

AGENDA

WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY SPECIAL MEETING

**MONDAY, FEBRUARY 29, 2016
AT 7:00 P.M.**

- 1. Roll Call**
- 2. Consideration of Minutes of the Preceding Meeting** (February 8, 2016)
- 3. Public Hearings and New Business**
 - A. Development Agreement with Sherman Associates for Block B-1/C-1
 - B. Purchase and Sale Agreement for Hancoop @ Westminster, LLC
- 4. Adjournment**

WEDA: CITY OF WESTMINSTER, COLORADO
MINUTES OF THE WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY
MONDAY, FEBRUARY 8, 2016, AT 8:28 P.M.

ROLL CALL

Present at roll call were Chairperson Herb Atchison, Vice Chairperson Alberto Garcia, and Board Members Bruce Baker, Shannon Bird, Maria De Cambra, Emma Pinter, and Anita Seitz. Also present were Stephen P. Smithers, Acting Executive Director, David Frankel, Attorney, and Michelle Parker, Secretary.

CONSIDERATION OF MINUTES

It was moved by Board Member Bird, seconded by Board Member Baker, to approve the minutes of the previous meeting of January 25, 2016, as presented. The motion passed unanimously.

PURCHASE AND SALE AGREEMENT FOR EATON STREET AFFORDABLE HOUSING LLC

Board Member Pinter moved, seconded by Board Member Seitz, to 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 presented to the Board. After comments and discussion by the Board, the motion passed unanimously.

ADJOURNMENT

With no further business for the Authority's consideration, Chairperson Atchison adjourned the meeting at 8:30 p.m.

ATTEST:

Chairperson

Secretary

WEDA Agenda Item 3 A

Agenda Memorandum

Westminster Economic Development Authority
February 29, 2016



SUBJECT: Development Agreement with Sherman Associates for Block B-1/C-1

Prepared By: Sarah Nurmela, Downtown Westminster Real Estate & Development Manager
Jody Andrews, Deputy Executive Director

Recommended WEDA Board Action

Authorize the Executive Director to execute a Development Agreement with Sherman Associates and the City of Westminster in substantially the same form as attached for the development of the B-1/C-1 block in Downtown Westminster.

Summary Statement

- The City is committed to a strategy to become the next urban center on Colorado's Front Range with the creation of the Downtown Westminster project. Establishing a strong, cohesive presence in the first phase of development in the Downtown is essential to meeting this vision.
- Sherman Associates plays a major role in this first phase of development by bringing over 1,000 new residents and over 60,000 square feet of retail use to the site with development on blocks B-1/C-1 and B-3.
- The block B-1/C-1 Project, which includes 282 residential units and approximately 25,000 square feet of retail, will lead the B-3 project by three to six months.
- Staff has reached agreement with Sherman Associates on the terms for development of the B-1/C-1 block.
- The attached Development Agreement is a three-party agreement between WEDA, the City, and Sherman Associates.
- The financial terms of the agreement include both WEDA and City financial participation in the form of development assistance funds and City fee rebates and credits, with a combined maximum contribution to the \$83,000,000 B-1/C-1 Project of \$14,371,000.
- The Development Agreement includes a Schedule of Performance that outlines required activities for both parties, including but not limited to a Purchase and Sale Agreement, Development Agreement for block B-3, Finance Agreement, and construction of public and private improvements.

Expenditure Required: Total anticipated expenditure of \$14,371,000

Source of Funds: Projected 2015 Carryover funds of \$5,000,000; General Capital Improvement Fund - WURP Phase I Public Improvements of \$1,656,000; and rebates and credits of City fees of \$7,715,000

Policy Issue

Should WEDA enter into an agreement with the City and Sherman Associates and commit financial assistance for the development of approximately 2.7 acres of land on the B-1/C-1 block in the Downtown Westminster site?

Alternatives

WEDA could choose to not enter into a development agreement with the City and Sherman Associates and to not proceed with the development of block B-1/C-1. This alternative is not recommended. In not proceeding with the B-1/C-1 project, the opportunity to establish a critical mass of on-site population and physical presence in the first phase of development in Downtown would be significantly impacted, particularly given that development of the B-1/C-1 block is tied to development of the B-3 block in the center of the Downtown site. The combined Sherman Associates developments on blocks B-1/C-1 and B-3 would bring over 1,000 residents to the site as well as over 60,000 square feet of retail space. Not proceeding with the block B-1/C-1 development would also delay the collection of property tax revenue in the new Downtown General Improvement District.

WEDA could also choose to instruct Staff to try to negotiate a different contribution package with Sherman Associates, or try to find a different developer for the B-1/C-1 and B-3 blocks. These alternatives are not recommended as Staff believes the Sherman Associates proposal offers the best value by achieving a desirable urban form of development with an aggressive schedule and an attractive City/WEDA contribution of \$14,371,000 for the B-1/C-1 block: approximately 17.3% of the total project cost.

Background Information

The City has been actively pursuing development of the Downtown Westminster site since 2009, including negotiating with multiple master developers. In the spring of 2015 the City implemented a block-by-block development approach to the Downtown site in order to facilitate multiple smaller-scale developments at a faster pace and with more City control. This approach has succeeded in attracting multiple development partners and a well-defined first phase of development as shown in **Attachment A**. Sherman Associates has a significant role in this first phase by providing approximately 510 residential units and 62,000 square feet of retail space on blocks B-1/C-1 and B-3. Combined, development on these key blocks comprises five acres of the 9.5-acre first phase of development and over 60 percent of the total first phase planned building area.

Sherman Associates will develop two discrete projects, block B-1/C-1 and block B-3. Both projects achieve the intensity, scale, and design quality envisioned for Downtown Westminster. The projects are also in alignment with the City's sustainability and housing goals, setting a baseline for future development. The projects will be certified LEED Silver and will provide 10 percent of residential units as workforce housing, with rents meeting no more than 80 percent of the Average Median Income (AMI) for Jefferson County. The B-1/C-1 block will lead the B-3 block by approximately three to six months, with completion of both blocks anticipated within a 36-month timeframe.

Block B-1/C-1 Project Description

Block B-1/C-1 is proposed as a five-story mixed-use building with approximately 282 residential units above approximately 25,000 square feet of ground floor retail. Retail uses will face both Westminster Boulevard and Eaton Street as well as South Park, with outdoor eating areas visible to 88th Avenue. The scale and intensity of the project requires a mix of underground and structured parking to meet the City's vision and urban form standards. With this project's prominent location, the proposed scale and mix of uses is key to establishing a strong, urban statement at the edge of Downtown Westminster.

B-1/C-1 Development Agreement

Sherman Associates and WEDA signed a mutual Letter of Intent on August 4, 2015, followed by an Exclusive Negotiating Agreement on November 5, 2015. Over the past several months, staff and Sherman Associates have come to agreement on key project terms addressing architectural design, development program, and financing, as outlined in the attached B-1/C-1 Development Agreement (**Attachment B**). The following is a description of the major project terms.

Development Program and Design

- The development program will consist of a mixed use development with approximately 25,000 square feet of retail space and up to 282 residential units.
- The development will extend over blocks B-1 and C-1 in a five-story structure with retail space at the ground level and residential units above. Parking will be integrated into the building in a below- and above-grade structure wrapped by building space along Westminster Boulevard, 88th Avenue, and Eaton Street.
- Parking will be consistent with the Downtown Specific Plan, with 1.25 spaces per residential unit and 3.0 spaces per 1,000 square feet of retail space. The concept plan includes approximately 430 parking spaces, with 353 serving residents and the remainder (at minimum, 40 spaces) to serve retail patrons. Any retail parking not provided on-site will be served on a non-exclusive basis by the City's public parking facilities, including the block C-2 garage.
- Ten percent of the total residential units of the project will be maintained as workforce housing available to individuals and families making 80 percent or less of the AMI for a period of 30 years.
- The developer will coordinate and collaborate with WEDA to establish a retail mix that contributes to the overall success of the Downtown Westminster site.
- The developer agrees to acceptable uses established by the City for the initial retail tenant mix and to coordinate and collaborate with WEDA and the City with respect to prospective retail tenants.
- The project will achieve LEED Silver certification.
- Prior to submittal of an Official Development Plan (ODP), the developer will prepare schematic design drawings at its sole cost to refine construction cost estimates and the Final Architectural Plan.
- Approval of an ODP is required, which will ensure consistency with City Code and the Downtown Specific Plan.

Developer Commitments

- The developer will purchase and develop block B-1/C-1 in accordance with the Schedule of Performance, Final Architectural Plan, and ODP per the development program and design terms of the agreement.
- A development agreement for the block B-3 project will be negotiated and executed by June 1, 2016.
- Based on the Final Architectural Plan, the developer will solicit revised construction cost estimates to determine the Estimated Total Development Cost, which will serve as a basis for refinement of the Final Financial Agreement.
- The developer will deposit \$100,000 of Earnest Money upon execution of a Purchase and Sale Agreement.

City and WEDA Commitments

- WEDA commits to acquiring fee simple title of the JC Penney leasehold of all property to be conveyed to or serve the B-1/C-1 project.
- All property necessary to construct City Public Improvements will be dedicated and such improvements will be constructed and maintained to serve the B-1/C-1 project. These improvements include utilities, roadways and alleys, park improvements and streetscape.
- The City and WEDA will use best efforts to implement the Downtown Specific Plan.

- WEDA will establish a Development Assistance Fund in accordance with the financial terms of the project to provide assistance for the development of the B-1/C-1 project.
- The City agrees to rebate approximately \$7,715,000 in fees in relation to the B-1/C-1 project.

Financial Terms

The basis of the financial terms of the agreement is an initial Estimated Total Development Cost for the B-1/C-1 project of \$83,000,000. Based on this development cost, WEDA's and the City's combined estimated financial contribution to the project is \$14,371,000. This contribution is a combination of funds deposited into the Development Assistance Fund (maximum \$6,656,000) and fee rebates and credits totaling approximately \$7,715,000 as described above. If the Estimated Total Development Cost is reduced through the schematic design process, any reductions in excess of \$2,000,000 will reduce the City's financial commitment by \$2 for each \$3 in reduction.

Distribution of WEDA funds, rebates, and credits will be based on the terms established in a final Finance Agreement, which will set a draw-down schedule for the Development Assistance Fund and terms for submittal and refund of City fees. Upon completion of construction of the B-1/C-1 project, the City and WEDA will share in proceeds of any refinancing or sale of the project within the first five years. Distribution to the City/WEDA will be based on proceeds net of post-closing equity or in excess of the Final Total Development Cost on a 1:3 basis (\$1 will be distributed to the City/WEDA for every \$2 to the developer).

The financial terms of the B-1/C-1 Development Agreement will be refined and the WEDA, City, and Sherman Associates will enter into a Preliminary Finance Agreement in accordance with the Development Agreement's Schedule of Performance. A final Finance Agreement will be executed no later than 60 days prior to closing.

Schedule of Performance

The developer agrees to provide WEDA with regular monthly progress reports to ensure consistency with the Schedule of Performance. Key dates include but are not limited to:

- Purchase and Sale Agreement..... May 1, 2016
- B-3 Development Agreement..... June 1, 2016
- Execute Finance Agreement..... January 1, 2017
- Project Closing Date..... February 28, 2017
- Commencement of Construction..... March 15, 2017
- Completion of Construction..... December 31, 2018

Events of Default

The Development Agreement establishes events of default both before closing and after closing. Events of default are based on failure of any party to perform any required action or activity specified in the Schedule of Performance. Key events of default include failure to approve and enter into the B-3 Development Agreement by June 1, 2016, the final Finance Agreement, and failure of any party to construct improvements (public or private) in accordance with the Schedule of Performance. Specific remedies for default are outlined in the agreement, which include City and/or WEDA withdrawal of funds from the Development Assistance Fund, termination of the agreement by any party, and an option for WEDA to repossess should Sherman Associates fail to construct the B-1/C-1 project in accordance with the Schedule of Performance (absent Unavoidable Delays and extensions). Additional events of default and remedies for all parties are described in the Development Agreement.

Long Term Financial Framework

The project financing framework established in the B-1/C-1 Development Agreement will ultimately be self-supporting upon completion and occupation of the Sherman Associates developments on blocks B-1/C-1 and B-3. Annual revenues to the City will include Property Tax Increment, Sales and Use Tax Increment, General Improvement District revenues, and other Operating Revenues such as Public Safety, POST and Specific Ownership taxes. The initial investment in the B-1/C-1 project drives additional

investment by Sherman Associates in the form of the B-3 project, as well as future developers as they build off of the success and critical mass established with the first phase of development in Downtown.

Strategic Plan

As stated above, the opportunity to achieve a significant intensity and quality of development in the initial phase of the Downtown site serves the City's vision as an Urban Center and particularly emphasizes four of the City Council's Strategic Plan goals, including *Vibrant, Inclusive and Engaged Community; Beautiful, Desirable, Safe and Environmentally Responsible City; and Dynamic, Diverse Economy.*

Respectfully submitted,

Donald M. Tripp
Executive Director

Attachments: Attachment A – First Phase Illustrative
Attachment B – Development Agreement with Sherman Associates for Block B-1/C-1

Attachment A – First Phase Illustrative



DEVELOPMENT AGREEMENT

This Development Agreement (this “**Agreement**”), dated as of _____, 2016 (the “**Effective Date**”), is made between City of Westminster, a home-rule municipality under the laws of the State of Colorado (the “**City**”), Westminster Economic Development Authority, a Colorado urban renewal authority organized under the laws of the State of Colorado (the “**Authority**”), and Sherman Associates, Inc., a Minnesota corporation (“**Sherman**”).

RECITALS

Capitalized terms used but not defined in these Recitals have the meanings set forth in Section 1.2 of this Agreement. This Agreement is made with respect to the following facts:

A. The Authority is a body corporate and has been duly created, organized, established and authorized to transact business and exercise its powers as an urban renewal authority within the City, all under and pursuant to the Act. On April 13, 2009, the City Council adopted Resolution No. 12, Series 2009, approving the Westminster Center Urban Reinvestment Plan, which was amended on October 28, 2013 (as amended, the “**Plan**”). Among other things, the Plan authorizes the Authority to undertake the redevelopment of the Plan Area (the “**Downtown Westminster Project**”).

B. The Authority is the owner of certain real property within the Plan Area consisting of approximately 108 acres bounded generally by 88th Avenue, Harlan Street, 92nd Avenue and U.S. 36, in Westminster, Colorado (the “**Plan Area**”). The Plan Area is depicted on the “**Plan Area Map**,” attached as Exhibit A hereto and made a part hereof.

C. The goal of the Downtown Westminster Project is to realize the vision of a high density, urban scale, mixed-use development that will serve as a downtown for Westminster and as a regional and community-wide destination. The Downtown Westminster Project is intended to create a vibrant public realm with high intensity mixed uses in multiple story structures to include retail, office, hotel, civic, and residential uses, and a bustling active environment during day and evening hours, consistent with the vision and goals of the Downtown Specific Plan.

D. Through this Agreement, the City and the Authority desire to engage and assist Sherman, as part of the Downtown Westminster Project, in developing a mixed use, urban scale development to be constructed on Blocks B-1 and C-1 on the Plan Area Map (the “**B-1/C-1 Project**”).

E. The B-1/C-1 Project is the first step toward realization of the Downtown Westminster Project. The B-1/C-1 Project will consist of approximately 25,000 square feet of retail space, 12 rental townhouses (approximately 14,400 sq. ft.), and 271 rental residential units plus ancillary common areas and parking (approximately 450,000 sq. ft.) (the “**B-1/C-1 Improvements**”) as specified in the ODP and constructed in substantial conformity with the Final Architectural Plan.

F. The Authority and the City have undertaken and are currently constructing public improvements consisting of public streets, parks, plazas, utility and other infrastructure improvements identified in Exhibit D (the “**City Public Improvements**”) necessary for the realization of the project vision.

G. Sherman is prepared to purchase Blocks B-1 and C-1 and to commence construction of the B-1/C-1 Improvements shortly thereafter in conformance with the Schedule of Performance.

H. Sherman is prepared to develop and construct the B-1/C-1 Improvements in reliance on and subject to the Authority's and City's construction of the City Public Improvements and the provision of financial assistance provided for in this Agreement.

I. Sherman, the Authority and the City will enter into a Finance Agreement prior to the Closing of the sale of Blocks B-1 and C-1 that will provide a comprehensive agreement regarding Sherman's equity and debt financing, the agreed-upon development and construction costs, the collection and the amount and timing of the City's and the Authority's distribution of funds to support the B-1/C-1 Project, and other related financial matters.

J. The Authority will actively market and assist in the development of the remaining parcels in the Plan Area, which will complement the B-1/C-1 Project in quality, uses and timing.

K. The City and the Authority have determined that it is in the best interests of the City and its inhabitants to assist in the development of the B-1/C-1 Project in order to remedy blighted conditions within and around the Plan Area pursuant to the Plan, as set forth in this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the premises herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS AND GENERAL PROVISIONS.

Section 1.1 Internal References. Unless otherwise stated, references in this Agreement to Recitals, Sections, subsections, or Exhibits are to this Agreement.

Section 1.2 Definitions

(a) **“Act”** means the Colorado Urban Renewal Law, constituting sections 31-25-101, *et seq.*, C.R.S.

(b) **“Affiliate”** means any entity of which Sherman has the majority of equity or majority of voting interest and is the managing member or managing partner.

(c) **“Agreement”** has the meaning set forth in the first paragraph of this Agreement.

(d) **“Authority”** has the meaning set forth in the first paragraph of this Agreement.

(e) **“B-1/C-1 Project”** means the development and construction of a mixed use, urban scale development consisting of the B-1/C-1 Improvements.

(f) **“B-1/C-1 Improvements”** means approximately 25,000 square feet of retail space, 12 rental townhouses (approximately 14,400 sq. ft.), and 271 rental residential units plus ancillary common areas and parking (approximately 450,000 sq. ft.) to be constructed by Sherman on Blocks B-1 and C-1 in accordance with the Downtown Specific Plan, the Architectural Plan, and this Agreement, as specified in the applicable ODP.

(g) **“Block”** means a parcel of land located in the Plan Area as designated on Exhibit A.

(h) **“City Council”** means the city council of the City of Westminster, Colorado.

(i) **“City Public Improvements”** has the meaning set forth in Recital F, which will be constructed and maintained by the City or the Downtown GID.

(j) **“City Use Tax”** means the use tax levied by the City under Title IV, Chapter 2 of the Westminster Municipal Code.

(k) **“Closing”** means the Authority’s conveyance of Title to Blocks B-1 and C-1 to Sherman.

(l) **“Closing Conditions”** means the conditions for Closing set forth in Sections 5.3 of this Agreement and in the Purchase and Sale Agreement.

(m) **“Closing Date”** means the date on which the Closing is to occur, as specified on the Schedule of Performance, subject to the conditions set forth in Section 5.3, as such date may be extended pursuant to the Purchase and Sale Agreement.

(n) **“Commencement of Construction”** means Sherman’s commencement of physical construction, including excavation and vertical construction, of the B-1/C-1 Improvements with the intention to continue the work until the B-1/C-1 Improvements are completed.

(o) **“Completion of Construction”** means the completion of all or substantially all of the B-1/C-1 Improvements in accordance with this Agreement, and when applicable, the receipt of a temporary certificate of occupancy or a certificate of occupancy (whichever is earlier) from the City.

(p) **“DAF Maximum Amount”** means the maximum amount available in the Development Assistance Fund, which amount is estimated as of the Effective Date to be

\$6,590,000, which amount will be finally determined and documented in the Finance Agreement pursuant to Section 6.2 herein.

- (q) **“Deposit”** has the meaning set forth in Section 5.2.
- (r) **“Development Assistance Fund”** means the fund established pursuant to Section 6.2.
- (s) **“Downtown GID”** means the City of Westminster Downtown General Improvement District.
- (t) **“Downtown Specific Plan”** means the plan and regulations governing the approval for the land uses, densities, design standards, and other requirements applicable to the development of the Plan Area adopted November 24, 2014, pursuant to Ordinance No. 3745.
- (u) **“Effective Date”** has the meaning set forth in the first paragraph of this Agreement.
- (v) **“Environmental Laws”** means all federal, state and local environmental, health and safety statutes, as may from time to time be in effect, including but not limited to the Resource Conservation and Recovery Act (as amended by the Hazardous and Solid Waste Amendments of 1984), 42 U.S.C. § 6901, *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (as amended by the Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. § 9601, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Air Act, 42 U.S.C. § 7401, *et seq.*; the Safe Drinking Water Act, 42 U.S.C. § 300h, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; all applicable state counterparts to such federal legislation and any regulations, guidelines, directives or other interpretations of any such enactment, all as amended from time to time, or any other applicable State or Federal environmental protection law or regulation.
- (w) **“Estimated Total Development Cost”** means the estimated development cost of the B-1/C-1 Project, estimated as of the Effective Date to be \$83,000,000.00, which amount will be adjusted at the time of the Finance Agreement pursuant to Section 6.2 herein. Costs include acquisition, construction and site work, commercial tenant improvements, interim costs, soft costs, development overhead, financing costs, and project reserves.
- (x) **“Event of Default”** means an Authority/City Event of Default Before Closing, a Sherman Event of Default Before Closing, an Authority/City Event of Default Following Closing, or a Sherman Event of Default Following Closing.
- (y) **“Final Architectural Plan”** means the final approved plan for the B-1/C-1 Improvements based on the Preliminary Architectural Plan, which will generally depict the location and extent of uses, building footprints, three-dimensional building massing and articulation, location and number of building entries, and composition of exterior materials.

(z) **“Final Total Development Cost”** means the development cost of the B-1/C-1 at Completion of Construction. Costs include acquisition, construction and site work, commercial tenant improvements, interim costs, soft costs, development overhead, financing costs, and project reserves.

(aa) **“Finance Agreement”** means a comprehensive agreement regarding Sherman’s equity and debt financing, the collection, amount and timing of the City’s and the Authority’s distribution of funds to support the B-1/C-1 Project, and other financial matters related to the implementation of this Agreement pursuant to Section 6.1.

(bb) **“Holder”** means the owner of a Mortgage.

(cc) **“J.C. Penney Lease”** means a lease to J.C. Penney Properties, Inc., dated February 13, 1986 and recorded at Reception No. 86016388 of the records of the Clerk and Recorder of Jefferson County.

(dd) **“Lot and Block Plan”** means a map of the Plan Area showing the designations of Blocks and lots for reference purposes attached as Exhibit A.

(ee) **“Mortgage”** means any mortgage or deed of trust encumbering Blocks B-1 and C-1.

(ff) **“Municipal Code”** means, collectively, the Westminster Code and the City’s home rule Charter, as in effect from time to time.

(gg) **“Notice Address”** means the address for notice set forth below, as amended from time to time:

Authority: Westminster Economic Development Authority
4800 West 92nd Avenue
Westminster, CO 80031
Attention: Executive Director

City: City of Westminster
4800 W. 92nd Avenue
Westminster, Colorado 80031
Attention: City Manager

Sherman: Sherman Associates, Inc.
233 Park Avenue South, Suite 201
Minneapolis, MN 55415
Attention: Shane LaFave

(hh) **“ODP”** means the official development plan for the B-1/C-1 Project to be submitted by Sherman and approved by the City in accordance with the Municipal Code, the Downtown Specific Plan, and the terms and conditions of this Agreement.

(ii) **“Plan”** means the urban renewal plan, designated as the Westminster Center Urban Reinvestment Plan and duly adopted by City Council on April 13, 2009, by Resolution No. 12, Series of 2009, and amended October 28, 2013.

(jj) **“Plan Area”** means the approximately 108-acre redevelopment site designated in the Westminster Center Urban Reinvestment Plan.

(kk) **“Post-Closing Equity”** means equity, loans, or other advances contributed or made by Sherman or an Affiliate to the B-1/C-1 Project after Closing in excess of the equity contributed by Sherman in accordance with the Finance Agreement.

(ll) **“Preliminary Architectural Plan”** means the preliminary plan for the B-1/C-1 Improvements attached hereto as Exhibit F.

(mm) **“Purchase and Sale Agreement”** means the Purchase and Sale Agreement between the Authority and Sherman for the purchase and sale of Blocks B-1 and C-1 pursuant to this Agreement, in substantially the same form as the document attached hereto as Exhibit G.

(nn) **“Purchase Price”** means Three Million Dollars for the purchase of Blocks B-1 and C-1, which amount the Authority determines to be the fair value of Blocks B-1 and C-1, in consideration of Sherman’s obligations set forth in this Agreement, as determined by the Authority.

(oo) **“Schedule of Performance”** means the schedule for design and construction of the City Public Improvements and the B-1/C-1 Improvements as provided in Exhibit E.

(pp) **“Sherman”** means Sherman Associates, Inc., a Minnesota corporation, and any Affiliate to which Sherman has assigned or plans to assign its rights under this Agreement.

