

**DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE  
CITY OF PUYALLUP  
AND  
URBAN PUYALLUP MIXED USE LLC**

**THIS DEVELOPMENT AGREEMENT** (“Agreement”) is entered into by and between the City of Puyallup, a political subdivision of the state of Washington (the “City”), and Urban Puyallup Mixed Use LLC, a Washington limited liability company (“Developer” or “Urban Puyallup”), collectively, the “Parties”.

**RECITALS**

**A. WHEREAS**, on August 10, 2023, the City and Walker John, as owner of Urban Management Company dba Urban Olympia, entered into an Exclusive Negotiating Agreement granting Walker John the exclusive right to negotiate with the City for the potential purchase of certain City-owned property known as the Former Administration Office Building Site, located at 330 3<sup>rd</sup> Street SW, Puyallup, Washington, Pierce County Assessor Tax Parcel No. 5745001371, more particularly described in **Exhibit A** (the “Property”) for development of a mixed-use project (the “Project”); and

**B. WHEREAS**, the City and Walker John have each satisfied their obligations under the Exclusive Negotiating Agreement, as extended; and

**C. WHEREAS**, Walker John has assigned his rights in the Exclusive Negotiating Agreement to Urban Puyallup; and

**D. WHEREAS**, the Parties intend to enter into a purchase and sale agreement for the City to sell the Property to the Developer subject to the City’s approval of this Agreement, which will give the Developer control of the Property as the contract purchaser; and

**E. WHEREAS**, the City is authorized to enter into a development agreement with a person or entity having ownership or control of property within its jurisdiction pursuant to RCW 36.70B.170 and Puyallup Municipal Code (“PMC”) Ch. 1.15.010; and

**F. WHEREAS**, the Parties wish to ensure certainty and predictability for development of the Project and agree to Project milestones through implementation of this Agreement; and

**G. WHEREAS**, a development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement; and

**H. WHEREAS**, for purposes of this Agreement, the term “development standards” includes, but is not limited to, all of the standards listed in PMC 1.15.020; and

**I. WHEREAS**, PMC 1.15.030 requires that a development agreement be consistent with applicable development regulations to the fullest extent possible; provided, however, that a development agreement may allow development standards different from those otherwise imposed under the Puyallup Municipal Code in order to provide flexibility to achieve public benefits, respond to changing community needs, or encourage modifications which provide the functional equivalent or adequately achieve the purposes of otherwise applicable city standards; and

**J. WHEREAS**, the Project will develop approximately 138 units of market rate multi-family housing together with retail uses in downtown Puyallup consistent with the goals and strategies in the City’s adopted 2019 Downtown Economic Development Plan and 2021 Housing Action Plan; and

**K. WHEREAS**, Puyallup’s Downtown is designated as a Regional Growth Center (“RGC”) by the Puget Sound Regional Council (“PSRC”), and so is expected to play a significant role in accommodating future housing and employment growth over time; and

**L. WHEREAS**, the Developer has developed several successful infill mixed-use multi-family projects in other local cities and desires to partner with the City to redevelop the Property at a density and using design principles which are consistent with the City’s adopted plans and vision for Downtown; and

**M. WHEREAS**, the Developer has agreed to construct twenty-nine on-street angled parking stalls on 3<sup>rd</sup> Street SW to serve the Puyallup Activity Center (the “Senior Center and Public Parking”) shown on **Exhibit B** (Senior Center and Public Parking Design) which are not otherwise required by City standards for development of the Project; and

**N. WHEREAS**, in order to achieve the public benefit of development of the Senior Center and Public Parking and new urban density housing on the Property consistent with the Downtown RGC designation and City planning goals, the Project requires modifications to certain City standards as authorized by PMC 1.15.030 and approved as part of this Agreement; and

**O. WHEREAS**, the City Council held a public hearing for this Agreement on April 29, 2025.

**NOW, THEREFORE**, based on the foregoing recitals, and in consideration of the mutual promises set forth herein, the Parties agree as follows:

## **AGREEMENT**

### **1. Development Agreement; Effective Date**

This Agreement is a Development Agreement pursuant to RCW 36.70B.170 through .210 and PMC Chapter 1.15. It shall establish the project elements, design standards, and mitigation measures in accordance with the State Environmental Policy Act (SEPA). This Agreement must be interpreted consistent with RCW 36.70B.170(3)(a), (c)-(f) and all applicable development regulations adopted by the City planning under chapter 36.70A RCW, to the fullest extent possible. This Agreement specifies the permitted uses of the property, the density and intensity of use, and the design, improvement, and construction standards and specifications. Any issues or matters not addressed by this Agreement shall be determined consistent with City Code and other applicable law. It shall become effective on the Effective Date, which shall be the later of (1) the date which is ten days after the day of the City's approval of the Agreement by ordinance or resolution as provided for in RCW 36.70B.170 or (2) the date a fully executed version of the Agreement is recorded with the Pierce City Auditor.

### **2. Term of Agreement**

This Agreement commences upon the Effective Date and continues in force for a period of five (5) years, from the Effective Date, unless extended or terminated as provided herein.

### **3. The Project**

The Project consists of development of a mixed-use building on the approximately 1.11 acre Property. The Project will include approximately 138 market rate residential units, approximately 3,500 square feet of ground floor commercial/retail space, structured parking, the Senior Center and Public Parking, and other amenities and improvements as generally depicted on the concept site plan attached as **Exhibit C** hereto.

### **4. Vested Rights of Developer; Uses and Standards**

During the term of this Agreement, unless sooner terminated in accordance with the terms hereof, in developing the Property consistent with the Project described herein, Developer is assured, and the City agrees, that the Developer is vested to the ordinances adopted by the City Council in effect on the Effective Date governing the permitted uses of land, the density and intensity of use, and the design, improvement, construction standards, and specifications applicable to the development of the Property, including, but not limited to, the Comprehensive Plan, City of Puyallup Municipal Code, Downtown Design Guidelines (Updated July 9, 2019), City Standards for Public Works Engineering and Construction Manual (with revisions through August, 2024), and all other ordinances, codes, rules, and regulations of the City establishing standards for the use and development of the Property. This provision shall not apply to any building or

fire code that is state-mandated (*see* RCW 19.27.031); drainage and water quality requirements mandated by the state under the city's National Pollutant Discharge Elimination System (NPDES); impact fees, mitigation fees; permit application fees; or any other fees or charges, except as specifically described or provided for in this Agreement.

## **5. Authorized Modifications to Development Standards**

The City agrees to the following authorized modifications to City development standards for the Project as allowed in PMC 1.15.030, consistent with all applicable adopted development regulations:

- a. Required Parking.** PMC 20.55.011(1) requires the Developer to provide one off-street parking stall per dwelling unit. In order to achieve the City's desired housing density for the Project, no more than 0.7 off-street parking stalls per dwelling unit can be provided. The City has determined that modifying off-street parking requirements to allow 0.7 off-street parking stalls per dwelling unit for the Project will provide a public benefit and respond to changing community needs by improving housing affordability, increasing density, and encouraging the use of transit and alternate modes of transportation to reduce climate impacts. Prior to approval of building permits, the Developer will submit a parking demand study to the City confirming the adequacy of off-street parking provided for the Project together with a parking management plan containing the elements provided in PMC 20.55.011.
- b. Parking Stall and Drive Aisle Dimensions.** PMC 20.55.035 requires the Developer to comply with specified dimensions for parking stalls and drive aisles unless a variation is authorized. Development of parking facilities with these dimensions at the Project will not provide the City's desired housing density for the Project. The City has determined that modification of the parking stall and drive aisle dimensions to those provided in **Exhibit D (Parking Stall Plan and Aisle Dimensions)** attached hereto will provide a public benefit, is consistent with good engineering practices, and will not result in a traffic safety hazard or hinder vehicle access and egress.
- c. Off-Street Loading Facilities.** PMC 20.55.061(3) requires the Developer to provide a commercial off-street loading space for retail uses with a minimum size of 10 feet in width, 30 feet in length, and 14 feet high. The City has determined that modification of this off-street loading requirement to provide one 8 feet x 30 feet on-street loading space on W. Pioneer Avenue to allow development of the Senior Center and Public Parking on 3<sup>rd</sup> Street SW as shown on the concept site plan attached at **Exhibit C** will provide a public benefit and achieves the purposes of City code.

- d. **Zone Transition Standards.** PMC 20.26.500(1) requires buffering on the portion of the Property where the CBD-Core zone abuts the RM zone (with intervening alleyway) consisting of a 12-foot landscaped buffer with a 6-foot high fence. The City has determined that modification of this buffer requirement to provide an 8-foot landscaped buffer with no fence as depicted in **Exhibit E1 (Setbacks and Zone Transitions)** will provide a public benefit and is adequate to achieve compatibility between zone districts for this site.
- e. **Design Guidelines - Setbacks.** Section 3.B.5 of the Downtown Design Guidelines requires (a) any building greater than three (3) floors or 35 feet in height to provide a minimum 5-foot setback and a maximum 10-foot setback at the story where 30 feet in height is reached and for all stories above and (b) for a building with a height greater than the street right-of-way width it fronts to incorporate a setback at either the second or top level of the building. The City has determined that modification of these setback requirements to incorporate a variety of horizontal and vertical setbacks as depicted in **Exhibit E2 (Setbacks and Zone Transitions)** improves the quality of the overall design of the Project while achieving the purposes of the setback requirements in the Downtown Design Guidelines.

## 6. Senior Center and Public Parking.

As a public benefit, the Developer shall construct the Senior Center and Public Parking consisting of twenty-nine on-street angled parking stalls (including five ADA stalls) on 3<sup>rd</sup> Street SW as shown on **Exhibit B (Senior Center and Public Parking Design)**. The Senior Center Parking shall be reserved Monday-Friday from 9:00 am to 5:00 pm for users of the Senior Activity Center located at 210 W. Pioneer Ave. The parking stalls will be available for general public parking outside those hours.

