

REAL PROPERTY ACQUISITION AGREEMENT

THIS REAL PROPERTY ACQUISITION AGREEMENT (this “**Agreement**”) is made to be effective as of this 6th day of August, 2021 (the “**Effective Date**”) by and between UNIVERSITY DISTRICT PUBLIC DEVELOPMENT AUTHORITY, a Washington public development authority created pursuant to chapter 35.21 RCW (as “**UDPDA**”) and AVISTA DEVELOPMENT, INC., a Washington corporation and/or its assigns (as “**ADC**”), who are sometimes referred to herein singularly as a “Party” or collectively as the “Parties.”

RECITALS

A. DR OR RM, LLC, a Washington limited liability company (“**Seller**”), is the owner of certain real property in Spokane County (“**County**”), Washington (“**State**”) generally identified with an address of 411 E. Sprague Ave. Spokane, Washington 99202 and 12 N. Grant Street, Spokane, Washington 99202 (the “**Real Property**”) (aka Spokane County Parcel No. 35173.1208 and 35173.1209). The Real Property is legally described on the attached **Exhibit “1”**.

B. Seller is also the owner of all improvements on the Real Property, and all rights, including but not limited to water and mineral rights, and easements appurtenant to the Real Property (collectively with the Real Property, the “**Property**”).

C. The UDPDA is a Washington public development authority, authorized pursuant to chapter 35.21 RCW, and which exists to facilitate and promote economic development within the geographical boundaries of the University District area;

D. The Real Property is located within the University District.

E. ADC is non regulated subsidiary of Avista Corporation, a Washington public utilities corporation that seeks to profitably invest retained earnings in local real estate, businesses, and other assets that strategically leverage partnerships.

F. ADC desires to purchase the Property, remove the dilapidated improvements (e.g., buildings), and prepare the Real Property for redevelopment.

G. UDPDA desires to secure the option to purchase the Property and other contiguous properties owned by ADC after ADC completes its redevelopment activities.

H. In order to establish the roadmap for the purchase of the Property by ADC and the potential sale of the Property to UDPDA, ADC and UDPDA set out the terms and conditions in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, and for other good and valuable consideration, including the significant public benefits that are anticipated as a result of ADC’s remediation work on the Property, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Negotiation and Purchase of the Property by ADC.

(a) ADC anticipates purchasing the Property from Seller upon terms and conditions substantially similar to those attached hereto as **Exhibit "2"** (the "**ADC PSA**"). Pursuant to the terms of this Agreement, the UDPDA has secured the right to become the future owner of the Property, and therefore must have the ability to understand and agree to the general condition of the Property or the costs to remediate any environmental conditions and construct improvements thereon. As such, the UDPDA shall have the ability to terminate this Agreement and any obligations to purchase the Property created hereunder, if it is unsatisfied, in its sole and absolute discretion, with the condition of the Property for its intended purpose or the costs associated with acquisition, remediation or development. The UDPDA's ability to exercise this right to terminate may be freely exercised by the UDPDA at any time prior to ADC's closing on the Property with the Seller; *provided however*, if UDPDA exercises its right to terminate this Agreement as set forth in this Section 1(a), then UDPDA will reimburse ADC for ADC's actual costs and expenses incurred in negotiating the ADC PSA and ADC and UDPDA shall have no further rights or obligations under this Agreement.

(b) Similarly, ADC may terminate the negotiations with Seller and shall have no further obligations to purchase the Property if ADC is unable to agree upon terms to purchase the Property such that will satisfy ADC and the UDPDA. Should this occur, ADC shall provide written notice to UDPDA's legal counsel that ADC will no longer pursue purchase of the Property, at which time this Agreement shall automatically terminate and ADC and UDPDA shall have no further rights or obligations under this Agreement.

(c) If for any reason Seller and ADC do not close on the sale of the Property by June 30, 2022, this Agreement shall automatically terminate and ADC and UDPDA shall have no further rights or obligations hereunder.

2. Redevelopment of the Property by ADC. During its ownership of the Property, ADC intends to (i) demolish all improvements on the Real Property; and (ii) remediate any environmental hazards discovered at the Real Property in order to prepare the Property for sale ("**Property Redevelopment**").

(a) Prior to ADC commencing the Property Redevelopment, ADC will provide UDPDA with written notice of the proposed Property Redevelopment activities and work. ADC shall provide UDPDA with an estimate of the cost of such Property Redevelopment work and shall reasonably cooperate in good faith with UDPDA to reach an agreement regarding the scope and cost of the Property Redevelopment.

(b) ADC will pay for the Property Redevelopment.

3. Sale to UDPDA by ADC. If ADC successfully purchases the Property from the Seller as anticipated by Section 1 above, UDPDA shall have the right to purchase the Property from ADC under the following terms:

(a) ADC and UDPDA shall execute a Real Estate Purchase and Sale Agreement substantially in the form attached hereto as **Exhibit "3"** (the "**UDPDA PSA**").

(b) The UDPDA PSA does not contain a purchase price, which shall otherwise be equal to the acquisition purchase price paid by ADC under the terms of the ADC PSA, plus all of ADC's costs incurred in the closing of that transaction, plus all Property Redevelopment costs incurred by ADC, net any grants or reimbursement for costs incurred, all as determined and documented by ADC, in its reasonable discretion, plus an annual percentage rate of 6% compounded annually, collectively the "**UDPDA Purchase Price**".

(c) Other than the purchase price, the terms of the sale to UDPDA by ADC shall be governed by the UDPDA PSA unless otherwise agreed in writing by the Parties.

4. Expiration of UDPDA Right to Purchase Property; Reimbursement of Shortfall to ADC.

(a) The UDPDA PSA shall be executed by the Parties on or before the third anniversary of the closing of the purchase of the Property by ADC from the Seller ("**UDPDA Expiration Date**"). If the Parties do not execute the UDPDA PSA prior to the UDPDA Expiration Date, the right of UDPDA to purchase the property shall automatically expire.

(b) Except as otherwise contemplated by Section 1(a) above, if UDPDA elects not to purchase the Property under Section 3 or Section 4(a) above, ADC may sell the Property to any purchaser at fair market value, as determined by ADC, in ADC's reasonable discretion.

(c) If the purchase price paid by a third-party is less than what the UDPDA Purchase Price would have been, UDPDA agrees to pay ADC the lesser amount of (i) the difference between the purchase price received by ADC and UDPDA Purchase Price; or (ii) the difference between the UDPDA Purchase Price and an amount equal to eighty-five percent (85%) of the appraised value of the Property at the date of the sale. For hypothetical and illustrative purposes, the following is a scenario of how this formula will be applied:

ADC Purchase Price	\$2,000,000
<u>Cost of Redevelopment and Accrued Interest</u>	<u>\$1,000,000</u>
Total of ADC Investment	\$3,000,000

UDPDA Purchase Price	\$3,000,000
<u>Purchase Price Paid by Third-Party Purchaser</u>	<u>[\$2,000,000]</u>
Shortfall of ADC	\$1,000,000

UDPDA owes ADC \$1,000,000 unless the difference between 85% of appraised value and the Purchase Price Paid by a Third-Party Purchaser is less than the Shortfall of ADC. In that case, UDPDA owes the lower amount.

Appraised Value	\$2,800,000
85% of Appraised Value	\$2,380,000

The difference between ADC Investment less 85% of the appraised value is the Shortfall Cap:

ADC Investment	\$3,000,000
<u>85% of Appraised Value</u>	<u>[\$2,380,000]</u>
Shortfall Cap	\$620,000

The UDPDA pays the lesser of the Shortfall, or the Shortfall Cap. In this case, the payment is \$620,000. This payment shall be made by UDPDA within ninety (90) days of the closing of the sale by ADC to the third-party purchaser.

If ADC is able to sell the Property for an amount greater than the UDPDA Purchase Price, UDPDA will not be required to reimburse ADC and UDPDA shall not be entitled to any of the surplus.

5. Default; Remedies.

(a) UDPDA will be in default under this Agreement if UDPDA fails to perform any of its obligations under this Agreement within five (5) days after receipt of notice of such failure from ADC. If UDPDA defaults under this Agreement, ADC may recover all damages, including attorney fees and costs incurred on enforcement of this Agreement.

(b) ADC will be in default under this Agreement if ADC fails to perform any of its obligations under this Agreement within five (5) days after receipt of notice of such failure from UDPDA. If ADC defaults under this Agreement, UDPDA may terminate this Agreement by delivery of a notice of termination to ADC, in which event ADC shall immediately reimburse UDPDA for all UDPDA's out of pocket costs related to this Agreement.

6. Miscellaneous.

(a) **Attorneys' Fees.** The prevailing party will be entitled to recover from the non-prevailing party its reasonable attorney fees incurred in connection with the prevailing party's efforts to enforce this Agreement, regardless of whether any action or proceeding is commenced, provided that the attorney fees incurred and awarded to the prevailing party shall not exceed the amount in controversy.

(b) **Notices.** Any notice required to be given under this Agreement shall be in writing (unless otherwise specifically stated) and provided to the Parties at the addresses set forth in this Agreement. Notices shall be deemed to have been delivered upon the earlier of (i) actual receipt, (ii) one Business Day after deposit with a reputable national overnight courier for next day delivery service with proof of receipt, (iii) three business days after deposited with the U.S. certified mail return receipt requested, or (iv) sent by email or facsimile transmission, provided, however, the same is also deposited not later than one (1) Business Day thereafter with a courier in compliance with items (ii) above. Any notice may be executed and sent by a party's counsel and such notice shall be binding upon the party represented by such counsel. Any party, however, may change its contact information for the purpose of this notice section by giving written notice of the change to the other party as provided above in this section.

UDPDA: Juliet Sinisterra, Executive Director
University District Public Development Authority
120 N. Pine Street, Ste 292
Spokane, WA 99202
Email: juliet@community-prosperity.com

ADC: Troy Dehnel
1411 E. Mission Avenue,
MSC R70

Spokane, WA, 99252
Fax: 509-777-5677
Email: troy.dehnel@avistacorp.com

With a copy to:

Greg Hesler
1411 E. Mission Avenue
MSC-10
Spokane, WA 99252
Email: greg.hesler@avistacorp.com

(c) **Governing Law/Venue.** The laws of the State of Washington govern the enforcement and interpretation of this Agreement. The venue for any action related to this Agreement will be in Spokane County. Each party waives any objection it may have to such venue.

(d) **Integration; Modification; Waiver.** This Agreement, the exhibits to this Agreement, constitute the complete and final expression of the agreement of the parties relating to the Property and the transactions contemplated in this Agreement. This Agreement cannot be modified, or any of the terms hereof waived, except by a document (referring specifically to this Agreement) executed by ADC and UDPDA.

(e) **Counterpart Execution.** This Agreement may be executed in counterparts which, when taken together, shall constitute the executed original of this Agreement. This Agreement may also be executed and delivered by facsimile signature, PDF or any electronic signature complying with the U.S. Federal ESIGN Act of 2000 (e.g., www.docusign.com).

(f) **Headings; Construction.** The headings in this Agreement do not have any meaning. Words of any gender used in this Agreement will be construed to include any other gender, and words in the singular number will be construed to include the plural, and vice versa, unless the context requires otherwise.

(g) **Deadlines and Dates.** As used in this Agreement, “**Local Time**” is the time in the County. Any deadline, unless otherwise set forth in this Agreement, will expire at 5:00 p.m., Local Time. If any deadline or date in this Agreement falls on a day other than a Business Day, such deadline or date will be extended until 5:00 p.m., Local Time on the next Business Day. Time periods in this Agreement will be computed by excluding the first day of such period and including the last day of such period.

(h) **Severability.** If for any reason any provision of this Agreement is determined by a tribunal of competent jurisdiction to be legally invalid or unenforceable, the validity of the remainder of the Agreement will not be affected and such provision will be deemed modified to the minimum extent necessary to make such provision consistent with applicable law and, in its modified form, such provision will then be enforceable and enforced.

(i) **Time of the Essence.** Time is of the essence of this Agreement and of the obligations of the parties to purchase and sell the Real Property.

(j) **Binding Effect.** This Agreement is binding upon and inures to the benefit of UDPDA and ADC, and their respective successors and permitted assigns.

(k) **Further Acts.** In addition to the covenants contained in this Agreement, UDPDA and ADC shall perform after the Closing any further acts as may be necessary to effect the transactions contemplated in this Agreement.

(l) **Assignment.** ADC may assign its rights and obligations under this Agreement without the prior written approval of UDPDA. UDPDA may not assign its rights and obligations under this Agreement without the prior written approval of ADC.

(m) **Confidentiality.** Except to the extent disclosure is required pursuant to chapter 35.21 RCW, each party and their respective representatives and boards of directors shall hold in strictest confidence all data and information obtained with respect to the other party or its business provided by the other party, whether obtained before or after the execution and delivery of this Agreement, and shall not disclose the same to others ("**Confidential Information**"); provided, however that it is understood and agreed that each party may disclose such data and information to its board of directors, managers, members, assignees, affiliates, employees, lenders, consultants, accountants and attorneys so long as such persons agree to treat such data and information confidentially. The term "Confidential Information" shall not include information that: (1) is or becomes publicly known or part of the public domain through no fault of either party; (2) is obligated to be produced under order of a court of competent jurisdiction or other similar requirement of a governmental agency; (3) is independently developed by the receiving party without any breach of this Agreement; or (4) is approved for release by mutual written authorization of the parties. The provisions of this Section 12.13 shall survive Closing or any termination of this Agreement.

(n) **Sole Discretion.** If a party is given the right to exercise its sole discretion under this Agreement, neither the other party nor any court, arbitrator, third party, or board will have the right to challenge said exercise, whether reasonable or unreasonable, on any grounds whatsoever.

(o) **Disclaimer – Preparation of Agreement.** This Agreement has been negotiated by the parties. ADC and UDPDA agree that no presumption will apply in favor or against any party in respect of the interpretation or enforcement of this Agreement. Each party is advised to have this Agreement reviewed by independent legal and tax counsel prior to its execution. By executing this Agreement, each party represents that: (i) it has read and understands this Agreement, (ii) it has had the opportunity to obtain independent legal and tax advice regarding this Agreement, and (iii) it has obtained such independent advice or has freely elected not to do so.

(p) **Mandatory Disclosure.** The University District Public Development Authority is a public authority organized pursuant to the laws of the State of Washington, RCW 35.21.730 through RCW 35.21.757. RCW 35.21.750 provides as follows: [A]ll liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and properties of such public corporation, commission, or authority and no creditor or other person shall have any right of action against the city, town, or county creating such corporation, commission or authority on account of any debts, obligations, or liabilities of such public corporation, commission, or authority.