(qq) **“Sherman Site Improvements”** means those improvements between the back of curb of any public right-of-way and the face of any structure on the B-1/C-1 Project.

(rr) **“Title”** means fee simple title to and possession of any parcel or any portion thereof, free and clear of all liens, defects, encumbrances and other matters of record.

(ss) **“Title Commitment”** means a current ALTA owner’s title insurance commitment for Blocks B-1 and C-1 issued by the Title Company.

(tt) **“Title Company”** means Heritage Title Company, as agent for Commonwealth Land Title Insurance Company.

(uu) **“Title Policy”** means an ALTA owner’s title insurance policy for Blocks B-1 and C-1, including all requested endorsements, issued by the Title Company in the amount of the Purchase Price that is acceptable to Sherman and any Holders.

(vv) **“Unavoidable Delays”** means delays in the performance of obligations under this Agreement due to causes beyond the control of the party performing the obligation, including but not limited to acts of God; acts of the public enemy; acts of terrorism; the direct result of strikes, walkouts and lockouts; fire; floods; epidemics; quarantines; restrictions; unavailability of power; unavailability of materials; acts of governmental entities including legislative or administrative actions taken by any entity; unusually severe weather or delays of contractors and subcontractors due to such causes; other casualty to a building or a portion thereof; or litigation commenced by third parties which by injunction or other similar judicial action directly results in delays.

Section 1.3 Exhibits. In the event of conflict between the terms of this Agreement and any Exhibit, the provisions of the Agreement will prevail. The following exhibits are attached to and made part of this Agreement:

<u>Exhibit A</u>	Plan Area Map
<u>Exhibit B</u>	Not Used
<u>Exhibit C</u>	Not Used
<u>Exhibit D</u>	City Public Improvements
<u>Exhibit E</u>	Schedule of Performance
<u>Exhibit F</u>	Preliminary Architectural Plan
<u>Exhibit G</u>	Form of Purchase and Sale Agreement
<u>Exhibit H</u>	List of Acceptable Uses

SECTION 2. Description of the Project

Section 2.1 Selection and Engagement. The Authority hereby selects and designates Sherman as the developer of the B-1/C-1 Project and engages Sherman to develop, construct and implement the B-1/C-1 Project, and to construct the B-1/C-1 Improvements in accordance with the Plan, the Final Architectural Plan, and the Downtown Specific Plan.

Section 2.2 Description of the B-1/C-1 Project. The B-1/C-1 Project will consist of a mixed use, urban scale development with main street retail and residential components on Blocks B-1 and C-1, which will comprise the initial phase of the Downtown Westminster Project on the Plan Area. The B-1/C-1 Project will consist of the B-1/C-1 Improvements. Sherman will purchase from the Authority, and the Authority will sell to Sherman, Blocks B-1 and C-1. After the closing of the purchase and sale of Blocks B-1 and C-1, Sherman will construct the B-1/C-1 Improvements in accordance with the Final Architectural Plan, Downtown Specific Plan, the applicable ODP, and the applicable laws and regulations (including, without limitation, the Municipal Code and the Environmental Laws). The City and the Authority will complete the construction of the City Public Improvements as set forth herein.

Section 2.3 Construction of B-1/C-1 Improvements. Sherman commits that the Closing of the purchase of Blocks B-1 and C-1, the Commencement of Construction and the Completion of Construction shall be substantially in accordance with the dates identified on the Schedule of Performance. Delays in the dates for Closing of the purchase of Blocks B-1 and C-1, Commencement of Construction and Completion of Construction will be approved in the event the City fails to construct the necessary City Public Improvements in conformance with the Schedule of Performance or in the event of Unavoidable Delays. Any other delays may be approved at the sole and exclusive discretion of the Authority and the City.

Section 2.4 Workforce Housing. Sherman is committed to providing workforce housing for the Downtown Westminster Project and the larger Westminster community as part of the B-1/C-1 Project. Subject to its receipt of the Workforce Housing Funds (as defined below), Sherman will maintain 10% of the units in the B-1/C-1 Project as workforce housing available to individuals and families earning not more than 80% of median household income. The City and the Authority shall provide assistance to Sherman from the Development Assistance Fund to partially fund the workforce housing units (the “Workforce Housing Funds”) in accordance with the Finance Agreement. The Authority or Sherman will record a covenant concurrent with Closing in a form acceptable to Sherman, the City and any Holder encumbering Blocks C-1 and B-1 to require that 10% of the units in the B-1/C-1 Project be maintained as workforce housing available to individuals and families earning not more than 80% of median household income for a period of 30 years from Closing.

Section 2.5 LEED Certification. Sherman commits to construct all B-1/C-1 Improvements to LEED Silver Certification standards and to obtain LEED Silver Certification.

Section 2.6 Development Terms. As prescribed by Section 6.3 of the Downtown Specific Plan, Blocks B-1 and C-1 shall be governed by an ODP which will control building form, intensity and density of development, landscaping, and other matters addressed in the Downtown Specific Plan. The City will diligently process and take final action on the ODP submitted by Sherman. Development of the B-1/C-1 Improvements shall be substantially in conformance with the Final Architectural Plan, unless modified by agreement of the parties.

Section 2.7 Platting. The City will plat or replat Blocks B-1 and C-1 as necessary to convey Blocks B-1 and C-1 to Sherman and to permit the B-1/C-1 Project in accordance with the Schedule of Performance.

Section 2.8 City Public Improvements. The City will complete the construction of the City Public Improvements in accordance with the Schedule of Performance in Exhibit E. The City will maintain or cause to be maintained the City Public Improvements.

Section 2.9 Sherman Site Improvements. Sherman will design and construct the Sherman Site Improvements in accordance with the Final Architectural Plan and the approved ODP.

Section 2.10 Parking. Sherman will provide parking for all residential units in the B-1/C-1 Project on Blocks B-1 and C-1 at a ratio of 1.25 parking spaces per unit. The size, location

and layout of the parking will be in conformance to the Final Architectural Plan and the approved ODP. Sherman shall provide not less than 40 spaces for retail uses on Blocks B-1 and C-1. Additional retail parking to meet a total of 3.0 spaces per 1,000 square feet will be provided by the City in the parking garage being constructed on Block C-2 (“C-2 Parking Garage”). Retail parking in the C-2 Parking Garage will be on a nonexclusive basis.

Section 2.11 Downtown GID. Prior to Closing, Blocks B-1 and C-1 will be included in the City of Westminster Downtown GID, which is authorized to impose a mill levy not to exceed 50 mills.

Section 2.12 Fee Rebates. The City agrees to rebate the following fees and dedications to Sherman:

- (a) Public Art. Any requirement to dedicate acceptable art pieces or pay any fee-in-lieu of dedicating acceptable art pieces.
- (b) Public Land Dedication Fee. Any fee-in-lieu of dedicating land or other property for public purposes.
- (c) Park Development Fee. Any requirement to pay any park development fee.
- (d) Building Permit Fees. All building permit and plan review and inspection fees, including, without limitation, all general building permit and plan review fees and all subcontractor building permit and plan review fees, all inspection fees and Fire Department review and inspection fees.
- (e) Inspection Fees. Fees for inspections, other than extraordinary inspections requested by Sherman.
- (f) School Land Dedication Fee. Any fee-in-lieu of dedicating land or other property for school purposes.

Upon receipt of the above-referenced fees and dedications from Sherman, the City shall transfer the funds received to the Authority for deposit directly into the Development Assistance Fund and subsequent payment to Sherman. The Authority shall pay the rebates to Sherman within 30 days of receiving a receipt or other written evidence that the fees and dedications have been paid by or on behalf of Sherman for the B-1/C-1 Improvements.

Section 2.13 Use Tax Rebate. The City agrees to rebate to Sherman the City Use Tax paid or payable by Sherman and its contractors in connection with the B-1/C-1 Improvements. Upon receipt of City Use Tax from Sherman or its contractors, the City shall transfer the funds received to the Authority for deposit directly into the Development Assistance Fund and subsequent payment to Sherman. The Authority shall pay the rebates to Sherman, less a 10% retainage, within 30 days of receiving a receipt or other written evidence that City Use Tax has been paid by or on behalf of Sherman. Rebates will be paid each month based on City Use Tax paid 30 days prior to the rebate payment date. No rebate payment of less than \$1,000 in any month need be made by the Authority, in which case any such unpaid rebate will be added to subsequent

rebates. The 10% retainage shall be paid to Sherman at the Completion of Construction, following the audit of contractors' expenditures.

Section 2.14 City Fee Credit. The City agrees to provide a credit for other City fees in an amount not to exceed \$4,750,000, to be refined at the time of ODP submittal and set forth in the Finance Agreement.

SECTION 3. Pre-Development

Section 3.1 Access. The Authority grants to Sherman a continuing right of access to Blocks B-1 and C-1 throughout the term of this Agreement for the purposes of conducting tests, examining, inspecting, surveys and other investigations relating to the condition of Blocks B-1 and C-1 and the feasibility of the parcels for the B-1/C-1 Improvements. Sherman's right of access under this Section 3.1 with respect to leasehold premises under the J.C. Penney Lease is subject to the rights of the lessee under the J.C. Penney Lease. The Authority will use commercially reasonable efforts to obtain the cooperation of the lessee under the J.C. Penney Lease in order to allow Sherman to have access to the lessee's leasehold premises for the purposes described in this Section 3.1.

Section 3.2 Delivery of Property Information.

- (a) Property Information. Within 30 days after the Effective Date, the Authority and the City will deliver to Sherman all information in the Authority's or the City's possession or control or produced by the Authority or the City, including such environmental site assessments as have been conducted by the Authority and the City, that relates to the physical condition, land use entitlements, and similar matters affecting or encumbering Blocks B-1 and C-1. Sherman will have the right to use such materials in the development and construction of the B-1/C-1 Improvements.
- (b) Title Commitment. Within 30 days after the Effective Date, the Authority will deliver the Title Commitment to Sherman.
- (c) Survey. The Authority will cause to be prepared and delivered to Sherman a current ALTA/ACSM survey of Blocks B-1 and C-1 in accordance with the Purchase and Sale Agreement. The Survey will include topographic information and other information specified by Sherman necessary to the construction of the B-1/C-1 Project.

Section 3.3 Design and ODP Approval. The Preliminary Architectural Plan is attached to this Agreement as Exhibit F. Sherman will submit its proposed Final Architectural Plan for the B-1/C-1 Project for review and approval by the Authority in accordance with the Schedule of Performance. The Authority will promptly review and provide comments on the proposed Final Architectural Plan detailing any recommended changes or adjustments. The Authority's approval will not be unreasonably withheld, and the Authority will make its decision on or before the date specified in the Schedule of Performance. Sherman will submit an application for an ODP for the

B-1/C-1 Improvements on or before the date specified in the Schedule of Performance that is consistent with the Final Architectural Plan. The City will promptly review and approve or deny the ODP in accordance with the administrative process identified in Section 11-5-8(B)(1) of the Municipal Code and with the Schedule of Performance.

Section 3.4 Block B-3 Development. Sherman has expressed an interest in developing an a mixed use, urban scale development on portions of Block B-3 (the “B-3 Project”), which will complement public and private improvements to be constructed on the Central Plaza located on Block B-3, as indicated on Exhibit B. The Authority therefore extends to Sherman the exclusive right to negotiate a development agreement for the B-3 Project from the date of this Agreement until June 1, 2016, at which time the parties anticipate entering into a development agreement for the B-3 Project. If a development agreement for the B-3 Project has not been executed by June 1, 2016, the exclusive right to negotiate will expire, failure to enter into a development agreement for the B-3 Project will be considered an Event of Default of this Agreement in accordance with Section 12.1 hereof, and Sherman will receive a refund of the Deposit. If a development agreement is entered into for the B-3 Project, there will not be in the future any other cross-default provisions whereby a default under this Agreement is a default under the development agreement for the B-3 Project and vice versa.

Section 3.5 Schematic Design Drawings. Upon execution of this Agreement, Sherman will initiate and diligently pursue the preparation of schematic design drawings for the B-1/C-1 Improvements at its sole cost. Sherman will regularly report to the City and the Authority on the progress of the preparation of the schematic design drawings and will consult with the City and the Authority on design features and concepts in anticipation of submission of the Final Architectural Plan.

Section 3.6 Pre-Development Progress. Sherman will regularly advise the City and the Authority regarding progress in accomplishing the activities specified in the Schedule of Performance. The Authority and the City will regularly advise Sherman regarding progress in accomplishing the activities specified in the Schedule of Performance. Any changes to the timing of any of the pre-development activities specified in the Schedule of Performance are subject to written approval of all parties.

Section 3.7 Retail Leasing. Sherman acknowledges the importance of the initial retail tenant mix to the Authority for the success of the Downtown Westminster Project and therefore agrees to coordinate and collaborate with the Authority with respect to prospective retail tenants. Sherman will not enter into a letter of intent or a lease with a retail tenant for a use that is not included in List of Acceptable Uses.

Section 3.8 Downtown Specific Plan. The City and the Authority will use their best efforts to implement the Downtown Specific Plan.

SECTION 4. Authority Property Acquisition

Section 4.1 J.C. Penney Leasehold. Blocks B-1 and C-1 and the right-of-way for Westminster Boulevard are encumbered by the J.C. Penney Lease. The Authority will acquire the

J.C. Penney leasehold rights, by eminent domain if necessary, sufficient to allow conveyance of unencumbered fee title to Blocks B-1 and C-1 and the construction of Westminster Boulevard. The Authority will use good faith efforts to prosecute such eminent domain proceedings to completion and to obtain an order vesting title to such leasehold interests in the Authority prior to the Closing Date and prior to the start of construction of Westminster Boulevard.

SECTION 5. Land Acquisition and Disposition

Section 5.1 Blocks B-1 and C-1. Subject to the terms and conditions of the Purchase and Sale Agreement and as otherwise set forth herein, Sherman will purchase from the Authority, and the Authority will sell to Sherman, Blocks B-1 and C-1 on or before the Closing Date.

Section 5.2 Earnest Money. Sherman will deposit with the Title Company earnest money in the amount of \$100,000.00 (the “Deposit”) upon execution of the Purchase and Sale Agreement. The Deposit will be refundable under conditions set forth in this Agreement and the Purchase and Sale Agreement.

Section 5.3 Closing Conditions. Sherman’s obligation to purchase and the Authority’s obligation to sell Blocks B-1 and C-1 is subject to the satisfaction, or waiver, of the following conditions at least 30 days before the Closing Date (except as otherwise provided below):

- (a) Final approval of an ODP for the B-1/C-1 Project.
- (b) Approval of the Final Architectural Plan for the B-1/C-1 Project.
- (c) The Authority has acquired and holds unencumbered fee simple title to all property to be conveyed or necessary for street rights-of-way.
- (d) The City has platted or replatted Blocks B-1 and C-1 as necessary to convey Blocks B-1 and C-1 to Sherman and to permit the B-1/C-1 Project.
- (e) The Authority has dedicated all property necessary for all City Public Improvements necessary to support the construction of the B-1/C-1 Project.
- (f) The City has completed construction of sufficient City Public Improvements, in Sherman’s reasonable judgment, to reasonably allow construction of the B-1/C-1 Improvements.
- (g) On or before the Closing Date, Sherman has completed a full investigation of Blocks B-1 and C-1 and has determined that it is satisfied with Blocks B-1 and C-1 in its sole discretion in accordance with the Purchase and Sale Agreement.
- (h) On or before the Closing Date, the Title Company has irrevocably committed to deliver to Sherman the Title Policy.

- (i) Approval of the Finance Agreement.
- (j) On or before the Closing Date, Sherman has obtained all additional financing determined by Sherman in its sole discretion to be necessary and sufficient to complete the B-1/C-1 Improvements pursuant to documentation acceptable to Sherman.
- (k) Satisfaction or waiver of all other Closing Conditions set forth in the Purchase and Sale Agreement, under the time frames set forth therein.

Section 5.4 Closing Date. Closing for Blocks B-1 and C-1 shall occur on or before the Closing Date specified in the Schedule of Performance.

Section 5.5 Form of Purchase and Sale Agreement. The Authority and Sherman shall enter into a Purchase and Sale Agreement in the form found in Exhibit G hereto no later than 60 days after the Effective Date.

SECTION 6. Financing

Section 6.1 Finance Agreement. On or before the date specified in the Schedule of Performance, Sherman, the City, and the Authority will enter into a Preliminary Finance Agreement. The Preliminary Finance Agreement will outline Sherman's proposed sources of financing and the City's and the Authority's financial contributions to the B-1/C-1 Project. No later than 60 days prior to the Closing Date set forth in the Schedule of Performance, as that date may be extended, Sherman, the City, and the Authority will enter into a Finance Agreement. The Finance Agreement will provide evidence of Sherman's financial ability to complete the B-1/C-1 Improvements sufficient to enable the Authority and the City to confirm that the proceeds of Sherman's financing, including the Development Assistance Fund, will be reasonably sufficient to fund the design and construction of all B-1/C-1 Improvements. The Finance Agreement will identify loan commitments from qualified lenders for any construction or related loans and will identify the amount and source of all equity financing. The Finance Agreement will identify the total of all construction loan commitments ("Construction Loan Amount").

Section 6.2 Development Assistance Fund. The Authority agrees to establish and fund a Development Assistance Fund at the time of Closing to provide assistance for the development of the B-1/C-1 Project. The Authority agrees to deposit into the Development Assistance Fund \$6,590,000.00 ("DAF Maximum Amount") and, in addition to the DAF Maximum Amount, sufficient funds to perform the Authority's reimbursement obligation to Sherman in accordance with Sections 2.12 and 2.13 (the "Rebate Funds"). The DAF Maximum Amount is based, at the time of the execution of this Agreement, on the Estimated Total Development Cost of \$83,000,000. To the extent that the Estimated Total Development Cost is reduced as a result of design refinements, more detailed construction cost estimates, or other factors, any reductions in excess of \$2,000,000 will reduce the DAF Maximum Amount in a proportion of \$2 for each \$3 reduction in the Estimated Total Development Cost. The final DAF Maximum Amount shall be stated in the Finance Agreement.

Section 6.3 Distribution of the Development Assistance Fund. Following the Commencement of Construction, amounts from the Development Assistance Fund shall be distributed to Sherman in accordance with procedures set forth in the Finance Agreement in the same percentage as withdrawn from the Construction Loan Amount, so that, for example, if Sherman withdraws 20% of the Construction Loan Amount, the Authority will distribute 20% of the Development Assistance Fund to Sherman. Upon Sherman's final draw of the Construction Loan Amount, the Authority will distribute all remaining funds in the Development Assistance Fund. Notwithstanding the foregoing, the Rebate Funds shall be disbursed in accordance with Sections 2.12 and 2.13.

Section 6.4 Refinance or Sale of B-1/C-1 Project. For a period not to exceed five years from Completion of Construction, Sherman will notify the City and the Authority not less than 60 days prior to any refinancing or sale of the B-1/C-1 Project other than as permitted in Section 11.2. In the event of any such refinancing that results in a distribution of cash to Sherman, any cash proceeds remaining after Sherman is reimbursed for any Post-Closing Equity will be distributed such that one dollar in remaining cash proceeds of the refinancing will be distributed to the Authority for each two dollars in remaining cash proceeds distributed to Sherman. In the event of any such sale of the B-1/C-1 Project to a third party that results in proceeds in excess of the Final Total Development Cost, the cash proceeds remaining after Sherman is reimbursed for any Post-Closing Equity will be distributed such that one dollar in remaining cash proceeds of the sale proceeds will be distributed to the Authority for each two dollars in remaining cash proceeds distributed to Sherman.

Section 6.5 Holder's Rights.

(a) Holder Not Obligated to Construct. Notwithstanding the provisions of this Agreement, a Holder (including a Holder or other person or entity who obtains title to all or part of Blocks B-1 and C-1 as a result of foreclosure proceedings, or deed in lieu of foreclosure and including any other party who thereafter obtains title to all or part of Blocks B-1 and C-1 from or through the Holder or other person or entity) will not be obligated by this Agreement to construct or complete any of the B-1/C-1 Improvements. A Holder and the other persons specified in this Section 6.5(a) and their successors in interests may, at their option, construct the improvements required to be constructed by Sherman under this Agreement in accordance with Section 6.5(c).

(b) Copy of Notice of Default to Holder. If the Authority or the City delivers to Sherman a demand or notice of any claimed default by Sherman under this Agreement, the Authority or the City, as the case may be, will at the same time transmit a copy of the demand or notice to each Holder at the last address of the Holder shown in the records of the Authority. Notices under this Section 6.5(b) will be given in the same manner as provided under Section 13.3.

(c) Holder's Option to Cure Defaults. After any default under this Agreement, any Holder will (insofar as the rights of the Authority and the City are concerned) have the right, at its option, to cure or remedy the default within 60 days after receiving written notice of the default (or so long as the Holder has commenced to cure within the 60-day period, for so long as the Holder is diligently and continuously prosecuting such cure), and to add the cost of the cure to the indebtedness secured by the Mortgage. However, no Holder will have the right or authority to undertake or continue the construction of the B-1/C-1 Improvements beyond the extent necessary

to conserve or protect the improvements or construction already made with respect to Blocks B-1 and C-1 unless the Holder first expressly assumes Sherman's obligations with respect to the portion of any improvements which Holder elects to construct under a written agreement reasonably satisfactory to the Authority and the City.

SECTION 7. Reports; Cooperation and Coordination

Section 7.1 Reports. Until Completion of Construction, Sherman shall submit to the City and the Authority monthly progress reports which shall describe the steps that Sherman has taken in furtherance of the B-1/C-1 Project, including leasing status of all commercial tenants for the B-1/C-1 Project and design, development and construction activities. The City and the Authority shall provide monthly status reports to Sherman which shall describe the status of the construction of the City Public Improvements.

Section 7.2 Plans, Reports, Studies and Investigations. Sherman shall regularly provide the City and the Authority, without cost or expense to the City and the Authority, copies of all final plans, reports, studies, and investigations (collectively, the "Plans") prepared by or on behalf of Sherman with respect to the B-1/C-1 Project. To the extent the Plans are proprietary in nature or represent confidential commercial and financial information, they shall be deemed confidential and shall not be available as public records under the Colorado Public Records Act, CRS 24-72-201 et seq. All Plans shall be prepared at Sherman's sole cost and expense, shall be owned by Sherman, and may not be used by the City, the Authority, or any other entity or person without Sherman's express written permission in its sole discretion.

SECTION 8. Representations and Warranties

Section 8.1 The Authority's Representations and Warranties. The Authority represents and warrants that:

(a) Organization. The Authority is an urban renewal authority duly organized and validly existing under the laws of the State of Colorado.

(b) Authority. The Authority has the power to enter into and carry out its obligations under this Agreement and has taken all actions required to authorize this Agreement and to carry out its obligations hereunder, including compliance with the publication requirements of Section 31-25-106(2) of the Act.

(c) Litigation and Proceedings. There are no (i) claims, actions, suits, condemnation actions (other than the Eminent Domain Proceeding), or other proceedings pending or, to the knowledge of Authority, threatened by any entity with respect to Blocks B-1 and C-1 or any use thereof, (ii) approvals, permits, easements, rights-of-way, zoning changes, uses or rights that have been denied, or to the knowledge of Authority, may be denied, by any governmental department or agency, or (iii) violations of any law, statute, government regulation or requirement, that in any manner or to any extent may materially and adversely affect the Project, or the value of Blocks B-1 and C-1, or the likely eventual use of Blocks B-1 and C-1, or Sherman's right, title or interest in and to Blocks B-1 and C-1.

(d) Tax Protest. There is no pending application or proceeding for the reduction of the assessed valuation of the Blocks B-1 and C-1 or the property tax assessed against Blocks B-1 and C-1.

(e) Hazardous Materials. The Authority has provided or will provide to Sherman in accordance with this Agreement all information in its possession or of which it is aware related to, and the Authority itself has not caused, any generation, production, location, transportation, storage, treatment, discharge, disposal, use, release, threatened release or other disposition upon or under Blocks B-1 and C-1 of, (i) any toxic or hazardous substance, or material, pollutant or waste subject to regulation under the Resource Conservation and Recovery Act (as amended by the Hazardous and Solid Waste Amendments of 1984), 42 U.S.C. § 6901, *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (as amended by the Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. § 9601, *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Air Act, 42 U.S.C. § 7401, *et seq.*; the Safe Drinking Water Act, 42 U.S.C. § 300h, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; all applicable state counterparts to such federal legislation and any regulations, guidelines, directives or other interpretations of any such enactment, all as amended from time to time or any other applicable State or Federal environmental protection law or regulation; (ii) asbestos and asbestos-containing materials, special wastes, polychlorinated biphenols (PCBs), used oil or any petroleum products, natural gas, radioactive material, pesticides or methane in soil gas or (iii) any product, material or substance in any manner inconsistent with the regulations issued by, or so as to require a permit or approval from, the State of Colorado or the County or municipality in which Blocks B-1 and C-1 are located, or in a manner that might cause any such authority to inspect Blocks B-1 and C-1 or issue an order pursuant to any applicable health code. The Authority has no knowledge that there exist or have existed on Blocks B-1 and C-1 any storage tanks (either above or below the ground) or septic tanks or that there has been prepared any inspection report addressing any of the issues referenced in this Section 8.1(e). The Authority has no knowledge that there exist on Blocks B-1 and C-1 any archeological or historic resources, any endangered or threatened species, or any wetlands. Sherman agrees that all property to be conveyed to it pursuant to this Agreement shall be conveyed on an “as-is, where-is” basis with no warranties or covenants other than those contained in the deed of conveyance.