## 7. Required Conditions of Approval

The City hereby establishes conditions of approval or references approved plans, conditions, or existing codes for the following items as required pursuant to PMC 1.15.060:

- a. *A site plan for the entire project, showing locations of sensitive areas and buffers, required open spaces, perimeter buffers, location and range of densities for residential development, and location and size of nonresidential development.* A concept site plan for the Project containing these elements is attached at **Exhibit C**.
- b. *The expected build-out time period for the entire project and the various phases.* The expected build-out time period for the entire project is five (5) years. No phasing is proposed.
- c. *Project phasing and other project-specific conditions to mitigate impacts on the environment, on public facilities and services including transportation, utilities,*

*drainage, police and fire protection, schools, and parks.* No project phasing is proposed. The Project will pay park, street, and school impact fees under PMC Ch. 21.20 pursuant to the adopted City impact fee schedule in place at the time of building permit issuance. The Project will also include reimbursement provisions, inspection fees, and other financial contributions or dedications as required by the City. The Project will comply with all applicable plans, codes, and standards to mitigate impacts to other public facilities and services.

- d. *Road and storm water design standards that shall apply to the various phases of the project.* The Project will comply with City codes and standards for road and stormwater design.
- e. *Bulk design and dimensional standards that shall be implemented throughout subsequent development within the project.* The Project will comply with adopted City codes and standards for bulk design and dimension except as expressly modified in Section 5 of this Agreement.
- f. *The size and range of uses authorized for any nonresidential development within the project.* The Project includes approximately 3,500 square feet of ground floor retail/commercial uses as depicted on the concept site plan attached at **Exhibit C**. Authorized uses will be as provided for in City code for the CBD-Core zoning district.
- g. *The minimum and maximum number of residential units for the project.* The Project will provide approximately 138 multi-family dwelling units.
- h. *Any sewer and/or water comprehensive utility plans or amendments required to be completed before development can occur.* No such amendments are required for the proposed development.
- i. *Provisions for the applicant's surrender of an approved development agreement before commencement of construction or cessation of development based upon causes beyond the applicant's control or other circumstances, with the property to develop thereafter under the base zoning in effect prior to the development agreement approval.* See Section 8, Termination.

## **8. Project Milestones**

To ensure timely Project completion, which is in the public interest, the Parties agree to perform certain duties and obligations related to Project development and City review and issuance of required permits and approvals pursuant to the Project Milestones schedule attached at **Exhibit F**. The Parties may make revisions to the Project Milestones schedule during the course of Project development by mutual agreement.

## **9. Default**

Subject to extensions of time by mutual consent, in writing, failure or delay by any Party to this Agreement to perform any term or provision of this Agreement constitutes a default. In the event of an alleged default or breach of any terms or conditions of this Agreement, the Party alleging such default or breach shall give the other Party not less than thirty (30) days' notice, in writing, specifying the nature of the alleged default and the manner in which said default may be cured. During this thirty (30)-day period, the Party charged may not be considered in default for purposes of termination or institution of legal proceedings. After notice and expiration of the thirty (30)-day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the complaining Party may, at its option, institute legal proceedings pursuant to this Agreement.

## **10. Termination**

Unless otherwise specified herein, this Agreement shall terminate and be of no further force and effect if any of the following occur:

- a. The sale of the Property to the Developer fails to close pursuant to the terms and conditions of the Purchase and Sale Agreement; or
- b. Term of this Agreement expires; or
- c. The Parties mutually agree that this Agreement should terminate.

Upon termination of this Agreement, the City shall record a notice of such termination in a form satisfactory to the City Attorney that this Agreement has been terminated.

## **11. Effect upon Termination on Developer Obligations**

Termination of this Agreement does not affect any of the Developer's obligations to comply with City Code, other land use entitlements approved with respect to the Property, any other conditions of any other development specified in this Agreement to continue after the termination of this Agreement or obligations to pay assessments, liens, fees, or taxes.

## **12. Assignment and Assumption**

The Developer may sell, assign, or transfer its rights in this Agreement to any Related Entity without the City's consent. A "Related Entity" means any entity in which the ownership or membership of the entity is controlled by Developer or the majority owners or members of Developer.

Additionally, the Developer shall not assign any rights or obligations under this Development Agreement ("DA") without the prior written consent of the City, which shall not be unreasonably withheld. The City shall have a right of first refusal to match any bona fide offer to purchase or assume the Developer's rights under this DA. If the City does not exercise its right of first refusal, any proposed assignee must be vetted and approved by the City to ensure compliance with the City's standards and requirements. This approval is at the City's sole discretion, and any refusal to approve the assignment of this DA based on an assignee's failure to meet City standards and requirements shall not be deemed unreasonable.

### **13. Covenants Running with the Land**

The conditions and covenants set forth in this Agreement and incorporated herein by the Exhibits, run with the land and the benefits and burdens bind and inure to the benefit of the Parties. The Developer, and every purchaser, assignee, or transferee of an interest in the Property, or any portion thereof, is obligated and bound by the terms and conditions of this Agreement, and is the beneficiary thereof and a party thereto. Any such purchaser, assignee, or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Property sold, assigned, or transferred to it. This Agreement shall be recorded with the Pierce County Auditor.

### **14. Amendment to Agreement; Effect of Agreement on Future Actions**

- a. This Agreement may be amended by mutual written consent of the Parties, provided that any such amendment must follow the process established by law for the adoption of a development agreement.
- b. Nothing in this Agreement prevents the City Council from making any amendment to its Comprehensive Plan, Puyallup Municipal Code, or other regulations affecting the Property during the term of this Agreement to the extent required by a serious threat to public health and safety, or as a result of superseding state or federal law.

### **15. Notices.**

Notices, demands, or other communications under this Agreement shall be in writing and are sufficiently given if sent by hand delivery, First Class mail, or email to the addresses of the Parties designated below.

To City:  
333 S. Meridian  
Puyallup, Washington 98371  
Attn: Steve Kirkelie, City Manager  
Email: skirkelie@puyallupwa.gov

To Developer:  
Urban Puyallup Mixed Use LLC  
P.O. Box 7534  
Olympia, WA 98507  
Attn: Walker John  
Email: walker@urbanolympia.com

If deposited in the mail, notice shall be deemed delivered 72 hours after being deposited. The City is required to give notices to subsequent property owners only if the City is given written notice of their address for such Notice. The Parties may, from time to time, advise the other of new addresses for such Notices, demand, or correspondence.

#### **16. Applicable Law**

This Agreement must be construed and enforced in accordance with the laws of the state of Washington. Venue for any action related to this Agreement is Pierce County Superior Court.

#### **17. Third Party Legal Challenge**

In the event any legal action or special proceeding is commenced by any person or entity other than a Party to challenge this Agreement or any provision herein, each Party will bear their own cost of defense and all expenses incurred in the defense of such actions including, but not limited to, attorneys' fees and expenses of litigation, and damages awarded to the prevailing Party or Parties in such litigation.

#### **18. Specific Performance**

The Parties specifically agree that damages are not an adequate remedy for breach of this Agreement, and the Parties are entitled to compel specific performance of all material terms of this Agreement by any Party in default hereof.

#### **19. Severability**

If any phrase, provision, or Section of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any statute of the state of Washington that became effective after the effective date of the Resolution adopting this Agreement, and either Party in good faith determines that such provision or provisions are material to its entering into this Agreement, that Party may elect to terminate this Agreement as to all of its obligations remaining unperformed.

## **20. Authority**

Each Party warrants that it has the respective power and authority to enter into this Agreement and to execute, deliver, and perform its obligations under this Agreement.

## **21. Entire Agreement**

This Agreement, together with all Exhibits, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement. This Agreement is specifically intended by the Parties to supersede all prior agreements, whether written or oral.

## **22. Counterparts**

This Agreement may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

## **23. Exhibits**

The Exhibits to this Agreement are as follows, and are incorporated herein by reference:

**Exhibit A** – Legal Description of Property

**Exhibit B** – Senior Center and Public Parking Design

**Exhibit C** – Concept Site Plan

**Exhibit D** – Parking Stall Plan and Aisle Dimensions

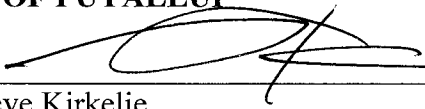
**Exhibits E1 and E2** – Setbacks and Zone Transitions

**Exhibit F** – Project Milestones

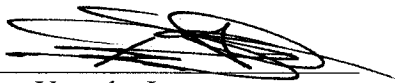
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the dates set forth below.

**CITY:**  
**CITY OF PUYALLUP**

Date: May 5, 2025

By:   
Steve Kirkelie  
Its: City Manager

**ATTEST:**

By:   
Dan Vessels, Jr.  
Its: City Clerk

**APPROVED AS TO FORM:**

By:   
Joseph Beck  
Its: City Attorney

**DEVELOPER:**  
**URBAN PUYALLUP MIXED USE LLC**

Date: 5/9/2025

By:   
Walker John  
Its: Governor

STATE OF WASHINGTON )  
 ) ss:  
City of Pierce )

I certify that I know or have satisfactory evidence that Steve Kirkelie is the person who appeared before me, said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the City Manager for the City of Puyallup, a Washington non-charter municipal corporation to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: this 5<sup>th</sup> day of May, 2025.

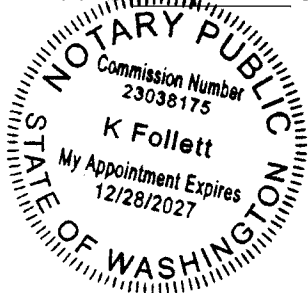


[Signature]  
Print Name: Robin Loewen  
Notary Public in and for the state of  
Washington, residing at: Puyallup, WA  
My appointment expires: 6/17/2026

STATE OF WASHINGTON )  
 ) ss:  
City of THURSTON )

I certify that I know or have satisfactory evidence that Walker John is the person who appeared before me, said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Governor of Urban Puyallup Mixed Use LLC, a Washington limited liability company to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: this 9 day of MAY, 2025.