(q) **Force Majeure.** Except as otherwise specifically provided in this Agreement, in the event either Party is delayed or prevented from performing any of its respective

obligations under this Agreement by reason of acts of God, governmental order or requirement, epidemic, pandemic, fire, floods, strikes or due to, any other cause beyond the reasonable control of such party, then the time period for performance of such obligations shall be extended for the period of such delay.

(r) **Authority to Execute.** Each individual executing this Agreement on behalf of his or her respective entity represents and warrants that the entity is current in all fees, licenses and filings required to register in the State of Washington, and that he or she is duly authorized to execute and deliver this Agreement on behalf of such entity, and that this Agreement shall be binding upon said entity in accordance with its terms.

(s) **Brokers.** Neither Party shall have any obligation to pay any broker or similar consultant hired by or claiming through the other Party.

(t) **Dispute Resolution.**

(i) Any dispute, controversy or claim arising out of or relating to this Agreement or the breach, termination or validity thereof ("**Dispute**") which arises between the Parties shall first be negotiated between appropriate senior executives of each Party who shall have the authority to resolve the matter. Such executives shall meet to attempt in good faith to negotiate a resolution of the Dispute prior to pursuing other available remedies, within ten (10) days of receipt by a Party of written notice of a Dispute, which date of receipt shall be referred to herein as the "**Dispute Resolution Commencement Date.**"

(ii) If the senior executives are unable to resolve the Dispute within sixty (60) days from the Dispute Resolution Commencement Date, then, the Dispute will be submitted to the boards of directors of UDPDA and ADC. Representatives of each board of directors shall meet as soon as practicable to attempt in good faith to negotiate a resolution of the Dispute.

(iii) If the representatives of the two boards of directors are unable to resolve the Dispute within one hundred and twenty (120) days from the Dispute Resolution Commencement Date, on the request of any Party, the Dispute will be mediated by a mediator appointed pursuant to the mediation rules of the American Arbitration Association. Both Parties will share the administrative costs of the mediation and the mediator's fees and expenses equally, and each Party shall bear all of its other costs and expenses related to the mediation, including but not limited to attorney's fees, witness fees, and travel expenses. The mediation shall take place in Spokane, Washington or in whatever alternative forum on which the Parties may agree.

(iv) If the Parties cannot resolve any Dispute through mediation within 45 days after the appointment of the mediator (or the earlier withdrawal thereof), each Party shall be entitled to seek relief in Spokane County Superior Court.

Unless otherwise agreed in writing, the Parties will continue to honor all commitments under this Agreement during the course of dispute resolution pursuant to the

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement to be effective as of the Effective Date.

ADC:

AVISTA DEVELOPMENT, INC.

By: _____

Name: _____

Its: _____

UDPDA:

UNIVERSITY DISTRICT PUBLIC
DEVELOPMENT AUTHORITY

By: Lindsey Myhre

Name: Lindsey Myhre

Its: Board Chair

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement to be effective as of the Effective Date.

AVISTA:

AVISTA DEVELOPMENT, INC.

By: 

Name: MR. MARK T THIES

Its: VP, CFO & TREASURER

UDPDA:

UNIVERSITY DISTRICT PUBLIC
DEVELOPMENT AUTHORITY

By: _____

Name: _____

Its: _____

EXHIBIT "1"

LEGAL DESCRIPTION OF REAL PROPERTY

See Attached.

EXHIBIT "2"

ADC PSA

See Attached.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT is made effective as of _____, 20____ by and between DR OR RM, LLC, a Washington limited liability company and UNIVERSITY DEVELOPMENT COMPANY, LLC, a Washington limited liability company.

RECITALS

A. Seller is the owner of certain real property in Spokane County, Washington generally identified with an address of 411 E. Sprague Ave. Spokane, Washington 99202 and 12 N. Grant Street, Spokane, Washington 99202 (aka Spokane County Parcel No. 35173.2108 and 35173.2109). The Real Property is legally described on the attached **Exhibit "A"**.

B. Seller is also the owner of all improvements on the Real Property, and all rights, including but not limited to water and mineral rights, and easements appurtenant to the Real Property.

C. Buyer desires to purchase, and Seller desires to sell, the Property, upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the parties as follows:

1. **Definitions.** As used in this Agreement, the following terms shall have the following meanings:

"Additional Studies" shall mean any additional studies or reports relating to the Property that Buyer elects to obtain.

"Agreement" shall mean this Purchase and Sale Agreement.

"Amended Report" shall mean a supplement to the Title Report issued by the Escrow Agent showing additional title exceptions or Buyer receives an updated survey containing additional information.

"Anti-Terrorism Laws" shall mean any and all present and future laws, statutes, regulations, ordinances, decisions, rulings, orders, rules, permits or certificates of any Governmental Authority relating to terrorism or money laundering including, without limiting the generality of the foregoing, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Pub. L. No. 107-56); the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.); the International Emergency Economic Powers Act (50 U.S.C. § 1701-06); Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (relating to "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism") and the United States Treasury Department's Office of Foreign Assets Control list of "Specifically Designated National and Blocked Persons" (as published from time to time in various mediums).

"Approval Notice" shall mean Buyer's notice to Seller in writing on or before the expiration of the Investigation Period that it intends to proceed with the transactions contemplated hereunder and expressly waives its right of termination.

"Assignment" shall mean a counterpart original of an Assignment and Assumption Agreement in the form attached hereto as **Exhibit F**.

“Assumed Contracts” shall mean any maintenance, repair, improvement, service and supply contracts and all other agreements for goods or services listed on the attached Exhibit D that Buyer shall assume at Closing.

“Business Day” means any day other than: (i) a Saturday; (ii) a Sunday; or (iii) days on which branches of national banks located in the County are closed.

“Buyer” shall mean UNIVERSITY DEVELOPMENT COMPANY, LLC, a Washington limited liability company.

“Buyer’s Broker” shall mean Jones Lang LaSalle Brokerage, Inc.

“Buyer Indemnified Parties” shall mean Buyer and Buyer’s affiliates, members, partners, subsidiaries, shareholders, officers, directors and employees.

“Closing” shall mean closing of the purchase and sale transaction contemplated in this Agreement on a date mutually determined by Buyer and Seller.

“Closing Date” shall be _____.

“Claims” shall mean causes of action, claims, costs, damages, demands, expenses (including reasonable legal expenses), liabilities and suits.

“Closing Statement” shall mean the preliminary closing statement cooperatively prepared by Seller, Buyer and Escrow Agent.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the regulations adopted thereunder.

“County” shall mean Spokane County, Washington.

“Current Diligence Materials” shall mean items described on the attached Exhibit C.

“Current Funds” shall mean wire transfers, certified funds, or cashier’s checks in a form acceptable to Escrow Agent that would permit Escrow Agent to immediately disburse such funds.

“Deed” shall deed in the form attached as Exhibit E, with respect to the Real Property, executed and acknowledged by Seller.

“Diligence Materials” shall mean Current Diligence Materials, the Environmental Report, the Title Report, the Survey, and the Additional Studies.

“Earnest Money” shall mean the earnest money deposit made pursuant to Section 3 below.

“Effective Date” shall mean the date of this Agreement as stated in the preamble.

“Environmental Law” shall mean any federal, state or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, environmental conditions or the environment, including air, soil, groundwater and surface water.

“Environmental Report” shall mean environmental site assessment reports (including a “Phase 1” report) relating to the Property.

“Escrow Agent” shall mean _____ (Attn: _____).

“Hazardous Substance” shall mean any substance, condition, object, living organism or any combination thereof which may or could pose a risk of injury or threat to health or the environment, including, without limitation: (a) those substances included within the definitions of “hazardous substance”, “hazardous waste”, “hazardous material”, “toxic substance”, “solid waste”, or “pollutant or contaminant” in or otherwise regulated by, any Environmental Law; and (b) any material, waste, or substance which is: (A) petroleum or refined petroleum products; (B) asbestos in any form; (C) polychlorinated biphenyls; (D) flammable explosives; (E) radioactive materials; (F) radon; or (G) lead.

“Impositions” shall mean real estate taxes, assessments, and similar charges.

“Investigation Period” shall mean that period of time commencing on Effective Date and expiring at 5:00 p.m. local time in the County the date that is ninety (90) days after the Effective Date, or upon earlier termination of this Agreement.

“Mandatory Cure Exceptions” shall mean any exception to title that Seller has specifically agreed in writing to cure or remove from the Title Policy.

“Monetary Liens” shall mean any liens evidencing monetary encumbrances (other than liens for non-delinquent general real estate taxes) that are created as a result of the intentional acts of Seller or its agents and affiliates, including any mechanics liens and judgment liens that arise after the Effective Date.

“Permitted Encumbrances” shall mean any liens and encumbrances accepted or deemed accepted by Buyer.

“Project” shall mean redevelopment of the Property.

“Property” shall mean the Real Property and all rights, including but not limited to water and mineral rights, and easements appurtenant to the Real Property.

“Property Event” shall mean introduction of any Hazardous Substances to the Property, any casualty or any condemnation proceeding commenced or threatened with respect to the Property.

“Purchase Price” shall mean the purchase price set forth in Section 4.1 below.

“Real Property” shall mean the real property more particularly described on Exhibit “A” attached hereto and incorporated herein by this reference. Generally identified with an address of 411 E. Sprague Ave. Spokane, Washington 99202 and 12 N. Grant Street, Spokane, Washington 99202 (aka Spokane County Parcel No. 35173.2108 and 35173.2109).

“Reimbursable Costs” shall mean all third-party, out-of-pocket costs, fees and expenses incurred by Buyer and its affiliates in connection with the transactions contemplated by this Agreement.

“Seller” shall mean DR OR RM, LLC, a Washington limited liability company.

Seller’s Broker” shall mean _____.

“Seller Indemnified Parties” shall mean Seller and Seller’s affiliates, members, partners, subsidiaries, shareholders, officers, directors and employees.

“Service Contracts” shall mean any maintenance, repair, improvement, service and supply contracts and all other agreements for goods or services listed on the attached Exhibit D.

“State” shall mean the State of Washington.

“Survey” shall mean a survey of the Real Property performed by a professional land surveyor.

“Termination Notice” shall mean written notice sent of termination sent by Buyer to Seller and Escrow Agent prior to the expiration of the Investigation Period.

“Title Company” shall have the same meaning as Escrow Agent.

“Title Objections” shall mean objections by Buyer to the Title Report or Survey.

“Title Policy” shall mean a standard owner’s policy of title insurance, dated as of the date and time of recording of the Deed, in the amount of the Purchase Price, insuring Buyer as owner of good and indefeasible fee simple title to the Property, subject only to the Permitted Encumbrances and in the form agreed to between Buyer and Escrow Agent.

“Title Report” shall mean the commitment and the underlying title exception documents.

2. **Agreement.** Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, upon the terms and conditions set forth in this Agreement.

3. **Earnest Money.** Within five (5) Business Days following the Effective Date, Buyer shall deliver to Escrow Agent by bank wire transfer of immediately available funds the sum of _____. Escrow Agent shall hold and disburse the Earnest Money deposited in accordance with the terms of this Agreement, including the attached Exhibit B.

4. **Purchase Price and Independent Consideration**

4.1 **Purchase Price.** The purchase price for the Property is _____, together with Buyer’s share of closing costs and prorations, as set forth in this Agreement. The Purchase Price will be paid as follows at Closing: (i) the Earnest Money will be credited toward the Purchase Price; and (ii) the remainder of the Purchase Price will be paid in Current Funds.

4.2 **Independent Consideration.** If, for any reason, Buyer is entitled to a refund of the Earnest Money, Ten Dollars (\$10.00) of the Earnest Money shall nevertheless be paid to Seller as consideration for entering into this Agreement and for the rights granted to Buyer under this Agreement, even if such independent consideration is not specifically referenced elsewhere in this Agreement.

5. **Review of Diligence Materials, Title Review, and Other Matters**

5.1 **Review of Diligence Materials.** Within five (5) Business Days following the Effective Date, Seller shall provide Buyer with copies or electronic access (to the extent the same are in Seller’s possession or control) to all Current Diligence Materials.

5.2 Environmental Report; Additional Studies. At any time through the Closing Date, Buyer at its expense may obtain an Environmental Report and Additional Studies. Seller shall reasonably cooperate with Buyer in connection with Buyer's procurement and review of the Diligence Materials.

5.3 Title Report. On or before the date that is five (5) Business Days after the Effective Date, Seller shall cause Escrow Agent to deliver a commitment for a Title Policy to Buyer. The preliminary commitment must be accompanied by legible copies of all underlying title exception documents referred to in Schedule B of the commitment.

5.4 Survey. At any time through the Closing Date, Buyer at its expense may obtain a current or updated Survey of the Property.

5.5 Entry on Property. At any time through the Closing Date, Seller shall allow Buyer and Buyer's engineers, architects, and other employees, agents and consultants reasonable access to the Property for the purposes described herein. Buyer and its designees may (upon prior notice to Seller, which may be verbal) enter the Real Property and conduct any investigations, studies or tests desired by Buyer, in Buyer's sole discretion, to determine the feasibility of acquiring the Property, *provided* that prior to conducting any invasive procedures (such as a "Phase 2" assessment), Buyer shall provide Seller with a scope of work and shall obtain Seller's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. If requested by Seller, prior to the entry onto the Property by or on behalf of Buyer, Buyer shall deliver to Seller evidence of liability insurance coverage with combined single limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and One Million Dollars (\$1,000,000.00) in the aggregate, naming Seller as an additional insured. If the transactions contemplated hereunder shall not be consummated, Buyer shall return the Property to substantially the condition it was in prior to such testing. Buyer shall indemnify, defend and hold Seller Indemnified Parties harmless from and against all Claims actually incurred by Seller and directly associated with such entry or activities; *provided, however*, that this indemnity shall not extend to and in no event shall Buyer be liable to Seller Indemnified Party to the extent any loss, injury, damage, cause of action, liability, claim, lien, cost or expense arises from (i) any negligence or misconduct of Seller or anyone acting by, through or under Seller, (ii) any release of pre-existing Hazardous Substances (as hereinafter defined) arising from the conduct of any investigation or testing of the Property or for any diminution in the market value of the Property resulting from the information disclosed by any such investigation or tests; (iii) any pre-existing conditions on or about the Property except to the extent that such conditions were exacerbated due to the acts or omissions of Buyer or anyone acting by, through or under Buyer; and (iv) any consequential, exemplary, punitive, indirect or special damages associated with such entry, such activities, or otherwise in connection with this Agreement. The obligations of Buyer under this Section shall survive the Closing or the termination of this Agreement for a period of six (6) months.

