the Title Policy.

6. <u>Default.</u>

(a) <u>Purchaser's Default.</u> If Purchaser defaults hereunder, Seller's sole and exclusive remedy shall be to retain the Earnest Money. In no event shall Seller have any other right of recourse or claim or right against Purchaser for actual, special, consequential, or exemplary damages.

(b) <u>Seller's Default.</u> If Seller defaults hereunder, then Purchaser shall be entitled to:

(1) terminate this Agreement by written notice to Seller and Escrow Agent and have the Earnest Money returned, or

(2) seek specific performance from Seller. Purchaser shall have no other remedy for any default by Seller. In no event shall Purchaser have any other right of recourse or claim or right against Seller for actual, special, consequential or exemplary damages. The alternative remedies set forth in this Paragraph shall be Purchaser's sole and exclusive remedies in the event of a default by Seller.

7. Closing. The Closing will be held in the offices of Escrow Agent or through an escrow with Escrow Agent, on **August 8, 2025** (the "Closing Date"); the Closing shall occur prior to 5:00 p.m. on the Closing Date.

(a) At Closing, Seller agrees to deliver to Purchaser, at Seller's sole cost and expense, the following items:

(1) Special warranty deed conveying good, insurable and marketable title to the Purchaser;

(2) A certification complying with requirements of Sections 1445 and 7701 of the Internal Revenue Code of 1986, as amended, by Seller that it is not a foreign person within the meaning of such sections; and

(3) All other documents necessary or appropriate to complete the transaction contemplated by this Agreement.

(b) At Closing, Purchaser shall:

(1) Deliver to Escrow Agent the Purchase Price as adjusted pursuant to the terms hereof, and shall execute and deliver all documents reasonably necessary or appropriate to complete the transaction contemplated by this Agreement; and

(2) Deliver to Escrow Agent all other documents necessary or appropriate to complete the transaction contemplated by this Agreement.

8. Damage or Condemnation. Risk of loss resulting from any condemnation or eminent domain proceeding which is commenced prior to Closing, and risk of loss to the Property due to any other cause, remains with Seller until Closing. If, prior to the Closing, more than twenty percent (20%) of the Property shall be destroyed, damaged or subjected to a bona fide threat of condemnation, Seller shall so notify Purchaser, and Purchaser either may elect to (i) cancel this Agreement, in which event all Parties shall be relieved and released of and from any further duties, obligations, rights or liabilities hereunder and the Escrow Deposit, together with all interest earned thereon, shall be returned to Purchaser, or (ii) declare this Agreement to remain in full force and effect and the purchase contemplated herein, subject to such damage or less any interest taken by eminent domain or condemnation, shall be effected, and at Closing, Seller shall assign, transfer and set over to Purchaser all of the right, title and interest of Seller in and to any awards and insurance proceeds or claims that have been or that may thereafter be made for such taking or damage.

9. Seller's Representations and Warranties. Seller represents and warrants to Purchaser, and as of the Closing shall be deemed again to represent and warrant to Purchaser, as follows:

(a) The Seller is an Arizona corporation and has the power and authority to enter into and perform this Agreement. The individual signing this Agreement on behalf of each Seller has full power and authority to do so.

(b) All necessary action has been taken to authorize the execution and delivery of this Agreement and the performance by Seller of the covenants and obligations to be performed by it pursuant hereto.

(c) The execution, delivery and performance by Seller of this Agreement does not, and will not, result in any violation of, or conflict with, or constitute a default under, any agreement to which Seller is a party or any agreement, judgment, writ, decree, order, injunction, rule or governmental regulation to which Seller is subject or constitute a default under, any bond, note or other evidence of indebtedness, contract, indenture, mortgage, deed of trust, loan, agreement, lease or other agreement or instrument to which Seller is a party or by which the Property or any of Seller' properties may be bound.

(d) To Seller's knowledge, Seller is not prohibited from consummating the transactions contemplated by this Agreement by any law, rule, regulation, instrument, agreement, order, or judgment.

(e) There are no attachments, levies, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or pursuant to any other debtor relief laws contemplated by or pending against Seller.

(f) To Seller's knowledge, except as may be identified in the Property Materials, the Property has never been utilized for the treatment, storage, or disposal of hazardous or toxic wastes, possibly excepting the application of pesticide control in connection with the agricultural use of the Property. To Seller's knowledge, Seller has not received notice of any violation(s) of any Federal, State or local statute, rule or regulation governing the treatment, storage, disposal or clean- up of any hazardous or toxic waste substance on the Property.

(g) Seller holds and will convey at Close of Escrow, fee simple title to the Property, subject to any matters and conditions of title approved or deemed approved by Purchaser in Section 5 hereof.