[Signature]  
Print Name: K Follett  
Notary Public in and for the state of  
Washington, residing at: THURSTON COUNTY  
My appointment expires: 12/28/2027

**Exhibit A**

**Legal Description of Property**

Section 28 Township 20 Range 04 Quarter 41 MEEKERS 1ST & 2ND:  
MEEKERS 1ST & 2ND NE OF SE 28-20-04E PARCEL "A" OF DBLR  
96-09-27-0520 DESC AS ALL OF B 23, B 26, L 1 THRU 5 B 25 TOG/W  
20 FT WIDE E-W ALLEY BETWEEN B 26, 25 & 23 VAC PER ORD  
1301 EXC FOLL DESC PROP BEG AT NW OF SD B 26 TH S ALG W  
LI SD B 26 & B 25 300.83 FT TO SW COR OF L 5 B 25 TH E 110.13 FT  
TO SE COR SD L 5 TH N ALG E LI SD L 5 3.15 FT TO EXIST FENCE  
LI TH ALG SD FENCE LI S 88 DEG 20 MIN 49 SEC E 10.24 FT TH N  
00 DEG 51 MIN 52 SEC E 132.90 FT TH S 89 DEG 03 MIN 38 SEC E  
8.61 FT TH N 00 DEG 51 MIN 28 SEC E 165 FT TO N LI OF SD B 26  
TH N 89 DEG 04 MIN 43 SEC W 129 FT TO POB EASE OF RECORD  
APPROX 48,336 SQ FT OUT OF 137-0 & 136-0 SEG I-0393 JU  
12/11/96JU

# **PARKING MODIFICATION SUMMARY**

**EXISTING CONDITIONS:**  
 TOTAL STALLS: 31  
 APPROXIMATE DIMENSION SHOWN: 8' X 22'  
 TOTAL ACCESSIBLE PARKING STALLS: 0

**PROPOSED CONDITIONS:**  
 TOTAL STALLS: 29  
 APPROXIMATE DIMENSION SHOWN: 9' X 15.75'  
 TOTAL ACCESSIBLE PARKING STALLS: 5  
 ACCESSIBLE AISLE WIDTH: 5'  
 TOTAL NET PARKING: 2 STALL LOSS

## **SUMMARY OF DESIGN CONCERNS**

MINIMUM ROADWAY WIDTH DOES NOT ALLOW 2-11' TRAVEL LANES (CITY STANDARD MINIMUM WIDTH). AUTO-TURN ANALYSIS REQUIRED TO SEE IF DESIGN VEHICLE COULD ENTER SOUTHBOUND TRAVEL LANE WITHOUT SIGNIFICANT ENCRoACHMENT INTO NORTHBOUND TRAVEL LANE. THIS WOULD REQUIRE NORTHBOUND TRAVEL LANE TO YIELD DURING PARKING MANEUVER.

LARGE VEHICLES WILL OBSTRUCT TRAVEL LANE OF SOUTHBOUND 3RD ST SW DUE TO LIMITED AREA PROVIDED BEHIND CURB FOR OVERHANG OF VEHICLE. POSSIBLE SOLUTIONS: REMOVE LANDSCAPING AND INSTALL GRAVEL/OTHER SURFACE TO INCREASE AVAILABLE OVERHANG.

RECOMMEND INSTALLING ADA COMPLIANT CURB RAMP AT NEW ADA PARKING ACCESS AISLES TO PROVIDE ACCESSIBLE MEANS TO W PIONEER CROSSING WITHOUT REQUIRING PERSONS WITH MOBILITY CHALLENGES TO USE VEHICLE TRAVELLED WAY TO GET TO W PIONEER.

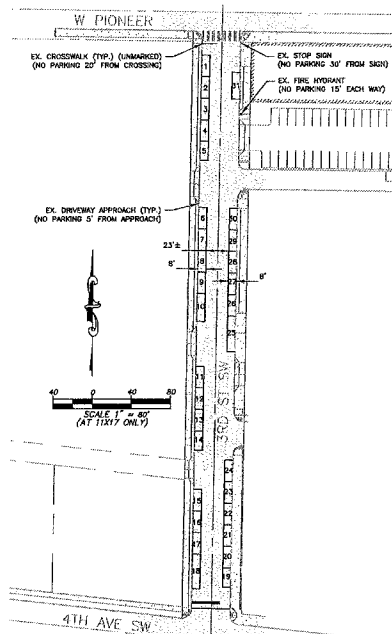
## **TOPOGRAPHIC DISCLAIMER**

THE EXISTING TOPOGRAPHICAL DATA, SITE FEATURES, AND PROPERTY BOUNDARIES SHOWN ON THIS DRAWING HAVE BEEN PREPARED BASED UPON COUNTY RECORDS, CITY RECORD DRAWINGS, AND OTHER AVAILABLE GIS INFORMATION. WHILE THIS INFORMATION IS BELIEVED TO BE ACCURATE AND RELIABLE, IT IS RECOMMENDED THAT A LICENSED SURVEYOR BE CONSULTED PRIOR TO MOVING PROCEEDING WITH FINAL DESIGN.

## **RIGHT-OF-WAY DISCLAIMER**

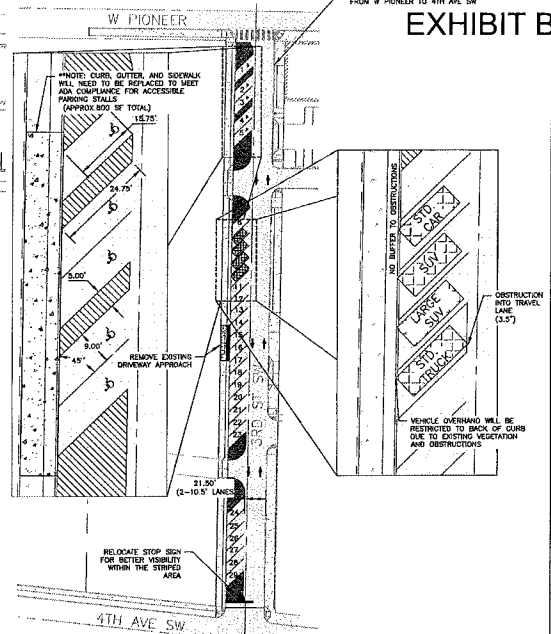
THE RIGHT OF WAY LINES AND/OR PROPERTY LINES SHOWN HEREON ARE BASED ON AVAILABLE INFORMATION, NOT ON A SURVEYED LOCATION AND ARE ONLY APPROXIMATE.

# **A PORTION OF SECTION 28, TOWNSHIP 20 NORTH, RANGE 04 EAST, W.M.**



**3RD ST SW EXISTING CONDITIONS**

SCALE: 1" = 80'  
 (TWO WAY TRAFFIC WITH PARALLEL STREET PARKING EACH SIDE)



**3RD ST SW PROPOSED CONDITIONS**

SCALE: 1" = 80'  
 (TWO WAY TRAFFIC WITH 45° ANGLED STREET PARKING SOUTHBOUND ONLY)