(f) Other Rights. Other than Sherman pursuant to this Agreement, no person or entity has any right or option to purchase or otherwise acquire Blocks B-1 and C-1 or any portion thereof or interest therein, and there are no unrecorded leases or other agreements related to Blocks B-1 and C-1 between the Authority and any third party except the J.C. Penney Lease.

(g) Assessments. Blocks B-1 and C-1 are not subject to or affected by any assessments for improvements, whether or not a lien thereon, and the Authority has no knowledge of any assessments proposed on account of any such improvements or of any work proposed, commenced or completed which could give rise to any such assessment.

Section 8.2 City’s Representations and Warranties. The City represents and warrants that:

(a) Authority. The City has the full right and authority and has obtained any and all consents required to authorize the City to enter into this Agreement, consummate the transactions contemplated in this Agreement, and perform its other obligations under this Agreement. This Agreement has been authorized and properly executed and constitutes the valid and binding obligations of the City, enforceable against the City in accordance with its terms.

(b) Conflicts and Pending Actions or Proceedings. There is no agreement to which the City is a party or, to the City's knowledge, binding on the City which is in conflict with this Agreement. There is no action or proceeding pending or, to the City's knowledge, threatened against or relating to Blocks B-1 and C-1, which challenges or impairs the City's ability to execute or perform its obligations under this Agreement.

(c) Agreements with Governmental Authorities/Restrictions. The City has not entered into, and has no knowledge of, any agreement with or application to the City with respect to any zoning modification, variance, exception, platting or other matter. To the City's knowledge, neither the City nor Blocks B-1 and C-1 are in violation or non-compliance with any restriction or covenant affecting Blocks B-1 and C-1.

Section 8.3 Sherman's Representations and Warranties. Sherman represents and warrants that:

(a) Organization and Authority. Sherman has the full right and authority and has obtained any and all consents required to authorize Sherman to enter into this Agreement, consummate the transactions contemplated in this Agreement, and perform its other obligations under this Agreement.

(b) Authorization and Execution. This Agreement has been authorized and properly executed and constitutes the valid and binding obligations of Sherman, enforceable against Sherman in accordance with its terms.

(c) Conflicts and Pending Action. There is no agreement to which Sherman is a party or to Sherman's knowledge binding on Sherman which is in conflict with this Agreement. There is no action or proceeding pending or to Sherman's knowledge, threatened, against Sherman which challenges or impairs Sherman's ability to execute or perform its obligations under this Agreement.

Section 8.4 Survival of Representations and Warranties. The representations and warranties set forth in this Section 8 are made as of the date of this Agreement and are remade as of the Closing Date and will not be deemed to be merged into or waived by the instruments of the Closing, but will survive the Closing. Each party will defend and indemnify, to the extent permitted by law, the other against any claim, liability, damage or expense asserted against or suffered by such other party arising out of the breach or inaccuracy of any such representation or warranty.

SECTION 9. General Covenants

Section 9.1 General Insurance Provisions.

(a) From the Closing Date until Completion of Construction, Sherman will provide the Authority with certificates of insurance as follows:

(i) The property insurance described in Section 9.2;

(ii) Commercial general liability insurance with X, C & U exclusions deleted (including blanket contractual liability insurance, owned, non-owned and hired motor vehicle liability, personal injury liability) with combined single limits against bodily injury and property damage of not less than \$1,000,000 and with excess umbrella coverage raising the total coverage to not less than \$5,000,000; and

(iii) Worker's compensation insurance, with statutory coverage.

(b) Sherman will provide certified copies of all policies of insurance required under this Section 9, to the Authority upon request. For the property insurance required to be carried by Sherman under Section 9.2, Sherman will cause its insurer(s) to provide the Authority and its commissioners, directors, officers, employees and agents with waivers of subrogation. Sherman will not obtain any property insurance that prohibits the insured from waiving subrogation. The Authority agrees to seek waivers of subrogation for the benefit of Sherman as to any property insurance it carries from time to time.

(c) Insurance coverage specified herein constitutes the minimum requirements, and said requirements will in no way lessen or limit the liability of Sherman under the terms of this Agreement. Sherman will procure and maintain, at its own expense and cost, any additional kinds and amounts of insurance that, in its judgment, may be necessary for its proper protection in the completion of the Improvements.

Section 9.2 Insurance for the Sherman Improvements.

(a) For the time periods specified below, Sherman will purchase and maintain in the name of Sherman for the benefit of Sherman, the following insurance upon the B-1/C-1 Improvements to the full insurable value thereof.

(i) With respect to all B-1/C-1 Improvements under construction, from the Commencement of Construction until the Completion of Construction, "Builder's Special Form 100% Completed Value Non-Reporting" or "Course of Construction" insurance or an equivalent acceptable to the Authority and the City; and

(ii) With respect to all new B-1/C-1 Improvements constructed pursuant to this Agreement, from the Completion of Construction, special form risk property insurance.

(b) Site coverage will include the B-1/C-1 Improvements themselves, all materials and supplies included in the B-1/C-1 Improvements, and with respect to builder's risk coverage, all materials and supplies to be used in completion of the B-1/C-1 Improvements, whether any or all of the foregoing are located at the site, in transit, or while temporarily stored

off-site. The coverage will be for “Special Perils” and, subject to reasonable commercial availability, will include coverage for losses caused by fire; collapse; glass breakage; and freezing.

Section 9.3 Cooperation with Sherman. The Authority and the City agree to reasonably cooperate with Sherman and to provide Sherman with reasonable assistance with respect to (i) applications of Sherman and any tenants for building and other permits and approvals from the City, and any permits or approvals required from any governmental authority, whenever reasonably requested to do so; provided, however, that all applications for such permits and approvals are in compliance with the applicable ordinances and regulations, approved plans and specifications, and all applicable codes, and (ii) obtaining the City’s approval of Sherman’s application for the ODP, and the City and the Authority agree to reasonably cooperate with Sherman and to provide Sherman reasonable assistance with respect to securing any construction and permanent financing that Sherman may reasonably require in connection with the performance of its obligations under this Agreement.

Section 9.4 Anti-Discrimination in Employment. In any activities undertaken under this Agreement, Sherman will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, handicap, ancestry or national origin.

Section 9.5 Construction of the Project. Construction of the B-1/C-1 Improvements, and the contemplated uses and occupancies thereof, will comply with all applicable federal, state and City laws, rules and regulations, including, but not limited to, building, zoning, and other applicable land use codes, subject to modifications approved by the City pursuant to the planning, subdivision, zoning, environmental and other developmental ordinances and regulations.

SECTION 10. Indemnity and Responsibility

Section 10.1 Sherman’s Indemnification. Sherman will indemnify and defend the Authority and the City and their officers and employees against all claims or suits for and damages to property and injuries to persons, including accidental death, to the extent caused by Sherman’s negligence in performing activities under this Agreement, whether such activities are undertaken by Sherman or anyone employed by Sherman.

Section 10.2 Authority’s Responsibility. The Authority will be responsible for, and to the extent permitted by law will reimburse Sherman for, all costs and expenses incurred by Sherman as a result of, all claims or suits for and damages to property and injuries to persons, including accidental death, to the extent caused by the Authority’s negligence in performing activities under this Agreement, whether such activities are undertaken by the Authority or anyone employed by the Authority.

Section 10.3 City’s Responsibility. The City will be responsible for, and to the extent permitted by law will reimburse Sherman for, all costs and expenses incurred by Sherman as a result of, all claims or suits for any damages to property and injuries to persons, including accidental death, to the extent caused by the City’s negligence in performing activities under this Agreement, whether such activities are undertaken by the City or anyone employed by the City.

Section 10.4 Notification of Claim. Each party shall give the other parties prompt written notice of any claim or action covered by the indemnities and responsibilities set forth above in this Section, provided, however, that the failure of one party to notify the other parties shall in no way prejudice the rights of said party under this Agreement unless the other party or parties shall be prejudiced by such failure and then only to the extent of such prejudice; and the other party or parties shall have the right, but not the obligation, at its own expense, to participate in the defense of any such claim or action with counsel of its choice.

Section 10.5 No Waiver of Governmental Immunity. No provision of this Agreement shall act or be deemed to be a waiver by the City or the Authority of any provision of the Colorado Governmental Immunity Act, CRS 24-10-101, *et seq.*

SECTION 11. Restrictions on Assignment and Transfer

Section 11.1 Representations as to Development. Sherman's purchase of Blocks B-1 and C-1 and its undertakings under this Agreement are for the purpose of development of the B-1/C-1 Project and not for land holding or speculation. Sherman acknowledges that:

(a) The timely development of the B-1/C-1 Project is important to the general welfare of the Authority and the City and is consistent with the Plan;

(b) The Authority and the City intend to make available substantial financial assistance and other aids to make the B-1/C-1 Project possible; and

(c) It is because of the qualifications and identity of Sherman that the Authority and the City are entering into this Agreement and are willing to accept and rely on the obligations of Sherman for the faithful performance of all of its undertakings and covenants under this Agreement.

Section 11.2 Limitation on Assignment. Except as otherwise provided in this Section 11.2, prior to Completion of Construction of the B-1/C-1 Improvements, Sherman will not assign its rights or delegate its duties and obligations under this Agreement other than to an Affiliate without the prior written consent of the Authority, not to be unreasonably withheld, delayed or conditioned. Any purported assignment without consent of the Authority will be null and void. As a condition to the Authority granting consent, an assignee will expressly assume in writing the obligations of Sherman hereunder. For purposes of this Section 11.2, any sale, transfer, assignment, pledge or hypothecation of an interest in Sherman (other than to an Affiliate) that results in a change in management control of Sherman will constitute an assignment of this Agreement. Notwithstanding the foregoing:

(a) At such time as Sherman has Completed Construction of all of the B-1/C-1 Improvements, Sherman may freely convey any or all of the B-1/C-1 Project, assign its rights, and delegate its duties and obligations under this Agreement without the Authority's consent, provided that any proceeds in excess of the Final Total Development Cost shall be distributed in conformance with Section 6.4.

(b) Sherman may at any time without the Authority's consent convey Blocks B-1 and C-1 or assign its rights, and delegate its duties and obligations under this Agreement to an Affiliate or to or from an accommodator or intermediary for purposes of carrying out an Internal Revenue Code Section 1031 exchange, provided that, at the conclusion of the exchange transactions, Blocks B-1 and C-1 shall be owned by an Affiliate or another transferee otherwise permitted hereunder.

(c) No consent will be required under this Section 11.2 for any pledge or assignment of this Agreement as collateral security for Sherman's financing; however, Sherman will notify the City and the Authority of such action.

SECTION 12. Events of Default, Remedies

Section 12.1 Authority and City's Events of Default Before Closing. The following occurrences before Closing which remain uncured after the expiration of the applicable cure periods shall constitute an "Authority/City Event of Default Before Closing":

(a) The Authority or the City shall fail to perform any required action or activity specified in the Schedule of Performance at the time specified in the Schedule of Performance, subject to extensions of time agreed upon by the parties and Unavoidable Delays.

(b) The Authority has failed to acquire rights sufficient to convey unencumbered fee title to Blocks B-1 and C-1 and construct the City Public Improvements prior to Closing.

(c) The City has failed to approve and enter into the Finance Agreement.

(d) The Authority or the City has failed to approve and enter into a development agreement for the B-3 Project by June 1, 2016.

(e) The Authority or the City shall be in default of any of its respective material duties or obligations hereunder.

Section 12.2 Sherman Events of Default Before Closing. The following occurrences before Closing which remain uncured after the expiration of the applicable cure periods shall constitute a "Sherman Event of Default Before Closing":

(a) Sherman shall file a petition in bankruptcy or other petition for creditors' relief shall have been filed against Sherman and shall not be dismissed within sixty (60) days, or any material written representation by Sherman as to its financial condition shall have been false.

(b) Sherman shall fail to perform any required action or activity specified in the Schedule of Performance at the time specified in the Schedule of Performance, subject to extensions of time agreed upon by the parties and Unavoidable Delays.

(c) Sherman has failed to enter into the Finance Agreement.

(d) Sherman has failed to enter into a development agreement for the B-3 Project by June 1, 2016.

(e) Sherman shall be in default of any of its material duties or obligations hereunder.

Section 12.3 Authority's and the City's Remedy for an Event of Default Before Closing. The Authority's and the City's remedies for a Sherman Event of Default Before Closing shall be a forfeit of the Deposit and termination of this Agreement. Notwithstanding the foregoing, if the parties have failed to enter into the Finance Agreement or a development agreement for the B-3 Project, Sherman shall not forfeit the Deposit. In no event shall the City or the Authority be entitled to damages, including but not limited to monetary damages, of any kind or specific performance before Closing.

Section 12.4 Sherman's Remedy for an Event of Default Before Closing. Sherman's remedies for an Authority/City Event of Default Before Closing shall be to terminate this Agreement and receive the Deposit. In no event shall Sherman be entitled to damages, including but not limited to monetary damages, of any kind or specific performance before Closing.

Section 12.5 Authority or City Events of Default Following Closing. The following occurrences following Closing which remain uncured after the expiration of the applicable cure periods shall constitute an Authority/City Event of Default Following Closing.

(a) The City shall fail to construct necessary City Public Improvements so as to allow Sherman to construct and operate the B-1/C-1 Improvements, in Sherman's reasonable judgment.

(b) The City or the Authority shall make a substantive change to the Downtown Specific Plan that has a negative effect on the B-1/C-1 Project.

(c) The City or the Authority shall be in default of any of its respective material duties or obligations hereunder.

Section 12.6 Sherman Events of Default Following Closing. The following occurrences following Closing which remain uncured after the expiration of the applicable cure periods shall constitute a "Sherman Event of Default Following Closing".

(a) Sherman shall file a petition in bankruptcy or other petition for creditors' relief shall have been filed against Sherman and shall not be dismissed within sixty (60) days, or any material written representation by Sherman as to its financial condition shall have been false;

(b) Sherman shall fail to perform any required action or activity specified in the Schedule of Performance at the time specified in the Schedule of Performance, subject to extensions of time agreed upon by the parties and Unavoidable Delays.

(c) Sherman attempts to make any assignment of its interest in the B-1/C-1 Project or Blocks B-1 and C-1 not permitted by Section 11.2.

(d) Sherman shall be in default of any of its material duties or obligations hereunder.

Section 12.7 Authority's and the City's Remedies for an Event of Default Following Closing. The Authority and the City may exercise any or all of the following remedies for a Sherman Event of a Default Following Closing:

(a) The Authority and City may withdraw any funds remaining in the Development Assistance Fund.

(b) Termination of this Agreement.

(c) An action for damages for actual out-of-pocket expenses, but not consequential damages, lost profits or punitive damages.

(d) An action for enforcement of Sherman's obligations hereunder by any equitable remedies, including specific performance or injunction.

(e) The Authority's Option to Repossess pursuant to Section 12.8 hereto.

Section 12.8 Authority's Option to Repossess.

(a) Upon a Sherman Event of Default Following Closing and subject to the rights of Holders of security interests as set forth in Section 6.5, the Authority shall have the right, after the purchase of Blocks B-1 and C-1 by Sherman but prior to the Completion of Construction, at its option to repossess Blocks B-1 and C-1 if Sherman for any reason not the fault of the Authority or the City:

(i) Fails to Commence Construction of the B-1/C-1 Improvements in accordance with the Schedule of Performance, subject to extensions of time agreed upon by the parties and Unavoidable Delays.

(ii) Fails to diligently pursue the construction and development of the B-1/C-1 Improvements, subject to Unavoidable Delays.

(iii) Fails to Complete Construction the B-1/C-1 Improvements in accordance with the Schedule of Performance and the Final Architectural Plan, subject to extensions of time agreed upon by the parties and Unavoidable Delays.

(b) In addition, the Authority's rights under this Section 12.8 shall be subordinate to and subject to and be limited by and shall not defeat, render invalid, limit or otherwise affect:

- (i) Any mortgage, deed of trust or other security instrument or sale, lease-back or other conveyance for financing permitted by this Agreement; or
- (ii) Any rights or interests provided in this Agreement for the protection of the Holders of such mortgages, deed of trust or other security instruments, the lessor under a sale and lease-back or the grantee under such conveyance for financing.

(c) To exercise its right to repossess Blocks B-1 and C-1 under this Section 12.8, the Authority shall give written notice to Sherman of its election to retake Blocks B-1 and C-1 (“Reverter Notice”) in accordance with Section 13.3 below.

(d) If the Authority exercises its rights under this Section 12.8, the right to repossess shall operate as a full and final release of Sherman, its successors and assigns under this Agreement and shall be the Authority’s sole remedy for an Event of Default Following Closing. If the Authority does not elect to exercise its right to repossess under this Section 12.8, then the Authority and the City shall have all other remedies for an Event of Default Following Closing, pursuant to Section 12.7.

(e) Upon the reversioning in the Authority of title to Blocks B-1 and C-1 as provided in this Section 12.8, the Authority shall, pursuant to its responsibilities under Colorado law, use its best efforts to resell Blocks B-1 and C-1 as soon as and in such manner as the Authority shall find feasible and consistent with the objectives of the Plan and to a qualified and responsible party or parties (as reasonably determined by the Authority) who will assume the obligations of making or completing improvements, or such other improvements in their stead as shall be reasonably satisfactory to the Authority and in accordance with the uses specified therefor in the ODP. Upon such resale, the proceeds thereof shall be applied as follows:

- (i) First, to reimburse the Authority, on its own behalf, for all reasonable costs and expenses incurred by the Authority to third party consultants, including attorneys, in connection with the recapture, management and resale of Blocks B-1 and C-1, less any income or gain derived by the Authority therefrom or the improvements thereon in connection with such management, recapture or sale; all taxes, assessments and water or sewer charges with respect thereto which Sherman has not paid; any payments made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of Sherman, its successors, assigns or transferees; and any expenditures made or obligations incurred with respect to the making or completion of the Improvements or any part thereof on Blocks B-1 and C-1;

- (ii) Second, to reimburse Sherman or its successors, assigns or transferees (if applicable), up to the amount equal to the costs incurred for the purchase and development of Blocks B-1 and C-1 and for the B-1/C-1 Improvements existing thereon at the time of reentry and repossession, less any gains or income withdrawn or made by Sherman therefrom for the B-1/C-1 Improvements; and
- (iii) Third, any balance remaining after such reimbursements shall be retained by the Authority as its property.

(f) The rights established in this Section 12.8 are to be interpreted in light of the fact that Blocks B-1 and C-1 are being conveyed to Sherman for development, and not for speculation in undeveloped land.

Section 12.9 Sherman’s Remedies for an Event of Default Following Closing. Sherman may exercise any or all of the following remedies for an Authority/City Event of a Default Following Closing:

- (a) Termination of this Agreement.
- (b) An action for damages for actual out-of-pocket expenses, but not consequential damages, lost profits or punitive damages.
- (c) An action for enforcement of the City’s and the Authority’s obligations hereunder by any equitable remedies, including specific performance or injunction.

The Board of Directors of the Authority and the City Council, each acting in its legislative capacity as the governing body of the Authority and the City, respectively, expressly authorize, determine and direct that Sherman will be entitled to seek and be awarded, and the Authority and its Board of Directors, and the City and its City Council, will be subject to, such mandatory or prohibitory equitable remedies, including but not limited to specific performance, as may be required to secure to Sherman the benefits for which Sherman has bargained in this Agreement by enforcement of the terms and conditions set forth in Section 12.9(c).

Section 12.10 Default Notice; Cure Period. If an event that will, after the expiration of the cure period set forth in this Section, constitute an Event of Default occurs under this Agreement, one or both of the non-defaulting parties shall deliver notice (“Default Notice”) to the party or parties in default, specifying the nature of the alleged default. The non-defaulting party or parties shall have no right to exercise any remedy for such default without delivering the Default Notice as provided herein. The non-defaulting party or parties shall not have the right to exercise a remedy hereunder after delivery of a Default Notice if the default is commenced to be cured by the defaulting party within thirty (30) days and thereafter is diligently pursued to completion of cure within a reasonable time; except for Sherman’s termination right due to the Authority’s failure to tender conveyance of title, for which the Authority shall have only ten (10) days to cure from delivery of the Default Notice.

SECTION 13. Miscellaneous

Section 13.1 Amendment of Agreement. Except as otherwise set forth in this Agreement, this Agreement may not be amended or terminated except by mutual consent in writing of Sherman, the Authority, and the City, following the public notice and public hearing procedures required for approval of the ODP or this Agreement, as applicable.

Section 13.2 No Implied Waiver. No provision of this Agreement will be construed as an implied waiver by Sherman of its right to any payment, reimbursement, tax or fee waiver, or reimbursement to which it is otherwise entitled by law or as an implied waiver or acquiescence in the impairment of any of its substantive or procedural rights under the Local Government Land Use Control Enabling Act of 1974, sections 29-20-104.5 and 29-20-201 through 204, C.R.S., as amended, or as an implied agreement by Sherman to be responsible for more than its proportionate share of any regional public infrastructure improvements

Section 13.3 Notices. All notices, certificates or other written communications hereunder will be sufficiently given and will be deemed given when given by hand delivery, overnight delivery, mailed by certified or registered mail, postage prepaid, or dispatched by telegram or telecopy (if confirmed promptly telephonically), addressed to the appropriate Notice Address or at such other address or addresses as any party thereto designates in writing to the other parties hereto.

Section 13.4 Waiver. No failure by any party hereto to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement, or to exercise any right or remedy consequent upon a breach of this Agreement, will constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any party by giving notice to the other parties may, but will not be required to, waive any of its rights or any conditions to any of its obligations hereunder. No waiver will affect or alter the remainder of this Agreement, but each and every covenant, agreement, term and condition of this Agreement will continue in full force and effect with respect to any other then existing or subsequent breach.

Section 13.5 Attorneys' Fees. In any proceeding brought to enforce the provisions of this Agreement, the court will award the prevailing party (whether by judgment or out of court settlement) therein reasonable attorneys' fees, actual court costs and other expenses incurred.

Section 13.6 Conflicts of Interest. The Authority and the City will not allow, and except as disclosed in writing to the Authority and the City, Sherman will not knowingly permit, any of the following persons to have any interest, direct or indirect, in this Agreement: A member of the governing body of the Authority or of the City; an employee of the Authority or of the City who exercises responsibility concerning the B-1/C-1 Project; or an individual or firm retained by the City of the Authority who has performed consulting or other professional services in connection with the B-1/C-1 Project. The Authority will not allow and Sherman will not knowingly permit any of the above persons or entities to participate in any decision relating to this Agreement that affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is directly or indirectly interested.

Section 13.7 Titles of Sections. Any titles of the several parts and Sections of this Agreement are inserted for convenience and reference only and will be disregarded in construing or interpreting any of its provisions.

Section 13.8 Authority and City Not a Partner; Sherman Not Authority's or City's Agent. Notwithstanding any language in this Agreement or any other agreement, representation or warranty to the contrary, neither the Authority nor the City will be deemed or construed to be a partner or joint venturer of Sherman, Sherman will not be deemed or construed to be the agent of the Authority or the City, and the Authority and the City will not be responsible for any debt or liability of Sherman.

Section 13.9 Applicable Law; Venue. The laws of the State of Colorado will govern the interpretation and enforcement of this Agreement. Venue for any action arising under this Agreement or any amendment or renewal hereof shall be in the District Court of Jefferson County, Colorado.

Section 13.10 Binding Effect. This Agreement will be binding on and inure to the benefit of the parties hereto, and their successors and assigns, subject to the limitations on assignment of this Agreement by Sherman set forth in Section 11.2.

Section 13.11 Further Assurances. The parties hereto agree to execute such documents, and take such actions, as will be reasonably requested by the other party hereto to confirm or clarify the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof.

Section 13.12 Time of Essence. Time is of the essence of this Agreement. The parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

Section 13.13 Severability. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity will not affect the application or validity of any other provisions, covenants or portions of this Agreement and, to that end, any provisions, covenants, agreements and portions of this Agreement are declared to be severable.

