

**AGENDA**

**WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY  
SPECIAL MEETING**

**MONDAY, JANUARY 25, 2016**

**AT 7:00 P.M.**

- 1. Roll Call**
- 2. Consideration of Minutes of the Preceding Meetings** (December 14, 2015)
- 3. Public Hearings and New Business**
  - A. Purchase and Sale Agreement for Eaton Street Affordable Housing LLC on Lot 1, Block C-2 of the Downtown Westminster Project
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY  
MONDAY, DECEMBER 14, 2015, AT 8:06 P.M.

ROLL CALL

Present at roll call were Chairperson Herb Atchison, Vice Chairperson Alberto Garcia, and Board Members Shannon Bird, Maria De Cambra, Emma Pinter, and Anita Seitz. Board Member Bruce Baker was absent. Also present were Donald M. Tripp, Executive Director, David Frankel, Attorney, and Linda Yeager, Secretary.

CONSIDERATION OF MINUTES

It was moved by Board Member Seitz, seconded by Vice Chairperson Garcia, to approve the minutes of the meetings of October 26 and November 23, 2015, as distributed. The motion passed unanimously.

DOWNTOWN WESTMINSTER PROJECT CONSULTANT CONTRACTS

With the consent of the Board Members, Chairperson Atchison moved, seconded by Board Member Bird, to authorize the Executive Director to enter into one-year agreements with the Laramie Company and John M Mullins and Associates, Inc. to provide consultant services regarding the development of the Downtown Westminster Project, in substantially the same form as distributed, subject to an amendment that ownership of any plans, drawings, and specifications would become the property of the City. The motion carried by unanimous vote.

ADJOURNMENT

With no further business for the Authority's consideration, Chairperson Atchison adjourned the meeting at 8:10 p.m.

ATTEST:

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Secretary

# WEDA Agenda Item 3 A

## Agenda Memorandum

Westminster Economic Development Authority  
January 25, 2016



**SUBJECT:** Purchase and Sale Agreement for Eaton Street Affordable Housing LLC on Lot 1 Block C-2 of the Downtown Westminster Project

**Prepared By:** Sarah Nurmela, Co-Project Manager Downtown Westminster  
John Burke, Co-Project Manager Downtown Westminster

### Recommended WEDA Board Action

Authorize the WEDA Executive Director to sign a Purchase and Sale Agreement with Eaton Street Affordable Housing LLC for the affordable housing project on Lot 1 Block C-2 of the Downtown Westminster site in substantially the same form as the attached agreement.

### Summary Statement

- The City has developed a strategy to become a major urban center in Colorado with the creation of the Downtown Westminster project. Part of this strategy is to identify opportunities to integrate affordable and workforce housing into the fabric of the Downtown. The attached Purchase and Sale Agreement between the Westminster Economic Development Authority (WEDA) and Eaton Street Affordable Housing is the first step in accomplishing that goal.
- Lot 1 Block C-2 is the proposed site for a retail and residential wrap around WEDA's parking structure to be constructed on Lot 2 Block C-2 of the Downtown Westminster site. The proposed affordable housing project includes approximately 118 multifamily units and 25,000 square feet of ground floor retail.
- Staff has been working with the Eaton Street Affordable Housing team for several months as it prepares to submit the project to the Colorado Housing and Finance Authority (CHFA) for low-income housing tax credits (LIHTC). Submittal to CHFA does not guarantee receipt of the tax credits as the award of LIHTC is a competitive process. Receipt of the tax credits will allow the development team to provide a high quality affordable housing product to residents with annual incomes at or below 60 percent of the Average Median Income for Jefferson County.
- The Purchase and Sale Agreement (PSA) is a required component for the Eaton Street Affordable Housing team to apply for the CHFA tax credits to ensure it has the right to develop the property. Execution of the PSA is contingent on completion of a development and financing agreement, which will be pursued by WEDA and the developer if the project is awarded tax credits.

**Expenditure Required:** \$0

**Source of Funds:** Not applicable

**Policy Issue**

Should WEDA proceed with the affordable housing project by signing the Purchase and Sale Agreement with Eaton Street Affordable Housing LLC?

**Alternative**

The WEDA Board could choose not to sign this Purchase and Sale Agreement, however doing so will disqualify Eaton Street Affordable Housing LLC from the ability to compete for the low income housing tax credits through the Colorado Housing and Finance Authority. Since having affordable housing incorporated into the Downtown Westminster site is a goal for the City, Staff does not recommend this alternative.

**Background Information**

Staff was authorized by City Council to begin the design/build construction project for the parking structure on Lot 2 Block C-2 of the Downtown Westminster site on October 26, 2015. At the same time, Staff began discussions with the Eaton Street Affordable Housing LLC development team with the possibility of developing a mixed-use affordable housing development “wrap” on two sides of the parking structure. Constructing affordable housing within the central core of Downtown as part of the first phase of development would be a key opportunity to reinforce City Council’s vision for diverse housing in the Downtown. The City has expressed a desire for the project to be well-integrated physically and visually into the Downtown, with a quality of design and materiality that would be consistent with other development.

The proposed affordable housing project includes approximately 118 multifamily units and 25,000 square feet of ground floor retail use. The project would provide affordable rents at 60% of the Jefferson County Average Median Income (AMI), with up to eight of the units at 30% of the AMI and designed to Americans with Disabilities Act (ADA) standards, including some units for the hearing impaired. The table below illustrates the applicable incomes and rents as of 2015 that this project would serve:

**Project Incomes and Rents (2015 Values)**

	60% AMI		30% AMI	
	Single Household	4-Person Household	Single Household	4-Person Household
Income	\$33,600	\$47,940	\$16,800	\$23,970
Monthly Rent	\$900	\$1,246	\$450	\$623

Over the past several months, Staff has worked closely with the development team and the design-build team for the parking garage to incorporate the proposed affordable housing project into the parking structure design. Both design teams have been working well together and are confident the two projects can be constructed seamlessly and provide an integrated project to serve this area. It should be noted that the design for the wrap will also accommodate the potential of a market rate housing project should the development team not receive the affordable housing tax credits through CHFA.

Financing of the affordable housing project is contingent on receipt of State and federal 4% low income housing tax credits. Receipt of the tax credits through CHFA requires that the project be affordable (defined as 30% of monthly income) to residents making no more than 60% of the County AMI, as described above. In order to qualify for the tax credits, the development team must provide evidence of control of the project property. The Purchase and Sale Agreement provides this evidence and thus is a required element of the team’s CHFA application.

Application to CHFA for the 4% low income housing tax credits is due on February 1, 2016. Once the development team submits to CHFA, it will compete with all the other projects submitted and will be notified in April or May of this year as to whether this project has been selected to receive the tax credits.

The attached Purchase and Sale Agreement (Attachment A) is based on a standard form agreement and will be contingent upon completion of a development agreement with WEDA. If and when the development team is awarded the tax credits, WEDA will work to complete the development agreement and financing plan for the project, which will be subject to WEDA Board approval.

The Eaton Street Affordable Housing Project meets the goals of Vibrant, Inclusive and Engaged Community and Beautiful, Desirable, Safe and Environmentally Responsible City by creating a high quality housing project and expanded range of affordability for future residents of the new Downtown Westminster.

Respectfully submitted,

Donald M. Tripp  
Executive Director

Attachments: Purchase and Sale Agreement  
Exhibit A

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.  
(CBS3-6-15) (Mandatory 1-16)

**THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.**

**CONTRACT TO BUY AND SELL REAL ESTATE  
(COMMERCIAL)**  
 **Property with No Residences**  
 **Property with Residences-Residential Addendum Attached**

Date: \_\_\_\_\_

**AGREEMENT**

**1. AGREEMENT.** Buyer agrees to buy and Seller agrees to sell, the Property described below on the terms and conditions set forth in this contract (Contract).