**EXHIBIT B**

**CONCEPT SITE PLAN - EXHIBIT A**

**330 3RD STREET SW, PARCEL # 5745001420, ZONING: RM-CORE**

**315-317 4TH ST. SW  
# 5745001390  
ZONING: RM-CORE**

**327 4TH ST. SW  
# 5745001420  
ZONING: RM-CORE**

**323 4TH ST. SW  
# 5745001410  
ZONING: RM-CORE**

**320 W. PIONEER AVE.  
POWERS FUNERAL HOME PARKING  
PARCEL # 5745001361  
ZONING: CBD**

**320 W. PIONEER AVE.  
POWERS FUNERAL HOME  
PARCEL # 5745001361  
ZONING: CBD**

**PROJECT SITE  
330 3RD STREET SW  
PARCEL # 5745001371  
ZONING: CBD-CORE**

**340 3RD ST. SW, PARCEL # 5745001420, ZONING: RM-CORE**

**W. PIONEER AVE.**

**3RD STREET SW**

**D. PROPOSED VARIANCE TO ZONE TRANSITION STANDARDS (PMC 20.26.500) SEE EXHIBIT E1**

**A. PROPOSED VARIANCE TO PARKING QUANTITY (PMC 20.55.011) (0.7 PER UNIT) SEE PARKING ANALYSIS**

**B. PROPOSED VARIANCE TO PARKING STALL & DRIVE AISLE DIMENSIONS (PMC 20.55.035) SEE EXHIBIT D**

**C. PROPOSED VARIANCE TO SETBACKS (DOWNTOWN DESIGN GUIDELINES 3.B.5) SEE EXHIBIT E2**

**E. PROPOSED VARIANCE TO OFF-STREET LOADING (PMC 20.55.061)**

**8'-0" x 30'-0" ON-STREET SPACE**

**APPROXIMATE LINE OF BUILDING ABOVE 2ND FLOOR**

**PROPERTY LINE**

**ALLEY**

**VACATED ALLEY**

**EASEMENT**

**19'-0"**

**12'-0"**

**8'-0"**

**4'-0"**

**20'-0"**

PLANS ARE PRELIMINARY AND SUBJECT TO CHANGE



210 W. PIONEER AVE.  
PUYALLUP ACTIVITY CTR APTS  
PARCEL # 9006480310  
ZONING: CBD-CORE



## EXHIBIT D PARKING STALL PLAN and AISLE DIMENSIONS

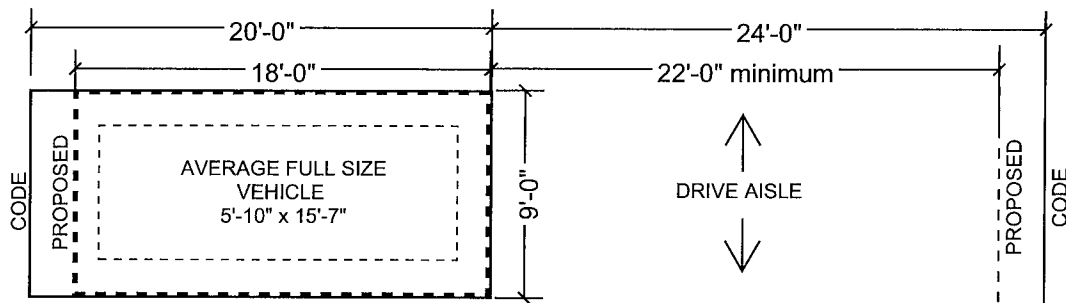


DIAGRAM A - STANDARD PARKING STALL and DRIVE AISLE

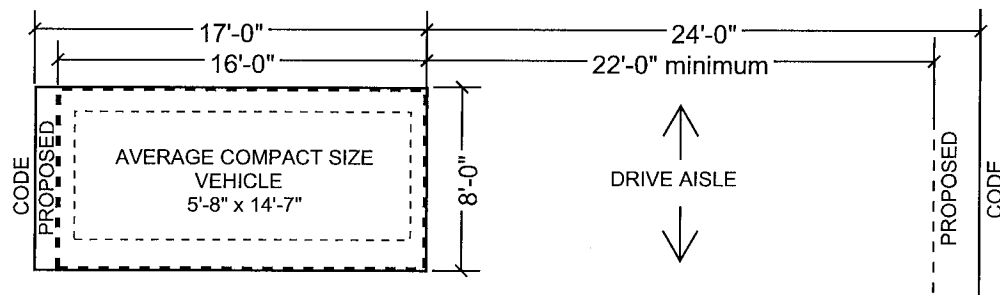


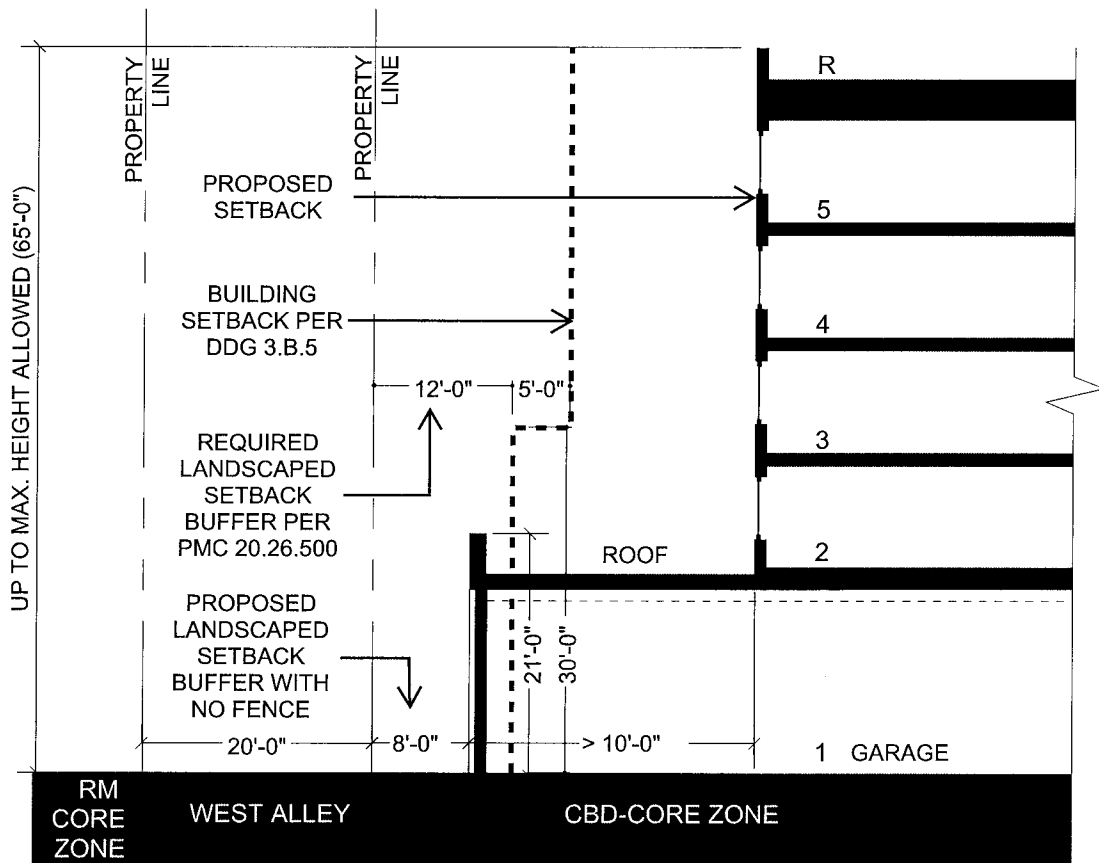
DIAGRAM B - COMPACT PARKING STALL and DRIVE AISLE

*footnote 1. Average vehicle size from US Code of Federal Regulations*

T H O M A S  
architecture studios



# EXHIBIT E1 SETBACKS AND ZONE TRANSITIONS



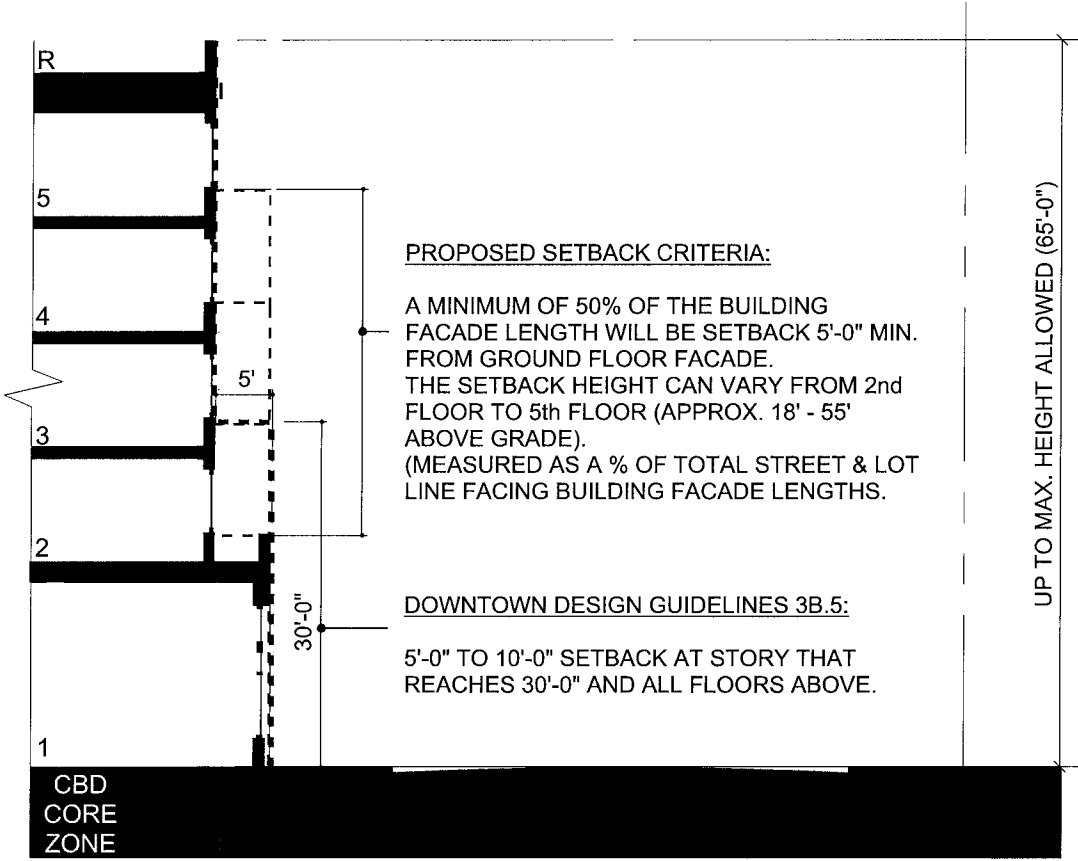
## 1. PMC 20.26.500 ZONE TRANSITION STANDARDS VARIANCE AT WEST PROPERTY LINE ADJACENT TO ALLEY



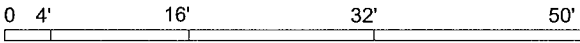
THOMAS  
architecture studios



EXHIBIT E2  
SETBACKS AND ZONE TRANSITIONS



2. DDG 3.B.5 BUILDING SETBACK VARIANCE CRITERIA



**Exhibit F**

**Project Milestones**

| <b>Milestone or Action</b>                    | <b>Target Date*</b>                                                                                           | <b>Outside date*</b>                                                                                           |
|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| Mutual Execution of Development Agreement     | April 29, 2025                                                                                                | May 29, 2025                                                                                                   |
| Mutual Execution of Purchase & Sale Agreement | April 29, 2025                                                                                                | May 29, 2025                                                                                                   |
| Developer Submits design review application   | Within 120 days of mutual execution of Development Agreement and Purchase & Sale Agreement                    | Within 150 days of mutual execution of Development Agreement and Purchase & Sale Agreement                     |
| City Design Review                            | Decision within 90 days of Design Review Submittal                                                            | 270 days                                                                                                       |
| Developer Submits building permit application | Within 180 days of receiving approval of design review board                                                  | Within 240 days of receiving approval of design review board                                                   |
| City Issues Building Permit                   | Within 90 days of receipt of a complete building permit application that meets all City codes and regulations | Within 120 days of receipt of a complete building permit application that meets all City codes and regulations |
| Closing Date of Purchase & Sale Agreement     | Within 14 days of City issuing building permit                                                                | Within 14 days of City issuing building permit                                                                 |
| Developer Commences Construction              | Within 30 days of receiving a building permit                                                                 | Within 60 days of receiving a building permit                                                                  |
| Developer Completes Construction              | Within 600 days of commencing construction                                                                    | Within 750 days of commencing construction                                                                     |

\*The "target date" is the date by which each party plans to achieve each of the milestones. However, the "outside date" is the date by which each party must complete the milestone to remain in compliance with the terms of this Development Agreement.