5.6 Title Matters

(a) **Delivery of Title.** Seller agrees to convey the Property, and Buyer agrees to purchase the same, free and clear of all liens and encumbrances other than Permitted Encumbrances.

(b) **Title Report Review.** Prior to the expiration of the Investigation Period, Buyer shall notify Seller of Title Objections. If Buyer does not give such notice, such failure shall be conclusively deemed to be full and complete approval of the Title Report and the Survey and any matters disclosed therein shall be deemed Permitted Encumbrances at the time that Buyer provides its Approval Notice. Seller shall have no obligation

whatsoever to expend or agree to expend any funds, to undertake or agree to undertake any obligations or otherwise to cure or agree to cure any Title Objections other than the Mandatory Cure Exceptions, and Seller shall not be deemed to have any obligation to cure any Title Objections other than the Mandatory Cure Exceptions unless Seller expressly undertakes such an obligation by a written notice to or written agreement with Buyer given or entered into on or prior to the Closing Date. Notwithstanding anything contained herein to the contrary, Seller shall at its sole cost and expense undertake all necessary actions to cure or remove (i) Monetary Liens (ii) any liens or encumbrances other than Monetary Liens created by Seller or its agents and affiliates after the Effective Date, (iii) any violations of law or municipal ordinances, orders, requirements or regulations noted in or issued by any municipal and other governmental departments and agencies having jurisdiction over or affecting the Property and any outstanding work orders and requirements of any company insuring the Property against casualty loss, and (iv) Mandatory Cure Exceptions. Seller's failure to cure or remove any of the Mandatory Cure Exceptions shall be a breach of this Agreement and shall entitle Buyer to exercise its remedies under this Agreement.

(c) **Supplemental Information.** Buyer shall have five (5) Business Days from the date of receipt of any Amended Report (and a copy of each document referred to in the Amended Report, if any) in which to give notice of any additional Title Objections. If Buyer timely provides Seller and Escrow Agent with notice of any additional Title Objections, Seller shall have five (5) Business Days from the date of receipt of such notice to agree to correct or cure the Title Objections or provide notice to Buyer and Escrow Agent that Seller shall not correct or cure the Title Objections. If Seller fails to timely provide such notice, Seller shall be deemed to have agreed to correct the Title Objections. If Seller provides notice that it shall not correct a Title Objection then Buyer, within five (5) Business Days from the date of receipt of such notice, may terminate this Agreement. If this Agreement is terminated due to Seller's refusal to cure any Title Objection, Escrow Agent shall immediately disburse the Earnest Money to Buyer and neither party shall have any further obligation to the other, except those obligations that expressly survive the termination of this Agreement.

5.7 Contracts. Prior to the expiration of the Investigation Period, Buyer shall notify Seller in writing of Assumed Contracts. Buyer may assume or reject any Service Contract in its sole discretion. Buyer's failure to deliver such written notice prior to the expiration of the Investigation Period shall be deemed a rejection of all Service Contracts. Seller shall at its sole cost and expense terminate all Service Contracts not expressly assumed by Buyer, such terminations to be effective as of the Closing Date. Seller shall indemnify, defend and hold Buyer and the Buyer Indemnified Parties harmless from and against any and all Claims arising or resulting from events occurring (i) prior to Closing by reason of or in connection with any Assumed Contracts, and (ii) at any time by reason of or in connection with any Service Contracts not expressly assumed by Buyer. The obligations of Seller under this Section shall survive Closing or earlier termination of this Agreement.

5.8 Termination Prior to Expiration of Investigation Period. Anything in this Agreement to the contrary notwithstanding, Buyer shall have the right to terminate this Agreement in its sole discretion for any reason or for no reason by delivering a Termination Notice. If Buyer fails to deliver the Termination Notice or in the alternative, fails to affirmatively give an Approval Notice, this Agreement shall terminate whereupon neither party shall have any further obligation to the other, except those obligations that expressly survive the termination of this Agreement. Upon Buyer's delivery of the Approval Notice, the Earnest Money will become nonrefundable to Buyer unless any event occurs that entitles Buyer to the Earnest Money under this Agreement.

6. **Conditions Precedent.** Buyer's obligation to consummate the Closing is conditioned upon the satisfaction of each of the following conditions precedent:

6.1 **Possession.** Possession of the Property shall be delivered to Buyer free and clear of all tenancies, encumbrances, and other occupancies, subject only to the Permitted Encumbrances. Except for the representations and warranties set forth in this Agreement, the Deed and in any other document executed in connection with the transactions contemplated in this Agreement, Buyer is purchasing the Property AS IS, WHERE IS, AND WITH ALL FAULTS, without any representations or warranties of any kind whatsoever, express or implied, by Seller.

6.2 **Closing Deliveries.** All of the documents required to be delivered by Seller to Buyer at Closing shall have been delivered to Buyer or Escrow Agent.

6.3 **Representations True.** The representations and warranties by Seller in this Agreement shall be true and complete in all respects as of the Closing Date, except as modified by notice to which Buyer does not object in writing by three (3) Business Days after receipt thereof.

6.4 **Contracts.** Seller shall have properly terminated all Service Contracts not assumed by Buyer as of or prior to the Closing Date.

6.5 **Title Policy.** Delivery at Closing, and subject only to Buyer's payment of the applicable additional premium, if any, of the Title Policy or an irrevocable commitment to issue the same, with liability limits in an amount no less than the Purchase Price issued by the Title Company, insuring that fee title to the Real Property vests in Buyer subject to the Permitted Encumbrances.

6.6 **No Governmental Restrictions on Sale.** No court action, other action or order that would restrain or otherwise prohibit the Closing or the development of the Project may be threatened, proceeding or in effect.

6.7 **Seller's Performance.** Seller shall not be in default under this Agreement and shall have duly performed all undertakings and covenants to be performed by Seller under this Agreement.

6.8 **No Condemnation or Casualty Event.** No Property Event (as defined in Section 11) shall have occurred with respect to the Property.

If any condition specified in this Section is not satisfied on or before Closing, Buyer may, in its sole discretion: (i) waive such condition and proceed to Closing; (ii) terminate this Agreement by delivering notice to Seller and Escrow Agent; or (iii) if the failure of the condition is due to a Seller default under this Agreement, pursue any of its remedies under this Agreement. If this Agreement is terminated pursuant to this Section, Escrow Agent shall immediately disburse the Earnest Money to Buyer and neither party shall have any further obligation to the other, except those obligations that expressly survive the termination of this Agreement. In addition, if this Agreement is terminated due to a failure of Seller to satisfy any condition set forth in Section, Seller shall promptly reimburse Buyer its Reimbursable Costs.

7. **Closing**

7.1 **Closing Date.** The Closing of the purchase and sale transaction contemplated in this Agreement shall occur on or before the Closing Date.

7.2 Location. The Closing shall take place at the offices of Escrow Agent. The parties shall conduct an escrow-style closing through the Escrow Agent so that it shall not be necessary for any party to attend the Closing.

7.3 Closing Costs and Prorations

(a) **Closing Fees.** At Closing, Seller and Buyer shall each pay one-half of the escrow fees, if any, charged by Escrow Agent. Seller shall pay all recording fees, transfer taxes, real estate excise tax, deed stamps, and similar property transfer charges. Each party shall pay its own attorneys' fees and costs.

(b) **Title Policy.** With respect to the Title Policy, Seller shall pay the premium for a standard owner's title policy and Buyer shall pay the additional premium associated with any extended or other policy Buyer elects to acquire (*e.g.*, a lender's title policy). Buyer shall also pay the premiums for any endorsements to the Title Policy, unless an endorsement is required to cure a Title Objection (and such cure has been approved by Buyer) or otherwise deliver title to the Property as herein prescribed, in which case, Seller shall pay the premium for such endorsement.

(c) **Taxes and Fees.** Impositions shall be apportioned (on the basis of their respective fiscal periods) between Buyer and Seller as of the Closing Date. If an Imposition invoice for the year in which the Closing occurs has not been issued by the day before Closing, the apportionment shall be based upon the most recent available invoice, and then reconciled after Closing. If, on the Closing Date, an Imposition invoice has been issued, but payment has not been made, the invoiced sum shall be paid at the time of Closing.

(d) **Utility Readings.** Utility charges, if any, shall be apportioned as of the Closing Date. Seller shall use reasonable efforts to obtain readings of utility meters at the Property, if any, no earlier than two (2) Business Days prior to the Closing Date. If Seller is not able to obtain such readings, Closing shall nevertheless occur and the parties agree to use good faith in equitably allocating utility costs on a pro rata basis after Closing.

(e) **Income.** All income from the Property, if any (other than security deposits, if any), will be apportioned as of the Closing Date.

(f) **Preliminary Closing Adjustment.** Seller, Buyer and Escrow Agent shall cooperatively prepare a Closing Statement. All apportionments and prorations contemplated in this Section 7.3 shall be made, on a per diem basis, as of 11:59 p.m. on the Closing Date, such that Seller shall be treated for such purposes as the owner of the Property on the Closing Date. The preliminary Closing Statement and the apportionments or prorations reflected therein must be based upon actual data, to the extent available. If any of the apportionments or prorations cannot be calculated accurately based on actual data, then (except as provided in Section 7.3(c)) they shall be calculated based on Seller's and Buyer's good faith estimates thereof, subject to reconciliation as provided in Section 7.3(g) below.

(g) **Post-Closing Reconciliation.** If the Closing Statement contains an error or an inaccurate estimate, the prorated or apportioned item shall be adjusted (based on actual data) as soon as feasible, but not later than sixty (60) days following the Closing Date (except for the reconciliation of Impositions, which shall be concluded when the actual Imposition data are available). Either party owing the other party a sum of money

based on such subsequent adjustments shall promptly (but in no event later than five (5) Business Days after demand therefor) pay said sum to the other party.

(h) **Other Costs and Survival.** All other costs not addressed in this Section 7.3 shall be paid in accordance with the custom in the County. The provisions of this Section 7.3 shall survive Closing.

7.4 Deliveries at Closing

(a) **Deliveries by Seller.** Prior to Closing, Seller shall execute and deliver to Escrow Agent all documents reasonably necessary to effect the Closing, including, but not limited to, the following:

- (1) Deed.
- (2) Assignment.
- (3) All original Assumed Contracts, together with sufficient evidence reasonably acceptable to Buyer that all other Service Contracts have been properly terminated effective as of the Closing Date.
- (4) All original Permits.
- (5) A non-foreign affidavit for purposes of compliance with Section 1445(b)(2) of Code.
- (6) An affidavit of title and such other affidavits, documents and indemnities as are customarily requested by the Title Company in connection with the conveyance of the Property, in form and substance reasonably satisfactory to the Title Company, including without limitation, a gap indemnity and an affidavit stating that all work performed or materials furnished for the Property have been fully paid for, together with unconditional lien waivers from all contractors, laborers or materialmen furnishing labor or material for the improvement of the Property during the six (6) months (or other applicable period for the filing of liens) preceding the Closing Date.
- (7) A counterpart original of the Closing Statement.
- (8) Such other documentation as Escrow Agent may reasonably require or may otherwise be required to effect the Closing.

(b) **Deliveries by Buyer.** Prior to Closing, Buyer shall execute and deliver to Escrow Agent all documents reasonably necessary to effect the Closing, including, but not limited to, the following:

- (1) The sums required under Sections 4 and 7.3.
- (2) A counterpart original of the Assignment.
- (3) A counterpart original of the Closing Statement.
- (4) Such other documentation as Escrow Agent may reasonably require or may otherwise be required to effect the Closing.

- (c) **Actions of Escrow Agent.** At the Closing, the Escrow Agent shall:
- (1) Prepare the Closing Statement and obtain signed copies from Seller and Buyer.
 - (2) Record the Deed.
 - (3) Deliver the balance of the Purchase Price to Seller, net of Seller's costs, fees, prorations and apportionments.
 - (4) Issue and deliver the Title Policy to Buyer.
 - (5) Deliver the above-referenced documents to the appropriate party.

8. Representations, Warranties and Covenants of Seller. In addition to the representations, warranties and covenants contained elsewhere in this Agreement, Seller, jointly and severally except where context indicates otherwise, makes to Buyer the representations, warranties and covenants set forth in this **Section 8**. Each representation and warranty: (i) is material and relied upon by Buyer; (ii) is true in all respects as of the Effective Date; (iii) shall be true in all respects on the Closing Date; and (iv) shall survive the Closing. If Seller has actual knowledge that any of the representations and warranties contained in this **Section 8** may cease to be true, Seller shall give prompt notice to Buyer (which notice shall include copies of the instrument, correspondence, or document, if any, upon which Seller's notice is based).

8.1 Organizational Status. Seller is a limited liability company, duly organized and validly existing under the laws of the State of Washington, authorized to conduct business in the State of Washington, and is the owner of the Property.

8.2 Binding Agreements/Authority/Conflicts. This Agreement and all documents to be delivered by Seller pursuant to this Agreement have been duly executed and delivered by Seller and constitute the valid and binding obligations of Seller, enforceable in accordance with their terms. Seller has all necessary authority, and has taken all action necessary to enter into this Agreement, to effect the Closing and to perform its obligations under this Agreement. The execution, delivery, and performance of this Agreement shall not conflict with or constitute a breach or default under: (i) any agreement or arrangement to which Seller is a party or that affects the Property; (ii) any law, statute, regulation or ordinance; or (iii) any order, judgment or decree of any court or Governmental Authority.

8.3 Non-Foreign Status. Seller is not a foreign person or nonresident alien as defined in Section 1445 of the Code. Seller consents to the disclosure of this representation and warranty to Governmental Authorities.

8.4 Compliance. Seller has not received notice of any violation of any law, statute, regulation or ordinance. To Seller's knowledge, the Property is not in violation of any law, statute, regulation or ordinance.

8.5 No Notices, Claims or Proceedings. There is not now pending, nor is Seller aware of any threatened action, suit, or proceeding against or affecting Seller or the Property before or by any federal or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign. Without limitation, Seller's representation and warranty extends to notices, claims or proceedings that: (i) involve powers of eminent domain; (ii) would adversely affect access to the Property; (iii) would materially adversely affect the business or prospects of or the condition or operations of the Property (including the use and development of

the Property for Buyer's intended Project); (iv) would revoke or limit any Permit; (v) would require any remedial action or repairs or alterations to the Property; (vi) would limit or adversely affect the uses to which the Property may be put; or (vii) would interfere with Buyer's or Seller's ability to consummate the transactions contemplated by this Agreement.

8.6 Materialmen. All work performed or materials furnished for the Property have been fully paid for.

8.7 Current Diligence Materials. The Current Diligence Materials constitute all items in Seller's possession or control (or that Seller can obtain without unreasonable expense) that relate to the Property. The Current Diligence Materials are true, accurate and complete in all material respects.