Section 13.14 Good Faith; Consent or Approval. In performance of this Agreement or in considering any requested extension of time, the parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously or unreasonably withhold or delay any approval required by this Agreement. Except as otherwise provided in this Agreement, whenever consent or approval of any party is required, such consent or approval will not be unreasonably withheld, conditioned or delayed. Sherman agrees and acknowledges that in each instance in this Agreement or elsewhere where the City or Authority is required or has the right to review or give its approval or consent, no such review, approval or consent will imply or be deemed to constitute an opinion by the City or the Authority, nor impose upon the City or the Authority, any responsibility for the design or construction of building elements, including, but not limited to, the structural integrity

or life/safety requirements or adequacy of budgets or financing or compliance with any applicable federal or state law, or local ordinance or regulation, including the Environmental Laws. All reviews, approval and consents by the City or the Authority under the terms of this Agreement are for the sole and exclusive benefit of Sherman or its assignee and no other person or party will have the right to rely thereon.

Section 13.15 Counterparts. This Agreement may be executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

Section 13.16 Non-Liability of Authority Officials and Employees. No council member, commissioner, board member, official, employee, agent of consultant of the Authority or the City will be personally liable to Sherman in an Event of a Default by the Authority or the City or for any amount that may become due to Sherman under the terms of this Agreement.

Section 13.17 Incorporation of Exhibits. All exhibits attached to this Agreement are incorporated into and made a part of this Agreement.

Section 13.18 Jointly Drafted; Rules of Construction. The parties hereto agree that this Agreement was jointly drafted, and, therefore, waive the application of any law, regulation, holding, or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

Section 13.19 Brokers. Sherman shall not be responsible for the cost of any real estate broker's commissions under the transaction contemplated under this Agreement. Sherman shall have no responsibility for payment of any real estate broker's commissions to any real estate broker acting as an agent on behalf of the City related to Blocks B-1 and C-1. Sherman shall indemnify and hold the City harmless from any claim, liability, loss or damage arising from any claim or assertion for a brokerage commission or fee from any individual or entity claiming by, through or under Sherman.

Section 13.20 Covenant Against Discrimination. Sherman hereby covenants and agrees that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry, age, or handicap, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of Blocks B-1 and C-1, nor shall Sherman or any person claiming under or through Sherman, establish or permit any such practice or practices of discrimination or segregation in the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees of Blocks B-1 and C-1.

Section 13.21 Term. The term of this Agreement will commence on the Effective Date and, unless otherwise sooner terminated in accordance with its terms, will automatically terminate on the date that the City, the Authority, and Sherman have fulfilled (or obtained a waiver of) their respective obligations hereunder to completion. At the request of a party to this Agreement, the parties hereto shall execute documentation memorializing the termination of this Agreement upon confirmation by the parties that the obligations hereunder have been fulfilled or waived.

IN WITNESS WHEREOF, the Authority and the City each have caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; and Sherman has caused these presents to be executed by its duly authorized officer, as of the date first above written.

CITY:

SHERMAN ASSOCIATES, INC.

CITY OF WESTMINSTER, COLORADO

By: _____

George E. Sherman
President

By: _____

Donald M. Tripp, City Manager

ATTEST:

ATTEST:

By: _____

Michelle Parker, City Clerk

By: _____

AUTHORITY:

WESTMINSTER ECONOMIC
DEVELOPMENT AUTHORITY

By: _____

Donald M. Tripp,
Executive Director

ATTEST:

By: _____

Michelle Parker,
Authority Secretary

Exhibit A - Plan Area Map



DOWNTOWN WESTMINSTER

Exhibit D

City Public Improvements

Roadwork and Dry Utility Improvements:

Asphalt Paving, Curb and Gutter
Street Lights
Fiber Conduit

Wet Utility Improvements:

Water lines, west of Eaton Street
Sanitary sewer, west of Eaton Street
Storm sewer, west of Eaton Street

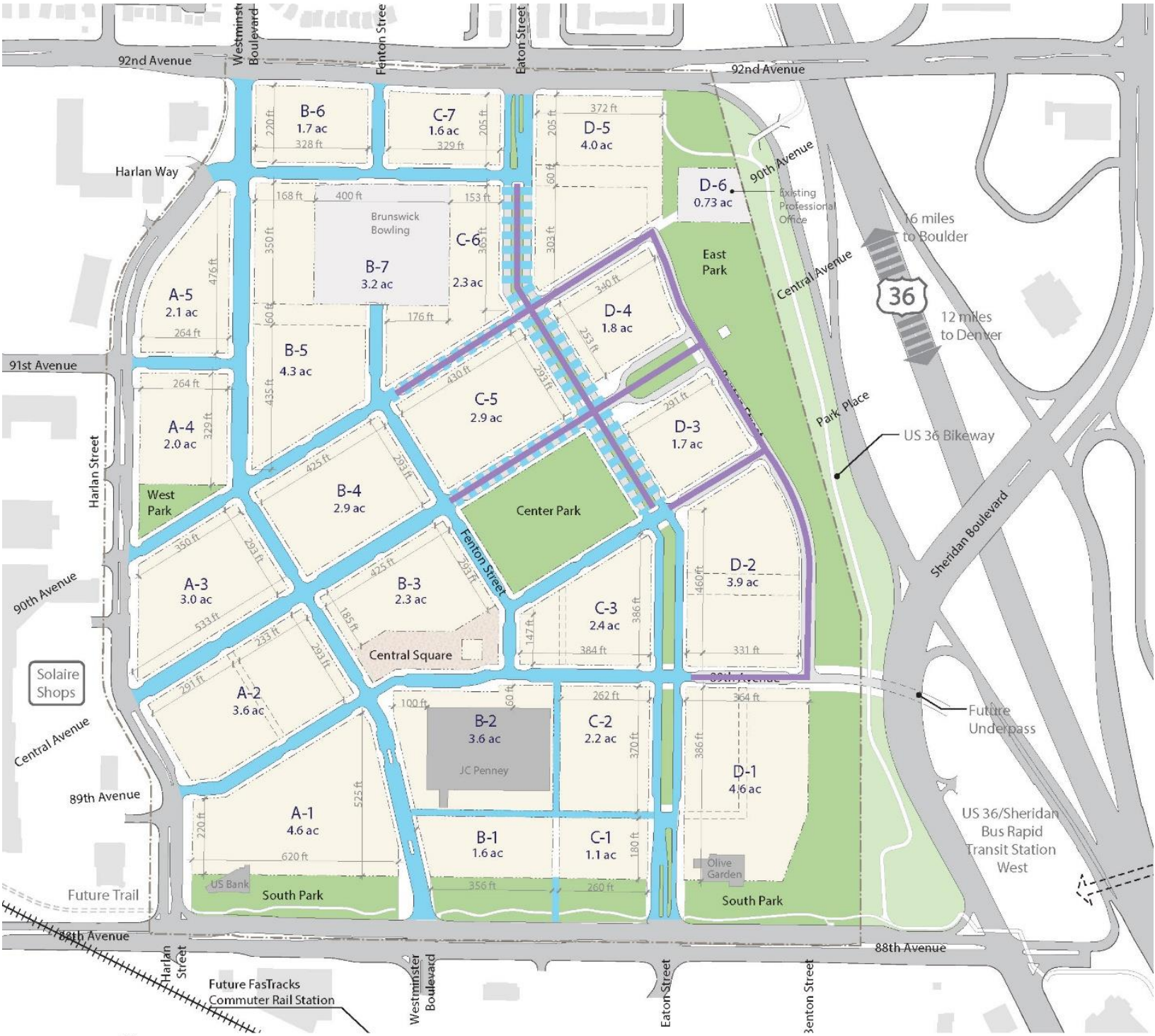
Electric and Gas

Electric, telephone, cable, site-wide

Parks and Streetscape Improvements

Streetscape (sidewalk, landscaping, street furniture)
Central Square, full buildout
Center Park, sidewalks and first phase of hardscape and landscape
South Park, sidewalks and first phase of hardscape and landscape

Exhibit D City Public Improvements



Key

- X-# Block Designation
- ## ac Approximate Block Area in Acres
- Parcel Boundary
- Plan Area Boundary
- Existing Streets
- Future Streets
- Potential Future Street/Alley

City Public Improvements

- ▬ All Utilities (Roadwork, Dry Utilities, Electric/Gas, and Wet Utilities)
- ▬▬▬ Additional Extent of Wet Utilities
- ▬ Additional Extent of Electric and Gas
- ▬ Public Parks
- ▬ Plaza Areas

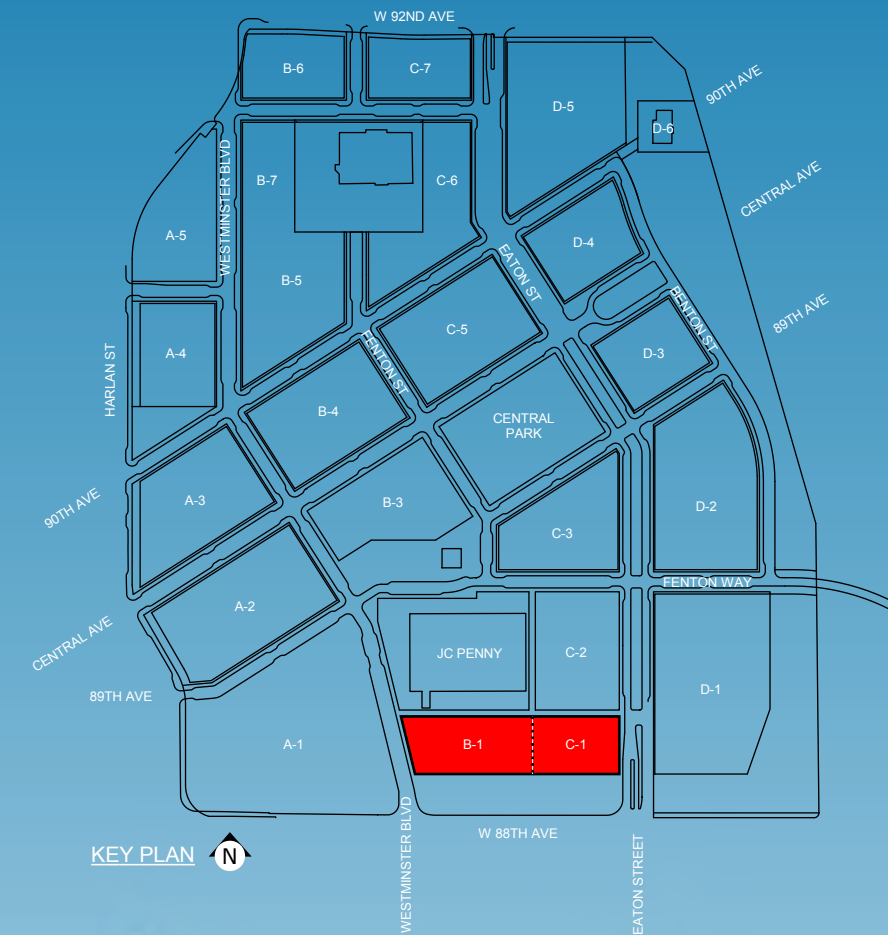
Exhibit E
Schedule of Performance

<u>Event:</u>	<u>Date to be completed by:</u>
Purchase and Sale Agreement	May 1, 2016
Development Agreement for B-3	June 1, 2016
ODP submittal	June 30, 2016
City approval or denial of ODP	October 15, 2016
Execute Preliminary Finance Agreement	October 31, 2016
Plat approval	October 31, 2016
50% building permit review meeting	December 15, 2016
Secure financing (signed LOI)	December 31, 2016
Execute Finance Agreement	January 1, 2017
Approval of Final Architectural Plan	January 1, 2017
Apply for building permit	January 31, 2017
Close on land acquisition and financing (Closing Date)	February 28, 2017
City infrastructure improvement (utility) work completed	February 28, 2017
Receive full building permit	March 15, 2017
Commencement of Construction	March 15, 2017
City Public Improvements completed	September 30, 2018
Completion of Construction	December 31, 2018

Exhibit F
Preliminary Architectural Plan

APPROVAL OF THE ARCHITECTURAL CONCEPT PLAN SIGNIFIES THAT THE GENERAL ARCHITECTURAL AND MASSING ALIGNS WITH THE VISION FOR THE DOWNTOWN. DEVELOPMENT REVIEW AGAINST THE STANDARD GUIDELINES OF THE DOWNTOWN SPECIFIC PLAN WILL OCCUR UPON SUBMITTAL OF THE OFFICIAL DEVELOPMENT PLAN AS STATED IN THE ENA.

Exhibit F
Preliminary Architectural Plan



PARKING REQUIREMENTS		UNIT COUNT		AREA TOTALS	
RETAIL:	3 / 1,000 SF	2-STORY TOWNHOMES (SELF PARK)	12	Exhibit F	
RESIDENTIAL:	1.25 PER UNIT	STUDIO UNITS	64	Preliminary Architectural Plan	
		1-BED / 1-BATH UNITS	144	LEVEL B	311 SPACES
		2-BED / 2-BATH UNITS	63	PARKING:	(172 SPACES IF MEZZANINE IS INCLUDED)
NOTES		TOTAL	283	LEVEL 1	
1 LEVEL BELOW GRADE & GROUND FLOOR TO BE POST-TENSION CONCRETE PODIUM CONSTRUCTION. COLUMN GRID TO BE ROUGHLY 28'-6" x 31' WOOD FRAMED CONSTRUCTION LEVELS 2-5				PARKING:	84 SPACES
ACCESS FROM PUBLIC SPACE TO PROPERTY AND ENCROACHMENTS INTO PUBLIC SPACE TO BE COORDINATED AT A LATER DATE WITH WENK ASSOC. AND DTJ.				RETAIL:	23,833 GSF
				APARTMENTS:	(12) 1,870 GSF ea. (SELF PARK)
				RES LOBBY:	3,230 GSF
				MEZZANINE PARKING	
				PARKING:	147 SPACES
				LEVELS 2	
				APARTMENTS:	(65) 60,740 GSF
				AMENITIES:	4,150 GSF
				LEVEL 3 & 4	
				APARTMENTS:	(68) 64,740 GSF
				LEVEL 5	
				APARTMENTS:	(68) 61,340 GSF
				TOTAL	
				RESIDENCE PARKING:	311 SPACES
				RETAIL PARKING:	319 W/ MEZZ. 84 SPACES
				RETAIL:	23,833 GSF
				APARTMENTS:	(12) 22,440 GSF (SELF PARK)
				AMENITIES:	(269) 251,560 GSF
					7,380 GSF