# **PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS**

(Former Administration Office Building Site)

This Purchase and Sale Agreement and Escrow Instructions (this "Agreement") is made and entered into as of May 9, 2025 (the "Effective Date") by and between the City of Puyallup, a Washington municipal corporation ("Seller"), and Urban Puyallup Mixed Use LLC, a Washington limited liability company ("Buyer"), with reference to the following terms:

## **RECITALS**

A. Seller is the owner of certain real property located in the City of Puyallup, County of Pierce, State of Washington, and certain improvements thereon, together with all easements, rights of way, privileges, appurtenances, and other rights pertaining thereto, and all fixtures attached or appurtenant thereto owned by Seller and located on or used in connection therewith, as commonly known as the "AOB Lot," with such related real property as more particularly and legally described in Exhibit A attached hereto (the "Real Property").

B. Seller is also the owner of certain intangible rights relating to the operation, management, maintenance, repair, development, and use of the Real Property, including, without limitation, all as-built drawings, plans and specifications, licenses, permits, certificates of occupancy, authorizations and approvals in connection with the operation, use, occupancy, possession, and operation of the Real Property, utility deposits, security deposits, and other similar deposits and bonds, warranties, guaranties, including, without limitation, all contractors', architects', designers', engineers', and manufacturers' warranties and guaranties relating to the Real Property, surveys, inspection reports, development rights, entitlements, telephone numbers, and other intangible rights relating to or appurtenant to the Real Property (to the extent assignable and transferable, the "Intangible Rights").

C. There is expressly no warranty given, either expressly, impliedly, or otherwise, by the Seller, and as noted under Section 1.2 below, the Property, including any and all improvements constructed thereon (as defined herein) is being purchased by Buyer from Seller "as-is" and "without warranty". The Real Property and the Intangible Rights shall hereinafter collectively be referred to as the "Property".

D. Seller and Buyer are parties to that certain Development Agreement, dated as of the date hereof (the "Development Agreement"). In connection with the Development Agreement, Seller desires to sell, and Buyer desires to acquire from Seller all of Seller's rights, title, and interest in and to the Property on the terms and subject to the conditions hereinafter set forth.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **1. Sale of Property; As-Is, Where Is**

1.1 Seller hereby agrees to sell and convey to Buyer, and Buyer agrees to purchase from Seller, all of Seller's rights, title, and interest in and to the Property on the terms and conditions contained herein.

1.2 BUYER HEREBY EXPRESSLY ACKNOWLEDGES THAT IT WILL HAVE PRIOR TO THE DUE DILIGENCE DEADLINE THE OPPORTUNITY TO INSPECT AND EXAMINE THE PROPERTY TO THE EXTENT DEEMED NECESSARY BY BUYER IN ORDER TO ENABLE BUYER TO EVALUATE THE PURCHASE OF THE PROPERTY. BUYER REPRESENTS THAT IT IS A KNOWLEDGEABLE PURCHASER OF REAL ESTATE SUCH AS THE PROPERTY AND THAT IT IS RELYING SOLELY ON ITS OWN EXPERTISE TO EVALUATE THE PURCHASE OF THE PROPERTY; PROVIDED, HOWEVER, THAT THE FOREGOING SHALL NOT BE CONSTRUED OR INTERPRETED TO LIMIT OR WAIVE ANY OF THE EXCEPTIONS TO DISCLAIMER (AS DEFINED BELOW). BUYER FURTHER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN THE DOCUMENTS DELIVERED AT CLOSING, BUYER IS ACQUIRING THE PROPERTY ON AN "AS-IS, WHERE IS AND WITH ALL FAULTS," BASIS, IN ITS CONDITION EXISTING AT THE CLOSE OF ESCROW, WITHOUT ANY REPRESENTATIONS OR WARRANTIES AND SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESSED OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO THE PROPERTY INCLUDING, WITHOUT LIMITATION:

- (a) VALUE, NATURE, QUALITY, OR CONDITION OF THE PROPERTY, INCLUDING WITHOUT LIMITATION THE WATER, SOIL, AND GEOLOGY;
- (b) INCOME TO BE DERIVED FROM THE PROPERTY;
- (c) SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON;
- (d) COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES, OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY;
- (e) HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY;
- (f) MANNER OR QUALITY OF THE CONSTRUCTION OR OF THE MATERIALS INCORPORATED INTO THE PROPERTY;
- (g) THE MANNER, QUALITY, STATE OF REPAIR, OR LACK OF REPAIR OF THE PROPERTY, AND EXPRESSLY DISCLAIMS AND FOREVER WAIVES ANY AND ALL CONSTRUCTION DEFECT CLAIMS BROUGHT UNDER THE COLOR OF LAW; OR
- (h) COMPLIANCE WITH ANY FEDERAL, STATE, OR LOCAL ENVIRONMENTAL LAW, REGULATION, OR ORDINANCE REGARDING HAZARDOUS SUBSTANCES OR WASTE INCLUDING, BUT NOT LIMITED TO, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980, AS AMENDED OR MODIFIED.

1.3 Release by Buyer. Except for (i) Seller's fraud, willful misconduct, or default of representations, warranties, indemnities, obligations, and covenants set forth in this Agreement or in the documents to be executed and delivered by Seller at Closing (the foregoing, collectively, the "Exceptions to Disclaimer"), in the event that the Closing occurs, by proceeding with the Closing Buyer shall be deemed to have released Seller related to or in connection with (1) any environmental or physical condition of the Property, including, without limitation, claims and liabilities relating in any manner to any hazardous, toxic, or dangerous materials or substances located in, at, about, or under the Property and (2) any and all claims

or causes of action (actual or threatened) based upon, in connection with, or arising out of any environmental laws and related to any hazardous, toxic, or dangerous materials or substances located in, at, about, or under the Property. Upon Closing, with the sole exception of the Exceptions to Disclaimer, Buyer (A) shall assume the risk that adverse matters including, without limitation, construction defects and adverse physical and environmental conditions, may not have been revealed by Buyer's investigations and diligence concerning the Property, and (B) shall be deemed to have waived, relinquished, and released the Seller from and against any and all claims, demands, causes of action, losses, damages, liabilities, costs, and expenses (including attorneys' fees and court costs) of any and every kind or character, known or unknown, which Buyer might have asserted or alleged against any of the Seller at any time by reason of or arising out of any latent or patent construction defects or physical conditions, violations of applicable law (including, without limitation, environmental laws).

1.4 Conditions to Closing. Closing is subject to the terms and conditions of the Development Agreement.

1.5 Proposed Project. Buyer intends to construct one mixed-use building on the Property, as more particularly described in the Development Agreement (the "Proposed Project").

## **2. Purchase Price for Property**

2.1 The total purchase price ("Purchase Price") for the Property shall be the sum of One Million Nine Hundred Thousand Dollars and no/100 (\$1,900,000.00), which shall be paid by Buyer at Closing.

2.2 All deposits into Escrow made by Buyer prior to the Close of Escrow, if any, may be made by cashier's or certified check, or by wire transfer.

## **3. Escrow**

3.1 Within five (5) business days after the Effective Date, Buyer and Seller shall open an escrow (the "Escrow") with Stewart Title Company - Puyallup, having an address of 507 31<sup>st</sup> Avenue SW, Puyallup, WA 98373, which is hereby designated as the escrow holder ("Escrow Holder") for the purpose of carrying out the terms of this Agreement. Escrow shall be deemed open on the date that Escrow Holder receives an executed copy of this Agreement.

3.2 This Agreement is hereby designated as escrow instructions duly signed by Buyer and Seller, although Escrow Holder may require further written instructions executed by Buyer and Seller to clarify the duties and responsibilities of Escrow Holder. Seller and Buyer agree to execute and deliver to the Escrow Holder such additional and supplemental instructions as the Escrow Holder may reasonably require in order to clarify the Escrow Holder's duties under this Agreement, and either Buyer or Seller may elect to provide additional closing instructions in writing, in addition to the instructions contained in this Agreement, but any such further instructions required by Escrow Holder or from either or both of Buyer or Seller shall not modify or amend the provisions of this Agreement. Notwithstanding the foregoing, in the event of any discrepancy between this Agreement and such further instructions, the provisions of this Agreement shall prevail.

3.3 For purposes of this Agreement, the "Close of Escrow" or "Closing" shall be the time and date upon which the Warranty Deed (as defined below) conveying title to the Real Property to Buyer is recorded in the official records of Pierce County, Washington. The date of the Close of Escrow (the "Closing Date") shall be the "Closing Date" (unless the parties mutually agree in writing to a "GAP" closing as of an earlier date). Closing shall occur no later than the date provided in the Development Agreement which is no later than 750 days from the date of the mutual execution of this Agreement.

3.4 In the event that Escrow Holder is unable to comply with these instructions and close escrow by the Closing Date, then unless Escrow Holder has been advised in writing of the termination of this Agreement by either party, Escrow Holder shall continue to attempt to comply with these instructions and close Escrow as soon as possible thereafter. In no event shall the Close of Escrow occur unless all conditions to Closing have been satisfied or waived in writing by the party for whose benefit such condition(s) are included herein.