**2. PARTIES AND PROPERTY.**

**2.1. Buyer.** Buyer, \_\_\_\_\_, will take title to the Property described below as  **Joint Tenants**  **Tenants In Common**  **Other** \_\_\_\_\_.

**2.2. No Assignability.** This Contract **Is Not** assignable by Buyer unless otherwise specified in **Additional Provisions**.

**2.3. Seller.** Seller, \_\_\_\_\_, is the current owner of the Property described below.

**2.4. Property.** The Property is the following legally described real estate in the County of \_\_\_\_\_, Colorado:

known as No. \_\_\_\_\_,  
Street Address City State Zip

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto, and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

~~**2.5. Inclusions.** The Purchase Price includes the following items (Inclusions):~~

~~**2.5.1. Inclusions - Attached.** If attached to the Property on the date of this Contract, the following items are included unless excluded under **Exclusions**: lighting, heating, plumbing, ventilating and air conditioning units, TV antennas, inside telephone, network and coaxial (cable) wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories), garage door openers (including \_\_\_\_\_ remote controls). If checked, the following are owned by the Seller and included (leased items should be listed under **Due Diligence Documents**):  **None**  **Solar Panels**  **Water Softeners**  **Security Systems**  **Satellite Systems** (including satellite dishes). If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.~~

~~**2.5.2. Inclusions - Not Attached.** If on the Property, whether attached or not, on the date of this Contract, the following items are included unless excluded under **Exclusions**: storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings and treatments, curtain rods, drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, carbon monoxide alarms, smoke/fire detectors and all keys.~~

~~**2.5.3. Personal Property - Conveyance.** Any personal property must be conveyed at Closing by Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except \_\_\_\_\_ . Conveyance of all personal property will be by bill of sale or other applicable legal instrument.~~

~~**2.5.4. Other Inclusions.** The following items, whether fixtures or personal property, are also included in the Purchase Price:~~

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~~2.5.5. Parking and Storage Facilities.  Use Only  Ownership of the following parking facilities: \_\_\_\_\_; and  Use Only  Ownership of the following storage facilities: \_\_\_\_\_.~~

~~2.6. Exclusions. The following items are excluded (Exclusions):~~

~~2.7. Water Rights, Well Rights, Water and Sewer Taps.~~

~~2.7.1. Deeded Water Rights. The following legally described water rights:~~

~~Any deeded water rights will be conveyed by a good and sufficient \_\_\_\_\_ deed at Closing.~~

~~2.7.2. Other Rights Relating to Water. The following rights relating to water not included in §§ 2.7.1, 2.7.3, 2.7.4 and 2.7.5, will be transferred to Buyer at Closing:~~

~~2.7.3. Well Rights. Seller agrees to supply required information to Buyer about the well. Buyer understands that if the well to be transferred is a “Small Capacity Well” or a “Domestic Exempt Water Well,” used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is \_\_\_\_\_.~~

~~2.7.4. Water Stock Certificates. The water stock certificates to be transferred at Closing are as follows:~~

~~2.7.5. Conveyance. If Buyer is to receive any rights to water pursuant to § 2.7.2 (Other Rights Relating to Water), § 2.7.3 (Well Rights), or § 2.7.4 (Water Stock Certificates), Seller agrees to convey such rights to Buyer by executing the applicable legal instrument at Closing.~~

**3. DATES AND DEADLINES.**

Item No.	Reference	Event	Date or Deadline
1	§ 4.3	Alternative Earnest Money Deadline	
		<b>Title</b>	
2	§ 8.1	Record Title Deadline	
3	§ 8.2	Record Title Objection Deadline	
4	§ 8.3	Off-Record Title Deadline	
5	§ 8.3	Off-Record Title Objection Deadline	
6	§ 8.4	Title Resolution Deadline	
7	§ 8.6	Right of First Refusal Deadline	
		<b>Owners' Association</b>	
8	§ 7.3	Association Documents Deadline	
9	§ 7.4	Association Documents Objection Deadline	
		<b>Seller's Property Disclosure</b>	
10	§ 10.1	Seller's Property Disclosure Deadline	
		<b>Loan and Credit</b>	
11	§ 5.1	Loan Application Deadline	
12	§ 5.2	Loan Objection Deadline	
13	§ 5.3	Buyer's Credit Information Deadline	
14	§ 5.3	Disapproval of Buyer's Credit Information Deadline	
15	§ 5.4	Existing Loan Documents Deadline	
16	§ 5.4	Existing Loan Documents Objection Deadline	
17	§ 5.4	Loan Transfer Approval Deadline	
18	§ 4.7	Seller or Private Financing Deadline	

		<b>Appraisal</b>	
19	§ 6.2	Appraisal Deadline	
20	§ 6.2	Appraisal Objection Deadline	
21	§ 6.2	Appraisal Resolution Deadline	
		<b>Survey</b>	
22	§ 9.1	New ILC or New Survey Deadline	
23	§ 9.3	New ILC or New Survey Objection Deadline	
24	§ 9.4	New ILC or New Survey Resolution Deadline	
		<b>Inspection and Due Diligence</b>	
25	§ 10.3	Inspection Objection Deadline	
26	§ 10.3	Inspection Resolution Deadline	
27	§ 10.5	Property Insurance Objection Deadline	
28	§ 10.6	Due Diligence Documents Delivery Deadline	
29	§ 10.6	Due Diligence Documents Objection Deadline	
30	§ 10.6	Due Diligence Documents Resolution Deadline	
31	§ 10.6	Environmental Inspection Objection Deadline	
32	§ 10.6	ADA Evaluation Objection Deadline	
33	§ 10.7	Conditional Sale Deadline	
34	§ 11.1	Tenant Estoppel Statements Deadline	
35	§ 11.2	Tenant Estoppel Statements Objection Deadline	
		<b>Closing and Possession</b>	
36	§ 12.3	Closing Date	
37	§ 17	Possession Date	
38	§ 17	Possession Time	
39	§ 28	<b>Acceptance Deadline Date</b>	
40	§ 28	<b>Acceptance Deadline Time</b>	

86 **3.1. Applicability of Terms.** Any box checked in this Contract means the corresponding provision applies. Any box,  
87 blank or line in this Contract left blank or completed with the abbreviation "N/A", or the word "Deleted" means such provision,  
88 including any deadline, is not applicable and the corresponding provision of this Contract to which reference is made is deleted. If  
89 no box is checked in a provision that contains a selection of "None", such provision means that "None" applies.

90 The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract.

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92 **4. PURCHASE PRICE AND TERMS.**

93 **4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount		Amount	
1	§ 4.1	Purchase Price	\$			
2	§ 4.3	Earnest Money			\$	
3	§ 4.5	New Loan			\$	
4	§ 4.6	Assumption Balance			\$	
5	§ 4.7	Private Financing			\$	
6	§ 4.7	Seller Financing			\$	
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9	§ 4.4	Cash at Closing			\$	
10		<b>TOTAL</b>	\$		\$	

94 ~~**4.2. Seller Concession.** At Closing, Seller will credit to Buyer \$ \_\_\_\_\_ (Seller Concession). The Seller~~  
95 ~~Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender~~  
96 ~~and is included in the Closing Statement or Closing Disclosure, at Closing. Examples of allowable items to be paid for by the~~  
97 ~~Seller Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items~~  
98 ~~and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or~~  
99 ~~credit Buyer elsewhere in this Contract.~~

100 **4.3. Earnest Money.** The Earnest Money set forth in this section, in the form of a \_\_\_\_\_, will be  
101 payable to and held by \_\_\_\_\_ (Earnest Money Holder), in its trust account, on behalf of



102 both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually  
103 agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to  
104 the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has  
105 agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing  
106 to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the  
107 Earnest Money Holder in this transaction will be transferred to such fund.