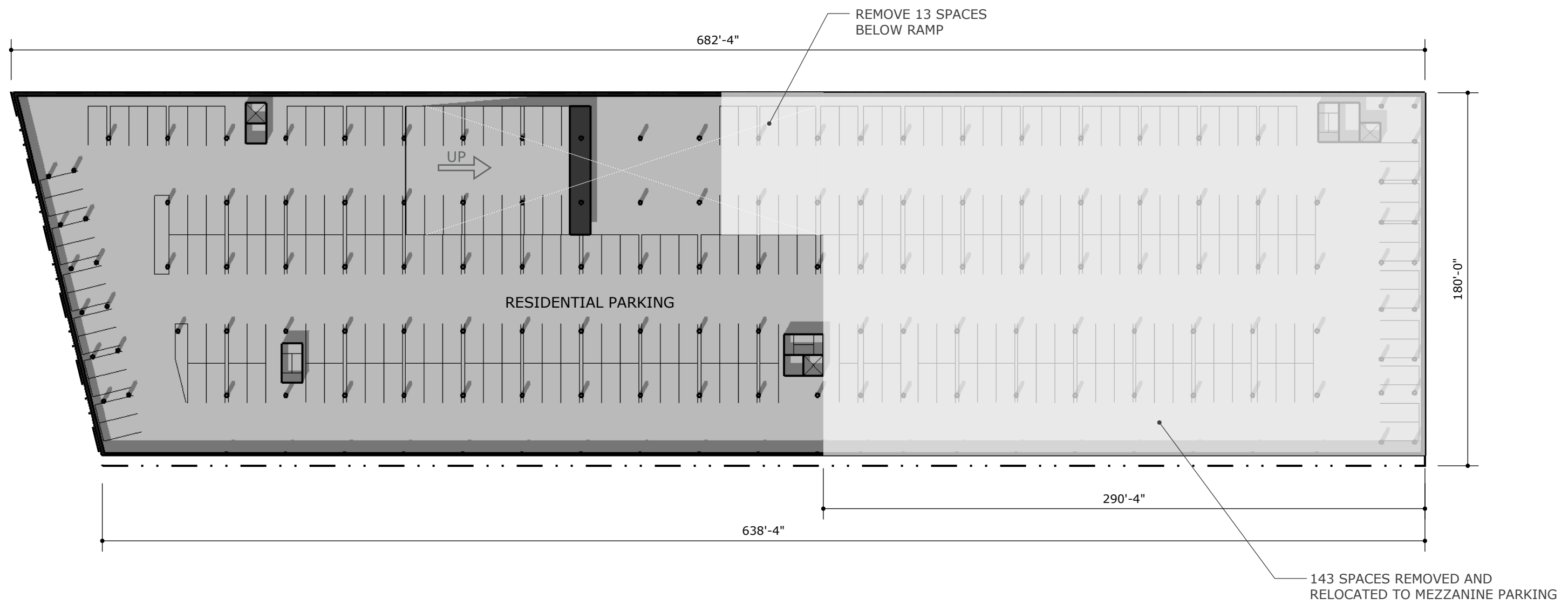


Exhibit F
Preliminary Architectural Plan

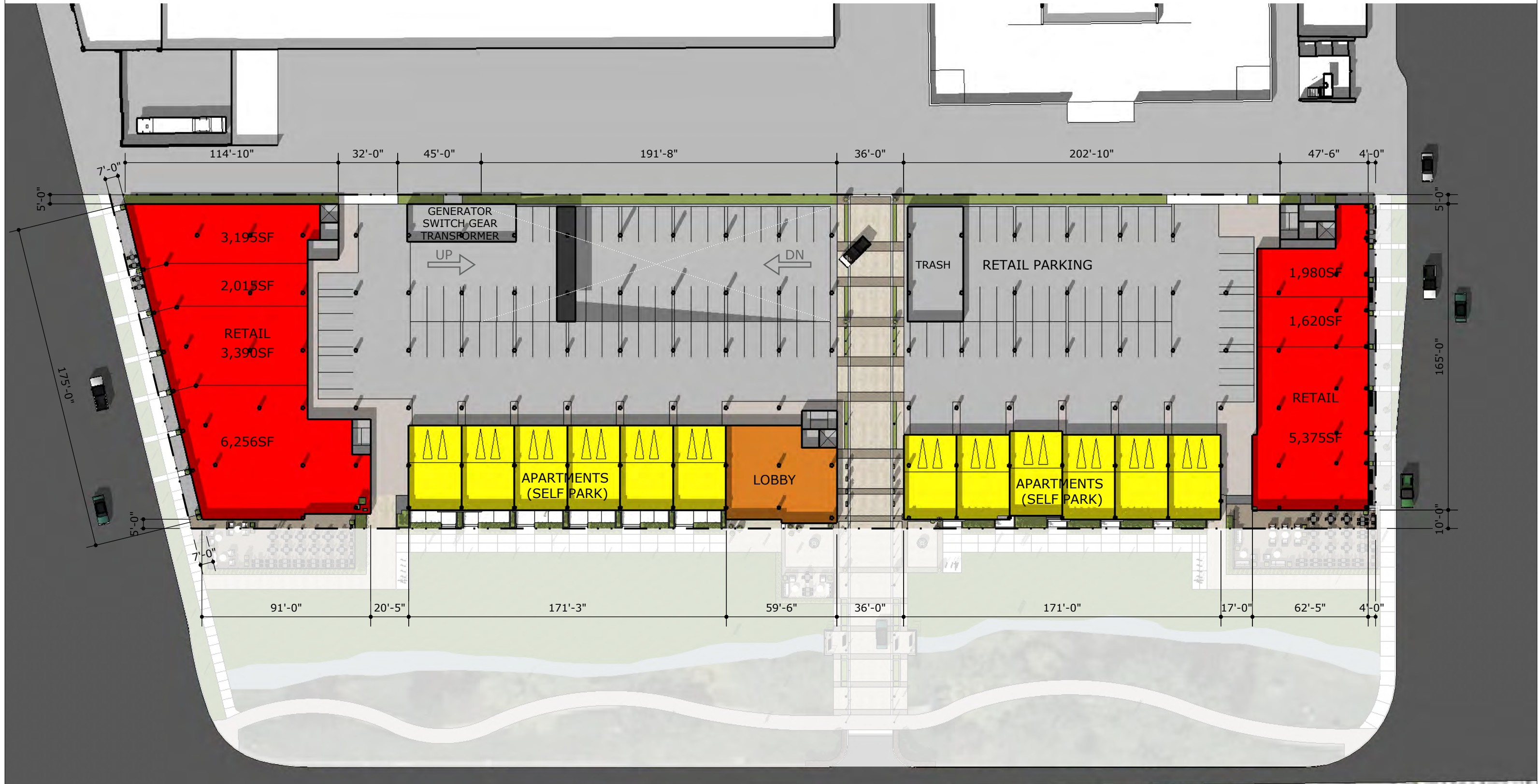


Exhibit F
Preliminary Architectural Plan

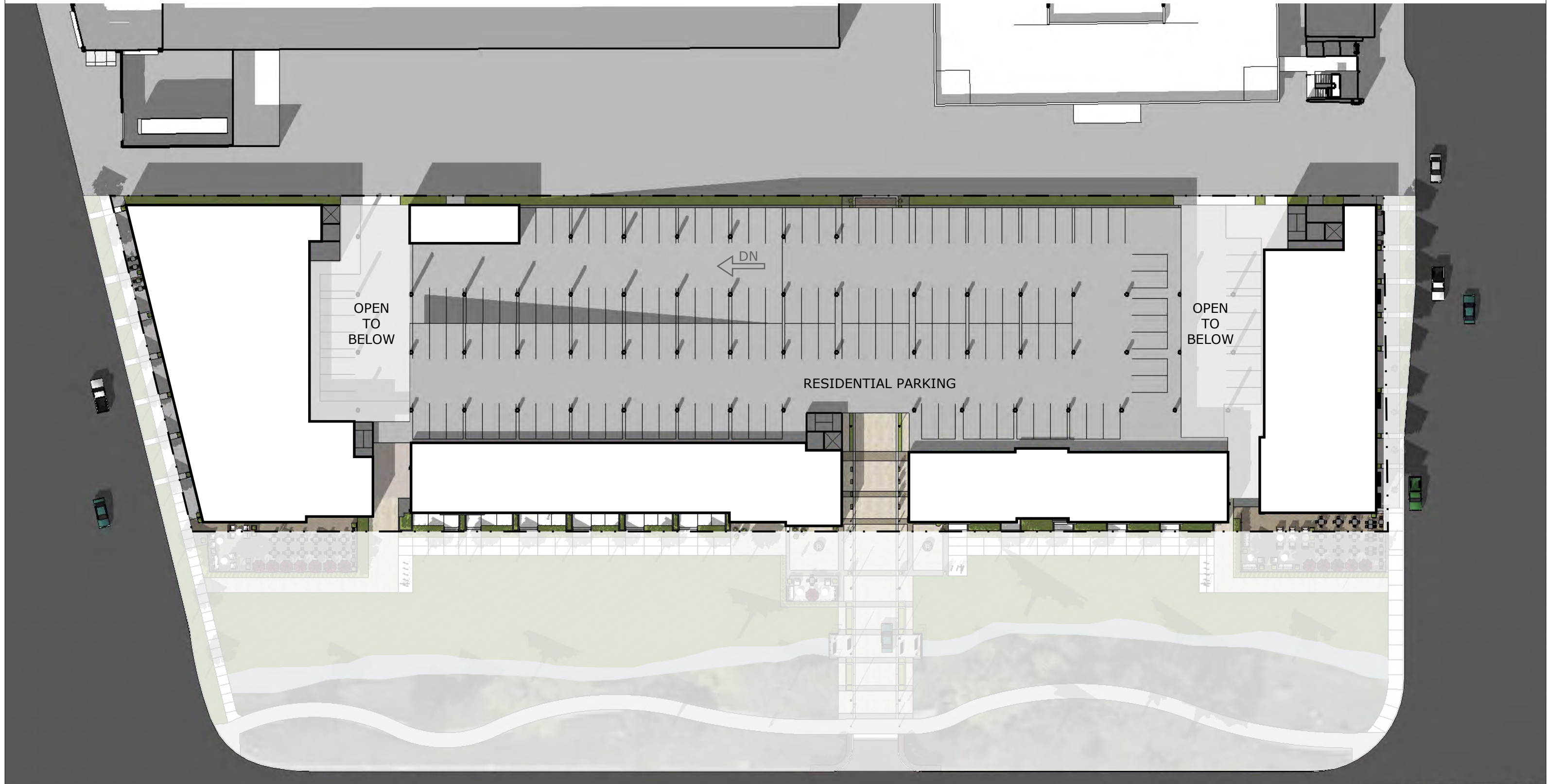


Exhibit F
Preliminary Architectural Plan

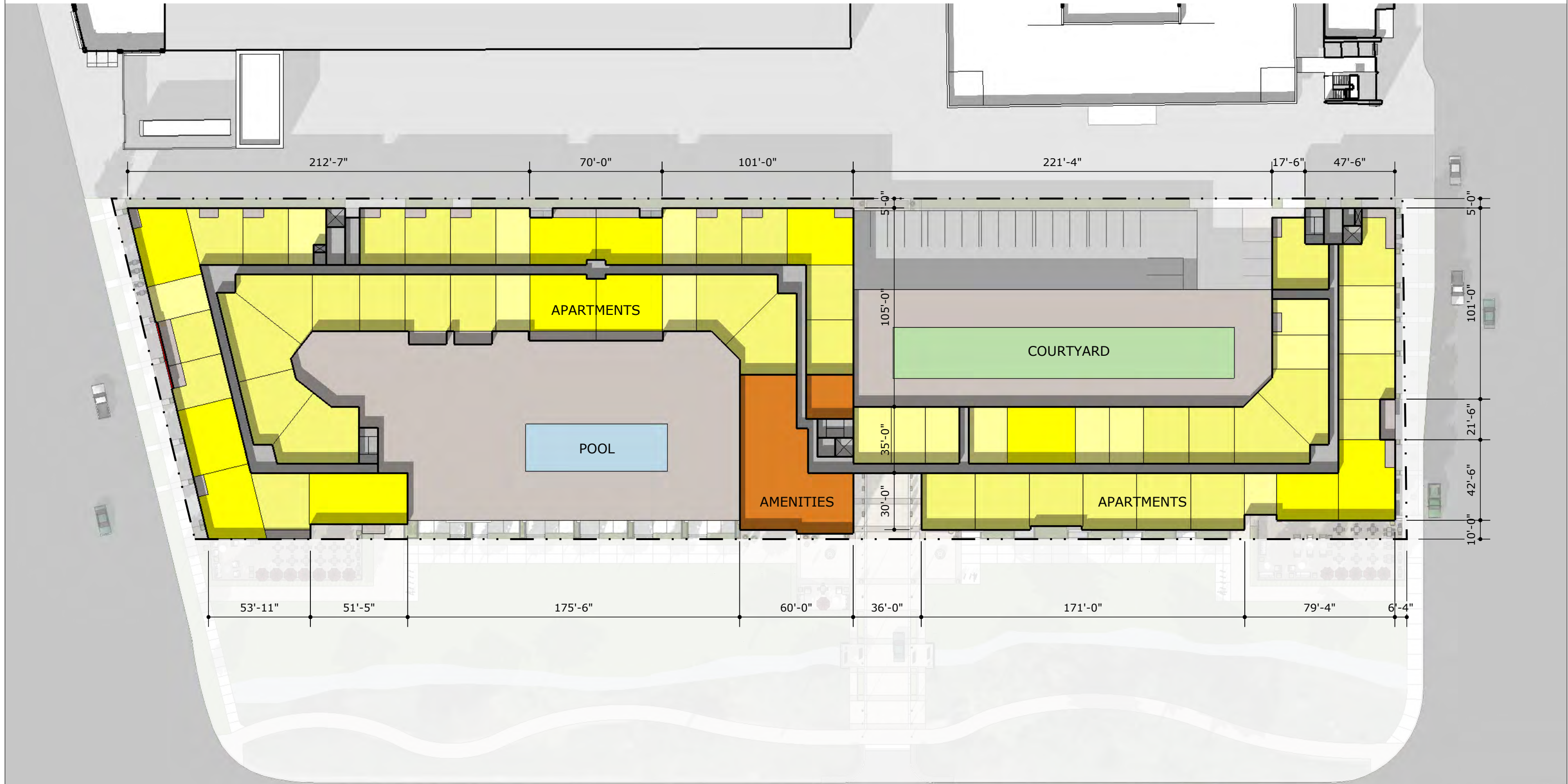


Exhibit F
Preliminary Architectural Plan

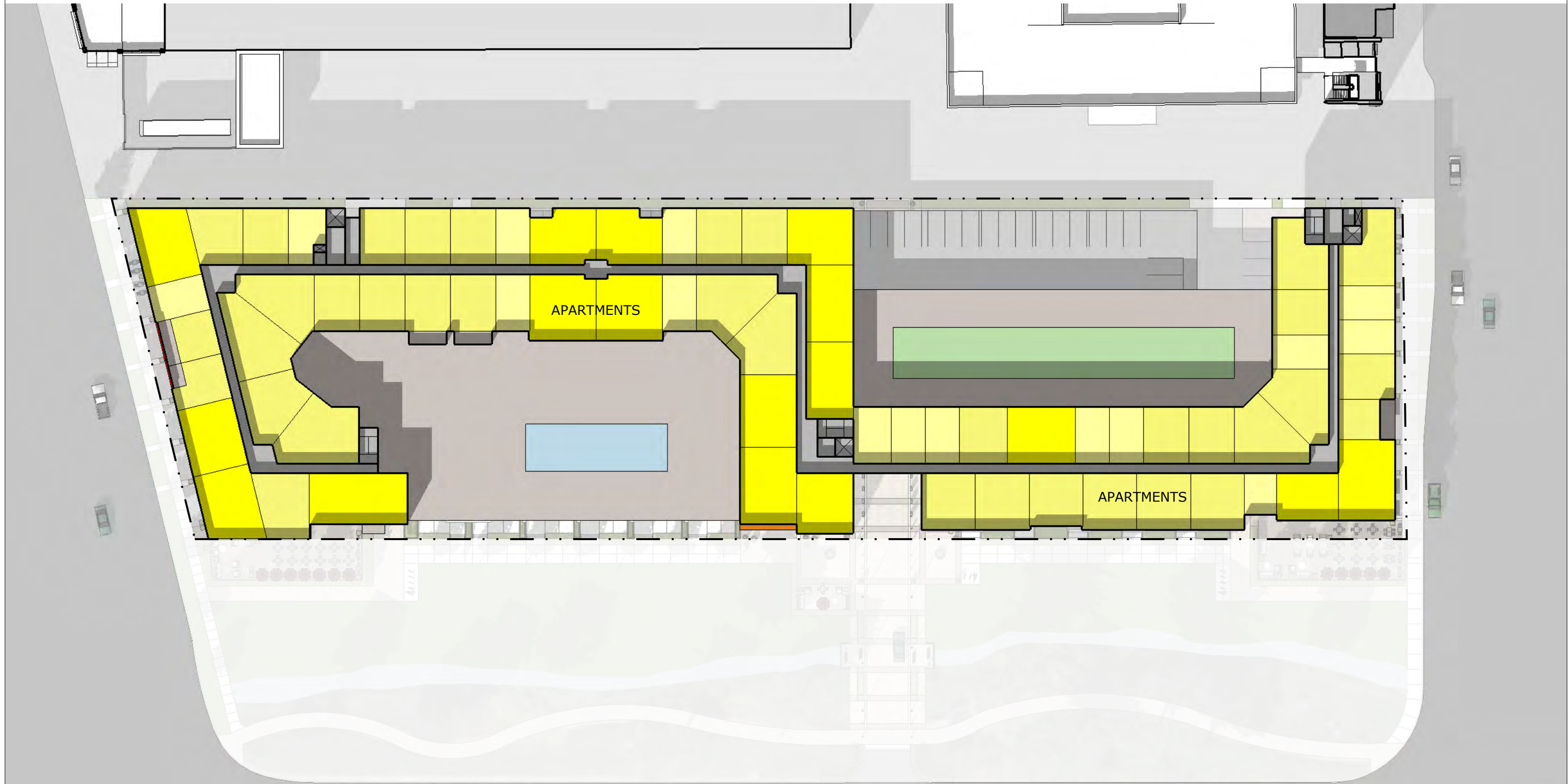


Exhibit F
Preliminary Architectural Plan

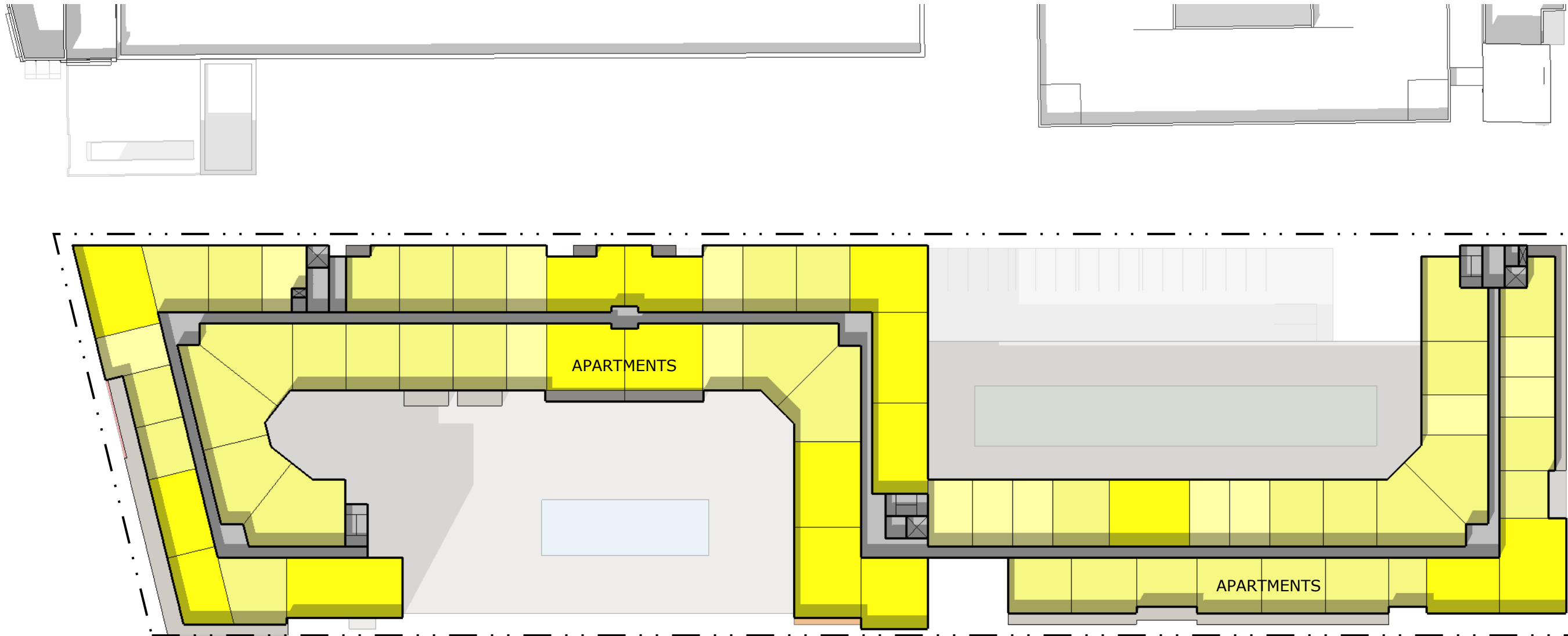


Exhibit F
Preliminary Architectural Plan

KEYNOTES

- A POOL
- B HOT TUB
- C PLANTER
- D WATER FEATURE
- E BBQ AREA
- F FIRE FEATURE
- G SEATING AREA
- H TRELLIS STRUCTURE
- J FLEX SPACE

POSSIBLY REDUCE COURTYARD
DEPTH EXPOSE MEZZANINE PARKING
BELOW, SIMPLIFY COURTYARD
CONTENT

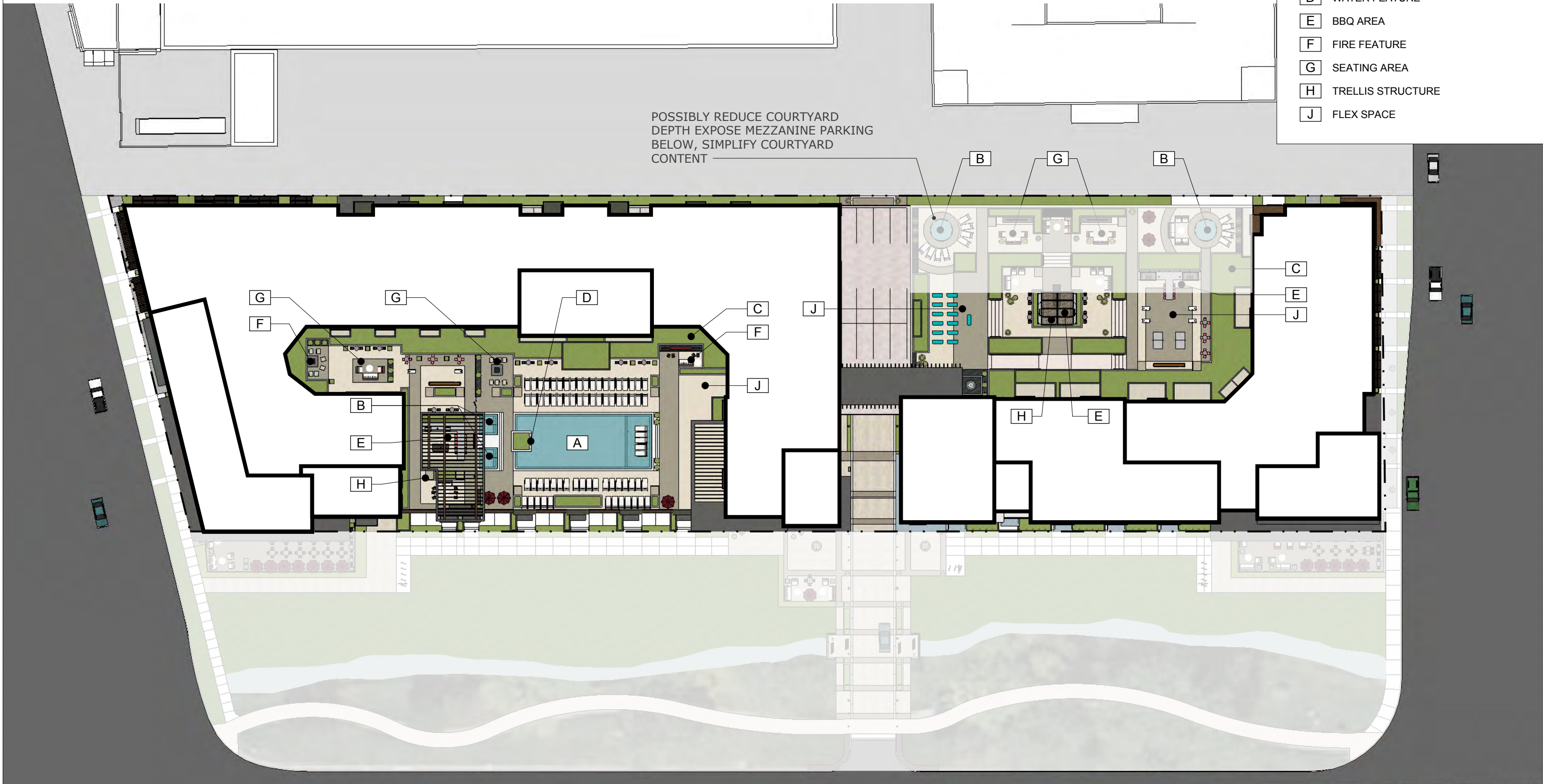
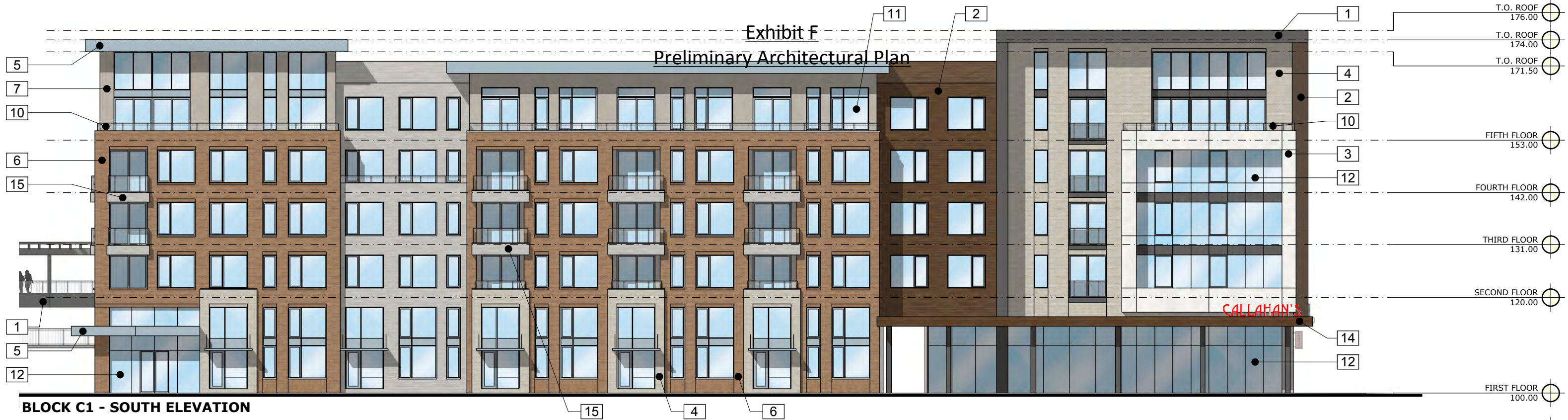


Exhibit F
Preliminary Architectural Plan



BLOCK C1 - SOUTH ELEVATION



BLOCK C1 - EAST ELEVATION

KEYNOTES

<p>1 METAL SALES T10-A METAL WALL PANEL - COLOR - DARK GRAY</p> <p>2 HARDIE PLANK LAP SIDING - SMOOTH 6"W COLOR - CHESTNUT BROWN</p> <p>3 STUCCO - SMOOTH TROWEL - LAHABRA COLOR - CRYSTAL WHITE</p>	<p>4 BRICK CLADDING - MACHINE CUT COLOR - LIGHT TONE, RUNNING BOND</p> <p>5 METAL SALES WALL PANEL - COLOR - LIGHT GRAY</p> <p>6 BRICK CLADDING - MACHINE CUT COLOR - MEDIUM TONE, RUNNING BOND</p>	<p>7 STUCCO - SMOOTH TROWEL - LAHABRA COLOR - MISTY</p> <p>8 BRICK CLADDING - MACHINE CUT COLOR - DARK TONE, STACK BOND</p> <p>9 HARDIE PLANK LAP SIDING - SMOOTH 6"W COLOR - MOUNTAIN SAGE</p>	<p>10 ALUMINUM RAILING SYSTEM W/ VERTICAL PICKETS</p> <p>11 VINYL WINDOW - MILGARD OR SIM.</p> <p>12 STOREFRONT GLAZING SYSTEM</p> <p>13 STUCCO - SMOOTH TROWEL - LAHABRA COLOR - BASALT</p>	<p>14 SOLID WOOD FACIA - MATCH "2"</p> <p>15 HARDIE PLANK LAP SIDING - SMOOTH 6"W COLOR - COBBLE STONE</p> <p>16 SMOOTH FINISH CONCRETE</p> <p>17 CABLE RAIL</p>
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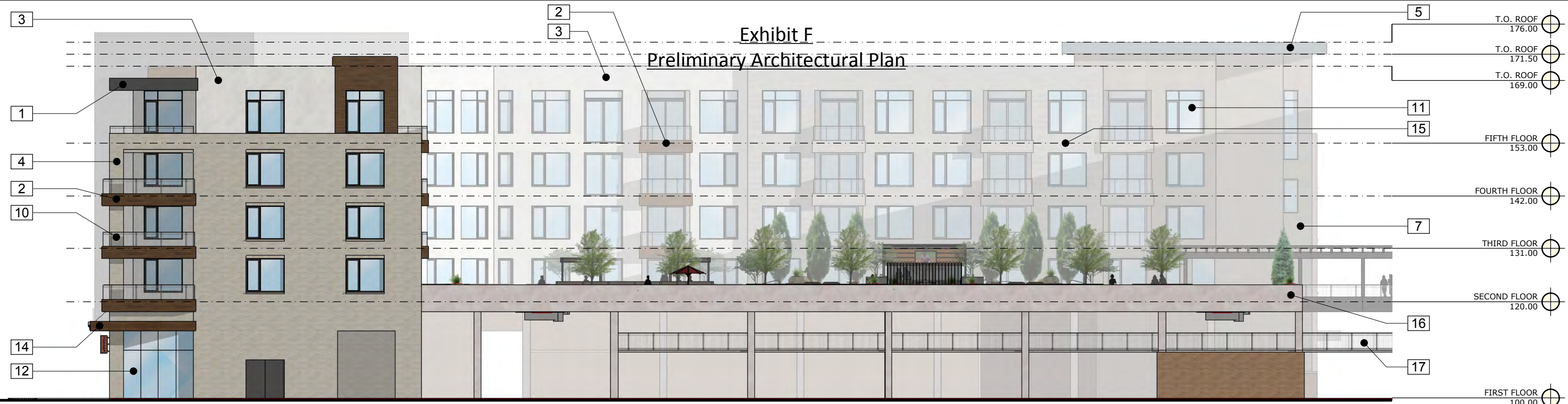
EXTERIOR ELEVATIONS

11.30.2015 SCALE: 1":20'

DOWNTOWN WESTMINSTER, CO | **BLOCK B1 / C1**

* ALL MATERIALS / COLORS SUBJECT TO CHANGE

Exhibit F
Preliminary Architectural Plan



BLOCK C1 - NORTH ELEVATION



BLOCK C1 - WEST ELEVATION

KEYNOTES

<p>1 METAL SALES T10-A METAL WALL PANEL - COLOR - DARK GRAY</p> <p>2 HARDIE PLANK LAP SIDING - SMOOTH 6"W COLOR - CHESTNUT BROWN</p> <p>3 STUCCO - SMOOTH TROWEL - LAHABRA COLOR - CRYSTAL WHITE</p>	<p>4 BRICK CLADDING - MACHINE CUT COLOR - LIGHT TONE, RUNNING BOND</p> <p>5 METAL SALES WALL PANEL - COLOR - LIGHT GRAY</p> <p>6 BRICK CLADDING - MACHINE CUT COLOR - MEDIUM TONE, RUNNING BOND</p>	<p>7 STUCCO - SMOOTH TROWEL - LAHABRA COLOR - MISTY</p> <p>8 BRICK CLADDING - MACHINE CUT COLOR - DARK TONE, STACK BOND</p> <p>9 HARDIE PLANK LAP SIDING - SMOOTH 6"W COLOR - MOUNTAIN SAGE</p>	<p>10 ALUMINUM RAILING SYSTEM W/ VERTICAL PICKETS</p> <p>11 VINYL WINDOW - MILGARD OR SIM.</p> <p>12 STOREFRONT GLAZING SYSTEM</p> <p>13 STUCCO - SMOOTH TROWEL - LAHABRA COLOR - BASALT</p>	<p>14 SOLID WOOD FACIA - MATCH "2"</p> <p>15 HARDIE PLANK LAP SIDING - SMOOTH 6"W COLOR - COBBLE STONE</p> <p>16 SMOOTH FINISH CONCRETE</p> <p>17 CABLE RAIL</p>
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EXTERIOR ELEVATIONS

11.30.2015

SCALE: 1":20'

DOWNTOWN WESTMINSTER, CO | **BLOCK B1 / C1**

* ALL MATERIALS / COLORS SUBJECT TO CHANGE



BLOCK B1 - SOUTH ELEVATION



BLOCK B1 - SOUTH ELEVATION

KEYNOTES

- 1 METAL SALES T10-A METAL WALL PANEL - COLOR - DARK GRAY
- 2 HARDIE PLANK LAP SIDING - SMOOTH 6"W COLOR - CHESTNUT BROWN
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- 16 SMOOTH FINISH CONCRETE
- 17 CABLE RAIL



EXTERIOR ELEVATIONS

11.30.2015

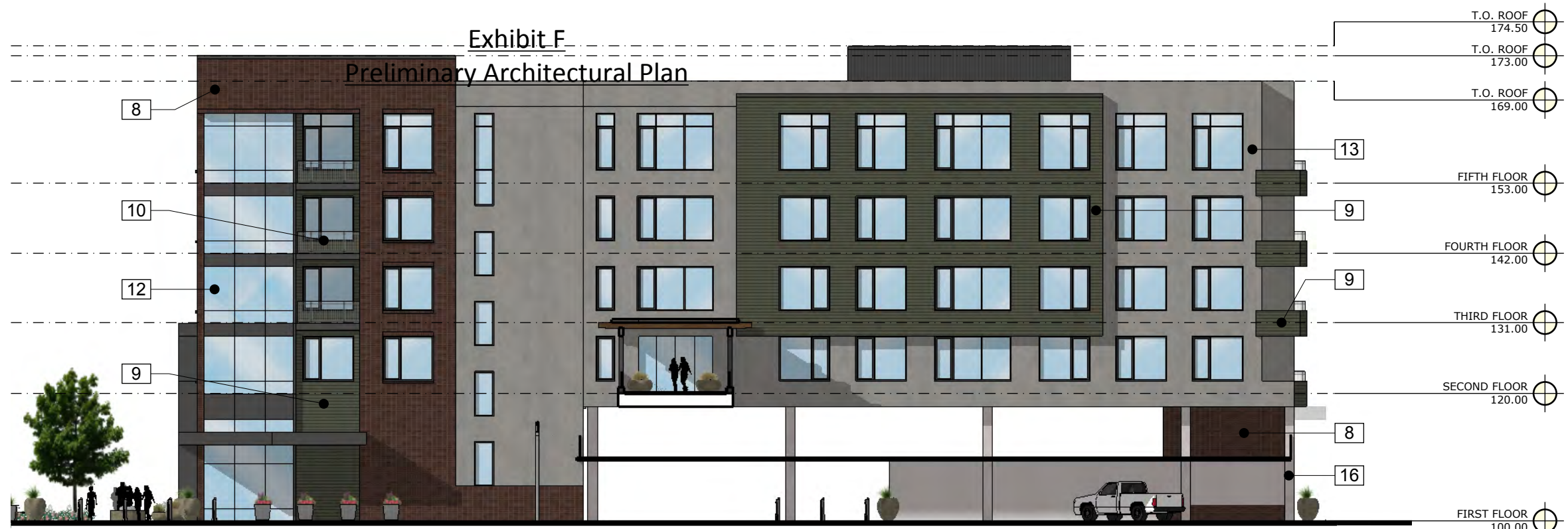
SCALE: 1":20'

DOWNTOWN WESTMINSTER, CO | **BLOCK B1 / C1**

* ALL MATERIALS / COLORS SUBJECT TO CHANGE

Exhibit F

Preliminary Architectural Plan



BLOCK B1 - EAST ELEVATION



BLOCK B1 - WEST ELEVATION

KEYNOTES

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EXTERIOR ELEVATIONS

11.30.2015

SCALE: 1":20'

DOWNTOWN WESTMINSTER, CO | BLOCK B1 / C1

* ALL MATERIALS / COLORS SUBJECT TO CHANGE

SK

Exhibit E
Preliminary Architectural Plan



BLOCK B1 - NORTH ELEVATION



BLOCK B1 - NORTH ELEVATION

KEYNOTES

1 METAL SALES T10-A METAL WALL PANEL - COLOR - DARK GRAY	4 BRICK CLADDING - MACHINE CUT COLOR - LIGHT TONE, RUNNING BOND	7 STUCCO - SMOOTH TROWEL - LAHABRA COLOR - MISTY	10 ALUMINUM RAILING SYSTEM W/ VERTICAL PICKETS	14 SOLID WOOD FACIA - MATCH "2"
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EXTERIOR ELEVATIONS

11.30.2015

SCALE: 1":20'

DOWNTOWN WESTMINSTER, CO | **BLOCK B1 / C1**

* ALL MATERIALS / COLORS SUBJECT TO CHANGE

SK

Exhibit F
Preliminary Architectural Plan



KEYNOTES

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PERSPECTIVE - 1

11.30.2015

SCALE: N.T.S.