(h) To Seller's actual knowledge, there are no material violations or infringements of any laws, rules, regulations, ordinances, codes, covenants, conditions, restrictions or other agreements or rights applicable to the Property and Seller has not received notices and have no knowledge of any notices from any governmental agencies, insurance companies, or from any other source, with respect to any such violations or alleged violations.

The phrase "to Seller's knowledge" and similar phrases used herein mean the actual (not constructive, implied or imputed) knowledge of Diane Morales and/or Di-Mor Business Forms Inc., as of the date of this Agreement, and shall in no case refer to the actual, constructive, implied or imputed knowledge of any other member, shareholder, partner, affiliate, officer, director, employee, agent or representative of Seller. Further, in no case shall there be any obligation imposed on Seller to verify, inquire or make any independent investigation whatsoever of any representation, warranty or statement. Seller represents and warrants to Purchaser that Diane Morales is the sole representative of Seller who is most knowledgeable about the Property and the matters represented herein.

10. No Other Warranties. **SELLER HEREBY SPECIFICALLY DISCLAIM ANY WARRANTY OR REPRESENTATION, ORAL OR WRITTEN, OTHER THAN THOSE SET FORTH IN PARAGRAPH 9 HEREOF. PURCHASER FURTHER ACKNOWLEDGES THAT, SUBJECT TO THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN PARAGRAPH 9 HEREOF, THE SALE OF THE PROPERTY IS ON AN "AS IS" "WHERE IS" AND "WITH ALL FAULTS" BASIS AND SELLER MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING BUT IN NO MANNER LIMITED TO, ANY WARRANTY OF QUALITY, CONDITION, HABITABILITY, MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR USE OF THE PROPERTY, ANY IMPROVEMENTS THAT MAY BE LOCATED THEREON OR ANY ENVIRONMENTAL CONDITION OR SOILS CONDITION RELATED THERETO.** Purchaser expressly acknowledges that Purchaser has not relied on any representation or statement provided by Seller except for such limited warranties as are provided in Paragraph 10 of this Agreement. Purchaser further acknowledges that Purchaser has or will thoroughly inspect the Property, fully observe the Property's characteristics, and assess the Property for Purchaser's intended uses and purposes. By closing the transaction hereunder Purchaser agrees that, except for such limited warranties set forth in this Agreement,(i) Purchaser shall be deemed to have accepted all risks associated with any and all adverse physical conditions and characteristics, including, but not limited to, environmental and soils conditions that may or may not be revealed during the Purchaser's investigation of the Property, (ii) as between Purchaser and Seller, Purchaser shall be deemed to have accepted all costs and liability associated in any way with the soils and environmental condition of the Property, (iii) the Purchaser hereby waives, releases and discharges Seller from any and all objections, setoffs, claims, or causes of action (whether arising by statute or common law) concerning the physical characteristics and existing conditions of the Property, including, without limitation, any environmental and soils conditions or hazards, and (iv) Upon Closing, Purchaser assumes entirely all risks that any adverse matters may not have been revealed during Purchaser's investigation of the Property and nonetheless waives, relinquishes and discharges Seller from and against any and all claims, demands, causes of action, by reason of or arising from any latent or patent defect or condition of the Property. Purchaser further acknowledges and agrees that the waivers and releases contained in this Paragraph were a material factor in Seller's acceptance of the Purchase Price and that Seller is unwilling to sell the Property to Purchaser unless Seller provides such waivers and releases from Purchaser.

11. Purchaser's Representations and Warranties. Purchaser represents and warrants to Seller, and as of the Closing shall be deemed again to represent and warrant to Seller, as follows:

(a) Purchaser is a municipal corporation duly formed and validly existing under the laws of the State of Arizona and has the power and authority to enter into and perform this Agreement. Each person signing this Agreement on behalf of Seller has full power and authority to do so.

(b) The execution, delivery and performance by Purchaser of this Agreement does not, and will not, result in any violation of, or conflict with, or constitute a default under, any agreement to which Purchaser is a party or any agreement, judgment, writ, decree, order, injunction, rule or governmental regulation to which Purchaser is subject.

(c) Purchaser is not prohibited from consummating the transactions contemplated by this Agreement by any law, rule, regulation, instrument, agreement, order or judgment.

(d) There are no attachments, levies, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or pursuant to any other debtor relief laws contemplated by or pending against Purchaser.

12. Brokers. Seller has represented itself and 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 agreements and hereby indemnifies Purchaser 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.