108 **4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if other than at the  
109 time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

110 **4.3.2. Return of Earnest Money.** If Buyer has a Right to Terminate and timely terminates, Buyer is entitled to  
111 the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 25 and, except as provided  
112 in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute  
113 and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three  
114 days of Seller's receipt of such form.

115 **4.4. Form of Funds; Time of Payment; Available Funds.**

116 **4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing  
117 and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified  
118 check, savings and loan teller's check and cashier's check (Good Funds).

119 **4.4.2. Time of Payment; Available Funds.** All funds, including the Purchase Price to be paid by Buyer, must be  
120 paid before or at Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at  
121 Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT**. Buyer represents that Buyer, as of the date of this  
122 Contract,  **Does**  **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount  
123 stated as Cash at Closing in § 4.1.

124 **4.5. New Loan.**

125 **4.5.1. Buyer to Pay Loan Costs.** Buyer, except as provided in § 4.2, if applicable, must timely pay Buyer's loan  
126 costs, loan discount points, prepaid items and loan origination fees, as required by lender.

127 **4.5.2. Buyer May Select Financing.** Buyer may pay in cash or select financing appropriate and acceptable to  
128 Buyer, including a different loan than initially sought, except as restricted in § 4.5.3 or § 30 (Additional Provisions).

129 **4.5.3. Loan Limitations.** Buyer may purchase the Property using any of the following types of loans:  
130  **Conventional**  **Other** \_\_\_\_\_.

131 **4.6. Assumption.** Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption  
132 Balance set forth in § 4.1, presently payable at \$ \_\_\_\_\_ per \_\_\_\_\_ including principal and interest  
133 presently at the rate of \_\_\_\_\_% per annum, and also including escrow for the following as indicated:  **Real Estate Taxes**  
134  **Property Insurance Premium** and  \_\_\_\_\_.

135 Buyer agrees to pay a loan transfer fee not to exceed \$ \_\_\_\_\_. At the time of assumption, the new interest rate will  
136 not exceed \_\_\_\_\_% per annum and the new payment will not exceed \$ \_\_\_\_\_ per \_\_\_\_\_ principal and  
137 interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance,  
138 which causes the amount of cash required from Buyer at Closing to be increased by more than \$ \_\_\_\_\_, then Buyer has  
139 the Right to Terminate under § 25.1, on or before **Closing Date**, based on the reduced amount of the actual principal balance.

140 Seller  **Will**  **Will Not** be released from liability on said loan. If applicable, compliance with the requirements for  
141 release from liability will be evidenced by delivery  on or before **Loan Transfer Approval Deadline**  at **Closing** of an  
142 appropriate letter of commitment from lender. Any cost payable for release of liability will be paid by \_\_\_\_\_  
143 \_\_\_\_\_ in an amount not to exceed \$ \_\_\_\_\_.

144 **4.7. Seller or Private Financing.**

145 **WARNING:** Unless the transaction is exempt, federal and state laws impose licensing, other requirements and restrictions on  
146 sellers and private financiers. Contract provisions on financing and financing documents, unless exempt, should be prepared by a  
147 licensed Colorado attorney or licensed mortgage loan originator. Brokers should not prepare or advise the parties on the specifics  
148 of financing, including whether or not a party is exempt from the law.

149 **4.7.1. Seller Financing.** If Buyer is to pay all or any portion of the Purchase Price with Seller financing,   
150 **Buyer**  **Seller** will deliver the proposed Seller financing documents to the other party on or before \_\_\_\_\_ days before  
151 **Seller or Private Financing Deadline**.

152 **4.7.1.1. Seller May Terminate.** If Seller is to provide Seller financing, this Contract is conditional upon  
153 Seller determining whether such financing is satisfactory to the Seller, including its payments, interest rate, terms, conditions, cost  
154 and compliance with the law. Seller has the Right to Terminate under § 25.1, on or before **Seller or Private Financing Deadline**,  
155 if such Seller financing is not satisfactory to the Seller, in Seller's sole subjective discretion.

156 **4.7.2. Buyer May Terminate.** If Buyer is to pay all or any portion of the Purchase Price with Seller or private  
157 financing, this Contract is conditional upon Buyer determining whether such financing is satisfactory to the Buyer, including its  
158 availability, payments, interest rate, terms, conditions and cost. Buyer has the Right to Terminate under § 25.1, on or before **Seller**  
159 **or Private Financing Deadline**, if such Seller or private financing is not satisfactory to Buyer, in Buyer's sole subjective  
160 discretion.

162 **5. FINANCING CONDITIONS AND OBLIGATIONS.**

163 **5.1. Loan Application.** ~~If Buyer is to pay all or part of the Purchase Price by obtaining one or more new loans (New~~  
 164 ~~Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such lender, must make an application verifiable~~  
 165 ~~by such lender, on or before **Loan Application Deadline** and exercise reasonable efforts to obtain such loan or approval.~~

166 **5.2. Loan Objection.** ~~If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional~~  
 167 ~~upon Buyer determining, in Buyer's sole subjective discretion, whether the New Loan is satisfactory to Buyer, including its~~  
 168 ~~availability, payments, interest rate, terms, conditions, and cost of such New Loan. This condition is for the sole benefit of Buyer.~~  
 169 ~~Buyer has the Right to Terminate under § 25.1, on or before **Loan Objection Deadline**, if the New Loan is not satisfactory to~~  
 170 ~~Buyer, in Buyer's sole subjective discretion. **IF SELLER IS NOT IN DEFAULT AND DOES NOT TIMELY RECEIVE**~~  
 171 ~~**BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY WILL BE NONREFUNDABLE**, except~~  
 172 ~~as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).~~

173 **5.3. Credit Information.** ~~If an existing loan is not to be released at Closing, this Contract is conditional (for the sole~~  
 174 ~~benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval will be at Seller's sole~~  
 175 ~~subjective discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's Credit Information Deadline**, at Buyer's~~  
 176 ~~expense, information and documents (including a current credit report) concerning Buyer's financial, employment and credit~~  
 177 ~~condition; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; and (3) any such information~~  
 178 ~~and documents received by Seller must be held by Seller in confidence, and not released to others except to protect Seller's interest~~  
 179 ~~in this transaction. If the Cash at Closing is less than as set forth in § 4.1 of this Contract, Seller has the Right to Terminate under~~  
 180 ~~§ 25.1, on or before Closing. If Seller disapproves of Buyer's financial ability or creditworthiness, in Seller's sole subjective~~  
 181 ~~discretion, Seller has the Right to Terminate under § 25.1, on or before **Disapproval of Buyer's Credit Information Deadline**.~~

182 **5.4. Existing Loan Review.** ~~If an existing loan is not to be released at Closing, Seller must deliver copies of the loan~~  
 183 ~~documents (including note, deed of trust, and any modifications) to Buyer by **Existing Loan Documents Deadline**. For the sole~~  
 184 ~~benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer~~  
 185 ~~has the Right to Terminate under § 25.1, on or before **Existing Loan Documents Objection Deadline**, based on any~~  
 186 ~~unsatisfactory provision of such loan documents, in Buyer's sole subjective discretion. If the lender's approval of a transfer of the~~  
 187 ~~Property is required, this Contract is conditional upon Buyer's obtaining such approval without change in the terms of such loan,~~  
 188 ~~except as set forth in § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will~~  
 189 ~~terminate on such deadline. Seller has the Right to Terminate under § 25.1, on or before Closing, in Seller's sole subjective~~  
 190 ~~discretion, if Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth~~  
 191 ~~in § 4.6.~~