DOWNTOWN WESTMINSTER, CO | BLOCK B1 / C1

* ALL MATERIALS / COLORS SUBJECT TO CHANGE

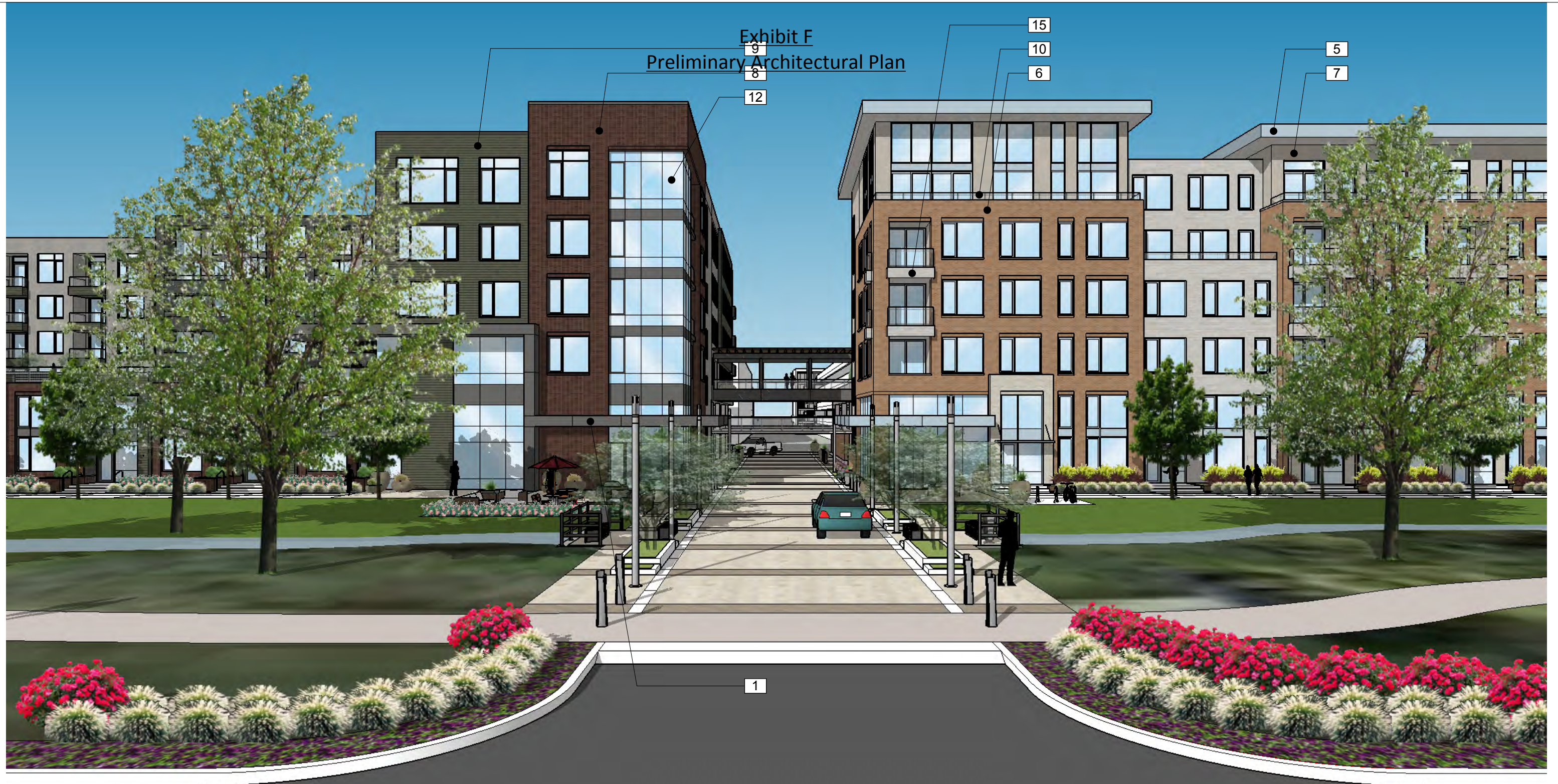


Exhibit F
Preliminary Architectural Plan

KEYNOTES

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Exhibit F
Preliminary Architectural Plan

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PERSPECTIVE - 3

11.30.2015

SCALE: N.T.S.

DOWNTOWN WESTMINSTER, CO | BLOCK B1 / C1

* ALL MATERIALS / COLORS SUBJECT TO CHANGE

SK

Exhibit F
Preliminary Architectural Plan



KEYNOTES

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Exhibit F
Preliminary Architectural Plan



KEYNOTES

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PERSPECTIVE - 5

11.30.2015

SCALE: N.T.S.

DOWNTOWN WESTMINSTER, CO | **BLOCK B1 / C1**

* ALL MATERIALS / COLORS SUBJECT TO CHANGE

SK

Exhibit F
Preliminary Architectural Plan



KEYNOTES

- 1** METAL SALES T10-A METAL WALL PANEL - COLOR - DARK GRAY
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PERSPECTIVE - 6

11.30.2015

SCALE: N.T.S.

DOWNTOWN WESTMINSTER, CO | **BLOCK B1 / C1**

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Exhibit F
Preliminary Architectural Plan



KEYNOTES

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Exhibit F
Preliminary Architectural Plan



KEYNOTES

<p>1 METAL SALES T10-A METAL WALL PANEL - COLOR - DARK GRAY</p>	<p>4 BRICK CLADDING - MACHINE CUT COLOR - LIGHT TONE, RUNNING BOND</p>	<p>7 STUCCO - SMOOTH TROWEL - LAHABRA COLOR - MISTY</p>	<p>10 ALUMINUM RAILING SYSTEM W/ VERTICAL PICKETS</p>	<p>14 SOLID WOOD FACIA - MATCH "2"</p>
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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, Sherman Associates, Inc. or its Affiliate,
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, Westminster Economic Development Authority, 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 Jefferson, Colorado:

See Exhibit A

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:
as provided in B-1/C-1 Development Agreement ; 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	N/A
Title			
2	§ 8.1	Record Title Deadline	as provided in B-1/C-1 Development Agreement
3	§ 8.2	Record Title Objection Deadline	30 Days after Buyer's Receipt of Title Commitment, Title Documents and Survey
4	§ 8.3	Off-Record Title Deadline	as provided in B-1/C-1 Development Agreement
5	§ 8.3	Off-Record Title Objection Deadline	30 Days after Buyer's Receipt of Title Commitment, Title Documents and Survey
6	§ 8.4	Title Resolution Deadline	8/31/2016
7	§ 8.6	Right of First Refusal Deadline	N/A
Owners' Association			
8	§ 7.3	Association Documents Deadline	N/A
9	§ 7.4	Association Documents Objection Deadline	N/A
Seller's Property Disclosure			
10	§ 10.1	Seller's Property Disclosure Deadline	N/A
Loan and Credit			
11	§ 5.1	Loan Application Deadline	N/A
12	§ 5.2	Loan Objection Deadline	as provided in B-1/C-1 Development Agreement Exh. E
13	§ 5.3	Buyer's Credit Information Deadline	N/A
14	§ 5.3	Disapproval of Buyer's Credit Information Deadline	N/A
15	§ 5.4	Existing Loan Documents Deadline	N/A
16	§ 5.4	Existing Loan Documents Objection Deadline	N/A
17	§ 5.4	Loan Transfer Approval Deadline	N/A
18	§ 4.7	Seller or Private Financing Deadline	as provided in B-1/C-1 Development Agreement Exh. E

Appraisal			
19	§ 6.2	Appraisal Deadline	N/A
20	§ 6.2	Appraisal Objection Deadline	N/A
21	§ 6.2	Appraisal Resolution Deadline	N/A
Survey			
22	§ 9.1	New ILC or New Survey Deadline	30 Days after MEC
23	§ 9.3	New ILC or New Survey Objection Deadline	30 Days after Buyer's Receipt of Title Commitment, Title Documents and Survey
24	§ 9.4	New ILC or New Survey Resolution Deadline	as provided in B-1/C-1 Development Agreement
Inspection and Due Diligence			
25	§ 10.3	Inspection Objection Deadline	N/A
26	§ 10.3	Inspection Resolution Deadline	N/A
27	§ 10.5	Property Insurance Objection Deadline	N/A
28	§ 10.6	Due Diligence Documents Delivery Deadline	as provided in B-1/C-1 Development Agreement
29	§ 10.6	Due Diligence Documents Objection Deadline	7/31/2016
30	§ 10.6	Due Diligence Documents Resolution Deadline	8/31/2016
31	§ 10.6	Environmental Inspection Objection Deadline	7/31/2016
32	§ 10.6	ADA Evaluation Objection Deadline	N/A
33	§ 10.7	Conditional Sale Deadline	N/A
34	§ 11.1	Tenant Estoppel Statements Deadline	N/A
35	§ 11.2	Tenant Estoppel Statements Objection Deadline	N/A
Closing and Possession			
36	§ 12.3	Closing Date	1/31/2017
37	§ 17	Possession Date	1/31/2017
38	§ 17	Possession Time	Noon
39	§ 28	Acceptance Deadline Date	
40	§ 28	Acceptance Deadline Time	

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.

91

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	\$	3,000,000		
2	§ 4.3	Earnest Money			\$	100,000
3	§ 4.5	New Loan			\$	
4	§ 4.6	Assumption Balance			\$	
5	§ 4.7	Private Financing			\$	TBD
6	§ 4.7	Seller Financing			\$	
7						
8						
9	§ 4.4	Cash at Closing			\$	2,900,000
10		TOTAL	\$	3,000,000	\$	3,000,000

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 good funds, will be
101 payable to and held by Title Company (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**.~~

209
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 ALTA Survey satisfactory to Buyer and Lender 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 Buyer's Affiliate and Lender 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 Object**ion 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 ³⁰_____ 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.~~

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 mutual agreement of Buyer and Seller.

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 special warranty deed 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** No taxes due at Closing _____.

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

GENERAL PROVISIONS

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
759
760 See Addendum
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

777

SIGNATURES

778

Buyer's Name: Sherman Associates Inc.

Buyer's Name: _____

Buyer's Signature _____ Date _____

Buyer's Signature _____ Date _____

Address: 233 Park Avenue South, Suite 201
Minneapolis, MN 55415

Address: _____

Phone No.: _____

Phone No.: _____

Fax No.: _____

Fax No.: _____

Email Address: _____

Email Address: _____

779 **[NOTE: If this offer is being countered or rejected, do not sign this document. Refer to § 32]**

Seller's Name: Westminster Economic Development Authority

Seller's Name: _____

Seller's Signature _____ Date _____

Seller's Signature _____ Date _____

Address: 4800 West 92nd Avenue
Westminster, CO 80031

Address: _____

Phone No.: _____

Phone No.: _____

Fax No.: _____

Fax No.: _____

Email Address: _____

Email Address: _____

780

781 **32. COUNTER; REJECTION.** This offer is **Countered** **Rejected.**
782 **Initials only of party (Buyer or Seller) who countered or rejected offer** _____

783

END OF CONTRACT TO BUY AND SELL REAL ESTATE

33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Buyer)

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

This is a **Change of Status**.

Brokerage Firm's compensation or commission is to be paid by **Listing Brokerage Firm** **Buyer** **Other** _____.

Brokerage Firm's Name: _____

Broker's Name: _____

Broker's Signature Date

Address: _____

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: The Laramie Company
Broker's Name: Mary Beth Jenkins

Broker's Signature Date

Address: 730 17th Street Suite 840
Denver, CO 80202

Phone No.: _____
Fax No.: _____
Email Address: _____

784

ADDENDUM TO CONTRACT TO BUY AND SELL REAL ESTATE

This Addendum to Contract to Buy and Sell Real Estate is made and entered into as of ____ day of _____, 2016

The undersigned Buyer and Seller are parties to that certain Contract to Buy and Sell Real Estate, dated _____, 2016.

The Parties hereby agree that the following terms are part of the Contract and are hereby incorporated therein.

The terms of the Development Agreement between Buyer and Seller, dated _____, 2016 (the “B-1/C-1 Development Agreement”), with respect to the purchase and sale of the Property, are incorporated into this Contract as if fully set forth herein. Terms used but not defined in this Contract have the meanings provided in the B-1/C-1 Development Agreement. To the extent the terms of the B-1/C-1 Development Agreement conflict with the terms of this Contract, the terms of the B-1/C-1 Development Agreement control.

This Contract is assignable in accordance with the B-1/C-1 Development Agreement.

Exhibit H

Downtown Westminster - Acceptable Commercial/Retail Uses by Block

E = Encouraged

A = Acceptable

D = Discouraged (but may accept in special cases)

X = Not Allowed

Category/Classification	Block B-1	Block C-1
Planned Sq. Ft.	14,800	11,000

Sig. Retail Anchors/Mini-Anchors

General Merchandise - Dept. Store	X	X
Other Medium Format Anchors	D	D
Entertainment - Movies	D	D
Entertainment - Bowling	D	D
Entertainment - Other	D	D
Fitness - Large	X	X
Fitness - Smaller	X	X

Local-Serving Anchors

Grocery	D	D
Specialty Grocery	D	D
Specialty Food Hall/Market	D	D
Convenience Market	X	X
Drugstore/Pharmacy - National	X	X
Drugstore/Pharmacy - Local	A	A
Hardware - National	D	D
Local Hardware - Local	D	D

Apparel & Accessories

Women's Apparel - National	D	D
Women's Apparel - Local	D	D
Men's Apparel - National	D	D
Men's Apparel - Local	D	D
Unisex Apparel - National	D	D
Unisex Apparel - Local	D	D
Children's Apparel - National	D	D
Children's Apparel - Local	D	D
Accessories - National	D	D
Accessories - Local	D	D
Shoes - National	D	D
Shoes - Local	D	D
Misc. Apparel - National	D	D
Misc. Apparel - Local	D	D

Exhibit H

Downtown Westminster - Acceptable Commercial/Retail Uses by Block

E = Encouraged

A = Acceptable

D = Discouraged (but may accept in special cases)

X = Not Allowed

Category/Classification	Block B-1	Block C-1
Planned Sq. Ft.	14,800	11,000

Specialty Retail

Cards/Gifts - National	D	D
Cards/Gifts - Local	A	A
Beauty Supplies - National	D	D
Beauty Supplies - Local	A	A
Beauty/Fragrance/Health - National	D	D
Beauty/Fragrance/Health - Local	A	A
Vitamins/Health - National	D	D
Vitamins/Health - Local	A	A
Florist/Gifts - National	D	D
Florist/Gifts - Local	A	A
Optical - National	D	D
Optical - Local	A	A
Jewelry - National	D	D
Jewelry - Local	A	A
Electronics/Wireless - National	D	D
Electronics/Wireless - Local	A	A
Misc. Specialty Retail - National	D	D
Misc. Specialty Retail - Local	A	A

Home

Home Furnishings - National	D	D
Home Furnishings - Local	D	D
Home Design Center (Local Only)	D	D
Home Entertainment, Audio -	D	D
Home Entertainment, Audio -	A	A
Framing, Home Décor - National	D	D
Framing, Home Décor - Local	A	A
Misc. Home - National	D	D
Misc. Home - Local	A	A
Garden/Home - Local Only	A	A

Food - Sit Down Restaurants

Fine Dining - National	D	D
Fine Dining - Local	E	E
Casual Sit Down Dining - National	D	E

Exhibit H

Downtown Westminster - Acceptable Commercial/Retail Uses by Block

E = Encouraged

A = Acceptable

D = Discouraged (but may accept in special cases)

X = Not Allowed

Category/Classification Planned Sq. Ft.	Block B-1 14,800	Block C-1 11,000
Casual Sit Down Dining - Local	E	E
Bar & Grill - National	D	A
Bar & Grill - Local	E	E
Brewery/Pub - National	D	D
Brewery/Pub - Local	E	E
Other Sit Down - National	D	D
Other Sit Down - Local	E	E
<u>Fast Casual/Quick Serve Food</u>		
Fast Casual - National	D	D
Fast Casual - Local	E	E
Quick Serve Dining - National	D	D
Quick Serve Dining - Local	E	E
Fast Food - National	D	D
Fast Food - Local	E	E
Fast Food (Drive-Through) -	X	X
Fast Food (Drive-Through) -	X	X
<u>Food Specialty</u>		
Coffee/Tea - National	D	D
Coffee/Tea - Local	E	E
Breads/Bakery - National	D	D
Breads/Bakery - Local	E	E
Juice - National	D	D
Juice - Local	E	E
Candies/Nuts - National	D	D
Candies/Nuts - Local	E	E
Ice Cream/Yogurt - National	D	A
Ice Cream/Yogurt - Local	E	E
Misc. Specialty Food - National	D	D
Misc. Specialty Food - Local	E	E
<u>Services</u>		
Cleaners (Local Only)	A	A
Salon - significant (Local Only)	X	X
Salon - small (Local Only)	X	X

Exhibit H

Downtown Westminster - Acceptable Commercial/Retail Uses by Block

E = Encouraged

A = Acceptable

D = Discouraged (but may accept in special cases)

X = Not Allowed

Category/Classification	Block B-1	Block C-1
Planned Sq. Ft.	14,800	11,000
Nails/Spa (Local Only)	X	X
Haircuts (Local Only)	A	A
Day Spa (Local Only)	A	A
Copies/Mail/Printing (Local	A	A
Shoe Repair / Alterations	D	A
Misc. Repair Services, computers	A	A
Misc. Services (Local Only)	A	A
Auto Service	X	X
Gasoline	X	X

Local Services/Office Space (limited to 5,000 sq ft per building)

Financial - Bank, S&L	A	A
Financial/Investmant	A	A
Real Estate	A	A
Title/Escrow	A	A
Insurance	A	A
HOA/Management	A	A
Medical - offices, health clinic	A	A
Dental	A	A
Chiropractic	A	A
Optometry	A	A
Misc. Health/Wellness	A	A
Yoga, other health	A	A
Veterinary	A	A
Misc. Office Space	A	A

WEDA Agenda Item 3 B

Agenda Memorandum

Westminster Economic Development Authority
February 29, 2016



SUBJECT: Purchase and Sale Agreement for Hancoop @ Westminster, LLC

Prepared By: Sarah Nurmela, Downtown Westminster Real Estate & Development Manager
Jody Andrews, Deputy Executive Director

Recommended WEDA Board Action

Authorize the Westminster Economic Development Authority Executive Director to sign a Purchase and Sale Agreement with Hancoop @ Westminster LLC for a mixed-use commercial and office building on Lot 2 Block C-3 of the Downtown Westminster site in substantially the same form as the attached agreement.

Summary Statement

- The City has committed to a strategy to become the next urban center on Colorado's Front Range with the creation of the Downtown Westminster project. Establishing a strong, cohesive presence in the first phase of development in Downtown is essential to meeting this vision.
- The attached Purchase and Sale Agreement between the Westminster Economic Development Authority (WEDA) and Hancoop @ Westminster LLC (Hancoop) represents an important component of this first phase of development by providing a significant office presence.
- The proposed Hancoop project will occupy a 25,000 square-foot parcel with a height of five to six stories on the western portion of block C-3. The building will comprise approximately 80,000 to 120,000 square feet of combined retail and office space, including 15,000 square feet of retail at the ground floor.
- Solera Salon, Inc. and Grid Collaborative Workspace, Inc. will locate within the Hancoop Development, bringing high quality retail and office collaborative space to Downtown.
- Staff began working with Solera/Grid in May 2015 and executed a Letter of Intent with Solera Salon, Inc. in September 2015.
- The attached Purchase and Sale Agreement represents the next step in completing the Hancoop development and outlines commitments by both parties that include development parameters, LEED Silver certification, completion of public improvements and infrastructure, and key dates for financing, development approvals, and construction.

Expenditure Required: \$0

Source of Funds: Not applicable

Policy Issue

Should WEDA proceed with the mixed-use commercial office project on lot 2 of block C3 by signing the Purchase and Sale Agreement with Hancoop?

Alternative

The WEDA Board could choose not to sign this Purchase and Sale Agreement with Hancoop. This alternative is not recommended. The Hancoop development brings a key opportunity to establish office uses as part of the first phase of development in Downtown. The building also provides an eastern edge to the Central Square and the physical buildout of the first phase. Not proceeding with the C-3 block also delays collection of tax increment revenue, and property tax revenue in the Downtown General Improvement District.

Background Information

The City has been working with multiple developers to craft a cohesive first phase of development in Downtown Westminster. A high intensity of development and wide range of uses on-site is key to ensuring the economic viability of this first phase. Office uses in particular provide a daytime population to complement residential and support commercial uses that often peak in activity during the evening. The Hancoop development brings a significant amount of office space into the first phase as well as unique salon and retail uses, all of which will be located in a signature building facing onto the Central Square.

The Hancoop development will be anchored by Solera Salon, Inc. (Solera) and Grid Collaborative Workspace, Inc. (Grid). Both entities are under the same ownership and will benefit from shared amenities including a café, event spaces, on-site management, and extensive business support services. Solera provides luxury salon suites, marketing and business support, and retail space for a wide range of beauty professionals. Solera has been in business for over 10 years, with four highly successful locations in three states, including Centennial and Lone Tree in Colorado, Alpharetta in Georgia, and Overland Park in Kansas. Similar to Solera, Grid provides an inclusive setting with adaptable work, conference, and event space for individuals, small start-ups and established companies. A range of spaces from open seating areas to assigned desks, offices or suites is complemented by amenities including conference rooms, a recreation room and community-oriented events and activities. The first location for the Grid space will be in Overland Park in Kansas, in concert with the Solera Salon.