#### **4. Preliminary Title Report; Inspections**

4.1 Within five (5) days of the Effective Date, Seller shall deliver to Buyer (i) a current title commitment for an ALTA standard form of Owner Policy of Title Insurance for the Real Property from Stewart Title Company - Puyallup (the "Title Company"), together with copies provided by the Title Company of all instruments giving rise to any exceptions to title to the Property (collectively, the "Title Commitment"). Buyer will obtain a new survey (the "Survey") of the Property. Not

later than thirty (30) business days after Seller's delivery of the Title Commitment, Buyer shall give notice (the "Title Notice") to Seller (with a copy to Escrow Holder) specifying any matters shown on the Title Commitment or disclosed by the Survey which are disapproved by Buyer. Seller shall, no later than five (5) business days after the Title Notice, give written notice to Buyer (the "Response") stating either that Seller (i) will not remove or remedy any of such disapproved matters, or (ii) will remove and remedy all of such disapproved matters, or (iii) will remove and/or remedy certain of the disapproved matters, but not all of the disapproved matters specified in the Title Notice. If Seller does not deliver a Response within the time provided above, such non-delivery shall constitute the Response and shall be deemed to have been delivered on the date on which Seller's Response is due and shall constitute Seller's notice that Seller does not intend to remove or remedy or take any action with respect to any matter referred to in Buyer's Title Notice. Unless the Response states that Seller will remove or remedy all of the disapproved matters specified in the Title Notice, then no later than five (5) business days after Buyer's receipt or deemed receipt of the Response, Buyer may elect: (a) to waive such disapproval(s) and to accept title to the Real Property subject to such disapproved matters; or (b) to terminate this Agreement, which shall entitle Buyer to the refund and release provided herein. If Buyer does not terminate this Agreement as provided above, all of the title exceptions and matters relating to title to the Property disclosed on the Title Commitment and Survey, excepting only those matters which Seller has expressly agreed to remove in the Response, shall be "Permitted Exceptions." Notwithstanding anything to the contrary contained in this Agreement, prior to the Closing, Seller shall be obligated to discharge all Monetary Liens (as defined below). "Monetary Liens" shall mean collectively, and "Monetary Lien" shall mean individually, delinquent property taxes, deeds of trust, security agreements, any other collateral assignments, claims for monetary amounts and mechanics' liens, judgment or similar non-consensual liens that can be cured or removed by the payment of money and in each case evidencing indebtedness of Seller or any affiliate of Seller and not any other person, which affect all or any portion of the Property; but excluding current taxes and assessments, not delinquent, which shall be prorated between the parties at the Closing (as provided below).

In the event that the Survey or any subsequent update(s) of the Title Commitment or the Survey, if obtained by Buyer prior to ninety (90) days from the Effective Date, discloses any material adverse matters not set forth in the initial Title Commitment or the initial Survey, then no later than five (5) business days after Buyer's receipt of an update to the Survey or an update to the Title Commitment, as applicable,

Buyer shall give notice (the "Additional Title Notice") to Seller (with a copy to Escrow Holder) of such disapproved matters. If Buyer does not deliver the Additional Title Notice to Seller within the time-period set forth above, then Buyer shall be deemed to have waived any objections to such matters disclosed in the updated Survey or updated Title Commitment, as applicable. If Buyer delivers the Additional Title Notice to Seller within the time-period set forth above, then Seller shall, no later than five (5) business days after receipt of the Additional Title Notice, give written notice to Buyer (the "Additional Title Response") stating that Seller either (i) will not remove or remedy any of the disapproved matters specified in the Additional Title Notice, or (ii) will remove and remedy all of such disapproved matters specified in the Additional Title Notice, or (iii) will remove and/or remedy certain disapproved matters specifically identified in the Additional Title Response, but not all of the disapproved matters specified in the Additional Title Notice. If Seller does not deliver an Additional Title Response within the time in which it is due as here stated, such non-delivery shall constitute the Additional Title Response and shall be deemed to have been delivered on the date on which the Additional Title Response is due and shall constitute Seller's notice that it does not intend to remove or remedy or take any action with respect to any matter referred to in Buyer's Additional Title Notice. If Seller elects (or is deemed to have elected) not to remove or remedy all of the disapproved matters specified in Buyer's Additional Title Notice, then no later than three (3) business days after Buyer's receipt or deemed receipt of the Additional Title Response, Buyer may elect: (a) to waive such disapproval(s) and to accept title to the Real Property subject to such disapproved matters; or (b) to terminate this Agreement, which shall entitle Buyer to the refund and release provided herein. If Buyer does not terminate this Agreement as provided in the immediately preceding sentence, all of the title exceptions and matters relating to title to the Property disclosed in the updates to the Title Commitment and/or the Survey, excepting only those matters which Seller has expressly agreed to remove in the Additional Title Response, shall be included as part of the Permitted Exceptions.

4.2 Prior to the Effective Date, Seller has delivered to Buyer true and correct copies of those items, documents, and matters listed or described on Exhibit D attached hereto and incorporated herein by this reference to the extent such documents are in the possession or control of Seller or its property manager (the "Due Diligence Documents"). With respect to any items, documents, and matters listed or described on Exhibit D not in the possession or control of Seller or its property manager at the time of such delivery but thereafter coming into the possession or control of Seller or its property manager, Seller shall promptly deliver

such additional Due Diligence Items to Buyer. **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR ANY DOCUMENT EXECUTED AT CLOSING, BUYER ACKNOWLEDGES THAT, EXCEPT FOR THE EXCEPTIONS TO DISCLAIMER, ANY ENVIRONMENTAL REPORTS OR OTHER PROPERTY-RELATED REPORTS OR OTHER DUE DILIGENCE DOCUMENTS DELIVERED OR TO BE DELIVERED BY SELLER OR ITS AGENTS OR CONSULTANTS TO BUYER ARE BEING MADE AVAILABLE SOLELY AS AN ACCOMMODATION TO BUYER AND MAY NOT BE RELIED UPON BY BUYER IN CONNECTION WITH THE PURCHASE OF THE PROPERTY (FOR AVOIDANCE OF DOUBT, BUYER SHALL BE ENTITLED TO RELY ON ANY NEW OR UPDATED REPORTS COMMISSIONED BY BUYER OR BUYER'S LENDER WITHOUT CLAIM OR RECOURSE TO SELLER OR ITS AGENTS). BUYER AGREES THAT, EXCEPT FOR THE EXCEPTIONS TO DISCLAIMER, SELLER SHALL HAVE NO LIABILITY OR OBLIGATION WHATSOEVER FOR ANY INACCURACY IN OR OMISSION FROM ANY SUCH REPORTS AND DOCUMENTS. BUYER HAS CONDUCTED, OR WILL CONDUCT PRIOR TO THE DUE DILIGENCE DEADLINE, ITS OWN INVESTIGATION OF THE ENVIRONMENTAL AND PHYSICAL CONDITION OF THE PROPERTY.**

As used in this Agreement, the "Due Diligence Deadline" means the date that is seven (7) business days after Buyer's receipt of the "Building Permit" (as provided in Exhibit F of the Development Agreement), but in no event later than twenty-six (26) months after the Effective Date.

4.3 Access. Seller shall permit Buyer, its agents and assigns, to enter and access the Property upon the Effective Date and through the pendency of Closing and prior to the Due Diligence Deadline (as defined herein) in order to inspect and review of the Property. Such access shall be at Buyer's sole expense and risk to conduct inspections concerning the Property, including without limitation, the structural condition of improvements, hazardous materials, pest infestation, soils conditions, sensitive areas, wetlands, or other matters affecting the feasibility of the Property for Buyer's intended use. Buyer shall schedule any entry onto the Property with Seller in advance and shall comply with Seller's reasonable requirements including those relating to security, and confidentiality. Buyer shall not perform any invasive testing including environmental inspections beyond a phase I assessment or contact the tenants or property management personnel without obtaining Seller's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. Buyer shall restore the Property and all

improvements to substantially the same condition they were in prior to inspection. Buyer shall be solely responsible for all costs of its inspections and feasibility analysis and has no authority to bind the Property for purposes of statutory liens. Buyer agrees to indemnify and defend Seller from all liens, costs, claims, and expenses, including attorneys' and experts' fees, arising from or relating to entry onto or inspection of the Property by Buyer and its agents, which obligation shall survive closing. Buyer may continue to enter the Property in accordance with the foregoing terms and conditions after the Due Diligence Deadline only for the purpose of leasing or to satisfy conditions of financing.

## **5. Documents at Closing**

5.1 In time to permit the Close of Escrow, Seller shall deliver to Escrow Holder, for recording and/or delivery to Buyer upon Close of Escrow, the following documents ("Seller's Deliveries"):

(a) A statutory warranty deed, in the form attached hereto as Exhibit B (the "Warranty Deed"), sufficient to convey the Real Property and appurtenant rights to Buyer, subject only to the following (collectively, but excluding Monetary Liens, the "Permitted Exceptions"):

(i) Non-delinquent real property taxes and all assessments and unpaid installments thereof which are not delinquent;

(ii) Any other lien, encumbrance, easement, or other exception or matter voluntarily imposed or consented to in writing by Buyer prior to or as of the Closing;

(iii) All exceptions to title contained or disclosed in the Title Commitment other than Monetary Liens and those matters which Seller has expressly agreed in writing to cause to be removed and/or insured around as described in Section 4.1 above;

(iv) All matters set forth or disclosed on the Survey other than Monetary Liens and those matters which Seller has expressly agreed in writing to cause to be removed and/or insured around as described in Section 4.1 above;

(v) The encumbrance or effect of all documents to be recorded prior to or through the Escrow as expressly provided in this Agreement.

(b) An affidavit of Seller, in the form attached hereto as Exhibit C, sworn to under penalty of perjury, setting forth Seller's United States Tax Identification Number, and stating that Seller is not a foreign person and is a "United States person" as such term is defined in Section 7701(a)(30) of the Internal Revenue Code of 1986, as amended.

(c) A Real Estate Excise Tax Affidavit in the form required for recording the Warranty Deed (the "REETA").