192 **6. APPRAISAL PROVISIONS.**

193 **6.1. Appraisal Definition.** ~~An "Appraisal" is an opinion of value prepared by a licensed or certified appraiser, engaged~~  
 194 ~~on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised Value). The Appraisal may also set~~  
 195 ~~forth certain lender requirements, replacements, removals or repairs necessary on or to the Property as a condition for the Property~~  
 196 ~~to be valued at the Appraised Value.~~

197 **6.2. Appraisal Condition.** ~~The applicable appraisal provision set forth below applies to the respective loan type set forth~~  
 198 ~~in § 4.5.3, or if a cash transaction (i.e. no financing), § 6.2.1 applies.~~

199 **6.2.1. Conventional/Other.** ~~Buyer has the right to obtain an Appraisal. If the Appraised Value is less than the~~  
 200 ~~Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline** Buyer may, on or before **Appraisal**~~  
 201 ~~**Objection Deadline**, notwithstanding § 8.3 or § 13:~~

202 **6.2.1.1. Notice to Terminate.** ~~Notify Seller in writing that this Contract is terminated; or~~

203 **6.2.1.2. Appraisal Objection.** ~~Deliver to Seller a written objection accompanied by either a copy of the~~  
 204 ~~Appraisal or written notice from lender that confirms the Appraisal Value is less than the Purchase Price.~~

205 **6.2.1.3. Appraisal Resolution.** ~~If an Appraisal Objection is received by Seller, on or before **Appraisal**~~  
 206 ~~**Objection Deadline**, and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Appraisal Resolution**~~  
 207 ~~**Deadline** (§ 3), this Contract will terminate on the **Appraisal Resolution Deadline**, unless Seller receives Buyer's written~~  
 208 ~~withdrawal of the Appraisal Objection before such termination, i.e., on or before expiration of **Appraisal Resolution Deadline**.~~  
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210 **6.3. Lender Property Requirements.** ~~If the lender imposes any requirements, replacements, removals or repairs,~~  
 211 ~~including any specified in the Appraisal (Lender Requirements) to be made to the Property (e.g., roof repair, repainting), beyond~~  
 212 ~~those matters already agreed to by Seller in this Contract, Seller has the Right to Terminate under § 25.1, (notwithstanding § 10 of~~  
 213 ~~this Contract), on or before three days following Seller's receipt of the Lender Requirements, in Seller's sole subjective discretion.~~  
 214 ~~Seller's Right to Terminate in this § 6.3 does not apply if, on or before any termination by Seller pursuant to this § 6.3: (1) the~~  
 215 ~~parties enter into a written agreement regarding the Lender Requirements; or (2) the Lender Requirements have been completed; or~~  
 216 ~~(3) the satisfaction of the Lender Requirements is waived in writing by Buyer.~~

217 ~~6.4. Cost of Appraisal. Cost of the Appraisal to be obtained after the date of this Contract must be timely paid by~~   
218 ~~Buyer  Seller. The cost of the Appraisal may include any and all fees paid to the appraiser, appraisal management company,~~  
219 ~~lender's agent or all three.~~

221 ~~7. OWNERS' ASSOCIATION. This Section is applicable if the Property is located within a Common Interest~~  
222 ~~Community and subject to such declaration.~~

223 ~~7.1. Common Interest Community Disclosure. THE PROPERTY IS LOCATED WITHIN A COMMON~~  
224 ~~INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY. THE OWNER OF~~  
225 ~~THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS' ASSOCIATION FOR THE~~  
226 ~~COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE~~  
227 ~~ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL~~  
228 ~~OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY~~  
229 ~~ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE~~  
230 ~~ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE~~  
231 ~~DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE~~  
232 ~~OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE~~  
233 ~~ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION.~~  
234 ~~PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE~~  
235 ~~FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY~~  
236 ~~READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF~~  
237 ~~THE ASSOCIATION.~~

238 ~~7.2. Owners' Association Documents. Owners' Association Documents (Association Documents) consist of the~~  
239 ~~following:~~

240 ~~7.2.1. All Owners' Association declarations, articles of incorporation, bylaws, articles of organization, operating~~  
241 ~~agreements, rules and regulations, party wall agreements;~~

242 ~~7.2.2. Minutes of most recent annual owners' meeting;~~

243 ~~7.2.3. Minutes of any directors' or managers' meetings during the six-month period immediately preceding the~~  
244 ~~date of this Contract. If none of the preceding minutes exist, then the most recent minutes, if any (§§ 7.2.1, 7.2.2 and 7.2.3,~~  
245 ~~collectively, Governing Documents); and~~

246 ~~7.2.4. The most recent financial documents which consist of: (1) annual and most recent balance sheet, (2) annual~~  
247 ~~and most recent income and expenditures statement, (3) annual budget, (4) reserve study, and (5) notice of unpaid assessments, if~~  
248 ~~any (collectively, Financial Documents).~~

249 ~~7.3. Association Documents to Buyer.~~

250 ~~7.3.1. Seller to Provide Association Documents. Seller is obligated to provide to Buyer the Association~~  
251 ~~Documents, at Seller's expense, on or before Association Documents Deadline. Seller authorizes the Association to provide the~~  
252 ~~Association Documents to Buyer, at Seller's expense. Seller's obligation to provide the Association Documents is fulfilled upon~~  
253 ~~Buyer's receipt of the Association Documents, regardless of who provides such documents.~~

254 ~~7.4. Conditional on Buyer's Review. Buyer has the right to review the Association Documents. Buyer has the Right to~~  
255 ~~Terminate under § 25.1, on or before Association Documents Objection Deadline, based on any unsatisfactory provision in any~~  
256 ~~of the Association Documents, in Buyer's sole subjective discretion. Should Buyer receive the Association Documents after~~  
257 ~~Association Documents Deadline, Buyer, at Buyer's option, has the Right to Terminate under § 25.1 by Buyer's Notice to~~  
258 ~~Terminate received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive~~  
259 ~~the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after Closing~~  
260 ~~Date, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to~~  
261 ~~Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory, and Buyer waives any~~  
262 ~~Right to Terminate under this provision, notwithstanding the provisions of § 8.6 (Right of First Refusal or Contract Approval).~~

263 **8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.**

264 **8.1. Evidence of Record Title.**

265  **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the title insurance  
266 company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline**, Seller must furnish  
267 to Buyer, a current commitment for an owner's title insurance policy (Title Commitment), in an amount equal to the Purchase  
268 Price, or if this box is checked,  an **Abstract of Title** certified to a current date. Seller will cause the title insurance policy to be  
269 issued and delivered to Buyer as soon as practicable at or after Closing.

270  **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance  
271 company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must  
272 furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase  
273 Price.

274 If neither box in § 8.1.1 or § 8.1.2 is checked, § 8.1.1 applies.



275 **8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment  Will  Will Not contain Owner's  
276 Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard  
277 exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics'  
278 liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded), and (6)  
279 unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC  
280 will be paid by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  Other \_\_\_\_\_.  
281 Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over  
282 any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined  
283 below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to  
284 object under § 8.4 (Right to Object to Title, Resolution).