8.8 Contracts. The list of Service Contracts set forth on the attached Exhibit D is true, accurate and complete in all respects.

8.9 Utilities. The Property is served by water, sewer, phone, data and electrical utility lines.

8.10 No Contracts or Commitments. Neither Seller nor any of its affiliates has entered into any presently effective contracts or contracts regarding the sale, conveyance, transfer or disposition of the Property, except for this Agreement. Seller has not granted to anyone and no one possesses any option to purchase or right of first refusal to purchase the Property, except as set forth in this Agreement. The Property is not subject to any contracts, subcontracts, proffers or agreements which will be binding upon Buyer on and after the Closing, except for this Agreement and any Service Contracts expressly assumed by Buyer at Closing.

8.11 Seller's Performance. Seller is not in default under any Service Contract or other contract, agreement or arrangement affecting the Property. No event or condition exists which, after notice or lapse of time, or both, would constitute such a default by Seller.

8.12 Environmental/Hazardous Substances. Seller has not discharged, transported or stored any Hazardous Substances on the Property and, to Seller's knowledge, no such Hazardous Substances have been discharged, transported or stored on the Property. Seller has not received written notice of violation, administrative complaint, judicial complaint, or other notice: (i) alleging that conditions on the Property are or have been in violation of any Environmental Law; (ii) informing Seller that the Property is subject to investigation or inquiry regarding the presence of Hazardous Substances on or about the Property; or (iii) alleging the potential violation of any Environmental Law. Seller has not received any information from nearby property owners or occupants indicating they have concerns about existing environmental conditions that could affect the Property or suggesting that they might look to Seller for contribution to remediate any such condition. To Seller's knowledge, the environmental reports identified on the attached Exhibit G are the only reports regarding the environmental condition of the Property.

8.13 No Employees. Seller does not have any employees.

8.14 Bankruptcy or Insolvency. Seller is not insolvent. Seller has not: (i) made a general assignment, offer of settlement or extension for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition in bankruptcy; (iii) suffered the appointment of a receiver to take possession of any of Seller's assets; (iv) suffered the attachment or other judicial seizure of any of Seller's assets; or (v) admitted in writing its inability to pay its debts as they become due.

8.15 Brokers. Except as may be otherwise provided in Section 14, Seller has not engaged any real estate broker or other commission agent in connection with the transaction contemplated in this Agreement.

8.16 Anti-Terrorism Laws. Neither Seller nor any Seller Indemnified Party is a "Prohibited Person" or "Specifically Designated National and Blocked Person" under the Anti-Terrorism Laws.

8.17 Indemnification. Seller shall indemnify, defend (with counsel reasonably acceptable to Buyer) and hold Buyer Indemnified Parties harmless from and against any and all Claims resulting from a breach by Seller of its representations and warranties or covenants under this Agreement. The provisions of this Section shall survive Closing or the earlier termination of this Agreement.

9. Covenants of Seller

9.1 Dealing With the Property. From and after the Effective Date, Seller shall not: (i) execute, modify, terminate or approve any agreements (including, without limitation, leases), arrangements, or commitments of any kind affecting the Property or any interest therein without Buyer's prior written approval, which may be granted or withheld in Buyer's sole discretion; (ii) encumber or permit the encumbrance of the Property with any liens, encumbrances or other instruments creating a cloud on title or securing a monetary obligation; (iii) alter, excavate or grade the Property, or install any improvements thereon; or (iv) take any other action that would have a material adverse impact on the Property. Until possession is delivered to Buyer, Seller agrees, at its sole expense, to maintain and keep the Property in the same or better order and condition as on the Effective Date.

9.2 Payments. Until the Closing Date, Seller shall pay before delinquency all indebtedness secured by any portion of the Property, taxes, assessments, utility charges and other expenses affecting the Property. Prior to or at Closing, Seller shall pay in full all assessments or charges relating to public improvements ordered, advertised, commenced or completed prior to the Effective Date.

9.3 Insurance. Until the Closing Date, Seller shall maintain substantially the same liability, casualty, and all other insurance on the Property, if any, as is in effect as of the Effective Date.

9.4 Preservation of Rights. Until the Closing Date, Seller shall do or cause to be done all reasonable things within its control to preserve intact and unimpaired all rights of way, easements, grants, appurtenances, privileges and licenses in favor of or constituting any portion of the Property (except as specifically instructed otherwise by Buyer in connection with Buyer's pursuit of the Entitlements).

9.5 Compliance with Laws. Until the Closing Date, Seller shall comply with all laws, statutes, rules, regulations and ordinances that are applicable to the Property and the use, occupation, ownership and conveyance thereof.

9.6 Knowledgeable Representative. From and after the Effective Date, Seller shall make available to Buyer a Seller representative with sufficient knowledge regarding the Property to enable Buyer to ask questions and receive answers intended to qualify Buyer as a *bona fide* prospective purchaser under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601, *et seq.*, as amended.

9.7 No Negotiation with Others. While this Agreement is in effect, Seller shall remove the Property from all listing services and shall refrain from, and shall cause each broker, attorney, accountant, and other Seller representative to refrain from, initiating or soliciting any inquiries or making any proposals with respect to, or engaging in negotiations concerning, or providing any confidential information or data to, or having any discussions with any person relating to any acquisition, assignment, or other transaction relating to the Property.

10. Buyer's Representations and Warranties. Buyer makes to Seller the representations and warranties set forth in this Section. Each representation and warranty: (i) is material and relied upon by Seller; (ii) is true in all respects as of the Effective Date; and (iii) shall be true in all respects on the Closing Date.

10.1 Authority/Binding Agreements. This Agreement and all documents to be delivered by Buyer pursuant to this Agreement have been duly executed and delivered by Buyer and constitute the valid and binding obligations of Buyer, enforceable in accordance with their terms. Buyer has all necessary authority, and has taken all action necessary to enter into this Agreement, to effect the Closing and to perform its obligations under this Agreement. The execution, delivery, and performance of this Agreement shall not conflict with or constitute a breach or default under: (i) any agreement or arrangement to which Buyer is a party; (ii) any law, statute, regulation or ordinance; or (iii) any order, judgment or decree of any court or Governmental Authority.

10.2 Anti-Terrorism Laws. Neither Buyer nor any Buyer Indemnified Party is a "Prohibited Person" or "Specifically Designated National and Blocked Person" under the Anti-Terrorism Laws.

10.3 Brokers. Except as may be otherwise provided in Section 14, Buyer has not engaged any real estate broker or other commission agent in connection with the transaction contemplated in this Agreement.

11. Property Events. Seller shall promptly notify Buyer in writing of any Property Event. If any Property Event occurs that results in (i) remediation/repair costs in excess of one percent (1%) of the Purchase Price, or (ii) a loss of more than five percent (5%) of the square footage of the Property, then Buyer may elect, by notice to Seller within five (5) Business Days after receipt of Seller's notice of such Property Event, to terminate this Agreement, in which event Escrow Agent shall promptly return the Earnest Money to Buyer, and neither party shall have any further rights or obligations hereunder, except for those rights and obligations that expressly survive the termination of this Agreement. If Buyer does not terminate this Agreement (either by electing not to exercise its termination right or because the costs or losses do not exceed the thresholds described in clauses (i) or (ii) above), then at Closing Buyer shall accept the Property in its then condition and, upon the Closing: (a) for a contamination, Buyer shall receive a credit against the Purchase Price in an amount equal to the estimated cost of remediating the Hazardous Substances (as determined by an independent consultant retained by Buyer); (b) for a casualty loss, Buyer shall receive a credit against the Purchase Price in the amount of Seller's deductible under its casualty insurance policy and Seller shall assign to Buyer all insurance proceeds payable to Seller resulting from such casualty; and (c) for a condemnation, Seller shall assign to Buyer any compensation, awards, or other payments or relief Seller has received or is entitled to receive resulting from such condemnation or transfer in lieu thereof.

12. DEFAULT BY BUYER; LIQUIDATED DAMAGES. BUYER SHALL BE IN DEFAULT UNDER THIS AGREEMENT IF (I) ANY OF BUYER'S REPRESENTATIONS OR WARRANTIES ARE NOT TRUE, CORRECT AND COMPLETE, OR (II) BUYER FAILS TO PERFORM ANY OF ITS OBLIGATIONS WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF WRITTEN NOTICE BY SELLER OF SUCH FAILURE. ALL TIME PERIODS FOR PERFORMANCE

UNDER THIS AGREEMENT SHALL BE EXTENDED DURING BUYER'S CURE PERIOD. IF THE TRANSACTIONS CONTEMPLATED IN THIS AGREEMENT FAIL TO BE CONSUMMATED ACCORDING TO THE TERMS OF THIS AGREEMENT SOLELY BY REASON OF A DEFAULT OF BUYER (WHICH DEFAULT CONTINUES BEYOND APPLICABLE NOTICE AND CURE PERIODS, IF ANY), SELLER SHALL BE RELIEVED OF ANY OBLIGATION TO SELL THE PROPERTY TO BUYER, SELLER SHALL NOT HAVE ANY RIGHT TO SEEK OR OBTAIN SPECIFIC ENFORCEMENT OF THIS AGREEMENT, AND, AS SELLER'S SOLE AND EXCLUSIVE REMEDY AT LAW OR IN EQUITY FOR SUCH DEFAULT, THE EARNEST MONEY SHALL BE IMMEDIATELY DISBURSED TO AND RETAINED BY SELLER AS LIQUIDATED DAMAGES AND AS CONSIDERATION FOR SELLER KEEPING THE PROPERTY OFF OF THE MARKET FOR SALE TO OTHERS.

BUYER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGES THAT SELLER MIGHT SUFFER IN THE EVENT OF BUYER'S DEFAULT UNDER THIS AGREEMENT. BUYER AND SELLER AGREE THAT THE AMOUNT OF LIQUIDATED DAMAGES PROVIDED FOR IN THIS SECTION IS A FAIR AND REASONABLE ESTIMATE OF SUCH DAMAGES.

Seller's initials: _____ Buyer's initials: _____

13. Default by Seller; Remedies. Seller shall be in default under this Agreement if: (i) any of Seller's representations or warranties are not true, correct and complete; or (ii) Seller fails to perform any of its obligations under this Agreement within five (5) Business Days after receipt of written notice of such failure. All time periods for performance under this Agreement shall be extended during Seller's cure period. If Seller defaults under this Agreement, Buyer may terminate this Agreement by delivery of a written notice of termination to Seller and Escrow Agent, in which event Escrow Agent shall immediately disburse all Earnest Money to Buyer and Seller shall promptly (but in no event later than five (5) Business Days after demand therefor) pay to Buyer all of Buyer's documented Reimbursable Costs.

Seller's initials: _____ Buyer's initials: _____

14. Brokerage. Seller shall be solely responsible for any commission or other sum due or owing to Buyer's Broker at Closing. Except with respect to Buyer's Broker, Seller and Buyer hereby agree to indemnify, defend (with counsel reasonably acceptable to the indemnified party) and hold each other, the Seller Indemnified Parties and the Buyer Indemnified Parties harmless for, from and against any and all Claims incurred by reason of or in connection with any claim for fees, compensation, or other charges relating in any way to the transaction contemplated in this Agreement, or the consummation thereof, which may be made by any other person, firm, or entity as the result of any acts or the acts of Seller or Buyer or their respective representatives. The parties' obligations under this Section 14 shall survive the Closing or the earlier termination of this Agreement.

15. Miscellaneous.

15.1 Attorneys' Fees. If a party is in default under this Agreement, each other party shall have the right, at the expense of the defaulting party, to retain an attorney to make demand, enforce remedies, or otherwise protect or enforce the rights of the non-defaulting party. A party in default shall pay all attorneys' fees and costs so incurred.

15.2 Notices. All notices or other written communications hereunder must be in writing and shall be deemed to have been properly given: (i) upon delivery, if delivered in person; (ii) upon email transmission, if such notice is given on a Business Day between the hours of 8:00 a.m. and 5:00 p.m., Pacific Standard Time (and if not it shall be deemed provided on the following Business

Day), and *provided* a copy of any notice given by email transmission is also subsequently delivered to the receiving party via another method of delivery permitted by this Section; (iii) one Business Day after having been deposited for overnight delivery with any reputable overnight courier service; or (iv) three (3) Business Days after having been deposited with the U.S. Postal Service for delivery by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Buyer:	University Development Company, LLC c/o Peter J. Smith IV 601 E. Front Avenue, Suite 301 Coeur d'Alene, ID 83814
with a copy to:	
If to Seller:	Attn: _____ Email: _____
with a copy to:	Attn: _____ Email: _____
If to Escrow Agent:	Attn: _____ Email: _____

Notices from or signed by the legal counsel for Buyer shall be equally effective as a notice from Buyer itself. Notices from or signed by the legal counsel of Seller, or an agent of Seller with apparent authority, shall be equally effective as a notice from Seller itself.

15.3 Governing Law/Venue. The laws of the State shall govern the enforcement and interpretation of this Agreement. The venue for any action related to this Agreement shall be in the County. Each party waives any objection it may have to such a venue.

15.4 Integration; Modification; Waiver; Joint and Several. This Agreement, the recitals to this Agreement, exhibits, and the closing documents pursuant to this Agreement are hereby incorporated into this Agreement and, together with the Agreement, constitute the complete and final expression of the agreement of the parties relating to the Property. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. This Agreement cannot be modified, or any of the terms hereof waived, except by a document (referring specifically to this Agreement) executed by Buyer and Seller. If there is more than one Seller or if Seller is comprised of more than one party or entity, the obligations imposed upon Seller shall be joint and

several obligations of all the parties and entities, and requests or demands from any one person or entity comprising Seller shall be deemed to have been made by all such persons or entities. Notices to any one person or entity shall be deemed to have been given to all persons and entities.

15.5 Counterpart Execution. This Agreement may be executed in counterparts. This Agreement may also be executed and delivered by facsimile signature, PDF or any electronic signature complying with the U.S. Federal ESIGN Act of 2000 (e.g., www.docusign.com).

15.6 Confidentiality. Each party and their respective representatives shall hold in strictest confidence all data and information obtained with respect to the other party or its business, whether obtained before or after the execution and delivery of this Agreement, and shall not disclose the same to others; *provided, however*, that it is understood and agreed that each party may disclose such data and information to its assignees, affiliates, employees, lenders, consultants, accountants and attorneys so long as such persons agree to treat such data and information confidentially. The provisions of this Section shall survive Closing or any termination of this Agreement.

15.7 Press Releases. Each party agrees that there shall be no press or other publicity release or communication to the general public concerning the transaction contemplated in this Agreement prior to Closing without the prior written consent of the other party.