13. Assignment. Purchaser or any assignee of Purchaser shall have the right at any time to assign this Agreement in whole or in part or any rights hereunder to any person, partnership (general or limited), corporation or other entity. If such an assignment is made, the sale made pursuant to this Agreement shall be consummated in the name of such assignee, however Seller shall retain all rights of recourse as against Purchaser. All warranties, representations, covenants, promises, indemnifications and remedies under this Agreement shall continue to be for the benefit of Purchaser and any assignee of Purchaser and this Agreement shall remain enforceable by Purchaser and any assignee of Purchaser against the Seller.

14. Waiver. The failure of any party to exercise any right hereunder, or to insist upon strict compliance by the other party, shall not constitute a waiver of either party's right to demand strict compliance with the terms and conditions of this Agreement.

15. Notice. All notices shall be in writing and shall be deemed to have been properly given on the earlier of (i) when delivered in person, (ii) when deposited in the United States Mail, with adequate postage, and sent by registered or certified mail with return receipt requested, to the appropriate party at the address set out below, (iii) when deposited with Federal Express, Express Mail or other overnight delivery service for next day delivery, addressed to the appropriate party at the address set out below, or (iv) by e-mail to the e-mail

address for each party set forth below, provided that if any such delivery is after hours or on a holiday, such delivery shall be effective at 9:00 a.m. (Arizona time) on the next following business day.

If to Escrow Agent:	Jennifer Siverio Pioneer Title Agency, Inc. 1550 East Missouri Avenue Phoenix, Arizona 85014
If to Seller:	Di-Mor Business Forms Inc. 603 South First Avenue Phoenix, Arizona 85003 Attn: Diane Morales
If to Purchaser:	Reyes Medrano, City Manager City of Tolleson 9055 West Van Buren Street Tolleson, Arizona 85353
With a copy to:	Justin Pierce, City Attorney Pierce Coleman PLLC 17851 North 85th Street, Suite 175 Scottsdale, Arizona 85255

Rejection or other refusal by the addressee to accept, or the inability to deliver because of a changed address, of which no notice was given, shall be deemed to be receipt of the notice sent. Any party shall have the right, from time to time, to change the address, or email to which notices shall be sent by giving the other party or Parties at least five (5) days prior notice of the changed address.

16. Miscellaneous.

(a) Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the substantive laws of the State of Arizona, County of Maricopa.

(b) Counterparts. This Agreement may be executed by the Parties hereto in two or more counterparts and each executed counterpart shall be considered an original.

(c) Drafting. This Agreement has been negotiated between the Parties and, for construction purposes, shall not be deemed the drafting of any one party.

(d) Entire Agreement; Amendments. This Agreement embodies the entire agreement and understanding between the Parties relating to the subject matter hereof and may not be amended, waived or discharged except by an instrument in writing executed by the party against which enforcement of such amendment, waiver, or discharge is sought. This Agreement supersedes all prior agreements and memoranda between Purchaser and Seller which relates to the Property. The invalidity of any one of the covenants, agreements, conditions or provisions of this Agreement or any portion thereof shall not affect the remaining portions thereof or any part hereof and this Agreement shall be amended to substitute a valid provision which reflects the intent of the Parties as was set forth in the invalid provision.

(e) Day for Performance. Wherever herein there is a day or time period established for performance and such day or the expiration of such time period is a Saturday, Sunday or holiday, then such time for performance shall be automatically extended to the next following business day.

(f) Time of the Essence. Time is of the essence of this Agreement.

(g) Date of this Agreement. The "date of this Agreement" or "date hereof" wherever used herein shall mean the date set forth at the head of this Agreement as its date.

(h) Parol Evidence. The terms of this Contract contain the entire agreement between the parties, and neither Seller nor Purchaser shall be bound by any prior, contemporaneous or subsequent oral agreement, condition, stipulation, representation or understanding, unless it is reduced to writing and signed by both parties.

IN WITNESS WHEREOF, the Parties have set their hands or caused duly authorized and incumbent officers to set their hands the date set forth by such party's name.

SELLER:
DI-MOR BUSINESS FORMS INC., an Arizona corporation,

____
Diane Morales, President

DATED: ____________________________

PURCHASER:
CITY OF TOLLESON,
an Arizona municipal corporation

By __________________________________
Reyes Medrano, Jr., City Manager

DATED: ____________________________

PURCHASE PRICE APPROVED:

____
Development Services Director

APPROVED AS TO FORM:

____
Justin S. Pierce, City Attorney

ACCEPTED AND APPROVED:

PIONEER TITLE AGENCY, INC.,
an Arizona corporation

By: ______________________________
Name: ______________________________
Title: ______________________________

DATED: ______________________

EXHIBIT A

Legal Description

Lots 5, 6, 7 and 8, Block 1, of ISABELL ADDITION TO THE CITY OF TOLLESON, according to the plat recorded in Book 33 of Maps, page 31, records of Maricopa County, Arizona