(d) Such other documents as Seller is required to deliver pursuant to the terms of this Agreement.

(e) Such other documents and affidavits as may be reasonably required by Buyer, the Title Company, or Escrow Holder to complete the transaction pursuant to this Agreement.

5.2 In time to permit the Close of Escrow, Buyer shall deliver to Escrow Holder for recording and/or delivery to Seller upon Close of Escrow, the following ("Buyer's Deliveries") :

(a) Buyer's executed counterpart of the REETA .

(b) Immediately available funds (the "Funds") in the amount of the \$1,900,000.00 (subject to the credits, prorations, and adjustments provided herein).

(c) Such other documents as may be reasonably required by Seller, the Title Company, or Escrow Holder to complete the transaction pursuant to this Agreement.

## **6. Default and Remedies**

6.1 It shall be a "Buyer Default" if Buyer fails to perform any material act to be performed by Buyer, or to refrain from performing any material prohibited act, prior to the Close of Escrow under this Agreement, where such failure is not cured by

Buyer within the cure period specified in this Agreement (or, if no cure period is specified, within three (3) business days after Seller gives Buyer a written notice specifying the alleged failure; provided if the failure consists of failure to make the deliveries to Escrow Holder as set forth in Section 5.2 of this Agreement, for which the cure period shall be one (1) business day). Except as otherwise set forth in this Section 6.1, Seller expressly waives its rights to seek damages in the event of a Buyer Default hereunder, including, without limitation, actual or punitive damages or special or consequential damages or lost profits; provided, nothing in this Section 6.1 constitutes a waiver of Seller's rights and remedies for any Buyer breach of its indemnity obligations under this Agreement, whether arising from any act or omission occurring before or after Close of Escrow or for any breach or failure to perform its obligations arising under this Agreement by Buyer occurring after Close of Escrow. If the sale of the Property is not consummated due to a Buyer Default hereunder, then, except as set forth in this Section 6.1, Seller's sole and exclusive remedy shall be to terminate this Agreement. Notwithstanding anything contained herein to the contrary, the foregoing is not intended to limit Buyer's liability to Seller under the Development Agreement or for attorneys' fees and costs as provided in Section 20 below.

6.2 For purposes of this Agreement, "Seller Default" shall mean Seller's failure to perform any material act to be performed by Seller, or to refrain from performing any material prohibited act, prior to the Close of Escrow under this Agreement, where such failure is not cured by Seller within the cure period specified in this Agreement (or, if no cure period is specified within three (3) business days after Buyer gives Seller a written notice specifying the alleged failure; provided, if the failure consists of failure to make the deliveries to Escrow Holder as set forth in Section 5.1 of this Agreement, the cure period shall be one (1) business day). In the event of a Seller Default, except as set forth below in this Section 6.2, Buyer shall have the right, as its sole and exclusive remedy to any one of the following: (a) to waive such default and to proceed with the Close of Escrow, or (b) to terminate this Agreement, whereupon neither party will have any further rights, obligations, or liability hereunder except those which are expressly stated in this Agreement to survive such termination, or (c) to bring an action expressly seeking specific performance of Buyer's rights and Seller's obligations hereunder, provided that, as to any action for specific performance as a remedy for any actual or alleged Seller's Default, any such action must be commenced by service and/or filing of the action, not later than sixty (60) calendar days after the date scheduled for Closing hereunder (or if no Closing date has been scheduled, within sixty (60) calendar days after the date of Seller's Default, actual or alleged). As to the remedy

provided in the preceding clause (c), time is of the essence thereof, and if Buyer shall fail to commence an action expressly seeking specific performance as the remedy within the time stated in the immediately-preceding sentence, Buyer shall be deemed conclusively and irrevocably to have waived the right to seek specific performance and to seek instead the remedy provided under either part (a) or part (b) of this Section 6.2, and Buyer agrees any subsequently alleged or asserted claim for specific performance shall be conclusively, finally, and irrevocably time-barred. Except as otherwise set forth in this Section 6.2, Buyer expressly waives its rights to seek damages in the event of a Seller Default hereunder, including, without limitation, actual or punitive damages or special or consequential damages or lost profits; provided, nothing in this Section 6.2 constitutes a waiver of Buyer's rights and remedies for any Seller breach of its indemnity obligations under this Agreement, whether arising from any act or omission occurring before or after Close of Escrow or for any breach or failure to perform its obligations arising under this Agreement by Seller occurring after Close of Escrow. Notwithstanding anything contained herein to the contrary, the foregoing is not intended to limit Seller's liability to Buyer for attorneys' fees and costs as provided in Section 20 below.

## **7. Prorations; Costs**

7.1 Escrow Holder, by charge or credit against the cash portion of the Purchase Price, shall prorate the following as of the Close of the Escrow :

(a) Taxes. All current and non-delinquent real and personal property taxes or assessments covering the Property for the applicable year. If appropriate tax and assessment figures are not available for the current year, then the proration of taxes and assessments shall be based on the corresponding figures for the prior year. Notwithstanding the foregoing, the parties hereto agree to re-prorate taxes as of the issuance of the tax and assessment figures for the year in which the Closing occurs and/or any prior years. Notwithstanding anything to the contrary contained in this Agreement, Buyer shall have the right following the Closing to control all real property tax contests and proceedings; provided, however, Seller shall retain all rights with respect to any refund of taxes and assessments (net of costs of recovery) applicable to any period prior to the Closing Date.

(b) Utilities. Seller shall use its best effort to terminate utilities as of the Close of Escrow and to commence service in Buyer's account from and after the Close of Escrow. To the extent utility service cannot be so adjusted, utility charges shall be prorated as of the Prorations Date.

(c) Assessments. Seller shall pay at or before Closing all fees, assessments, contributions, and reserves to the extent attributable or allocable to amounts due for the period prior to the Closing Date or, if and to the extent Seller is not able to make such payments, shall provide a credit to Buyer at Closing for any of such pre-Closing obligations which Buyer will be obligated to pay after Closing (i.e., any amounts Buyer will be obligated to pay after Closing to the extent attributable to amounts due for the period prior to Closing). To the extent any of such amounts are or have been paid by Seller in advance and are attributable to the period from and after the Closing Date, Seller shall be entitled to a credit at Closing from Buyer for such amounts.

(d) Re-proration and Post-Closing Adjustments. In the event that any adjustments or prorations cannot be apportioned or adjusted at Closing by reason of the fact that final or liquidated amounts have not been ascertained, or are not available as of such date, the parties hereto agree to apportion or adjust such items on the basis of their best estimates of the amounts at Closing and to re-prorate any and all of such amounts promptly when the final or liquidated amounts are ascertained. In the event of any omission or mathematical error on the closing statement, or if the prorations, apportionments, and computations shall prove to be incorrect for any reason, the same shall be promptly adjusted when determined and the appropriate party paid any monies owed.

(e) The provisions of this Section 7.1 shall survive the Closing.

## 7.2 Closing Costs.

(a) Seller shall pay the cost of the Title Commitment, the cost for an ALTA standard form of Owners Policy of Title Insurance (the "Owner's Title Policy"), the Real Estate Excise Tax based on the consideration paid for the Real Property, and all transfer fees and contributions, if any.

(b) Buyer shall solely be responsible for paying the cost of the Survey, all sales and/or use tax chargeable for sale of the Personal Property, and the premium and charges (and sales tax thereon) for any endorsements and extended or other additional coverage it chooses to obtain in connection with the Owner's Title Policy. All escrow and recording fees shall be equally shared by Buyer and Seller and any other closing costs shall be borne by Seller and/or Buyer in accordance with custom in the county in which the Property is located.

## **8. Possession; Risk of Loss; Condemnation**

8.1 Buyer shall be entitled to possession of the Property at the Close of Escrow free and clear of all occupancies and tenancies.

8.2 The parties hereto agree that the risk of loss with respect to the Property shall pass to Buyer on the Close of Escrow. In the event of damage to or destruction of the Property prior to the Close of Escrow where the cost of repair is reasonably expected to be more than or equal to Fifty Thousand Dollars (\$50,000) or any uninsured damages which Seller does not remedy or credit Buyer for at Closing (a "Major Casualty"), Buyer shall have the right, at its option, upon notice to Seller within fifteen (15) days of Seller's notice to Buyer of such Major Casualty, to terminate this Agreement in accordance with the provisions hereof, or to proceed with the purchase in accordance with the terms of this Agreement. In the event Buyer elects to so proceed with the purchase contemplated hereby notwithstanding such Major Casualty, Seller agrees to pay over to Buyer any funds available from proceeds of insurance payable by reason of such damage or destruction and any deductible amount. In the event of damage or destruction of the Property prior to the Close of Escrow where the cost of repair is reasonably expected to be less than the Major Casualty amount stated above, the parties shall proceed with the purchase in accordance with the terms of this Agreement and Buyer shall receive a credit against the Purchase Price in the amount of the cost of repair, and Seller shall retain the right to collect the insurance proceeds therefor and shall pay any deductible. In the event of any material damage or destruction to the Property prior to the Close of Escrow, Seller agrees promptly to notify Buyer of such damage or destruction and such notice shall be accompanied by a description of the nature and extent of insurance coverage applicable to such damage or destruction. Seller shall maintain its present policies of insurance in effect until the Close of Escrow.

8.3 If, at any time prior to the Close of Escrow, the Property, or any material part thereof, is taken by eminent domain, or if any preliminary steps in any taking by eminent domain of the Property or any material part thereof occurs prior to the Close of Escrow, Buyer may, at its option, exercised within fifteen (15) days after written notice from Seller of such fact, terminate this Agreement in accordance with the provisions of hereof. Seller shall notify Buyer in writing of any such taking by eminent domain and all steps preliminary thereto as soon as the same shall occur. In the event Buyer does not elect to terminate this Agreement under such circumstances, Buyer shall be entitled to all proceeds received or to be received from any condemning authority, and Seller shall (i) pay to Buyer at Closing all such proceeds received by Seller, and (ii) assign to Buyer all such proceeds to be thereafter received from any condemning authority, by instrument of assignment in form reasonably acceptable to Seller and Buyer. As used in this Section 8.3, a "material part" of the Property means a part, the loss of which has a material impact on the utility, ingress, egress, or economic value or income produced by the Property.