15.8 Sole Discretion. If a party is given the right to exercise its sole discretion under this Agreement, neither the other party nor any court, arbitrator, third party, or board shall have the right to challenge said exercise, whether reasonable or unreasonable, on any grounds whatsoever.

15.9 Disclaimer – Preparation of Agreement. This Agreement has been negotiated by the parties. Buyer and Seller agree that no presumption shall apply in favor or against any party in respect of the interpretation or enforcement of this Agreement. Each party is advised to have this Agreement reviewed by independent legal and tax counsel prior to its execution. By executing this Agreement, each party represents that: (i) it has read and understands this Agreement; (ii) it has had the opportunity to obtain independent legal and tax advice regarding this Agreement; and (iii) it has obtained such independent advice or has freely elected not to do so.

15.10 Assignment. Buyer may assign its rights and obligations under this Agreement to without the prior written approval of Seller.

[Signature page follows]

**SIGNATURE PAGE
TO
PURCHASE AND SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement.

BUYER:
UNIVERSITY DEVELOPMENT COMPANY,
LLC, a Washington limited liability company

SELLER:
DR OR RM, LLC, a Washington limited liability
company

By: Peter J. Smith IV
Its: Manager

By: _____
Its: _____

EXHIBIT A	Legal Description of Real Property
EXHIBIT B	Additional Escrow Instructions
EXHIBIT C	Current Diligence Materials
EXHIBIT D	List of Service Contracts
EXHIBIT E	Form of Deed
EXHIBIT F	Form of Assignment and Assumption
EXHIBIT G	List of Environmental Reports

ACCEPTANCE BY ESCROW AGENT

This Agreement, together with the Earnest Money, is hereby acknowledged and accepted and the escrow is opened as of the ____ day of _____, 2021. Escrow Agent accepts its designation as such, agrees to hold and disburse the Earnest Money as provided in this Agreement and agrees to act as “the person responsible for closing” the purchase and sale transaction contemplated in this Agreement within the meaning of Section 6045(e) of the Code, as amended, and to file all forms and returns required thereby. Additional provisions regarding the escrow are set forth on Exhibit B.

By: _____
Its: _____

EXHIBIT B

ADDITIONAL ESCROW INSTRUCTIONS

1. Escrow Agent shall deposit all Earnest Money in a federally-insured money market or similar account, subject to immediate withdrawal, at a banking institution located in the County.
2. If a controversy arises regarding the Earnest Money, unless mutual written instructions from Buyer and Seller are received by Escrow Agent directing the disposition of the Earnest Money, Escrow Agent shall not take any action, but instead must await the conclusion of any proceeding relating to the Earnest Money or, at Escrow Agent's option, Escrow Agent may interplead all parties and deposit the Earnest Money with a court of competent jurisdiction, in which event Escrow Agent may recover all of its court costs and reasonable attorneys' fees. Seller or Buyer, whichever loses in any such interpleader action, shall pay the costs incurred by Escrow Agent, including reasonable attorneys' fees. Notwithstanding the foregoing to the contrary, the parties acknowledge and agree that if Escrow Agent receives a demand from Buyer for the Earnest Money on or before expiration of the Investigation Period under this Agreement, then Escrow Agent shall immediately comply with such demand while providing simultaneous written notice thereof to Seller and notwithstanding any contrary instruction Escrow Agent may receive from Seller.
3. Provided that neither Buyer nor Seller is in default under this Agreement, if this Agreement terminates prior to the expiration of the Investigation Period or because of the nonsatisfaction of any condition, Buyer and Seller each shall pay one-half of any cancellation charges due to Escrow Agent. If this Agreement terminates due to the default of Buyer or Seller, the defaulting party shall be solely responsible for any such cancellation charges.
4. The parties acknowledge that Escrow Agent is acting solely as a stakeholder at their request and for their convenience, that Escrow Agent shall not be deemed to be the agent of either of the parties and that Escrow Agent shall not be liable to either of the parties for any action or omission on its part taken or made in good faith, and not in disregard of this Agreement, but shall be liable for its negligent acts and for any loss, cost or expense incurred by Buyer or Seller resulting from Escrow Agent's mistake of law respecting the scope or nature of its duties.
5. The provisions of this Agreement shall constitute joint instructions to Escrow Agent to consummate the purchase in accordance with such provisions; *provided, however*, that the parties shall execute such additional escrow instructions, not inconsistent with the provisions of this Agreement, as may be deemed reasonably necessary to carry out the intentions of the parties as expressed in this Agreement.
6. The provisions of this Exhibit shall survive the Closing or termination of this Agreement.

EXHIBIT C

CURRENT DILIGENCE MATERIALS

- Site plan
- Licenses & Permits
- Tax bills
- Service Contracts, if any
- Evidence of insurance (property, liability, flood and any and all others)
- Existing survey (with vendor name, contact, phone, email)
- Existing phase I & II environmental reports (with vendor name, contact, phone, email)
- Existing geotechnical and geological reports (with vendor name, contact, phone, email)
- Existing seismic PML studies (with vendor name, contact, phone, email)
- Notices and correspondence regarding zoning restrictions or alleged violations, if any
- A description of any pending or threatened litigation relating to the Property or its ownership
- Notices of deficiencies or noncompliance with any law, statute, regulation or ordinance
- All other documents in Sellers' possession or control relating to the Property

EXHIBIT E

FORM OF DEED

Filed at the Request of:

WARRANTY DEED

FOR VALUE RECEIVED, DR OR RM, LLC, a Washington limited liability company whose address is _____, ("Grantor") does hereby grant, bargain, sell, and convey unto UNIVERSITY DEVELOPMENT COMPANY, LLC, a Washington limited liability company ("Grantee"), whose address is _____, that certain real property located in Spokane County, Washington, together with all improvements thereon and appurtenances thereto, which is more particularly described at the attached Exhibit A.

SUBJECT ONLY TO the exceptions set forth on Exhibit B.

[signature page and acknowledgment follows]

Dated this ____ day of _____, 20__.

GRANTOR:

By: _____
Its: _____

STATE OF _____)
: ss
County of _____)

On this ____ day of _____, in the year 20__, before me, _____,
a notary public in and for the State of _____, personally appeared _____ known
or identified to me (or proved to me on the oath) to be the _____ of the entity that executed
the instrument or the person who executed the instrument on behalf of said entity, and acknowledged to me
that such entity executed the same.

GIVEN UNDER MY HAND AND OFFICIAL SEAL the day and year in this certificate first above
written.

	(Signature)

	(Print Name)
	Notary Public for the State of _____
	My commission expires: _____

Exhibit A
To
Deed

Legal Description

[INSERT AT CLOSING]

Exhibit B
To
Deed

Exceptions

[INSERT SPECIAL EXCEPTIONS AT TIME OF CLOSING]

EXHIBIT F

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“**Assignment**”) is made as of _____, 20____ (“**Assignment Date**”), by and among DR OR RM, LLC, a Washington limited liability company, (“**Assignor**”) and UNIVERSITY DEVELOPMENT COMPANY, LLC, a Washington limited liability company and/or its assigns (collectively, “**Assignee**”)

Assignor and Assignee, entered into that certain Purchase and Sale Agreement dated _____, 2021 (“**Agreement**”), providing for, among other things, the conveyance to Assignee of certain Property, as defined and more particularly described in the Agreement. Capitalized terms that are not defined in this Assignment shall have the meanings that are ascribed to them in the Agreement.

Assignor is: (i) a party to certain Assumed Contracts listed on the attached Schedule 1; (ii) the owner of certain Intangible Property; and (iii) the holder of various Permits. The Assumed Contracts, Intangible Property, and Permits are collectively referred to in this Assignment as the “**Assigned Property**.”

Assignor desires to transfer, assign, and convey to Assignee all its right, title, and interest in, to, and under the Assigned Property on the following terms and conditions.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Assignment**. Assignor hereby assigns, conveys, transfers, and sets over unto Assignee all of Assignor’s right, title, and interest in the Assigned Property.
2. **Assumption**. Assignee hereby assumes and agrees to pay all sums, and perform, fulfill, and comply with all covenants and obligations, which are to be paid, performed, and complied with by the Property owner with respect to the Assumed Contracts and Permits from and after the Assignment Date.
3. **Indemnification**. Assignor shall indemnify, defend (with counsel reasonably acceptable to Assignee) and hold Assignee, the Buyer Indemnified Parties (as defined in the Agreement), and the Property harmless from and against any and all Claims (as defined in the Agreement) incurred by reason of or in connection with any act, omission or obligation of Assignor arising or accruing in connection with the Contracts and occurring or alleged to have occurred on or prior to the Assignment Date.
4. **Binding Effect**. This Assignment shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.
5. **Counterparts**. This Assignment may be executed in counterparts.

[Signature page follows]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the Assignment Date.

ASSIGNEE:

Exhibit – Do Not Execute

ASSIGNOR:

Exhibit – Do Not Execute

[INSERT SCHEDULE 1]

EXHIBIT G

LIST OF ENVIRONMENTAL REPORTS

[Insert before execution of the Agreement]

EXHIBIT "3"

UDPDA PSA

See Attached.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT is made effective as of _____, 20____ by and between AVISTA DEVELOPMENT, INC., a Washington corporation, and UNIVERSITY DISTRICT PUBLIC DEVELOPMENT AUTHORITY, a Washington public development authority created pursuant to chapter 35.21 RCW.

RECITALS

A. Seller is the owner of certain real property in Spokane County, Washington generally identified with an address of 411 E. Sprague Ave. Spokane, Washington 99202 and 12 N. Grant Street, Spokane, Washington 99202 (aka Spokane County Parcel No. 35173.2108 and 35173.2109). The Real Property is legally described on the attached **Exhibit "A"**.

B. Seller is also the owner of all improvements on the Real Property, and all rights, including but not limited to water and mineral rights, and easements appurtenant to the Real Property.

C. Buyer desires to purchase, and Seller desires to sell, the Property, upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the parties as follows:

1. **Definitions.** As used in this Agreement, the following terms shall have the following meanings:

"Additional Studies" shall mean any additional studies or reports relating to the Property that Buyer elects to obtain.

"Agreement" shall mean this Purchase and Sale Agreement.

"Amended Report" shall mean a supplement to the Title Report issued by the Escrow Agent showing additional title exceptions or Buyer receives an updated survey containing additional information.

"Anti-Terrorism Laws" shall mean any and all present and future laws, statutes, regulations, ordinances, decisions, rulings, orders, rules, permits or certificates of any Governmental Authority relating to terrorism or money laundering including, without limiting the generality of the foregoing, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Pub. L. No. 107-56); the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.); the International Emergency Economic Powers Act (50 U.S.C. § 1701-06); Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (relating to "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism") and the United States Treasury Department's Office of Foreign Assets Control list of "Specifically Designated National and Blocked Persons" (as published from time to time in various mediums).

"Approval Notice" shall mean Buyer's notice to Seller in writing on or before the expiration of the Investigation Period that it intends to proceed with the transactions contemplated hereunder and expressly waives its right of termination.

"Assignment" shall mean a counterpart original of an Assignment and Assumption Agreement in the form attached hereto as **Exhibit F**.

“Assumed Contracts” shall mean any maintenance, repair, improvement, service and supply contracts and all other agreements for goods or services listed on the attached Exhibit D that Buyer shall assume at Closing.

“Business Day” means any day other than: (i) a Saturday; (ii) a Sunday; or (iii) days on which branches of national banks located in the County are closed.

“Buyer” shall mean UNIVERSITY DISTRICT PUBLIC DEVELOPMENT AUTHORITY, a Washington public development authority created pursuant to chapter 35.21 RCW.

“Buyer Indemnified Parties” shall mean Buyer and Buyer’s affiliates, members, partners, subsidiaries, shareholders, officers, directors and employees.

“Closing” shall mean closing of the purchase and sale transaction contemplated in this Agreement on a date mutually determined by Buyer and Seller.

“Closing Date” shall be _____.

“Claims” shall mean causes of action, claims, costs, damages, demands, expenses (including reasonable legal expenses), liabilities and suits.

“Closing Statement” shall mean the preliminary closing statement cooperatively prepared by Seller, Buyer and Escrow Agent.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the regulations adopted thereunder.

“County” shall mean Spokane County, Washington.

“Current Diligence Materials” shall mean items described on the attached Exhibit C.

“Current Funds” shall mean wire transfers, certified funds, or cashier’s checks in a form acceptable to Escrow Agent that would permit Escrow Agent to immediately disburse such funds.

“Deed” shall deed in the form attached as Exhibit E, with respect to the Real Property, executed and acknowledged by Seller.

“Diligence Materials” shall mean Current Diligence Materials, the Environmental Report, the Title Report, the Survey, and the Additional Studies.

“Earnest Money” shall mean the earnest money deposit made pursuant to Section 3 below.

“Effective Date” shall mean the date of this Agreement as stated in the preamble.

“Environmental Law” shall mean any federal, state or local law, statute, ordinance, or regulation pertaining to health, industrial hygiene, environmental conditions or the environment, including air, soil, groundwater and surface water.

“Environmental Report” shall mean environmental site assessment reports (including a “Phase 1” report) relating to the Property.

“Escrow Agent” shall mean _____ (Attn: _____).

“Hazardous Substance” shall mean any substance, condition, object, living organism or any combination thereof which may or could pose a risk of injury or threat to health or the environment, including, without limitation: (a) those substances included within the definitions of “hazardous substance”, “hazardous waste”, “hazardous material”, “toxic substance”, “solid waste”, or “pollutant or contaminant” in or otherwise regulated by, any Environmental Law; and (b) any material, waste, or substance which is: (A) petroleum or refined petroleum products; (B) asbestos in any form; (C) polychlorinated biphenyls; (D) flammable explosives; (E) radioactive materials; (F) radon; or (G) lead.

“Impositions” shall mean real estate taxes, assessments, and similar charges.

“Investigation Period” shall mean that period of time commencing on Effective Date and expiring at 5:00 p.m. local time in the County the date that is ninety (90) days after the Effective Date, or upon earlier termination of this Agreement.

“Mandatory Cure Exceptions” shall mean any exception to title that Seller has specifically agreed in writing to cure or remove from the Title Policy.

“Monetary Liens” shall mean any liens evidencing monetary encumbrances (other than liens for non-delinquent general real estate taxes) that are created as a result of the intentional acts of Seller or its agents and affiliates, including any mechanics liens and judgment liens that arise after the Effective Date.

“Permitted Encumbrances” shall mean any liens and encumbrances accepted or deemed accepted by Buyer.

“Project” shall mean redevelopment of the Property.

“Property” shall mean the Real Property and all rights, including but not limited to water and mineral rights, and easements appurtenant to the Real Property.