City Staff has been working with Solera/Grid since May of 2015. A Letter of Intent with Solera was signed on September 15, 2015 for development of a 25,000-square-foot parcel on the western end of block C-3. Solera and Grid are both integrated into Hancoop, with whom WEDA will execute the Purchase and Sale Agreement (PSA). The terms of the PSA (Attachment A) are summarized below.

Project Description

The Hancoop development consists of a five- to six-story LEED Silver certified building with a floor plate of approximately 20,000 square feet and total building floor area between 80,000 and 120,000 square feet. Uses will include at minimum 15,000 square feet of retail at the ground floor; 12,000 square feet of salon suite facility; and 40,000 square feet of office area, of which at least 15,000 will be collaborative space. Parking for the project will be provided on a non-exclusive basis by WEDA at a rate of 3.0 spaces per 1,000 square feet.

Developer Commitments

- Purchase and develop Lot 2 of block C-3 in accordance with the development details of the PSA, Downtown Specific Plan and all other applicable plans and regulations.
- Provide Architectural Plans within 120 days of execution of the PSA, followed by an Official Development Plan submittal in 60 days.
- Provide a Leasing Plan for review and approval by WEDA within 120 days that is consistent with the list of approved uses provided by WEDA. Once approved, the developer will comply with the Leasing Plan for a period of five years after the first opening of the project.

- Record a right to repurchase that grants to WEDA the right to repurchase the property if construction fails to commence within 14 months of closing or to complete within 48 months of closing.

WEDA Commitments

- Timely review and approval of the Architectural Plans and ODP for the Hancoop development and issuance of building permits immediately following closing.
- Provide all off-site infrastructure necessary to begin construction of the Hancoop development including streets with direct access to the property, sidewalk, and utilities.
- Procure development agreements, leases, or contracts for sale within the Downtown site of at least 300,000 square feet of useable retail, office or residential development, or combination thereof.

Financial Terms

Earnest money in the amount of \$50,000 will be transferred within five days of the execution of the PSA. The total Purchase price of \$1,650,000 will be paid at closing. The purchase price includes land and parking provided by WEDA within public parking facilities. All applicable City fees will be paid.

Key Dates

Upon execution of the PSA, the key milestone dates for the Hancoop development are as follows:

Submittal of Architectural Plan and Leasing Plan	120 days
Submittal of ODP	180 days
Developer to Obtain Financing	330 days
Closing Date	14 months
Commencement of Construction	60 days of Closing Date
Substantial Completion	36 months after Closing

Strategic Plan

Completion of the Hancoop development as described above will ensure a sustainable mix of uses is established in the first phase of development in Downtown. Execution of the PSA for the Hancoop development meets the Strategic Plan goals of a Vibrant, Inclusive and Engaged Community; Beautiful, Desirable, Safe and Environmentally Responsible City; and Dynamic, Diverse Economy.

Respectfully submitted,

Donald M. Tripp
Executive Director

Attachments: Purchase and Sale Agreement

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made and entered into by and between Hancoop @ Westminster, LLC or assignee (“**Purchaser**”), a corporation organized and operating pursuant to the laws of the State of Colorado, and the WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY (“**WEDA**”), an urban renewal authority in the City of Westminster, Colorado (“**City**”), organized and operating pursuant to the laws of the State of Colorado. Purchaser and WEDA are sometimes referred to herein individually as a “**Party**,” and collectively as the “**Parties**.” The Agreement shall become effective (“Effective Date”) on the later of the dates on which the Agreement is signed by the Parties.

RECITALS:

- A. WEDA is charged with the responsibility for implementing the Westminster Center Urban Reinvestment Project, an approximately 105 acre redevelopment project located at the northwest corner of 88th Ave. and Highway US 36 in the City (“**Project**”).
- B. The City and WEDA intend the Project to be a high density, mixed use, urban scale downtown for the City.
- C. WEDA is the fee owner of the Project, except for a Brunswick Bowling Center located on the north, and a dental office located at the northwest corner of the Project.
- D. WEDA has previously adopted an Urban Renewal Plan, and the City has previously adopted Site Specific Zoning, a Site Specific Plan, and a Subdivision Plat for the Project.
- E. WEDA desires to sell and Purchaser desires to purchase a parcel of property within the Project for the development of a five- to six-story, integrated mixed use structure Designed to include retail and/or restaurant uses on the ground floor and with upper floors intended to house the following uses: Salon/spa suites, collaborative workspace, office, or other permitted uses (the “**Hancoop Development**”).

NOW THEREFORE, the Parties agree as follows:

Dates and Deadlines.

Item No.	Reference	Event	Date or Deadline
1	§ 3	Earnest Money Deadline	5 Days after Effective Date
		Title	
	§ 4a	Title Commitment	20 Days after Effective Date
	§ 4e	Title Commitment Objection Deadline aka Defects Notice Deadline	55 Days after Effective Date
	§ 4a	Off-Record Title Deadline	20 Days after Effective Date
	§ 4e	Off-Record Title Objection Deadline aka Defects Notice Deadline	55 Days after Effective Date
	§ 4e	Cure Period for Title Objection	10 Days after Defects Notice Deadline
	§ 4e	Termination of Agreement Based on Failure to Cure Title Objection aka Defects Notice	15 Days after Defects Notice Deadline
		Financing	
	§ 7	Loan Application Deadline	30 Days after Effective Date
	§ 7	Termination of Agreement Based on Failure to Obtain Financing prior to end of Financing Period	330 Days after Effective Date
		Survey	
	§ 4b	Survey Deadline	45 Days after Effective Date
	§ 4e	Survey Objection Deadline aka Defects Notice Deadline	55 Days after Effective Date
	§ 4e	Cure Period for Survey Objection	10 Days after Defects Notice Deadline
	§ 4e	Termination of Agreement Based on Failure to Cure Survey Objection aka Defects Notice	15 Days after Defects Notice Deadline
		Inspection and Due Diligence	
	§ 5	Inspection Period	45 Days after Effective Date
	§ 4e	Inspection Objection Deadline aka Defects Notice Deadline	55 Days after Effective Date
	§ 4e	Cure Period for Inspection Objection	10 Days after Defects Notice Deadline
	§ 4e	Termination of Agreement Based on Failure to Cure Inspection Objection aka Defects Notice	15 Days after Defects Notice Deadline
	§ 4d	Environmental Assessment Period	45 Days after Effective Date
	§ 4e	Environmental Assessment Objection Deadline aka Defects Notice Deadline	55 Days after Effective Date
	§ 4e	Cure Period for Environmental Assessment Objection	10 Days after Defects Notice Deadline
	§ 4e	Termination of Agreement Based on Failure to Environmental Assessment Objection aka Cure Defects Notice	15 Days after Defects Notice Deadline
	§ 4c	WEDA Documents Delivery Deadline	20 Days after Effective Date
	§ 4e	WEDA Documents Objection Deadline aka Defects Notice Deadline	55 Days after Effective Date
	§ 4e	Cure Period for WEDA Documents Objection	10 Days after Defects Notice Deadline
	§ 4e	Termination of Agreement Based on	15 Days after

		Failure to Cure WEDA Documents Objection aka Defects Notice	Defects Notice Deadline
Development			
	§ 6b	Architectural Plans	120 Days after Effective Date
	§ 6b	Architectural Plans Review Deadline	30 Days after Architectural Plans
	§ 6b	Resubmitted and Revised Architectural Plans including Changes and Adjustments to Architectural Plans per WEDA	30 Days after Architectural Plans Review Deadline
	§ 6b	Termination of Agreement Based on Failure to Approve Architectural Plans	30 Days after Architectural Plans Review Deadline
	§ 6b	Automatic Termination of Agreement if Purchaser Fails to Timely Terminate or Resubmit	31 Days after Architectural Plans Review Deadline
	§ 6b	Official Development Plans to City	60 Days after Approved Architectural Plans
	§	Official Development Plans to City Review Deadline	To Be Determined
	§	Termination of Agreement Based on Failure to Approve Official Development Plans to City	To Be Determined
	§ 6d	Leasing Plan	120 Days after Effective Date
	§ 6d	Leasing Plan Review Deadline	30 Days after Leasing Plan
	§ 6d	Resubmitted and Revised Leasing Plans including Changes and Adjustments to Tenants Identity or Retail Use per WEDA	30 Days after Leasing Plan Review Deadline
	§ 6d	Termination of Agreement Based on Failure to Approve Leasing Plan	30 Days after Leasing Plan Review Deadline
	§ 6d	Automatic Termination of Agreement if Purchaser Fails to Timely Terminate or Resubmit	45 Days after Leasing Plan Review Deadline
	§ 6g	Purchaser Consent and Approval of Replat and GID	10 Days after Written Request
	§ 6h	Commencement of Construction	Later of 60 days after Closing or 15 Days after Receipt of Permits
	§ 6h	Substantial Completion	36 Months after Closing
Closing and Possession			
	§ 8	Closing Date	14 Months after Effective Date, unless Purchaser elects an earlier Closing Date under Section 8.
	§	Possession Date	At Closing
	§	Possession Time	At Closing
Acceptance			
		Acceptance Deadline Date	February 5, 2016
		Acceptance Deadline Time	11:59 PM MST

1. **CONVEYANCE.** Subject to the terms and conditions of this Agreement, WEDA agrees to sell and convey to Purchaser, and Purchaser agrees to purchase and accept from WEDA, the fee simple interest in the approximately, but not less than, 25,000 square feet parcel of real property and improvements situated thereon, if any, located in the County of Jefferson (the “**County**”), State of Colorado, described on **Exhibit A** attached hereto and made a part hereof (the “**Property**”). Unless the Property is replatted as a separate Lot or Parcel within Block

C-3, the final legal description of the Property shall be conclusively determined by the Survey to be provided by WEDA and accepted by Purchaser pursuant to Section 4.b below.

2. **CONSIDERATION.** The purchase price ("**Purchase Price**") for the Property is One Million Six Hundred Fifty Thousand and 00/100ths US Dollars (\$1,650,000.00) to be payable in cash in Good Funds as defined by Colorado law at Closing. The Purchase Price is not based upon the square footage of the Property and shall not be adjusted to the extent the Survey discloses that the size of the Property is more than 25,000 square feet.

3. **EARNEST MONEY.** Within five (5) days after the Effective Date, Purchaser shall deposit with the Title Company via wire transfer the sum of Fifty Thousand and 00/100ths Dollars (\$50,000.00) in immediately available funds (the "**Deposit**"). The Deposit shall be non-refundable to Purchaser except as expressly set forth in this Agreement and shall be held and delivered by Title Company in accordance with the provisions of this Agreement. Purchaser may elect to have the Deposit held in an interest bearing account. Interest earned on the Deposit shall be considered part of the Deposit and shall be deemed to have been earned by and constitute income of Purchaser. Purchaser shall execute a W-9 as requested by the Title Company in connection with the delivery of the Deposit. Except as otherwise expressly set forth herein, the Deposit shall be applied against the Purchase Price on the Closing Date.

4. **DELIVERABLES AND DILIGENCE ITEMS.**

a. **Title Commitment.** Within twenty (20) days after the Effective Date, WEDA shall obtain and cause to be delivered to Purchaser a commitment for title insurance (the "**Title Commitment**") to issue at Closing an Owner's Policy of Title Insurance on the standard 2006 form of policy (the "**Title Policy**") in the full amount of the Purchase Price which will be prepared by Heritage Title Company ("**Title Company**"), together with copies of all recorded documents constituting exceptions to title in the Title Commitment, including but not limited to, (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property, and (2) copies of any other documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions to title in the Title Commitment. The Title Policy will be issued by Commonwealth Land Title Insurance Company. WEDA will pay all costs of the Title Commitment and Title Policy except for endorsements ordered by Purchaser. The Title Policy will delete the standard printed exceptions related to possession, easements not shown by public records, survey and mechanic's liens ("**Extended Coverage**"); provided that WEDA shall have no obligation to pay for and provide Extended Coverage if Purchaser solely by its actions triggers any potential mechanic's lien claims by third parties. Any notice to the Title Company pursuant to this Agreement shall be directed to: Heritage Title Company, 4582 S. Ulster St. Pkwy., Suite 1300, Denver, CO 80237, Attn: Eric Gonzales, Commercial Title Officer, facsimile 303-628-1671; direct 303-692-6796. WEDA must deliver to Purchaser, on or before Off-Record Title Deadline, true copies of all existing surveys in WEDA's possession pertaining to the Property and must disclose to Purchaser all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters (including, without limitation, rights of first refusal and options) not shown by public records, of which WEDA has actual knowledge (Off-Record Matters).

b. Survey. Within forty-five (45) days after the Effective Date, WEDA shall provide Purchaser at WEDA's cost a survey of the Property in a form satisfactory to the Title Company to issue the Extended Coverage (the "Survey").

c. WEDA Documents. Within twenty (20) days after the Effective Date, WEDA will provide to Purchaser copies of all surveys, plans, appraisals, geotechnical reports, traffic studies, environmental reports and other written reports and documentation related to the Property in WEDA's possession ("the WEDA Documents"). The WEDA Documents and any other documents, materials, and information furnished to or made available to Purchaser pursuant to this Agreement are being furnished or made available to Purchaser for information purposes only and without any representation or warranty by WEDA with respect thereto, except as may otherwise be expressly set forth in Section 10 below. Purchaser acknowledges that the WEDA Documents are subject to the confidentiality provisions of Section 15 below. Purchaser agrees to promptly return all WEDA Documents to WEDA if this Agreement is terminated for any reason.

d. Environmental Assessment. In addition to any other Inspections Purchaser may elect to undertake pursuant to Section 5 below during the Inspection Period, Purchaser may at its cost, but shall not be required to, obtain a Phase I Environmental Site Assessment Report ("ESA") for the Property. If the Phase I ESA determines there is likely contamination on the Property, Purchaser may obtain at its cost a Phase II ESA (the "Assessment"), and the Environmental Assessment Objection Deadline will be extended by 30 days (Extended Environmental Assessment Objection Deadline). If the Extended Environmental Assessment Objection Deadline extends beyond the Closing Date, the Closing Date will be extended a like period of time.

e. Defects Notice. If Purchaser determines, in its reasonable discretion, that the Survey, ESA, Assessment, Title Commitment, WEDA Documents or the findings or results of any Inspection as defined in Section 5 below applicable to its prospective acquisition is unacceptable, Purchaser shall, not later than fifty-five (55) days after the Effective Date (the "Defects Notice Deadline"), deliver written notice to WEDA of any Title Commitment, Survey, ESA, Assessment, WEDA Documents or Inspection-related conditions that are not acceptable ("Defects"). Any matters not specified as Defects in said notice shall be deemed "Permitted Exceptions." WEDA, upon notification of any such Defects, may at its option proceed to cure same and shall have ten (10) days from the date of such notice to cure the Defects to Purchaser's reasonable satisfaction. If WEDA is unable to or elects not to cure any Defect identified by Purchaser in regard to the Property, then, at Purchaser's sole option, Purchaser may terminate this Agreement by notice to WEDA no later than fifteen (15) days after the Defects Notice Deadline, and the Title Company is directed to return the Deposit to Purchaser. If Purchaser fails to terminate this Agreement, then this Agreement shall continue in full force and effect without reduction in Purchase Price, and all Defects shall be Permitted Exceptions.

5. **INSPECTIONS/TESTING.** During the forty-five (45) day period following the Effective Date (the “**Inspection Period**”), Purchaser shall be entitled, at Purchaser’s sole cost and expense, to enter upon the Property at all reasonable times in order to perform such testing, studies, inspections, and investigations as Purchaser shall deem necessary, including, without limitation, soil, engineering and environmental tests (collectively, the “**Inspections**”). Purchaser shall promptly repair and restore any damage or injury to the Property or Project caused by such Inspections. Purchaser shall not permit any liens or encumbrances to arise against the Property or Project in connection with or as a result of such Inspections. Purchaser hereby agrees to indemnify, defend and hold harmless WEDA, for and from any and all losses, liabilities, costs, expenses, (including, without limitation, reasonable attorneys’ fees and costs of court), damages, liens, claims (including without limitation mechanics’ or materialmen’s liens or claims of liens), actions and causes of action arising from Purchaser’s or Purchaser’s agents, consultants, contractors, employees, or representatives entering upon the Property or the Project for any reason, whether pursuant to this Section 5 or otherwise.

PURCHASER AGREES THAT IT WILL, AS AND TO THE EXTENT IT DEEMS NECESSARY OR ADVISABLE, PERFORM THE INSPECTIONS OF THE PROPERTY PRIOR TO THE EXPIRATION OF THE INSPECTION PERIOD, INCLUDING SPECIFICALLY, WITHOUT LIMITATION, INSPECTIONS TO DETECT UNSTABLE SOILS AND FOR THE PRESENCE OF ASBESTOS, PCB EMISSIONS AND HAZARDOUS SUBSTANCES, MATERIALS OR WASTES (AS THOSE TERMS MAY BE DEFINED BY APPLICABLE FEDERAL OR STATE LAW, RULE OR REGULATION) ON THE PROPERTY. **PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS CONTEMPLATED BY THIS AGREEMENT IS MADE ON AN “AS IS” CONDITION AND BASIS WITH ALL FAULTS.**

6. **DEVELOPMENT COVENANTS.**

a. **Hancoop Development Details.** The Hancoop Development shall consist of a five to six story building (the “**Building**”) with a floor plate of approximately 20,000 square feet and a total floor area of between approximately 80,000 and 120,000 square feet. The first floor will be occupied by retail and/or restaurant uses, except for common and service areas, with no less than 15,000 square feet. The upper floors will house a salon suite facility of at least 12,000 square feet of space and workspace including conference and event space, offices and other permitted uses of at least 40,000 square feet, of which at least 15,000 square feet will be collaborative workspace. The Building shall achieve a minimum LEED™ Silver certification, which is a required condition for other structures in the Project.

b. **WEDA Approval of Proposed Hancoop Development Plans.** Purchaser will submit architectural and site plans for the Hancoop Development (“**Architectural Plans**”) for review and approval by WEDA prior to Purchaser’s submitting an application for the approval by the City of an Official Development Plan, but in no event later than 120 days after the Effective Date. The Architectural Plans shall be Schematic Design level plans including an

architectural site plan; basic floor plans showing the footprint and general locations of core Building elements; and exterior Building elevations showing the design and anticipated materials and finishes. WEDA will promptly review and provide comments on the Architectural Plans detailing any required changes or adjustments. In the event WEDA fails to approve the Architectural Plans within 30 days after their submittal to WEDA (the “**Review Deadline**”), Purchaser may, at its sole option, either terminate this Agreement by notice to WEDA within thirty (30) days after the Review Deadline (and in that event, Title Company is directed to return the Deposit to Purchaser) or make the changes and adjustments to the Architectural Plans as requested by WEDA and re-submit the revised Architectural Plans to WEDA for its approval within thirty (30) days after the Review Deadline. If Purchaser fails to timely terminate or re-submit plans, then Purchaser shall be deemed to have elected to terminate this Agreement effective thirty-one (31) days after the Review Deadline and the Title Company is directed to return the Deposit to Purchaser. Within sixty (60) days after WEDA’s approval of the Architectural Plans, Purchaser agrees to submit to the City an application for the approval of an Official Development Plan, which shall be consistent with the approved Architectural Plans.

c. City Approvals; Fees; City Improvements. The Hancoop Development shall be consistent with the City’s regulations and standards, including without limitation the Downtown Specific Plan. Purchaser shall diligently pursue the approval of its Official Development Plan by the City. Purchaser, at its sole cost, will pay all applicable City fees, including without limitation development review fees, building permit fees, Fire Department permit and plan review fees, public land dedication fees, park development fees, school land dedication fees, water and sewer tap fees, and public art fees. Purchaser acknowledges that WEDA has not agreed to pay any City fees in connection with the Hancoop Development. Prior to and as a condition to Closing, City or WEDA will have provided all off-site infrastructure necessary to begin construction of the Hancoop Development consisting of streets, sidewalk, back of curb to Property boundary line facilities, water (including fire line service), sewer and stormwater. Purchaser is responsible for and shall pay the cost of all connections to City and third party utilities and services.

d. WEDA Approval of Proposed Purchaser Retail Leasing Plan. Purchaser acknowledges receipt of a list of approved and prohibited retail uses for the Property. Purchaser further acknowledges the importance of a profitable retail mix of tenants in the Project for both the overall success of the Project and for the particular success of the Hancoop Development. Purchaser will submit its retail leasing plan for the Hancoop Development (“**Leasing Plan**”) for review and approval by WEDA prior to Purchaser’s entering into any leases of the retail portion of the Hancoop Development, but in no event later than 120 days after the Effective Date. The Leasing Plan shall apply to only the first floor of the Hancoop Development and the retail lease of the salon space to Solera Salon, Inc., previously approved by WEDA, under lease for a minimum five year term. WEDA will promptly review and provide comments on the Leasing Plan, detailing any required changes or adjustments to tenant identity or retail use. In the event WEDA fails to approve the Leasing Plan within 30 days after its submittal to WEDA (the “**Review Deadline**”), Purchaser may, at its sole option, either terminate this Agreement by notice to WEDA within thirty (30) days after the Review Deadline (and in that event, Title Company is directed to return the Deposit to Purchaser) or make the changes

and adjustments to the Leasing Plan as requested by WEDA and re-submit the revised Leasing Plan to WEDA for its approval within thirty (30) days after the Review Deadline. If Purchaser fails to timely terminate or re-submit plans, then Purchaser shall be deemed to have elected to terminate this Agreement effective forty-five days after the Review Deadline, and the Title Company is directed to return the Deposit to Purchaser. Purchaser agrees to lease the retail space within the Hancoop Development in a manner consistent with the approved Leasing Plan.

Once approved by WEDA, Purchaser agrees to comply with the Leasing Plan for a period of five (5) years after the First Opening (the “**Leasing Plan Period**”). “**First Opening**” means the date on which the first retail store or restaurant in the Hancoop Development opens for business to the public. Purchaser agrees that any retail lease of any portion of the Property entered into during the Leasing Plan Period will be for an approved retail use and for no other use and will be in compliance with the approved Leasing Plan. Purchaser agrees to include the list of approved retail uses in all of its initial retail leases of any portion of the Property; such leases shall expressly provide that any assignment of the lease during the Leasing Plan Period shall be for an approved retail use and for no other use. In the event that an initial retail lease terminates during the Leasing Plan Period, then any replacement lease entered into during the Lease Plan Period must also comply with the Leasing Plan, unless otherwise agreed in writing by WEDA and Purchaser.

e. Certain Restricted Retail Uses. At or prior to Closing, WEDA will record in the Real Estate Records of the County (the “**Records**”) a Use Restriction Covenant encumbering the Property and the remainder of Block C-3 consistent with sub-section d. The Retail Use Covenant will also include a list of prohibited uses, including without limitation use of all or any portion of the Property for a first-run movie theater.

f. Parking. WEDA will provide three parking spaces per 1000 square feet of net rentable area for all uses in the Hancoop Development at no additional cost to Purchaser. Such parking will be non-exclusive on a shared basis with other occupants of the Project.

g. Purchaser Consent and Approval of Replat. Within ten (10) days following any written request by WEDA, Purchaser agrees to join in and execute any replat of Block C-3 to the extent the Property is replatted as a separate Lot or Parcel. All costs incurred in any replat affecting the Property shall be borne by WEDA.

h. Commencement of Construction and Substantial Completion. Purchaser agrees to commence construction of the Building within sixty days after Closing or 15 days after Purchaser receives all required permits and approvals necessary for construction of the site work and core-and-shell building portions of Hancoop Development, whichever occurs last, and to substantially complete construction within thirty six months after Closing.

i. Survival of Development Covenants. All of the agreements, terms, conditions and covenants contained in this Section 6 shall survive Closing and shall not be merged into the Special Warranty Deed.

7. FINANCING CONTINGENCY. Purchaser will make a written loan application verifiable by one or more lender(s) selected by Purchaser, on or before thirty days after the Effective Date (the “**Loan Application Deadline**”) and exercise reasonable efforts to obtain such loan during the 330 day period following the Effective Date (the “**Financing Period**”). Purchaser shall procure its financing for the purchase of the Property on terms and conditions acceptable to Purchaser. Purchaser may, by giving WEDA written notice on or before the end of the Financing Period, terminate this Agreement, and the Title Company is directed to return the Deposit to Purchaser. If before the end of the Financing Period, Purchaser fails to give WEDA such written notice, then Purchaser shall be deemed to have approved its financing arrangements for the purchase of the Property and shall be deemed to have waived its rights to terminate this Agreement pursuant to this Section.