285 **8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats, declarations,  
286 covenants, conditions and restrictions burdening the Property, and (2) copies of any other documents (or, if illegible, summaries of  
287 such documents) listed in the schedule of exceptions (Exceptions) in the Title Commitment furnished to Buyer (collectively, Title  
288 Documents).

289 **8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**, copies of all Title  
290 Documents. This requirement pertains only to documents as shown of record in the office of the clerk and recorder in the county  
291 where the Property is located. The cost of furnishing copies of the documents required in this Section will be at the expense of the  
292 party or parties obligated to pay for the owner's title insurance policy.

293 ~~**8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title covering all or any  
294 portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title Deadline**.~~

295 **8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the  
296 Title Documents as set forth in § 8.4 (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**.  
297 Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding  
298 § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or  
299 Title Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title  
300 Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be  
301 delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object  
302 to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or  
303 Title Documents, or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of  
304 Title Objection, pursuant to this § 8.2 (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.4  
305 (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents  
306 required by § 8.1 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection  
307 by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title  
308 Commitment and Title Documents as satisfactory.

309 **8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing  
310 surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without  
311 limitation, governmental improvements approved, but not yet installed) or other title matters (including, without limitation, rights  
312 of first refusal and options) not shown by public records, of which Seller has actual knowledge (Off-Record Matters). Buyer has  
313 the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g.,  
314 unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any  
315 unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2 and § 13), in Buyer's  
316 sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline**. If an Off-Record Matter  
317 is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer  
318 to review and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection  
319 pursuant to this § 8.3 (Off-Record Title), any title objection by Buyer and this Contract are governed by the provisions set forth in  
320 § 8.4 (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by  
321 the applicable deadline specified above, Buyer accepts title subject to such rights, if any, of third parties of which Buyer has actual  
322 knowledge.

323 **8.4. Right to Object to Title, Resolution.** Buyer's right to object to any title matters includes, but is not limited to those  
324 matters set forth in §§ 8.2 (Record Title), 8.3 (Off-Record Title) and 13 (Transfer of Title), in Buyer's sole subjective discretion. If  
325 Buyer objects to any title matter, on or before the applicable deadline, Buyer has the following options:

326 **8.4.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any title matter (Notice  
327 of Title Objection) on or before the applicable deadline, and if Buyer and Seller have not agreed to a written settlement thereof on  
328 or before **Title Resolution Deadline**, this Contract will terminate on the expiration of **Title Resolution Deadline**, unless Seller  
329 receives Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such  
330 items and waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the  
331 Record Title Deadline or the Off-Record Title Deadline, or both, are extended to the earlier of Closing or ten days after receipt of  
332 the applicable documents by Buyer, pursuant to § 8.2 (Record Title) or § 8.3 (Off-Record Title), the Title Resolution Deadline also  
333 will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or

334 **8.4.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under § 25.1, on or  
335 before the applicable deadline, based on any unsatisfactory title matter, in Buyer's sole subjective discretion.

336 **8.5. Special Taxing Districts.** SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION  
337 INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE  
338 PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK  
339 FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE  
340 CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH  
341 INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE  
342 SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY  
343 TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY OBTAINING  
344 FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND  
345 RECORDER, OR THE COUNTY ASSESSOR.

346 Buyer has the Right to Terminate under § 25.1, on or before **Off-Record Title Objection Deadline**, based on any  
347 unsatisfactory effect of the Property being located within a special taxing district, in Buyer's sole subjective discretion.

348 ~~**8.6. Right of First Refusal or Contract Approval.** If there is a right of first refusal on the Property or a right to approve  
349 this Contract, Seller must promptly submit this Contract according to the terms and conditions of such right. If the holder of the  
350 right of first refusal exercises such right or the holder of a right to approve disapproves this Contract, this Contract will terminate.  
351 If the right of first refusal is waived explicitly or expires, or the Contract is approved, this Contract will remain in full force and  
352 effect. Seller must promptly notify Buyer in writing of the foregoing. If expiration or waiver of the right of first refusal or approval  
353 of this Contract has not occurred on or before **Right of First Refusal Deadline**, this Contract will then terminate.~~

354 **8.7. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed  
355 carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property,  
356 including, without limitation, boundary lines and encroachments, set-back requirements, area, zoning, building code violations,  
357 unrecorded easements and claims of easements, leases and other unrecorded agreements, water on or under the Property, and  
358 various laws and governmental regulations concerning land use, development and environmental matters.

359 **8.7.1. OIL, GAS, WATER AND MINERAL DISCLOSURE.** THE SURFACE ESTATE OF THE  
360 PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE, AND TRANSFER  
361 OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE OR  
362 WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS,  
363 GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH INTERESTS  
364 MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE  
365 MINERAL ESTATE, OIL, GAS OR WATER.

366 **8.7.2. SURFACE USE AGREEMENT.** THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO  
367 ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A  
368 MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND  
369 RECORDER.

370 **8.7.3. OIL AND GAS ACTIVITY.** OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT  
371 TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION  
372 OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING  
373 OF CURRENT WELLS, AND GAS GATHERING AND PROCESSING FACILITIES.

374 **8.7.4. ADDITIONAL INFORMATION.** BUYER IS ENCOURAGED TO SEEK ADDITIONAL  
375 INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING  
376 DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL  
377 AND GAS CONSERVATION COMMISSION.

378 **8.7.5. Title Insurance Exclusions.** Matters set forth in this Section, and others, may be excepted, excluded from,  
379 or not covered by the owner's title insurance policy.

380 **8.8. Consult an Attorney.** Buyer is advised to timely consult legal counsel with respect to all such matters as there are  
381 strict time limits provided in this Contract (e.g., **Record Title Objection Deadline** and **Off-Record Title Objection Deadline**).

## 382 9. NEW ILC, NEW SURVEY.

383 **9.1. New ILC or New Survey.** If the box is checked, a  **New Improvement Location Certificate (New ILC)**  
384  **New Survey** in the form of \_\_\_\_\_ is required and the following will apply:

385 **9.1.1. Ordering of New ILC or New Survey.**  **Seller**  **Buyer** will order the New ILC or New Survey. The  
386 New ILC or New Survey may also be a previous ILC or survey that is in the above-required form, certified and updated as of a  
387 date after the date of this Contract.

388 **9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be paid, on or  
389 before Closing, by:  **Seller**  **Buyer** or:

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**9.1.3. Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or the provider of the opinion of title if an Abstract of Title), ~~and \_\_\_\_\_~~ will receive a New ILC or New Survey on or before **New ILC or New Survey Deadline**.

**9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by the surveyor to all those who are to receive the New ILC or New Survey.

**9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion, waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.

**9.3. New ILC or New Survey Objection.** Buyer has the right to review and object to the **New ILC or New Survey**. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**, notwithstanding § 8.3 or § 13:

**9.3.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or

**9.3.2. New ILC or New Survey Objection.** Deliver to Seller a written description of any matter that was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires Seller to correct.

**9.3.3. New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received by Seller, on or before **New ILC or New Survey Objection Deadline**, and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the **New ILC or New Survey Objection** before such termination, i.e., on or before expiration of **New ILC or New Survey Resolution Deadline**.

**DISCLOSURE, INSPECTION AND DUE DILIGENCE**

**10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY AND DUE DILIGENCE.**

~~**10.1. Seller's Property Disclosure.** On or before Seller's **Property Disclosure Deadline**, Seller agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller to Seller's actual knowledge, current as of the date of this Contract.~~

**10.2. Disclosure of Latent Defects; Present Condition.** Seller must disclose to Buyer any latent defects actually known by Seller. Seller agrees that disclosure of latent defects will be in writing. Except as otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property to Buyer in an "As Is" condition, "Where Is" and "With All Faults."