“Property Event” shall mean introduction of any Hazardous Substances to the Property, any casualty or any condemnation proceeding commenced or threatened with respect to the Property.

“Purchase Price” shall mean the purchase price set forth in Section 4.1 below.

“Real Property” shall mean the real property more particularly described on Exhibit “A” attached hereto and incorporated herein by this reference. Generally identified with an address of 411 E. Sprague Ave. Spokane, Washington 99202 and 12 N. Grant Street, Spokane, Washington 99202 (aka Spokane County Parcel No. 35173.2108 and 35173.2108).

“Reimbursable Costs” shall mean all third-party, out-of-pocket costs, fees and expenses incurred by Buyer and its affiliates in connection with the transactions contemplated by this Agreement.

“Seller” shall mean AVISTA DEVELOPMENT, INC., a Washington corporation.

“Seller Indemnified Parties” shall mean Seller and Seller’s affiliates, members, partners, subsidiaries, shareholders, officers, directors and employees.

“Service Contracts” shall mean any maintenance, repair, improvement, service and supply contracts and all other agreements for goods or services listed on the attached Exhibit D.

“State” shall mean the State of Washington.

“Survey” shall mean a survey of the Real Property performed by a professional land surveyor.

“Termination Notice” shall mean written notice sent of termination sent by Buyer to Seller and Escrow Agent prior to the expiration of the Investigation Period.

“Title Company” shall have the same meaning as Escrow Agent.

“Title Objections” shall mean objections by Buyer to the Title Report or Survey.

“Title Policy” shall mean a standard owner’s policy of title insurance, dated as of the date and time of recording of the Deed, in the amount of the Purchase Price, insuring Buyer as owner of good and indefeasible fee simple title to the Property, subject only to the Permitted Encumbrances and in the form agreed to between Buyer and Escrow Agent.

“Title Report” shall mean the commitment and the underlying title exception documents.

2. **Agreement.** Seller agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from Seller, upon the terms and conditions set forth in this Agreement.

3. **Earnest Money.** Within five (5) Business Days following the Effective Date, Buyer shall deliver to Escrow Agent by bank wire transfer of immediately available funds an amount equal to one percent (1%) of the Purchase Price. Escrow Agent shall hold and disburse the Earnest Money deposited in accordance with the terms of this Agreement, including the attached Exhibit B.

4. **Purchase Price and Independent Consideration**

4.1 **Purchase Price.** The purchase price for the Property is _____, together with Buyer’s share of closing costs and prorations, as set forth in this Agreement. The Purchase Price will be paid as follows at Closing: (i) the Earnest Money will be credited toward the Purchase Price; and (ii) the remainder of the Purchase Price will be paid in Current Funds.

4.2 **Independent Consideration.** If, for any reason, Buyer is entitled to a refund of the Earnest Money, Ten Dollars (\$10.00) of the Earnest Money shall nevertheless be paid to Seller as consideration for entering into this Agreement and for the rights granted to Buyer under this Agreement, even if such independent consideration is not specifically referenced elsewhere in this Agreement.

5. **Review of Diligence Materials, Title Review, and Other Matters**

5.1 **Review of Diligence Materials.** Within five (5) Business Days following the Effective Date, Seller shall provide Buyer with copies or electronic access (to the extent the same are in Seller’s possession or control) to all Current Diligence Materials.

5.2 **Environmental Report; Additional Studies.** At any time through the Closing Date, Buyer at its expense may obtain an Environmental Report and Additional Studies. Seller shall reasonably cooperate with Buyer in connection with Buyer’s procurement and review of the Diligence Materials.

5.3 Title Report. On or before the date that is five (5) Business Days after the Effective Date, Seller shall cause Escrow Agent to deliver a commitment for a Title Policy to Buyer. The preliminary commitment must be accompanied by legible copies of all underlying title exception documents referred to in Schedule B of the commitment.

5.4 Survey. At any time through the Closing Date, Buyer at its expense may obtain a current or updated Survey of the Property.

5.5 Entry on Property. At any time through the Closing Date, Seller shall allow Buyer and Buyer's engineers, architects, and other employees, agents and consultants reasonable access to the Property for the purposes described herein. Buyer and its designees may (upon prior notice to Seller, which may be verbal) enter the Real Property and conduct any investigations, studies or tests desired by Buyer, in Buyer's sole discretion, to determine the feasibility of acquiring the Property, *provided* that prior to conducting any invasive procedures (such as a "Phase 2" assessment), Buyer shall provide Seller with a scope of work and shall obtain Seller's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. If requested by Seller, prior to the entry onto the Property by or on behalf of Buyer, Buyer shall deliver to Seller evidence of liability insurance coverage with combined single limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and One Million Dollars (\$1,000,000.00) in the aggregate, naming Seller as an additional insured. If the transactions contemplated hereunder shall not be consummated, Buyer shall return the Property to substantially the condition it was in prior to such testing. Buyer shall indemnify, defend and hold Seller Indemnified Parties harmless from and against all Claims actually incurred by Seller and directly associated with such entry or activities; *provided, however*, that this indemnity shall not extend to and in no event shall Buyer be liable to Seller Indemnified Party to the extent any loss, injury, damage, cause of action, liability, claim, lien, cost or expense arises from (i) any negligence or misconduct of Seller or anyone acting by, through or under Seller, (ii) any release of pre-existing Hazardous Substances (as hereinafter defined) arising from the conduct of any investigation or testing of the Property or for any diminution in the market value of the Property resulting from the information disclosed by any such investigation or tests; (iii) any pre-existing conditions on or about the Property except to the extent that such conditions were exacerbated due to the acts or omissions of Buyer or anyone acting by, through or under Buyer; and (iv) any consequential, exemplary, punitive, indirect or special damages associated with such entry, such activities, or otherwise in connection with this Agreement. The obligations of Buyer under this Section shall survive the Closing or the termination of this Agreement for a period of six (6) months.

5.6 Title Matters

(a) **Delivery of Title.** Seller agrees to convey the Property, and Buyer agrees to purchase the same, free and clear of all liens and encumbrances other than Permitted Encumbrances.

(b) **Title Report Review.** Prior to the expiration of the Investigation Period, Buyer shall notify Seller of Title Objections. If Buyer does not give such notice, such failure shall be conclusively deemed to be full and complete approval of the Title Report and the Survey and any matters disclosed therein shall be deemed Permitted Encumbrances at the time that Buyer provides its Approval Notice. Seller shall have no obligation whatsoever to expend or agree to expend any funds, to undertake or agree to undertake any obligations or otherwise to cure or agree to cure any Title Objections other than the Mandatory Cure Exceptions, and Seller shall not be deemed to have any obligation to cure any Title Objections other than the Mandatory Cure Exceptions unless Seller expressly undertakes such an obligation by a written notice to or written agreement with Buyer given

or entered into on or prior to the Closing Date. Notwithstanding anything contained herein to the contrary, Seller shall at its sole cost and expense undertake all necessary actions to cure or remove (i) Monetary Liens (ii) any liens or encumbrances other than Monetary Liens created by Seller or its agents and affiliates after the Effective Date, (iii) any violations of law or municipal ordinances, orders, requirements or regulations noted in or issued by any municipal and other governmental departments and agencies having jurisdiction over or affecting the Property and any outstanding work orders and requirements of any company insuring the Property against casualty loss, and (iv) Mandatory Cure Exceptions. Seller's failure to cure or remove any of the Mandatory Cure Exceptions shall be a breach of this Agreement and shall entitle Buyer to exercise its remedies under this Agreement.

(c) **Supplemental Information.** Buyer shall have five (5) Business Days from the date of receipt of any Amended Report (and a copy of each document referred to in the Amended Report, if any) in which to give notice of any additional Title Objections. If Buyer timely provides Seller and Escrow Agent with notice of any additional Title Objections, Seller shall have five (5) Business Days from the date of receipt of such notice to agree to correct or cure the Title Objections or provide notice to Buyer and Escrow Agent that Seller shall not correct or cure the Title Objections. If Seller fails to timely provide such notice, Seller shall be deemed to have agreed to correct the Title Objections. If Seller provides notice that it shall not correct a Title Objection then Buyer, within five (5) Business Days from the date of receipt of such notice, may terminate this Agreement. If this Agreement is terminated due to Seller's refusal to cure any Title Objection, Escrow Agent shall immediately disburse the Earnest Money to Buyer and neither party shall have any further obligation to the other, except those obligations that expressly survive the termination of this Agreement.

5.7 Contracts. Prior to the expiration of the Investigation Period, Buyer shall notify Seller in writing of Assumed Contracts. Buyer may assume or reject any Service Contract in its sole discretion. Buyer's failure to deliver such written notice prior to the expiration of the Investigation Period shall be deemed a rejection of all Service Contracts. Seller shall at its sole cost and expense terminate all Service Contracts not expressly assumed by Buyer, such terminations to be effective as of the Closing Date. Seller shall indemnify, defend and hold Buyer and the Buyer Indemnified Parties harmless from and against any and all Claims arising or resulting from events occurring (i) prior to Closing by reason of or in connection with any Assumed Contracts, and (ii) at any time by reason of or in connection with any Service Contracts not expressly assumed by Buyer. The obligations of Seller under this Section shall survive Closing or earlier termination of this Agreement.

5.8 Termination Prior to Expiration of Investigation Period. Anything in this Agreement to the contrary notwithstanding, Buyer shall have the right to terminate this Agreement in its sole discretion for any reason or for no reason by delivering a Termination Notice. If Buyer fails to deliver the Termination Notice or in the alternative, fails to affirmatively give an Approval Notice, this Agreement shall terminate whereupon neither party shall have any further obligation to the other, except those obligations that expressly survive the termination of this Agreement. Upon Buyer's delivery of the Approval Notice, the Earnest Money will become nonrefundable to Buyer unless any event occurs that entitles Buyer to the Earnest Money under this Agreement.

6. Conditions Precedent. Buyer's obligation to consummate the Closing is conditioned upon the satisfaction of each of the following conditions precedent:

6.1 Possession. Possession of the Property shall be delivered to Buyer free and clear of all tenancies, encumbrances, and other occupancies, subject only to the Permitted Encumbrances. Except for the representations and warranties set forth in this Agreement, the Deed and in any other document executed in connection with the transactions contemplated in this Agreement, Buyer is purchasing the Property AS IS, WHERE IS, AND WITH ALL FAULTS, without any representations or warranties of any kind whatsoever, express or implied, by Seller.

6.2 Closing Deliveries. All of the documents required to be delivered by Seller to Buyer at Closing shall have been delivered to Buyer or Escrow Agent.

6.3 Representations True. The representations and warranties by Seller in this Agreement shall be true and complete in all respects as of the Closing Date, except as modified by notice to which Buyer does not object in writing by three (3) Business Days after receipt thereof.

6.4 Contracts. Seller shall have properly terminated all Service Contracts not assumed by Buyer as of or prior to the Closing Date.

6.5 Title Policy. Delivery at Closing, and subject only to Buyer's payment of the applicable additional premium, if any, of the Title Policy or an irrevocable commitment to issue the same, with liability limits in an amount no less than the Purchase Price issued by the Title Company, insuring that fee title to the Real Property vests in Buyer subject to the Permitted Encumbrances.

6.6 No Governmental Restrictions on Sale. No court action, other action or order that would restrain or otherwise prohibit the Closing or the development of the Project may be threatened, proceeding or in effect.

6.7 Seller's Performance. Seller shall not be in default under this Agreement and shall have duly performed all undertakings and covenants to be performed by Seller under this Agreement.

6.8 No Condemnation or Casualty Event. No Property Event (as defined in Section 11) shall have occurred with respect to the Property.

If any condition specified in this Section is not satisfied on or before Closing, Buyer may, in its sole discretion: (i) waive such condition and proceed to Closing; (ii) terminate this Agreement by delivering notice to Seller and Escrow Agent; or (iii) if the failure of the condition is due to a Seller default under this Agreement, pursue any of its remedies under this Agreement. If this Agreement is terminated pursuant to this Section, Escrow Agent shall immediately disburse the Earnest Money to Buyer and neither party shall have any further obligation to the other, except those obligations that expressly survive the termination of this Agreement. In addition, if this Agreement is terminated due to a failure of Seller to satisfy any condition set forth in Section, Seller shall promptly reimburse Buyer its Reimbursable Costs.

7. Closing

7.1 Closing Date. The Closing of the purchase and sale transaction contemplated in this Agreement shall occur on or before the Closing Date.

7.2 Location. The Closing shall take place at the offices of Escrow Agent. The parties shall conduct an escrow-style closing through the Escrow Agent so that it shall not be necessary for any party to attend the Closing.

7.3 Closing Costs and Prorations

(a) **Closing Fees**. At Closing, Seller and Buyer shall each pay one-half of the escrow fees, if any, charged by Escrow Agent. Seller shall pay all recording fees, transfer taxes, real estate excise tax, deed stamps, and similar property transfer charges. Each party shall pay its own attorneys' fees and costs.

(b) **Title Policy**. With respect to the Title Policy, Seller shall pay the premium for a standard owner's title policy and Buyer shall pay the additional premium associated with any extended or other policy Buyer elects to acquire (*e.g.*, a lender's title policy). Buyer shall also pay the premiums for any endorsements to the Title Policy, unless an endorsement is required to cure a Title Objection (and such cure has been approved by Buyer) or otherwise deliver title to the Property as herein prescribed, in which case, Seller shall pay the premium for such endorsement.

(c) **Taxes and Fees**. Impositions shall be apportioned (on the basis of their respective fiscal periods) between Buyer and Seller as of the Closing Date. If an Imposition invoice for the year in which the Closing occurs has not been issued by the day before Closing, the apportionment shall be based upon the most recent available invoice, and then reconciled after Closing. If, on the Closing Date, an Imposition invoice has been issued, but payment has not been made, the invoiced sum shall be paid at the time of Closing.

(d) **Utility Readings**. Utility charges, if any, shall be apportioned as of the Closing Date. Seller shall use reasonable efforts to obtain readings of utility meters at the Property, if any, no earlier than two (2) Business Days prior to the Closing Date. If Seller is not able to obtain such readings, Closing shall nevertheless occur and the parties agree to use good faith in equitably allocating utility costs on a pro rata basis after Closing.

(e) **Income**. All income from the Property, if any (other than security deposits, if any), will be apportioned as of the Closing Date.