8. CLOSING.

a. Closing Date. Subject to the terms of this Agreement, closing of the transaction contemplated by this Agreement (the “**Closing**”) shall take place not later than fourteen months after the Effective Date (the “**Closing Date**”). Upon the satisfaction of all WEDA Closing Conditions, Purchaser will elect an exact Closing Date and notify WEDA and the Title Company of such Closing Date at least 10 days in advance. Closing shall be an escrow closing conducted by the Title Company.

Purchaser shall have the right but not the obligation to reasonably extend the date of Closing on account of any delay solely attributable to WEDA in satisfying any Closing Condition, and WEDA shall have the right but not the obligation to reasonably extend the date of Closing on account of any delay solely attributable to Purchaser in satisfying the WEDA Closing Conditions. Any such extension shall not exceed 30 days. If the Closing does not occur within such 30 day extension period for any reason other than the uncured default of one or both of the Parties, then this Agreement shall terminate and the Title Company is directed to return the Deposit to Purchaser. If the Closing does not occur within such 30 day extension period on account of an uncured default, then the provisions of Section 11 shall control.

b. Documents from Purchaser. Purchaser shall deliver at Closing the following executed documents in form and content reasonably acceptable to WEDA and the Title Company:

i. *Affidavit*. Affidavit(s) stating that: Purchaser has not ordered any work that remains unpaid that can form the basis for the filing of a lien against the Property and such other affidavits as Title Company may customarily require as a condition to its issuance of Extended Coverage.

ii. *Authority*. Such evidence or documents as may be customarily required by the Title Company evidencing the organization of Purchaser and authority of the person or persons who are executing the various documents on behalf of Purchaser in connection with the purchase of the Property.

iii. *Transfer Declaration.* A Colorado Real Estate Transfer Declaration.

iv. *Closing Statement.* Four (4) signed copies of a closing statement approved by the Parties.

v. *Right of Repurchase.* The Right of Repurchase (defined below) to the extent not included in the Deed.

vi. *Other Documents.* Such other documents required by this Agreement or which the Title Company may reasonably require.

c. Documents from WEDA. WEDA shall deliver at Closing the following executed documents in form and content reasonably acceptable to Purchaser and the Title Company.

i. *Deed.* A Special Warranty Deed conveying fee simple title to the Property, subject to the Permitted Exceptions disclosed in the Title Commitment and Survey.

ii. *Affidavit.* Affidavit(s) stating that: (A) except as otherwise provided in this Agreement, possession of the Property is being delivered in a vacant condition; (B) there are no unrecorded or oral leases or agreements affecting the Property; (C) WEDA has not ordered any work that remains unpaid that can form the basis for the filing of a lien against the Property; (D) WEDA is not a foreign person or entity; and (E) such other statements as Title Company may customarily require as a condition to its issuance of Extended Coverage.

iii. *Closing Statement.* Four (4) signed copies of a closing statement approved by the Parties.

iv. *Authority.* Such evidence or documents as may be customarily required by the Title Company evidencing the authority of the person or persons who are executing the various documents on behalf of WEDA in connection with the sale of the Property.

v. *Closing Conditions Documents.* To the extent not previously recorded, the Use Restriction Covenant to be recorded in the Records prior to the Deed.

vi. *Other Documents.* A Department of Revenue form 1083 and such other documents required by this Agreement or which the Title Company may reasonably require.

d. Payments. The Purchase Price, less the Deposit, and subject to applicable reimbursements, adjustments, costs and credits, shall be delivered by Purchaser to the Title Company in good funds on the Closing Date no later than noon local Mountain Time.

e. Real Estate Taxes. WEDA is a tax exempt entity and as such has received an exemption from real estate property taxes otherwise payable in connection with the Property; therefore, there will be no real estate taxes due and therefore no real estate tax proration between the Parties at Closing. This tax exemption will terminate as of the Closing Date. From and after the Closing Date, Purchaser will be liable for all real estate taxes levied against the Property. In addition, the Parties acknowledge and agree that the Property will be conveyed subject to a General Improvement District (“GID”) formed or to be formed prior to Closing with a maximum mill levy of 50 mills.

f. Transfer Taxes. Any transfer fee shall be paid 50-50 by the Parties. This transaction is presumptively exempt from the State documentary fee. Any sales and use taxes arising out of this transaction shall be paid by Purchaser.

g. Brokers. WEDA agrees to pay all compensation owed to any broker retained by WEDA, and Purchaser agrees to pay all compensation owed to any broker retained by Purchaser. If any person or firm claims to be entitled to compensation, commissions or finders fees or other payments as a result of this transaction based upon its dealings with one of the Parties, then that Party agrees to pay all such sums due to such person and further agrees to hold harmless the other Party and the Property from any such claims.

h. Closing costs and fees. Any escrow fees, recording fees, or other customary closing costs shall be paid 50-50 by the Parties at Closing. Purchaser shall pay all costs incident to its financing of the acquisition, if any.

i. Walk-Through and Verification of Condition. Purchaser, upon reasonable notice to WEDA, shall have the right to walk through the Property prior to Closing to verify that the physical condition of the Property complies with this Agreement.

9. NOTICE. All notices, demands, or other communications of any type (“Notices”) given pursuant to this Agreement shall be in writing and shall be delivered to the persons set forth below, either (a) in person with a receipt requested therefor, (b) sent by a nationally recognized overnight service for next day delivery, (c) by United States certified mail, return receipt requested, postage prepaid to the addresses set forth herein or (d) by email and shall be deemed delivered upon the date delivered by personal delivery, email or facsimile (in either case, if delivered before 5:00 pm Mountain Time on a Business Day, and if not, the notice shall be deemed delivered on the next Business Day), the Business Day following the date deposited with a nationally recognized overnight service, or the third (3rd) Business Day following the date deposited in the United States mail. Notices to WEDA or Purchaser shall, until further Notice, be delivered to the Parties’ representatives set forth below:

If to WEDA:

Executive Director
Westminster Economic Development Authority
4800 West 92nd Avenue

Westminster, CO 80030
Email: DTripp@CityofWestminster.us

With a copy to: City Attorney
4800 West 92nd Avenue
Westminster, CO 80030
Email: DFrankel@CityofWestminster.us

If to Purchaser: Hancoop @ Westminster, LLC
6160 S Syracuse Way, Suite 315
Greenwood Village, CO 80111
Email: danny@solerasalon.com

With a copy to: Email: matt@solerasalon.com and
tom.oneill@solerasalon.com

10. REPRESENTATIONS AND WARRANTIES. The Parties represent to each other, as applicable, on the date hereof and as of the Closing Date that the matters stated in subparagraphs (a) through (e) of this Section 10 are true and correct.

a. Authorization. WEDA represents and warrants to Purchaser, and Purchaser represents and warrants to WEDA, that it has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents executed pursuant hereto, and all required action and approvals therefor have been fully taken and obtained, and the individuals signing this Agreement and all other documents executed pursuant hereto on its behalf are duly authorized to sign the same on its behalf and to bind it thereto.

b. Litigation. WEDA represents that there is now no litigation pending and to its knowledge there are no claims, causes of action or other litigation or proceedings threatened in respect to WEDA's ownership or operation of the Property (including without limitation disputes with mortgagees, governmental authorities, utility companies, contractors, developers, architects, adjoining land owners, or suppliers of goods or services).

c. No Violation. WEDA represents to its knowledge that there are no violations of any laws (including environmental laws), ordinances, rules, or regulations with respect to the Property.

d. Environmental Conditions. Purchaser acknowledges and agrees that WEDA is making no warranties or representations regarding the environmental condition of the Property, except as set out in subsection c above. Purchaser represents and warrants to WEDA that Purchaser is assuming the sole and exclusive responsibility to satisfy itself of the environmental condition of the Property pursuant to Sections 4.d and 5 above.

e. No other Warranties. Purchaser represents that no person has made any verbal or written representation or warranty to Purchaser concerning the Property which is not also expressly set forth in this Agreement.

When the words “to its knowledge” or words of similar definition are used, in the case of WEDA, such phrase means the actual knowledge of Donald M. Tripp, Executive Director of WEDA, without investigation, and in the case of Purchaser, means the actual knowledge of Danny Needham as sole member of Purchaser, without investigation.

If prior to the Closing, either Party (“the **Notifying Party**”) becomes aware that any of its respective representations or warranties set forth in this Section that were true and correct on the Effective Date have become incorrect due to changes in conditions or the discovery by the Notifying Party of information of which the Notifying Party was unaware on the Effective Date, then the Notifying Party shall immediately notify the other Party of such changes in conditions or new information, and the representations and warranties set forth herein which are to be remade and reaffirmed by the Notifying Party as of the Closing Date shall be supplemented by such new information. If in the other Party’s reasonable judgment such change in condition or new information has a material adverse impact on the Property or transaction contemplated by this Agreement, the other Party may elect within five (5) business days after receipt of such notice to terminate this Agreement by notice to the Notifying Party and Title Company, and the Title Company is directed to return the Deposit to Purchaser. If the other Party fails to terminate this Agreement, then this Agreement shall continue in full force and effect without reduction in Purchase Price.

PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, WEDA HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES (OTHER THAN AS OTHERWISE EXPRESSLY PROVIDED IN THIS SECTION 10), PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE AIR, WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER OR ANY TENANT MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (F) COMPLIANCE WITH ANY ENVIRONMENTAL REQUIREMENTS, LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS MATERIALS, OR (G) ANY OTHER MATTER WITH RESPECT TO THE CONDITION OF THE PROPERTY.

11. REMEDIES ON DEFAULT.

a. WEDA Default Prior to Closing; Purchaser's Remedies. In the event that WEDA shall be in default hereunder, Purchaser may deliver a written notice of default to WEDA and the action required by WEDA to cure such default, and stating Purchaser's intent to terminate this Agreement or seek to enforce specific performance if the default is not cured, whereupon WEDA shall have seven (7) days after the notice is delivered (the "**Cure Response Date**") in which either to cure or agree to cure the alleged default to Purchaser's reasonable satisfaction (and the Closing shall be delayed, if necessary, until the day after the Cure Response Date or any longer cure period mutually agreed upon by the Parties prior to the Cure Response Date (the "**Extended Cure Period**"). In the event such default is not cured on or prior to the Cure Response Date or any later Extended Cure Period, then Purchaser may either (1) terminate this Agreement by written notice to WEDA and the Title Company within ten days after the later of the Cure Response Date or any Extended Cure Period, in which case the Title Company is directed to deliver the Deposit to Purchaser; or (2) specifically enforce this Agreement by filing an action in Jefferson County District Court within ninety days after the later of the Cure Response Date or any Extended Cure Period. If Purchaser fails to file its summons and complaint seeking specific performance within such ninety day period, then Purchaser shall be conclusively deemed to have elected to terminate this Agreement and receive back its Deposit.

b. Purchaser's Default Prior to Closing; WEDA Remedies. In the event that Purchaser shall be in default hereunder, WEDA may deliver a written notice of default to Purchaser and the action required by Purchaser to cure such default, and stating WEDA's intent to terminate this Agreement or seek to enforce specific performance if the default is not cured, whereupon Purchaser shall have seven (7) days after the notice is delivered (the "**Cure Response Date**") in which either to cure or agree to cure the alleged default to WEDA's reasonable satisfaction (and the Closing shall be delayed, if necessary, until the day after the Cure Response Date or any longer cure period mutually agreed upon by the Parties prior to the Cure Response Date (the "**Extended Cure Period**"). In the event such default is not cured on or prior to the Cure Response Date or any later Extended Cure Period, then WEDA may either (1) terminate this Agreement by written notice to Purchaser and the Title Company within ten days after the later of the Cure Response Date or any Extended Cure Period, in which case the Title Company is directed to deliver the \$50,000.00 Deposit to WEDA as liquidated damages and not as a penalty and return to Purchaser any interest accrued thereon. WEDA and Purchaser agree and acknowledge that delivery of the \$50,000.00 Deposit shall be WEDA's sole remedy upon Default by Purchaser.

c. Default After Closing. In the event a Party defaults after Closing under any surviving covenant, the non-defaulting Party may deliver a written notice of default to the Party and the action required to cure such default, whereupon the Party shall have seven (7) days after the notice is delivered (the "**Cure Response Date**") in which either to cure or agree to cure the alleged default to the non-defaulting Party's reasonable satisfaction. In the event such default is not cured on or prior to the Cure Response Date or any longer cure period mutually agreed upon by the Parties prior to the Cure Response Date, then the non-defaulting Party's sole remedy

shall be to specifically enforce this Agreement by filing an action in Jefferson County District Court within ninety days after the later of the Cure Response Date or any Extended Cure Period.

12. **ASSIGNMENT.** Purchaser may not assign its rights under this Agreement except with the prior written consent of WEDA, which consent may be given or withheld in WEDA's sole discretion; provided, however, that Purchaser may assign its rights hereunder without WEDA's consent to an entity formed and controlled by Purchaser or by its owners for the purpose of owning and developing the Property as a single asset entity (an "**Approved Assignee**"), and provided that: (x) Purchaser shall remain fully and primarily liable for its liabilities and performance of its obligations hereunder until Closing, (y) Approved Assignee assumes this Agreement in writing, including specifically remaking all of Purchaser's undertakings, representations and warranties in Sections 5 and 10 as of the effective date of such assignment, and (z) Purchaser shall give WEDA and the Title Company notice of such assignment and a copy of such written assumption agreement no later than ten days prior to Closing. WEDA may assign its rights under this Agreement without the consent of Purchaser, but shall give Purchaser and Title Company written notice of such assignment no later than ten days prior to Closing.

13. **MISCELLANEOUS.** No term or condition of this Agreement will be deemed to have been waived or amended unless expressed in writing and signed by the Parties. The waiver of any condition or the breach of any term will not be a waiver of any subsequent breach of the same or any other term or condition. This Agreement constitutes the entire agreement of the Parties, and supersedes and replaces all prior written and oral understandings, including without limitation that certain Letter of Intent dated September 15, 2015. Subject to the terms and provisions of Section 12, this Agreement shall be binding upon, and inure to the benefit of the Parties, their successors or Approved Assignees. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement. Electronic signatures shall be binding on the Parties. The Parties acknowledge that the Parties and their respective counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto. Neither this Agreement, nor any memorandum thereof shall be recorded in the real estate Records. Any such recording by Purchaser shall constitute a material, non-curable default under the terms of this Agreement. Notwithstanding the foregoing, this prohibition against recording shall not apply to any Lis Pendens recorded by either Party to evidence any action for specific performance actually filed in the Jefferson County District Court following a default. Time is of the essence of this Agreement.

14. **TITLE PRIOR TO CLOSING.** Prior to Closing, the risk of loss or damage to the Property shall remain with WEDA. Between the Effective Date and the Closing or earlier termination of this Agreement, WEDA agrees that it will not, without in each instance first obtaining the written consent of Purchaser which shall not be unreasonably withheld, (a) voluntarily grant, create, assume or permit to exist any lien, lease, encumbrance, easement, covenant, condition, right-of-way or restriction upon the Property other than the Permitted

Exceptions, or (b) voluntarily take any action adversely affecting the title to the Property as it exists on the Effective Date of this Agreement.

15. CONFIDENTIALITY. Except as may be required by the Colorado Open Records Act, or except in connection with discussions with WEDA attorneys, accountants, planners, and other consultants, or in connection with judicial or arbitration procedures, WEDA and its agents, representatives, employees, officers and directors will not disclose the terms, price or conditions of the transaction contemplated by this Agreement unless prior written consent to such disclosure is obtained from Purchaser. Except in connection with discussions with Purchaser attorneys, accountants, planners, lenders and other consultants, or in connection with judicial or arbitration procedures, Purchaser and its agents, representatives, employees, officers and directors will not disclose the terms, price, or conditions of the transaction contemplated by this Agreement unless prior written consent to such disclosure is obtained from WEDA.

16. TIME. In computing a period of days, the calculation shall use calendar days, unless the time period is designated as Business Days. In computing a period of calendar days when the ending date is not specified, the first day is excluded and the last day is included. If the last day upon which performance would otherwise be required or permitted is not a Business Day, then the time for performance shall be extended to the next Business Day. A “**Business Day**” is a day of the week which is not a Saturday, Sunday or holiday. The term “holiday” shall mean all mandatory federal holidays including those on which regularly scheduled deliveries by the United States Postal Services of first-class mail are suspended. In computing a period of days designated as “Business Days” when the ending date is not specified, the first Business Day is excluded and the last Business Day is included.

17. ATTORNEYS’ FEES; JURY WAIVER. In the event that either Party commences suit to enforce this Agreement, the prevailing Party shall be entitled to an award of reasonable attorneys’ fees, together with court costs and litigation expenses reasonably incurred and actually paid. EACH OF THE PARTIES DOES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ITS RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, OR UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE PROPERTY. THIS WAIVER IS A MATERIAL INDUCEMENT FOR WEDA AND PURCHASER TO ENTER INTO AND ACCEPT THIS AGREEMENT AND THE DOCUMENTS DELIVERED BY WEDA AND PURCHASER AT CLOSING AND SHALL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THIS AGREEMENT.

18. RELATIONSHIP. Notwithstanding any other provision of this Agreement, nothing contained in this Agreement shall be deemed or construed by the Parties or by any third person to create a relationship of principal and agent or a partnership or a joint venture between Purchaser and WEDA or between either or both of them and any third party. No course of conduct by either or both of the Parties will be deemed to vary the provisions of the preceding sentence.

19. SEVERABILITY. Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision herein and any present or future statute, law, ordinance or regulation contrary to which the Parties have no legal right to contract, the latter shall prevail, but the provision of this Agreement affected shall be limited only to the extent necessary to bring it within the requirements of such statute, law, ordinance or regulation.

20. CHOICE OF LAW. This Agreement, and the interpretation and enforcement thereof, shall be governed by the laws of the State of Colorado.

21. CONDITIONS TO CLOSING FOR PURCHASER. The following are conditions precedent to Purchaser's obligation to close this Agreement ("**Closing Conditions**"). Purchaser may waive any such Closing Condition in its sole discretion by notice to WEDA at least ten days prior to the Closing Date.

a. Approval by WEDA of Purchaser's Architectural Plans, approval by the City of an Official Development Plan for the Hancoop Development, and receipt by Purchaser of all approvals required under the City Code for the submittal of an application for the administrative approval and issuance of building permits for the Hancoop Development immediately following Closing;

b. WEDA's or City's construction of the roads and utilities needed to serve the Property with the intent to provide Purchaser a finished pad with direct access to the Property from Park Place, Fenton Street and 89th Avenue.;

c. The procurement by Seller of development agreements, leases or contracts for sale of at least 300,000 square feet of useable retail, office or residential development, or combination thereof within the Project.

22. CONDITIONS TO CLOSING FOR WEDA. WEDA's obligation to close this Agreement is subject to the following conditions ("**WEDA Closing Conditions**"). WEDA may waive the WEDA Closing Conditions in its sole discretion by notice to Purchaser at least ten days prior to the Closing Date.

a. Approval by WEDA of Purchaser's Architectural Plans and approval by the City of an Official Development Plan for the Hancoop Development, consistent with the approved Architectural Plans and receipt by Purchaser of all approvals required under the City Code for the submittal of an application for the administrative approval and issuance of building permits for the Hancoop Development immediately following Closing;

b. Approval by WEDA of Purchaser's Leasing Plan and Purchaser's compliance with the Leasing Plan as of the date of Closing.

c. The recording of a right of repurchase (the “**Right of Repurchase**”) (which may be included in the Special Warranty Deed to be delivered at Closing) that grants to WEDA the right to repurchase the Property from Purchaser or Purchaser's successor in interest.

- i. The Right of Repurchase may be exercised by WEDA at any time during the five year period following the date of recording the Deed or other document setting forth the Right of Repurchase, if
 1. Purchaser or any successor in interest fails to commence construction of the Hancoop Development within 14 months after Closing; or
 2. Purchaser or any successor in interest fails to complete construction of the Hancoop Development within 48 months after Closing and open the Purchaser Salon for business.
- ii. If the Right of Repurchase is exercised by the WEDA, the purchase price will be the Fair Market Value of the Property, less 10%, to be determined by mutual agreement or, if no mutual agreement, then by the appraisal process attached to this Agreement as Exhibit B.

23. **POST CLOSING OBLIGATIONS.** The following agreements between the Parties shall survive Closing: the provisions of Sections 5, 6, 8.g, 10, 11c, 17, and 22, all representations, warranties and indemnities, and all rights to receive attorney’s fees contained in this Agreement shall survive the Closing of this transaction (and shall not merge with title) and remain enforceable. The provisions of Sections 5, 8.g, 15 and 17 shall survive any termination of this Agreement.

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IN WITNESS WHEREOF, WEDA and Purchaser have caused this Agreement to be executed as of the Effective Date.

WEDA: WESTMINSTER ECONOMIC DEVELOPMENT AUTHORITY

By: _____

Name: Donald M. Tripp

Title: Executive Director

Date: _____

PURCHASER: HANCOOP @ WESTMINSTER, LLC

By: _____

Name: Danny Needham

Title: Sole Member

Date: _____

Exhibit A

Legal Description

SOLERA SALON, INC. PARCEL

A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF WESTMINSTER, COUNTY OF JEFFERSON, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF BLOCK C-3, DOWNTOWN WESTMINSTER AS RECORDED UNDER RECEPTION NUMBER 2015096340 IN THE RECORDS OF THE CLERK AND RECORDER OF JEFFERSON COUNTY.

THENCE N00042'00"E ALONG THE EASTERLY RIGHT-OF-WAY LINE OF FENTON STREET, 147.17 FEET; THENCE N58010'03"E AND ALONG THE SOUTH RIGHT-OF-WAY LINE OF 89TH AVENUE, 156.65'; THENCE S00042'00"W, 231.42' TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF FENTON WAY; THENCE N89018'00"W AND ALONG SAID NORTH RIGHT-OF-WAY LINE, 132.08' TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 25,002.11 SQUARE FEET, MORE OR LESS.

Exhibit B

Appraisal Process

If WEDA elects to exercise its Right of Repurchase, then WEDA and Purchaser will negotiate in good faith to reach an agreement upon the Fair Market Value of the Property. “**Fair Market Value**” shall mean the price at which Purchaser’s fee interest in the Property passes from a willing seller to a willing buyer, within a reasonable period of time, each having access to all relevant facts and acting freely, employing the highest and best use of the Property at the time of the appraisal.

If WEDA and Purchaser cannot mutually agree upon the Fair Market Value within 30 days after WEDA’s notice to Purchaser of WEDA’s election to exercise the Right of Repurchase, then WEDA and Purchaser shall thereafter, within 30 days, each select a person to act as an appraiser and will notify the other party of such selection during such 30 day period. If a party fails to select a person to act as an appraiser within such 30 day period, and if such party does not select a person to act as an appraiser following ten days’ notice from the other party, then the appraiser appointed by the other party will determine the Fair Market Value of the Property.

If there are two timely selected appraisers, they shall forthwith mutually select a third appraiser, and if the two appraisers cannot agree upon a third appraiser, the third appraiser shall be selected by the then president of the American Institute of Real Estate Appraisers or successor body hereafter constituted exercising similar functions. Any person designated as an appraiser shall be knowledgeable and have at least 10 years’ recent experience in the appraisal of urban mixed use commercial real estate developments located in Metropolitan Denver, Colorado, and shall not be in the employment of WEDA or Purchaser or have any financial or business interest or relationship (other than the relationship of appraiser and customer) with WEDA or Purchaser, directly, indirectly, or as an agent, except in connection with the appraisal proceeding. Further, all appraisers shall be members of the American Institute of Real Estate Appraisers.

The appraisers shall meet or otherwise confer as they deem necessary to determine the Fair Market Value. Each appraiser shall within 120 days following the date upon which all appraisers have been selected, submit to each of WEDA and Purchaser a written appraisal specifying the appraiser’s determination of the Fair Market Value of the Property. In the event there is a disparity between the appraisers as to the Fair Market Value, the highest appraised value shall be averaged with the middle appraised value (said average being hereinafter referred to as “**Sum A**”), the lowest appraised value shall be averaged with the middle appraised value (said average being hereinafter referred to as “**Sum B**”), whereupon the appraised Fair Market Value shall be determined as follows:

1. If neither Sum A nor Sum B differs from the middle appraised value by more than 5% of such middle appraised value, then the appraised Fair Market Value shall be deemed to be the average of the three (3) appraisals; or

2. If either Sum A or Sum B (but not both) differs from the middle appraised value by more than 5% of such middle appraised value, then the appraised Fair Market Value shall be deemed to be the average of the middle appraised value and the appraised value closest in amount to said middle appraised value; or

3. If both Sum A and Sum B differ from the middle appraised value by more than 5% of such middle appraised value, then the appraised Fair Market Value shall be deemed to be the middle appraised value.

The costs and expenses of the appraisers and the appraisal process shall be borne solely by WEDA; provided however, Purchaser shall pay the costs and expenses of the appraiser it selects, and each party shall be responsible for their own attorneys' fees with respect to the proceeding.