**10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right to have inspections (by one or more third parties, personally or both) of the Property and Inclusions (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions, (3) service to the Property (including utilities and communication services), systems and components of the Property (e.g., heating and plumbing), (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Inspection Objection Deadline**:

**10.3.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or

**10.3.2. Inspection Objection.** Deliver to Seller a written description of any unsatisfactory physical condition that Buyer requires Seller to correct.

**10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before **Inspection Objection Deadline**, and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination, i.e., on or before expiration of **Inspection Resolution Deadline**.

**10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other written agreement between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against any such liability, damage, cost or expense, or to enforce this section, including Seller's reasonable attorney fees, legal fees and expenses. The provisions of this section survive the termination of this Contract. This § 10.4 does not apply to items performed pursuant to an Inspection Resolution.

**10.5. Insurability.** Buyer has the right to review and object to the availability, terms and conditions of and premium for property insurance (Property Insurance). Buyer has the Right to Terminate under § 25.1, on or before **Property Insurance Objection Deadline**, based on any unsatisfactory provision of the Property Insurance, in Buyer's sole subjective discretion.

**10.6. Due Diligence.**

449 **10.6.1. Due Diligence Documents.** If the respective box is checked, Seller agrees to deliver copies of the following  
450 documents and information pertaining to the Property (Due Diligence Documents) to Buyer on or before **Due Diligence**  
451 **Documents Delivery Deadline:**

- 452  **10.6.1.1.** All contracts relating to the operation, maintenance and management of the Property;  
453  **10.6.1.2.** Property tax bills for the last \_\_\_\_\_ years;  
454  **10.6.1.3.** As-built construction plans to the Property and the tenant improvements, including  
455 architectural, electrical, mechanical, and structural systems, engineering reports, and permanent Certificates of Occupancy, to the  
456 extent now available;  
457  **10.6.1.4.** A list of all Inclusions to be conveyed to Buyer;  
458  **10.6.1.5.** Operating statements for the past \_\_\_\_\_ years;  
459  **10.6.1.6.** A rent roll accurate and correct to the date of this Contract;  
460  **10.6.1.7.** All current leases, including any amendments or other occupancy agreements, pertaining to the  
461 Property. Those leases or other occupancy agreements pertaining to the Property that survive Closing are as follows (Leases):  
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464  **10.6.1.8.** A schedule of any tenant improvement work Seller is obligated to complete but has not yet  
465 been completed and capital improvement work either scheduled or in process on the date of this Contract;  
466  **10.6.1.9.** All insurance policies pertaining to the Property and copies of any claims which have been  
467 made for the past \_\_\_\_\_ years;  
468  **10.6.1.10.** Soils reports, surveys and engineering reports or data pertaining to the Property (if not  
469 delivered earlier under § 8.3);  
470  **10.6.1.11.** Any and all existing documentation and reports regarding Phase I and II environmental reports,  
471 letters, test results, advisories, and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or  
472 other toxic, hazardous or contaminated substances, and/or underground storage tanks and/or radon gas. If no reports are in Seller's  
473 possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;  
474  **10.6.1.12.** Any *Americans with Disabilities Act* reports, studies or surveys concerning the compliance of  
475 the Property with said Act;  
476  **10.6.1.13.** All permits, licenses and other building or use authorizations issued by any governmental  
477 authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations,  
478 if any; and  
479  **10.6.1.14.** Other documents and information:  
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484 **10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and object to Due  
485 Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are unsatisfactory in Buyer's sole subjective  
486 discretion, Buyer may, on or before **Due Diligence Documents Objection Deadline:**

- 487 **10.6.2.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or  
488 **10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description of any  
489 unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.  
490 **10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents Objection is received  
491 by Seller, on or before **Due Diligence Documents Objection Deadline**, and if Buyer and Seller have not agreed in writing to a  
492 settlement thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence**  
493 **Documents Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection  
494 before such termination, i.e., on or before expiration of **Due Diligence Documents Resolution Deadline**.

495 **10.6.3. Zoning.** Buyer has the Right to Terminate under § 25.1, on or before **Due Diligence Documents Objection**  
496 **Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any governmental agency with jurisdiction over  
497 the Property, in Buyer's sole subjective discretion.

498 **10.6.4. Due Diligence – Environmental, ADA.** Buyer has the right to obtain environmental inspections of the  
499 Property including Phase I and Phase II Environmental Site Assessments, as applicable.  Seller  Buyer will order or provide  
500 **Phase I Environmental Site Assessment, Phase II Environmental Site Assessment** (compliant with most current version of the  
501 applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or \_\_\_\_\_, at the expense  
502 of  Seller  Buyer (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an evaluation  
503 whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations  
504 must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants'  
505 business uses of the Property, if any.

506 If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the  
507 **Environmental Inspection Objection Deadline** will be extended by \_\_\_\_\_ days (Extended Environmental Inspection Objection



508 Deadline) and if such Extended Environmental Inspection Objection Deadline extends beyond the **Closing Date**, the **Closing Date**  
509 will be extended a like period of time. In such event,  **Seller**  **Buyer** must pay the cost for such Phase II Environmental Site  
510 Assessment.

511 Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.5, Buyer has the  
512 Right to Terminate under § 25.1, on or before **Environmental Inspection Objection Deadline**, or if applicable, the Extended  
513 Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole  
514 subjective discretion.

515 Buyer has the Right to Terminate under § 25.1, on or before **ADA Evaluation Objection Deadline**, based on any  
516 unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

~~517 **10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of that certain property  
518 owned by Buyer and commonly known as \_\_\_\_\_, Buyer has the Right to Terminate  
519 under § 25.1 effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such  
520 property is not sold and closed by such deadline. This § 10.7 is for the sole benefit of Buyer. If Seller does not receive Buyer's  
521 Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to Terminate under this provision.~~

~~522 **10.8. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of the Leases to be assigned  
523 to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the  
524 Lease or other writing received by Buyer. Seller will not amend, alter, modify, extend or cancel any of the Leases nor will Seller  
525 enter into any new leases affecting the Property without the prior written consent of Buyer, which consent will not be unreasonably  
526 withheld or delayed.~~

## 527 ~~11. TENANT ESTOPPEL STATEMENTS.~~

~~528 **11.1. Tenant Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel Statements.  
529 Seller must obtain and deliver to Buyer on or before **Tenant Estoppel Statements Deadline**, statements in a form and substance  
530 reasonably acceptable to Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease  
531 stating:~~

~~532 **11.1.1.** The commencement date of the Lease and scheduled termination date of the Lease;~~

~~533 **11.1.2.** That said Lease is in full force and effect and that there have been no subsequent modifications or  
534 amendments;~~

~~535 **11.1.3.** The amount of any advance rentals paid, rent concessions given, and deposits paid to Seller;~~

~~536 **11.1.4.** The amount of monthly (or other applicable period) rental paid to Seller;~~

~~537 **11.1.5.** That there is no default under the terms of said Lease by landlord or occupant; and~~

~~538 **11.1.6.** That the Lease to which the Estoppel is attached is a true, correct and complete copy of the Lease demising  
539 the premises it describes.~~

~~540 **11.2. Tenant Estoppel Statements Objection.** Buyer has the Right to Terminate under § 25.1, on or before **Tenant**  
541 **Estoppel Statements Objection Deadline**, based on any unsatisfactory Estoppel Statement, in Buyer's sole subjective discretion,  
542 or if Seller fails to deliver the Estoppel Statements on or before **Tenant Estoppel Statements Deadline**. Buyer also has the  
543 unilateral right to waive any unsatisfactory Estoppel Statement.  
544~~

## 545 **CLOSING PROVISIONS**

### 546 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

547 **12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing Company to  
548 enable the Closing Company to prepare and deliver documents required for Closing to Buyer and Seller and their designees. If  
549 Buyer is obtaining a new loan to purchase the Property, Buyer acknowledges Buyer's lender is required to provide the Closing  
550 Company, in a timely manner, all required loan documents and financial information concerning Buyer's new loan. Buyer and  
551 Seller will furnish any additional information and documents required by Closing Company that will be necessary to complete this  
552 transaction. Buyer and Seller will sign and complete all customary or reasonably required documents at or before Closing.