(f) **Preliminary Closing Adjustment**. Seller, Buyer and Escrow Agent shall cooperatively prepare a Closing Statement. All apportionments and prorations contemplated in this Section 7.3 shall be made, on a per diem basis, as of 11:59 p.m. on the Closing Date, such that Seller shall be treated for such purposes as the owner of the Property on the Closing Date. The preliminary Closing Statement and the apportionments or prorations reflected therein must be based upon actual data, to the extent available. If any of the apportionments or prorations cannot be calculated accurately based on actual data, then (except as provided in Section 7.3(c)) they shall be calculated based on Seller's and Buyer's good faith estimates thereof, subject to reconciliation as provided in Section 7.3(g) below.

(g) **Post-Closing Reconciliation**. If the Closing Statement contains an error or an inaccurate estimate, the prorated or apportioned item shall be adjusted (based on actual data) as soon as feasible, but not later than sixty (60) days following the Closing Date (except for the reconciliation of Impositions, which shall be concluded when the actual Imposition data are available). Either party owing the other party a sum of money based on such subsequent adjustments shall promptly (but in no event later than five (5) Business Days after demand therefor) pay said sum to the other party.

(h) **Other Costs and Survival.** All other costs not addressed in this Section 7.3 shall be paid in accordance with the custom in the County. The provisions of this Section 7.3 shall survive Closing.

7.4 Deliveries at Closing

(a) **Deliveries by Seller.** Prior to Closing, Seller shall execute and deliver to Escrow Agent all documents reasonably necessary to effect the Closing, including, but not limited to, the following:

- (1) Deed.
- (2) Assignment.
- (3) All original Assumed Contracts, together with sufficient evidence reasonably acceptable to Buyer that all other Service Contracts have been properly terminated effective as of the Closing Date.
- (4) All original Permits.
- (5) A non-foreign affidavit for purposes of compliance with Section 1445(b)(2) of Code.
- (6) An affidavit of title and such other affidavits, documents and indemnities as are customarily requested by the Title Company in connection with the conveyance of the Property, in form and substance reasonably satisfactory to the Title Company, including without limitation, a gap indemnity and an affidavit stating that all work performed or materials furnished for the Property have been fully paid for, together with unconditional lien waivers from all contractors, laborers or materialmen furnishing labor or material for the improvement of the Property during the six (6) months (or other applicable period for the filing of liens) preceding the Closing Date.
- (7) A counterpart original of the Closing Statement.
- (8) Such other documentation as Escrow Agent may reasonably require or may otherwise be required to effect the Closing.

(b) **Deliveries by Buyer.** Prior to Closing, Buyer shall execute and deliver to Escrow Agent all documents reasonably necessary to effect the Closing, including, but not limited to, the following:

- (1) The sums required under Sections 4 and 7.3.
- (2) A counterpart original of the Assignment.
- (3) A counterpart original of the Closing Statement.
- (4) Such other documentation as Escrow Agent may reasonably require or may otherwise be required to effect the Closing.

(c) **Actions of Escrow Agent.** At the Closing, the Escrow Agent shall:

- Seller and Buyer.
- (1) Prepare the Closing Statement and obtain signed copies from Seller and Buyer.
 - (2) Record the Deed.
 - (3) Deliver the balance of the Purchase Price to Seller, net of Seller's costs, fees, prorations and apportionments.
 - (4) Issue and deliver the Title Policy to Buyer.
 - (5) Deliver the above-referenced documents to the appropriate party.

8. Representations, Warranties and Covenants of Seller. In addition to the representations, warranties and covenants contained elsewhere in this Agreement, Seller, jointly and severally except where context indicates otherwise, makes to Buyer the representations, warranties and covenants set forth in this Section 8. Each representation and warranty: (i) is material and relied upon by Buyer; (ii) is true in all respects as of the Effective Date; (iii) shall be true in all respects on the Closing Date; and (iv) shall survive the Closing. If Seller has actual knowledge that any of the representations and warranties contained in this Section 8 may cease to be true, Seller shall give prompt notice to Buyer (which notice shall include copies of the instrument, correspondence, or document, if any, upon which Seller's notice is based).

8.1 Organizational Status. Seller is a corporation, duly organized and validly existing under the laws of the State of Washington, authorized to conduct business in the State of Washington, and is the owner of the Property.

8.2 Binding Agreements/Authority/Conflicts. This Agreement and all documents to be delivered by Seller pursuant to this Agreement have been duly executed and delivered by Seller and constitute the valid and binding obligations of Seller, enforceable in accordance with their terms. Seller has all necessary authority, and has taken all action necessary to enter into this Agreement, to effect the Closing and to perform its obligations under this Agreement. The execution, delivery, and performance of this Agreement shall not conflict with or constitute a breach or default under: (i) any agreement or arrangement to which Seller is a party or that affects the Property; (ii) any law, statute, regulation or ordinance; or (iii) any order, judgment or decree of any court or Governmental Authority.

8.3 Non-Foreign Status. Seller is not a foreign person or nonresident alien as defined in Section 1445 of the Code. Seller consents to the disclosure of this representation and warranty to Governmental Authorities.

8.4 Compliance. Seller has not received notice of any violation of any law, statute, regulation or ordinance. To Seller's knowledge, the Property is not in violation of any law, statute, regulation or ordinance.

8.5 No Notices, Claims or Proceedings. There is not now pending, nor is Seller aware of any threatened action, suit, or proceeding against or affecting Seller or the Property before or by any federal or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign. Without limitation, Seller's representation and warranty extends to notices, claims or proceedings that: (i) involve powers of eminent domain; (ii) would adversely affect access to the Property; (iii) would materially adversely affect the business or prospects of or the condition or operations of the Property (including the use and development of the Property for Buyer's intended Project); (iv) would revoke or limit any Permit; (v) would require any remedial action or repairs or alterations to the Property; (vi) would limit or adversely affect the

uses to which the Property may be put; or (vii) would interfere with Buyer's or Seller's ability to consummate the transactions contemplated by this Agreement.

8.6 Materialmen. All work performed or materials furnished for the Property have been fully paid for.

8.7 Current Diligence Materials. The Current Diligence Materials constitute all items in Seller's possession or control (or that Seller can obtain without unreasonable expense) that relate to the Property. The Current Diligence Materials are true, accurate and complete in all material respects.

8.8 Contracts. The list of Service Contracts set forth on the attached Exhibit D is true, accurate and complete in all respects.

8.9 Utilities. The Property is served by water, sewer, phone, data and electrical utility lines.

8.10 No Contracts or Commitments. Neither Seller nor any of its affiliates has entered into any presently effective contracts or contracts regarding the sale, conveyance, transfer or disposition of the Property, except for this Agreement. Seller has not granted to anyone and no one possesses any option to purchase or right of first refusal to purchase the Property, except as set forth in this Agreement. The Property is not subject to any contracts, subcontracts, proffers or agreements which will be binding upon Buyer on and after the Closing, except for this Agreement and any Service Contracts expressly assumed by Buyer at Closing.

8.11 Seller's Performance. Seller is not in default under any Service Contract or other contract, agreement or arrangement affecting the Property. No event or condition exists which, after notice or lapse of time, or both, would constitute such a default by Seller.

8.12 Environmental/Hazardous Substances. Seller has not discharged, transported or stored any Hazardous Substances on the Property and, to Seller's knowledge, no such Hazardous Substances have been discharged, transported or stored on the Property. Seller has not received written notice of violation, administrative complaint, judicial complaint, or other notice: (i) alleging that conditions on the Property are or have been in violation of any Environmental Law; (ii) informing Seller that the Property is subject to investigation or inquiry regarding the presence of Hazardous Substances on or about the Property; or (iii) alleging the potential violation of any Environmental Law. Seller has not received any information from nearby property owners or occupants indicating they have concerns about existing environmental conditions that could affect the Property or suggesting that they might look to Seller for contribution to remediate any such condition. To Seller's knowledge, the environmental reports identified on the attached Exhibit G are the only reports regarding the environmental condition of the Property.

8.13 Bankruptcy or Insolvency. Seller is not insolvent. Seller has not: (i) made a general assignment, offer of settlement or extension for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition in bankruptcy; (iii) suffered the appointment of a receiver to take possession of any of Seller's assets; (iv) suffered the attachment or other judicial seizure of any of Seller's assets; or (v) admitted in writing its inability to pay its debts as they become due.

8.14 Brokers. Seller has not engaged any real estate broker or other commission agent in connection with the transaction contemplated in this Agreement.

8.15 Anti-Terrorism Laws. Neither Seller nor any Seller Indemnified Party is a “Prohibited Person” or “Specifically Designated National and Blocked Person” under the Anti-Terrorism Laws.

8.16 Indemnification. Seller shall indemnify, defend (with counsel reasonably acceptable to Buyer) and hold Buyer Indemnified Parties harmless from and against any and all Claims resulting from a breach by Seller of its representations and warranties or covenants under this Agreement. The provisions of this Section shall survive Closing or the earlier termination of this Agreement.

9. Covenants of Seller

9.1 Dealing With the Property. From and after the Effective Date, Seller shall not: (i) execute, modify, terminate or approve any agreements (including, without limitation, leases), arrangements, entitlements, or commitments of any kind affecting the Property or any interest therein without Buyer’s prior written approval, which may be granted or withheld in Buyer’s sole discretion; (ii) encumber or permit the encumbrance of the Property with any liens, encumbrances or other instruments creating a cloud on title or securing a monetary obligation; (iii) alter, excavate or grade the Property, or install any improvements thereon; or (iv) take any other action that would have a material adverse impact on the Property. Until possession is delivered to Buyer, Seller agrees, at its sole expense, to maintain and keep the Property in the same or better order and condition as on the Effective Date.

9.2 Payments. Until the Closing Date, Seller shall pay before delinquency all indebtedness secured by any portion of the Property, taxes, assessments, utility charges and other expenses affecting the Property. Prior to or at Closing, Seller shall pay in full all assessments or charges relating to public improvements ordered, advertised, commenced or completed prior to the Effective Date.

9.3 Insurance. Until the Closing Date, Seller shall maintain substantially the same liability, casualty, and all other insurance on the Property, if any, as is in effect as of the Effective Date.

9.4 Preservation of Rights. Until the Closing Date, Seller shall do or cause to be done all reasonable things within its control to preserve intact and unimpaired all rights of way, easements, grants, appurtenances, privileges and licenses in favor of or constituting any portion of the Property (except as specifically instructed otherwise by Buyer in connection with Buyer’s pursuit of the Entitlements).

9.5 Compliance with Laws. Until the Closing Date, Seller shall comply with all laws, statutes, rules, regulations and ordinances that are applicable to the Property and the use, occupation, ownership and conveyance thereof.

9.6 Knowledgeable Representative. From and after the Effective Date, Seller shall make available to Buyer a Seller representative with sufficient knowledge regarding the Property to enable Buyer to ask questions and receive answers intended to qualify Buyer as a *bona fide* prospective purchaser under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601, *et seq.*, as amended.

9.7 No Negotiation with Others. While this Agreement is in effect, Seller shall remove the Property from all listing services and shall refrain from, and shall cause each broker, attorney, accountant, and other Seller representative to refrain from, initiating or soliciting any

inquiries or making any proposals with respect to, or engaging in negotiations concerning, or providing any confidential information or data to, or having any discussions with any person relating to any acquisition, assignment, or other transaction relating to the Property.

10. Buyer's Representations and Warranties. Buyer makes to Seller the representations and warranties set forth in this Section. Each representation and warranty: (i) is material and relied upon by Seller; (ii) is true in all respects as of the Effective Date; and (iii) shall be true in all respects on the Closing Date.

10.1 Authority/Binding Agreements. This Agreement and all documents to be delivered by Buyer pursuant to this Agreement have been duly executed and delivered by Buyer and constitute the valid and binding obligations of Buyer, enforceable in accordance with their terms. Buyer has all necessary authority, and has taken all action necessary to enter into this Agreement, to effect the Closing and to perform its obligations under this Agreement. The execution, delivery, and performance of this Agreement shall not conflict with or constitute a breach or default under: (i) any agreement or arrangement to which Buyer is a party; (ii) any law, statute, regulation or ordinance; or (iii) any order, judgment or decree of any court or Governmental Authority.

10.2 Anti-Terrorism Laws. Neither Buyer nor any Buyer Indemnified Party is a "Prohibited Person" or "Specifically Designated National and Blocked Person" under the Anti-Terrorism Laws.

10.3 Brokers. Except as may be otherwise provided in Section 14, Buyer has not engaged any real estate broker or other commission agent in connection with the transaction contemplated in this Agreement.

11. Property Events. Seller shall promptly notify Buyer in writing of any Property Event. If any Property Event occurs that results in (i) remediation/repair costs in excess of one percent (1%) of the Purchase Price, or (ii) a loss of more than five percent (5%) of the square footage of the Property, then Buyer may elect, by notice to Seller within five (5) Business Days after receipt of Seller's notice of such Property Event, to terminate this Agreement, in which event Escrow Agent shall promptly return the Earnest Money to Buyer, and neither party shall have any further rights or obligations hereunder, except for those rights and obligations that expressly survive the termination of this Agreement. If Buyer does not terminate this Agreement (either by electing not to exercise its termination right or because the costs or losses do not exceed the thresholds described in clauses (i) or (ii) above), then at Closing Buyer shall accept the Property in its then condition and, upon the Closing: (a) for a contamination, Buyer shall receive a credit against the Purchase Price in an amount equal to the estimated cost of remediating the Hazardous Substances (as determined by an independent consultant retained by Buyer); (b) for a casualty loss, Buyer shall receive a credit against the Purchase Price in the amount of Seller's deductible under its casualty insurance policy and Seller shall assign to Buyer all insurance proceeds payable to Seller resulting from such casualty; and (c) for a condemnation, Seller shall assign to Buyer any compensation, awards, or other payments or relief Seller has received or is entitled to receive resulting from such condemnation or transfer in lieu thereof.

12. DEFAULT BY BUYER; LIQUIDATED DAMAGES. BUYER SHALL BE IN DEFAULT UNDER THIS AGREEMENT IF (I) ANY OF BUYER'S REPRESENTATIONS OR WARRANTIES ARE NOT TRUE, CORRECT AND COMPLETE, OR (II) BUYER FAILS TO PERFORM ANY OF ITS OBLIGATIONS WITHIN FIVE (5) BUSINESS DAYS AFTER RECEIPT OF WRITTEN NOTICE BY SELLER OF SUCH FAILURE. ALL TIME PERIODS FOR PERFORMANCE UNDER THIS AGREEMENT SHALL BE EXTENDED DURING BUYER'S CURE PERIOD. IF THE TRANSACTIONS CONTEMPLATED IN THIS AGREEMENT FAIL TO BE CONSUMMATED ACCORDING TO THE TERMS OF THIS AGREEMENT SOLELY BY REASON OF A DEFAULT OF

BUYER (WHICH DEFAULT CONTINUES BEYOND APPLICABLE NOTICE AND CURE PERIODS, IF ANY), SELLER SHALL BE RELIEVED OF ANY OBLIGATION TO SELL THE PROPERTY TO BUYER, SELLER SHALL NOT HAVE ANY RIGHT TO SEEK OR OBTAIN SPECIFIC ENFORCEMENT OF THIS AGREEMENT, AND, AS SELLER'S SOLE AND EXCLUSIVE REMEDY AT LAW OR IN EQUITY FOR SUCH DEFAULT, THE EARNEST MONEY SHALL BE IMMEDIATELY DISBURSED TO AND RETAINED BY SELLER AS LIQUIDATED DAMAGES AND AS CONSIDERATION FOR SELLER KEEPING THE PROPERTY OFF OF THE MARKET FOR SALE TO OTHERS.

BUYER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGES THAT SELLER MIGHT SUFFER IN THE EVENT OF BUYER'S DEFAULT UNDER THIS AGREEMENT. BUYER AND SELLER AGREE THAT THE AMOUNT OF LIQUIDATED DAMAGES PROVIDED FOR IN THIS SECTION IS A FAIR AND REASONABLE ESTIMATE OF SUCH DAMAGES.

Seller's initials: _____ Buyer's initials: _____

13. Default by Seller; Remedies. Seller shall be in default under this Agreement if: (i) any of Seller's representations or warranties are not true, correct and complete; or (ii) Seller fails to perform any of its obligations under this Agreement within five (5) Business Days after receipt of written notice of such failure. All time periods for performance under this Agreement shall be extended during Seller's cure period. If Seller defaults under this Agreement, Buyer may terminate this Agreement by delivery of a written notice of termination to Seller and Escrow Agent, in which event Escrow Agent shall immediately disburse all Earnest Money to Buyer and Seller shall promptly (but in no event later than five (5) Business Days after demand therefor) pay to Buyer all of Buyer's documented Reimbursable Costs.

Seller's initials: _____ Buyer's initials: _____

14. Brokerage. Seller and Buyer hereby agree to indemnify, defend (with counsel reasonably acceptable to the indemnified party) and hold each other, the Seller Indemnified Parties and the Buyer Indemnified Parties harmless for, from and against any and all Claims incurred by reason of or in connection with any claim for fees, compensation, or other charges relating in any way to the transaction contemplated in this Agreement, or the consummation thereof, which may be made by any other person, firm, or entity as the result of any acts or the acts of Seller or Buyer or their respective representatives. The parties' obligations under this Section 14 shall survive the Closing or the earlier termination of this Agreement.

15. Miscellaneous.

15.1 Attorneys' Fees. If a party is in default under this Agreement, each other party shall have the right, at the expense of the defaulting party, to retain an attorney to make demand, enforce remedies, or otherwise protect or enforce the rights of the non-defaulting party. A party in default shall pay all attorneys' fees and costs so incurred.

15.2 Notices. All notices or other written communications hereunder must be in writing and shall be deemed to have been properly given: (i) upon delivery, if delivered in person; (ii) upon email transmission, if such notice is given on a Business Day between the hours of 8:00 a.m. and 5:00 p.m., Pacific Standard Time (and if not it shall be deemed provided on the following Business Day), and *provided* a copy of any notice given by email transmission is also subsequently delivered to the receiving party via another method of delivery permitted by this Section; (iii) one Business Day after having been deposited for overnight delivery with any reputable overnight courier service; or (iv) three (3) Business Days after having been deposited with the U.S. Postal Service

for delivery by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Buyer:	Executive Director University District Public Development Authority 120 N. Pine Street, Ste 292 Spokane, WA 99202
with a copy to:	
If to Seller:	Troy Dehnel 1411 E Mission Avenue, MSC R70 Spokane, WA, 99252 Fax: 509-777-5677 Email: troy.dehnel@avistacorp.com
with a copy to:	Greg Hesler 1411 E. Mission Avenue MSC-10 Spokane, WA 99252 Email: greg.hesler@avistacorp.com
If to Escrow Agent:	Attn: _____ _____ Email: _____

Notices from or signed by the legal counsel for Buyer shall be equally effective as a notice from Buyer itself. Notices from or signed by the legal counsel of Seller, or an agent of Seller with apparent authority, shall be equally effective as a notice from Seller itself.

15.3 Governing Law/Venue. The laws of the State shall govern the enforcement and interpretation of this Agreement. The venue for any action related to this Agreement shall be in the County. Each party waives any objection it may have to such a venue.

15.4 Integration; Modification; Waiver; Joint and Several. This Agreement, the recitals to this Agreement, exhibits, and the closing documents pursuant to this Agreement are hereby incorporated into this Agreement and, together with the Agreement, constitute the complete and final expression of the agreement of the parties relating to the Property. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind as conditions or inducements to the execution hereof or in effect between the parties. This Agreement cannot be modified, or any of the terms hereof waived, except by a document (referring specifically to this Agreement) executed by Buyer and Seller. If there is more than one Seller or if Seller is comprised of more than one party or entity, the obligations imposed upon Seller shall be joint and several obligations of all the parties and entities, and requests or demands from any one person or entity comprising Seller shall be deemed to have been made by all such persons or entities. Notices to any one person or entity shall be deemed to have been given to all persons and entities.

15.5 Counterpart Execution. This Agreement may be executed in counterparts. This Agreement may also be executed and delivered by facsimile signature, PDF or any electronic signature complying with the U.S. Federal ESIGN Act of 2000 (e.g., www.docusign.com).

15.6 Confidentiality. Each party and their respective representatives shall hold in strictest confidence all data and information obtained with respect to the other party or its business, whether obtained before or after the execution and delivery of this Agreement, and shall not disclose the same to others; *provided, however*, that it is understood and agreed that each party may disclose such data and information to its assignees, affiliates, employees, lenders, consultants, accountants and attorneys so long as such persons agree to treat such data and information confidentially. The provisions of this Section shall survive Closing or any termination of this Agreement.

15.7 Press Releases. Each party agrees that there shall be no press or other publicity release or communication to the general public concerning the transaction contemplated in this Agreement prior to Closing without the prior written consent of the other party.

15.8 Sole Discretion. If a party is given the right to exercise its sole discretion under this Agreement, neither the other party nor any court, arbitrator, third party, or board shall have the right to challenge said exercise, whether reasonable or unreasonable, on any grounds whatsoever.

15.9 Disclaimer – Preparation of Agreement. This Agreement has been negotiated by the parties. Buyer and Seller agree that no presumption shall apply in favor or against any party in respect of the interpretation or enforcement of this Agreement. Each party is advised to have this Agreement reviewed by independent legal and tax counsel prior to its execution. By executing this Agreement, each party represents that: (i) it has read and understands this Agreement; (ii) it has had the opportunity to obtain independent legal and tax advice regarding this Agreement; and (iii) it has obtained such independent advice or has freely elected not to do so.

[Signature page follows]

**SIGNATURE PAGE
TO
PURCHASE AND SALE AGREEMENT**

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement.

BUYER:
UNIVERSITY DISTRICT PUBLIC
DEVELOPMENT AUTHORITY, a Washington
public development authority created pursuant to
chapter 35.21 RCW

SELLER:
AVISTA DEVELOPMENT, INC., a Washington
corporation

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

EXHIBIT A Legal Description of Real Property
EXHIBIT B Additional Escrow Instructions
EXHIBIT C Current Diligence Materials
EXHIBIT D List of Service Contracts
EXHIBIT E Form of Deed
EXHIBIT F Form of Assignment and Assumption
EXHIBIT G List of Environmental Reports

ACCEPTANCE BY ESCROW AGENT

This Agreement, together with the Earnest Money, is hereby acknowledged and accepted and the escrow is opened as of the ____ day of _____, 2021. Escrow Agent accepts its designation as such, agrees to hold and disburse the Earnest Money as provided in this Agreement and agrees to act as “the person responsible for closing” the purchase and sale transaction contemplated in this Agreement within the meaning of Section 6045(e) of the Code, as amended, and to file all forms and returns required thereby. Additional provisions regarding the escrow are set forth on Exhibit B.

By: _____
Its: _____

EXHIBIT B

ADDITIONAL ESCROW INSTRUCTIONS

1. Escrow Agent shall deposit all Earnest Money in a federally-insured money market or similar account, subject to immediate withdrawal, at a banking institution located in the County.
2. If a controversy arises regarding the Earnest Money, unless mutual written instructions from Buyer and Seller are received by Escrow Agent directing the disposition of the Earnest Money, Escrow Agent shall not take any action, but instead must await the conclusion of any proceeding relating to the Earnest Money or, at Escrow Agent's option, Escrow Agent may interplead all parties and deposit the Earnest Money with a court of competent jurisdiction, in which event Escrow Agent may recover all of its court costs and reasonable attorneys' fees. Seller or Buyer, whichever loses in any such interpleader action, shall pay the costs incurred by Escrow Agent, including reasonable attorneys' fees. Notwithstanding the foregoing to the contrary, the parties acknowledge and agree that if Escrow Agent receives a demand from Buyer for the Earnest Money on or before expiration of the Investigation Period under this Agreement, then Escrow Agent shall immediately comply with such demand while providing simultaneous written notice thereof to Seller and notwithstanding any contrary instruction Escrow Agent may receive from Seller.
3. Provided that neither Buyer nor Seller is in default under this Agreement, if this Agreement terminates prior to the expiration of the Investigation Period or because of the nonsatisfaction of any condition, Buyer and Seller each shall pay one-half of any cancellation charges due to Escrow Agent. If this Agreement terminates due to the default of Buyer or Seller, the defaulting party shall be solely responsible for any such cancellation charges.
4. The parties acknowledge that Escrow Agent is acting solely as a stakeholder at their request and for their convenience, that Escrow Agent shall not be deemed to be the agent of either of the parties and that Escrow Agent shall not be liable to either of the parties for any action or omission on its part taken or made in good faith, and not in disregard of this Agreement, but shall be liable for its negligent acts and for any loss, cost or expense incurred by Buyer or Seller resulting from Escrow Agent's mistake of law respecting the scope or nature of its duties.
5. The provisions of this Agreement shall constitute joint instructions to Escrow Agent to consummate the purchase in accordance with such provisions; *provided, however*, that the parties shall execute such additional escrow instructions, not inconsistent with the provisions of this Agreement, as may be deemed reasonably necessary to carry out the intentions of the parties as expressed in this Agreement.
6. The provisions of this Exhibit shall survive the Closing or termination of this Agreement.

EXHIBIT C

CURRENT DILIGENCE MATERIALS

- Site plan
- Licenses & Permits
- Tax bills
- Service Contracts, if any
- Evidence of insurance (property, liability, flood and any and all others)
- Existing survey (with vendor name, contact, phone, email)
- Existing phase I & II environmental reports (with vendor name, contact, phone, email)
- Existing geotechnical and geological reports (with vendor name, contact, phone, email)
- Existing seismic PML studies (with vendor name, contact, phone, email)
- Notices and correspondence regarding zoning restrictions or alleged violations, if any
- A description of any pending or threatened litigation relating to the Property or its ownership
- Notices of deficiencies or noncompliance with any law, statute, regulation or ordinance
- All other documents in Sellers' possession or control relating to the Property

EXHIBIT E

FORM OF DEED

Filed at the Request of:

WARRANTY DEED

FOR VALUE RECEIVED, AVISTA DEVELOPMENT, INC., a Washington corporation whose address is 1411 E. Mission Avenue, MSC-10 Spokane, WA 99252, ("Grantor") does hereby grant, bargain, sell, and convey unto UNIVERSITY DISTRICT PUBLIC DEVELOPMENT AUTHORITY, a Washington public development authority created pursuant to chapter 35.21 RCW ("Grantee"), whose address is 120 N. Pine Street, Ste 292 Spokane, WA 99202, that certain real property located in Spokane County, Washington, together with all improvements thereon and appurtenances thereto, which is more particularly described at the attached Exhibit A.

SUBJECT ONLY TO the exceptions set forth on Exhibit B.

[signature page and acknowledgment follows]

**Exhibit A
To
Deed
Legal Description**

[INSERT AT CLOSING]

Exhibit B
To
Deed

Exceptions

[INSERT SPECIAL EXCEPTIONS AT TIME OF CLOSING]

EXHIBIT F

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (“**Assignment**”) is made as of _____, 20__ (“**Assignment Date**”), by and among, AVISTA DEVELOPMENT, INC., a Washington corporation and/or its assigns (“**Assignor**”) and UNIVERSITY DISTRICT PUBLIC DEVELOPMENT AUTHORITY, a Washington public development authority created pursuant to chapter 35.21 RCW (collectively, “**Assignee**”)

Assignor and Assignee, entered into that certain Purchase and Sale Agreement dated _____, 2021 (“**Agreement**”), providing for, among other things, the conveyance to Assignee of certain Property, as defined and more particularly described in the Agreement. Capitalized terms that are not defined in this Assignment shall have the meanings that are ascribed to them in the Agreement.

Assignor is: (i) a party to certain Assumed Contracts listed on the attached Schedule 1; (ii) the owner of certain Intangible Property; and (iii) the holder of various Permits. The Assumed Contracts, Intangible Property, and Permits are collectively referred to in this Assignment as the “**Assigned Property**.”

Assignor desires to transfer, assign, and convey to Assignee all its right, title, and interest in, to, and under the Assigned Property on the following terms and conditions.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Assignment**. Assignor hereby assigns, conveys, transfers, and sets over unto Assignee all of Assignor’s right, title, and interest in the Assigned Property.
2. **Assumption**. Assignee hereby assumes and agrees to pay all sums, and perform, fulfill, and comply with all covenants and obligations, which are to be paid, performed, and complied with by the Property owner with respect to the Assumed Contracts and Permits from and after the Assignment Date.
3. **Indemnification**. Assignor shall indemnify, defend (with counsel reasonably acceptable to Assignee) and hold Assignee, the Buyer Indemnified Parties (as defined in the Agreement), and the Property harmless from and against any and all Claims (as defined in the Agreement) incurred by reason of or in connection with any act, omission or obligation of Assignor arising or accruing in connection with the Contracts and occurring or alleged to have occurred on or prior to the Assignment Date.
4. **Binding Effect**. This Assignment shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.
5. **Counterparts**. This Assignment may be executed in counterparts.

[Signature page follows]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the Assignment Date.

<u>ASSIGNEE:</u> <u>Exhibit – Do Not Execute</u> <u>ASSIGNOR:</u> <u>Exhibit – Do Not Execute</u> [INSERT SCHEDULE 1]	
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EXHIBIT G

LIST OF ENVIRONMENTAL REPORTS

[Insert before execution of the Agreement]