553 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions  **Are**  **Are Not** executed with  
554 this Contract.

555 **12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the date specified as  
556 the **Closing Date** or by mutual agreement at an earlier date. The hour and place of Closing will be as designated by  
557 \_\_\_\_\_.

558 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality, and extent of service vary  
559 between different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

560 **13. TRANSFER OF TITLE.** Subject to tender of payment at Closing as required herein and compliance by Buyer with the  
561 other terms and provisions hereof, Seller must execute and deliver a good and sufficient \_\_\_\_\_ deed  
562 to Buyer, at Closing, conveying the Property free and clear of all taxes except the general taxes for the year of Closing. Except as



563 provided herein, title will be conveyed free and clear of all liens, including any governmental liens for special improvements  
564 installed as of the date of Buyer's signature hereon, whether assessed or not. Title will be conveyed subject to:

565 **13.1.** Those specific Exceptions described by reference to recorded documents as reflected in the Title Documents  
566 accepted by Buyer in accordance with **Record Title**,

567 **13.2.** Distribution utility easements (including cable TV),

568 **13.3.** Those specifically described rights of third parties not shown by the public records of which Buyer has actual  
569 knowledge and which were accepted by Buyer in accordance with **Off-Record Title** and **New ILC or New Survey**,

570 **13.4.** Inclusion of the Property within any special taxing district, and

571 **13.5.** Any special assessment if the improvements were not installed as of the date of Buyer's signature hereon, whether  
572 assessed prior to or after Closing, and

573 **13.6.** Other \_\_\_\_\_.

574 **14. PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid will be paid at or before Closing from the  
575 proceeds of this transaction or from any other source.

576 **15. CLOSING COSTS, CLOSING FEE, ASSOCIATION FEES AND TAXES.**

577 **15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs and all other items required  
578 to be paid at Closing, except as otherwise provided herein.

579 **15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by  Buyer  Seller  
580  One-Half by Buyer and One-Half by Seller  Other \_\_\_\_\_.

581 ~~**15.3. Status Letter and Record Change Fees.** Any fees incident to the issuance of Association's statement of  
582 assessments (Status Letter) must be paid by  None  Buyer  Seller  One-Half by Buyer and One-Half by Seller.  
583 Any record change fee assessed by the Association including, but not limited to, ownership record transfer fees regardless of name  
584 or title of such fee (Association's Record Change Fee) must be paid by  None  Buyer  Seller  One-Half by Buyer  
585 and One-Half by Seller.~~

586 **15.4. Local Transfer Tax.**  The Local Transfer Tax of \_\_\_\_\_% of the Purchase Price must be paid at Closing by  
587  None  Buyer  Seller  One-Half by Buyer and One-Half by Seller.

588 ~~**15.5. Private Transfer Fee.** Private transfer fees and other fees due to a transfer of the Property, payable at Closing, such  
589 as community association fees, developer fees and foundation fees, must be paid at Closing by  None  Buyer  Seller   
590 One-Half by Buyer and One-Half by Seller. The Private Transfer fee, whether one or more, is for the following association(s):  
591 \_\_\_\_\_ in the total amount of \_\_\_\_\_% of the Purchase Price or \$\_\_\_\_\_.~~

592 ~~**15.6. Water Transfer Fees.** The Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed  
593 \$\_\_\_\_\_ for:~~

594  Water Stock/Certificates  Water District  
595  Augmentation Membership  Small Domestic Water Company  \_\_\_\_\_

596 and must be paid at Closing by  None  Buyer  Seller  One-Half by Buyer and One-Half by Seller

597 ~~**15.7. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction must be paid when due by  
598  None  Buyer  Seller  One-Half by Buyer and One-Half by Seller.~~

599 **16. PRORATIONS.** The following will be prorated to the **Closing Date**, except as otherwise provided:

600 ~~**16.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the  
601 year of Closing, based on  Taxes for the Calendar Year Immediately Preceding Closing  Most Recent Mill Levy and  
602 Most Recent Assessed Valuation, adjusted by any applicable qualifying seniors property tax exemption, qualifying disabled  
603 veteran exemption or  Other \_\_\_\_\_.~~

604 ~~**16.2. Rents.** Rents based on  Rents Actually Received  Accrued. At Closing, Seller will transfer or credit to  
605 Buyer the security deposits for all Leases assigned, or any remainder after lawful deductions, and notify all tenants in writing of  
606 such transfer and of the transferee's name and address. Seller must assign to Buyer all Leases in effect at Closing and Buyer must  
607 assume Seller's obligations under such Leases.~~

608 ~~**16.3. Association Assessments.** Current regular Association assessments and dues (Association Assessments) paid in  
609 advance will be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred  
610 maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents.  
611 Buyer acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital.  
612 Any special assessment assessed prior to **Closing Date** by the Association will be the obligation of  Buyer  Seller. Except  
613 however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature  
614 hereon, whether assessed prior to or after Closing, will be the obligation of Seller. Seller represents that the Association  
615 Assessments are currently payable at approximately \$\_\_\_\_\_ per \_\_\_\_\_ and that there are no unpaid regular  
616 or special assessments against the Property except the current regular assessments and \_\_\_\_\_. Such  
617 assessments are subject to change as provided in the Governing Documents. Seller agrees to promptly request the Association to  
618 deliver to Buyer before **Closing Date** a current Status Letter.~~

619 **16.4. Other Prorations.** ~~Water and sewer charges, propane, interest on continuing loan, and \_\_\_\_\_.~~  
620 **16.5. Final Settlement.** Unless otherwise agreed in writing, these prorations are final.

621 **17. POSSESSION.** Possession of the Property will be delivered to Buyer on **Possession Date** at **Possession Time**, subject to  
622 the Leases as set forth in § 10.6.1.7.

623  
624 If Seller, after Closing, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable  
625 to Buyer for payment of \$\_\_\_\_\_ per day (or any part of a day notwithstanding § 18.1) from **Possession Date** and  
626 **Possession Time** until possession is delivered.

627 

<b>GENERAL PROVISIONS</b>
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628 **18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.**

629 **18.1. Day.** As used in this Contract, the term “day” means the entire day ending at 11:59 p.m., United States Mountain  
630 Time (Standard or Daylight Savings as applicable).

631 **18.2. Computation of Period of Days, Deadline.** In computing a period of days, when the ending date is not specified,  
632 the first day is excluded and the last day is included (e.g., three days after MEC). If any deadline falls on a Saturday, Sunday or  
633 federal or Colorado state holiday (Holiday), such deadline  **Will**  **Will Not** be extended to the next day that is not a  
634 Saturday, Sunday or Holiday. Should neither box be checked, the deadline will not be extended.

635 **19. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND**  
636 **WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be delivered in the  
637 condition existing as of the date of this Contract, ordinary wear and tear excepted.

638 **19.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of  
639 loss prior to Closing in an amount of not more than ten percent of the total Purchase Price (Property Damage), and if the repair of  
640 the damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance  
641 proceeds, will use Seller’s reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under  
642 § 25.1, on or before **Closing Date** if the Property is not repaired before **Closing Date** or if the damage exceeds such sum. Should  
643 Buyer elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance  
644 proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus  
645 the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event  
646 Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the  
647 Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if  
648 acceptable to Seller’s insurance company and Buyer’s lender; or (2) the parties may enter into a written agreement prepared by the  
649 parties or their attorney requiring the Seller to escrow at Closing from Seller’s sale proceeds the amount Seller has received and  
650 will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the  
651 insurance claim.

652 **19.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication  
653 services), system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged  
654 between the date of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement  
655 of such Inclusion or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the  
656 maintenance or replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance  
657 proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or  
658 replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 25.1, on or before  
659 **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or  
660 Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit, Seller’s right for any claim against the  
661 Association, if any, will survive Closing. Seller and Buyer are aware of the existence of pre-owned home warranty programs that  
662 may be purchased and may cover the repair or replacement of such Inclusions.

663 **19.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may  
664 result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation  
665 action. Buyer has the Right to Terminate under § 25.1, on or before **Closing Date**, based on such condemnation action, in Buyer’s  
666 sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and  
667 Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value  
668 of the Property or Inclusions but such credit will not include relocation benefits or expenses, or exceed the Purchase Price.

669 **19.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to walk through the  
670 Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

671 **20. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller acknowledge  
672 that the respective broker has advised that this Contract has important legal consequences and has recommended the examination  
673 of title and consultation with legal and tax or other counsel before signing this Contract.

674 **21. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines in this Contract.  
675 This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid, honored  
676 or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting  
677 party has the following remedies:

678 **21.1. If Buyer is in Default:**

679  **21.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money (whether or not paid  
680 by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is not a penalty, and the Parties agree  
681 the amount is fair and reasonable. Seller may recover such additional damages as may be proper. Alternatively, Seller may elect  
682 to treat this Contract as being in full force and effect and Seller has the right to specific performance or damages, or both.

683 **21.1.2. Liquidated Damages, Applicable. This § 21.1.2 applies unless the box in § 21.1.1. is checked.** Seller  
684 may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller, and retained by Seller. It is  
685 agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES, and not a penalty, which amount the parties agree  
686 is fair and reasonable and (except as provided in §§ 10.4, 22, 23 and 24), said payment of Earnest Money is SELLER'S ONLY  
687 REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific  
688 performance and additional damages.

689 **21.2. If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received  
690 hereunder will be returned and Buyer may recover such damages as may be proper. Alternatively, Buyer may elect to treat this  
691 Contract as being in full force and effect and Buyer has the right to specific performance or damages, or both.

692 **22. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event of any arbitration  
693 or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must award to the prevailing party all  
694 reasonable costs and expenses, including attorney fees, legal fees and expenses.

695 **23. MEDIATION.** If a dispute arises relating to this Contract, (whether prior to or after Closing) and is not resolved, the parties  
696 must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps  
697 to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is  
698 binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator  
699 and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire  
700 dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at  
701 that party's last known address (physical or electronic as provided in § 27). Nothing in this Section prohibits either party from  
702 filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation.  
703 This section will not alter any date in this Contract, unless otherwise agreed.

704 **24. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must release the Earnest  
705 Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding  
706 the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole  
707 subjective discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and  
708 deposit Earnest Money into a court of competent jurisdiction, (Earnest Money Holder is entitled to recover court costs and  
709 reasonable attorney and legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money  
710 Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the  
711 lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is  
712 authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit, and has  
713 not interpleaded the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order  
714 of the Court. The parties reaffirm the obligation of **Mediation**. This Section will survive cancellation or termination of this  
715 Contract.

716 **25. TERMINATION.**

717 **25.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to Terminate), the  
718 termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written  
719 notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or  
720 before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as  
721 satisfactory and waives the Right to Terminate under such provision.

722 **25.2. Effect of Termination.** In the event this Contract is terminated, all Earnest Money received hereunder will be  
723 returned and the parties are relieved of all obligations hereunder, subject to §§ 10.4, 22, 23 and 24.

724 **26. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS.** This Contract, its exhibits and specified  
725 addenda, constitute the entire agreement between the parties relating to the subject hereof, and any prior agreements pertaining  
726 thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the  
727 terms of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right  
728 or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the  
729 same. Any successor to a Party receives the predecessor's benefits and obligations of this Contract.

730 **27. NOTICE, DELIVERY, AND CHOICE OF LAW.**

731 **27.1. Physical Delivery and Notice.** Any document, or notice to Buyer or Seller must be in writing, except as provided in  
732 § 27.2, and is effective when physically received by such party, any individual named in this Contract to receive documents or  
733 notices for such party, the Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after  
734 Closing must be received by the party, not Broker or Brokerage Firm).

735 **27.2. Electronic Notice.** As an alternative to physical delivery, any notice, may be delivered in electronic form to Buyer  
736 or Seller, any individual named in this Contract to receive documents or notices for such party, the Broker or Brokerage Firm of  
737 Broker working with such party (except any notice or delivery after Closing must be received by the party; not Broker or  
738 Brokerage Firm) at the electronic address of the recipient by facsimile, email or \_\_\_\_\_.

739 **27.3. Electronic Delivery.** Electronic Delivery of documents and notice may be delivered by: (1) email at the email  
740 address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to  
741 access the documents, or (3) facsimile at the Fax No. of the recipient.

742 **27.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed in accordance with  
743 the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property  
744 located in Colorado.

745 **28. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing, by Buyer and  
746 Seller, as evidenced by their signatures below, and the offering party receives notice of such acceptance pursuant to § 27 on or  
747 before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between  
748 Seller and Buyer. A copy of this Contract may be executed by each party, separately, and when each party has executed a copy  
749 thereof, such copies taken together are deemed to be a full and complete contract between the parties.

750 **29. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith including, but not  
751 limited to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations, Title**  
752 **Insurance, Record Title and Off-Record Title, New ILC, New Survey and Property Disclosure, Inspection, Indemnity,**  
753 **Insurability and Due Diligence.**

754 **ADDITIONAL PROVISIONS AND ATTACHMENTS**

755 **30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate  
756 Commission.)

757  
758 Closing is subject to Buyer obtaining financing as proposed in Buyer's Low Income  
759 Housing Tax Credit Application to CHFA.  
760  
761  
762  
763  
764

765 **31. ATTACHMENTS.**

766 **31.1.** The following attachments **are a part** of this Contract:  
767  
768  
769  
770  
771

772 **31.2.** The following disclosure forms **are attached** but are **not** a part of this Contract:  
773  
774  
775  
776



\_\_\_\_\_  
\_\_\_\_\_  
Phone No.: \_\_\_\_\_  
Fax No.: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**34. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**

(To be completed by Broker working with Seller)

Broker  **Does**  **Does Not** acknowledge receipt of Earnest Money deposit and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Seller as a  **Seller's Agent**  **Buyer's Agent**  **Transaction-Broker** in this transaction.

This is a **Change of Status**.

Brokerage Firm's compensation or commission is to be paid by  **Seller**  **Buyer**  **Other** \_\_\_\_\_.

Brokerage Firm's Name: \_\_\_\_\_  
Broker's Name: \_\_\_\_\_

\_\_\_\_\_  
Broker's Signature Date

Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone No.: \_\_\_\_\_  
Fax No.: \_\_\_\_\_  
Email Address: \_\_\_\_\_

784

Exhibit A

This legal description with exhibit will be handed out Monday night at the Council meeting.