## **9. Conditions to Closing**

9.1 Conditions to Buyer's Obligation to Purchase. The obligation of Buyer to consummate the transaction hereunder shall be subject to the fulfillment on or before the Closing of all of the following conditions, any or all of which may be waived by Buyer in its sole discretion. In the event any such conditions remain unfulfilled at Closing, Buyer may, as its sole remedy, terminate this Agreement in accordance with the provisions hereof, or waive such conditions and proceed with the purchase in accordance with the terms of this Agreement (provided, that, if such failure also constitutes a default by Seller under this Agreement, Buyer shall have the rights and remedies provided in Section 6.2):

- (a) Delivery by Seller of the Warranty Deed and all other of Seller's Deliveries.
- (b) Title Company is unconditionally prepared to issue the Owner's Title Policy, with liability equal to the Purchase Price, and such other policies, endorsements, and affirmative coverage as Buyer or Buyer's lender may request, showing fee simple title to the Real Property vested in Buyer, subject only to the Permitted Exceptions.

(c) Seller shall have delivered to Escrow Holder to be held in escrow for release to Buyer all of the items required to be delivered at Closing to Buyer pursuant to the terms of this Agreement, and Escrow Holder shall be in a position to irrevocably deliver such items to Buyer, unless Escrow Holder is not in a position to deliver same as a result of Buyer's default hereunder.

(d) Seller shall not be in default under any material agreement to be assigned to, or obligation to be assumed by, Buyer under this Agreement.

(e) No material proceeding for exercise of the power of eminent domain with respect to the Property or any part thereof shall then be pending.

(f) Disclosure by Seller of any proceeding to make a material change to the zoning or other land use regulations affecting the Property or any part thereof that shall then be pending. Any such disclosure of a material change to zoning or other land use regulation affecting the Property that would materially impact the Proposed Project, shall be an exception to Seller's and Buyer's obligation to consummate the transaction.

(g) Seller shall have satisfied all of its obligations under the terms of this Agreement.

(h) All of Seller's warranties and representation in this Agreement shall be true and correct in all material respects on the Closing Date.

(i) There shall exist no material adverse change in the condition of the Property after the Due Diligence Deadline, ordinary wear and tear excepted.

9.2 Conditions to Seller's Obligation to Sell. The obligation of Seller to consummate the transaction hereunder shall be subject to the fulfillment on or before the Closing of all of the following conditions, any or all of which may be waived by Seller in its sole discretion. In the event any such conditions remain unfulfilled at Closing, Seller may, as its sole remedy, terminate this Agreement or waive such conditions and proceed with the sale in accordance with the terms of this Agreement (provided, however, that if such failure constitutes a default by Buyer under the terms of this Agreement, Seller shall have the rights and remedies provided in Section 6.1) :

- (a) Timely delivery by Buyer of the Funds and all other of Buyer's Deliveries.
- (b) Buyer shall have satisfied all of its obligations under the terms of this Agreement.
- (c) All of Buyer's warranties and representations in this Agreement shall be true and correct in all material respects on the Closing Date.
- (d) Notwithstanding any other provision contained herein, the Puyallup City Council must approve any binding offer or agreement to sell Seller's property. This Agreement is subject to approval by the Puyallup City Council, whether obtained prior to execution or after execution of this Agreement. Any offer and/or this Agreement is only binding after such approval is obtained in the course of an open public meeting, as that term is defined in Washington State law.

## **10. Warranties and Representations of Seller**

10.1 Subject to the Exception Matters (defined below), Seller hereby warrants and represents to Buyer as of the Effective Date as follows :

- (a) All items of Personal Property and Intangible Rights are owned by Seller, free and clear of any and all liens, encumbrances, security agreements, claims, or other restrictions, and upon the Close of Escrow, Buyer will receive good, marketable, and unencumbered title to the Personal Property and Intangible Rights.
- (b) There are no leases, occupancy agreements, or service contracts between Seller and any third parties affecting the Property.
- (c) The copies of all documents delivered by Seller to Buyer are delivered to Buyer in the condition in which maintained by Seller or its property manager in the ordinary course of business; provided, with respect to any such documents which have been prepared or provided by third parties, except as expressly stated otherwise in this Agreement, Seller makes no representation and gives no warranty, whether as to accuracy, completeness, currency, or otherwise, other than that such documents have

been provided by Seller in the condition in which maintained by Seller or its property manager in the ordinary course of their business.

(d) All taxes and assessments against the Property due and payable on or before the Close of Escrow shall have been paid, and there are no agreements, waivers, or other arrangements providing for an extension of time with respect to the assessments of any type of tax or deficiency against Seller as to the Property, nor to Seller's knowledge have any actions, suits, proceedings, investigations, or claims for additional taxes and assessments been asserted by any taxing authority.

(e) Seller has no knowledge, and Seller has not received any written notice alleging, that the Property, or any part thereof, is in violation of any legal requirements governing or regulating the use, construction, and operation thereof or does not comply with any insurance requirements or recorded restrictions.

(f) There is no action, suit, litigation, proceeding (zoning, condemnation, environmental or otherwise) or governmental investigation, pending, or to the best of Seller's knowledge, threatened against or relating to the Seller, the Property, or the transaction contemplated by this Agreement

(g) The property is served by public utilities providing water, sewer, gas, electric, telephone, and drainage facilities (the "Utility Services"). All connection fees and charges in connection with the existing Utility Services have been paid, and all taxes and assessments against the Property due and payable on or before the Close of Escrow in connection with such Utility Services shall have been paid.

(h) All requisite action (corporate, trust, partnership, or otherwise) has been taken by Seller in connection with entering into this Agreement, the instruments referenced herein, and the consummation of the transactions contemplated hereby. No further consent of any partner, shareholder, member, creditor, investor, judicial or administrative body, governmental authority or agency, or other party is required. The individuals executing this Agreement, and instruments referenced herein on behalf of Seller and the partners, members, officers, or trustees of Seller, if any, have the legal power, right, and actual authority to bind Seller to the terms and conditions hereof and thereof. The execution and delivery of this Agreement and the

consummation of the transaction contemplated hereby will not result in any breach of the terms, conditions, or constitute a default under any instrument or obligation to which Seller is now a party, or by which Seller may be bound or affected, or violate any order writ, injunction, or decree of any court in any litigation to which Seller is a party. Upon the execution of the Agreement on behalf of Seller by the person shown in Seller's signature block below, this Agreement constitutes the valid and binding agreement of Seller.

(i) Seller shall pay all fees and assessments which are due and payable by Seller and has made all payments, contributions, and reserves which are due and payable by Seller under the terms of any covenants arising from the Property. There are no pending special assessments payable by Seller arising from the Property.

10.2 All of the representations and warranties of Seller set forth in this Agreement shall be true upon the execution of this Agreement and, as a condition to Closing, shall be true at and as of the Close of Escrow, and shall survive the Close of Escrow for a period of nine (9) months.

10.3 As used herein, the term "Exception Matter" shall refer to a matter which would make a representation or warranty of Seller contained in this Agreement untrue or incorrect and which is disclosed on the Due Diligence Materials (and of which Buyer has actual knowledge) or is disclosed by Seller to Buyer in writing pursuant to the notice section of this Agreement, or is otherwise actually known by Buyer before the Closing Date. If Seller obtains actual knowledge of any facts that would result in the inaccuracy or breach of any of the representations or warranties made by Seller in this Agreement, then Seller shall promptly inform Buyer in writing of such inaccuracy or breach. If Buyer first obtains actual knowledge of any Exception Matter after the expiration of the Due Diligence Deadline and prior to the Closing, Buyer's sole remedy shall be to either (A) waive such misrepresentations and close this transaction, or (B) terminate this Agreement by written notice thereof to Seller and to Escrow Holder within the earlier of (i) fifteen (15) business days following Buyer's receipt of written notice from Seller or any other Person of such Exception Matter, or (ii) the Closing. In the event that Buyer elects to terminate the Agreement under the rights granted in this paragraph due to an Exception Matter, the terms of Section 4.2 shall be applicable, and Seller shall, in addition, reimburse Buyer for the Reimbursement Amount. Buyer's failure to give a termination notice within fifteen (15) days after the Buyer has received written notice from Seller or any other Person of an Exception Matter shall be deemed a waiver by Buyer of

such Exception Matter. If Buyer obtains actual knowledge of any Exception Matter before the Closing, but nonetheless elects to proceed with the acquisition of the Property, Seller shall have no liability with respect to such Exception Matter, notwithstanding any contrary provision, covenant, representation, or warranty contained in this Agreement or in any other documents delivered pursuant hereto or in connection herewith. Notwithstanding anything contained herein to the contrary, in the event that an Exception Matter occurs that is the result of a breach of a specific covenant of Seller under this Agreement, then such Exception Matter shall constitute a Seller Default hereunder entitling Buyer to the remedies under Section 6.2 above.

10.4 As used in this Agreement, the term "to Seller's knowledge", "knowledge of Seller" or similar terms (i) shall mean the statement to which such term applies is limited to the actual knowledge of Steve Kirkelie and not to any other parties, and (ii) shall mean the current actual knowledge of such individual, without any duty of investigation or inquiry of any kind, other than due inquiry of the property manager. As used in this Agreement, the term "to Buyer's knowledge" or "knowledge of Buyer" or similar terms shall mean the statement to which such term applies is limited to the current actual knowledge of Walker John (the "Buyer Knowledge Parties") and not to any other parties, without any duty of investigation or inquiry of any kind. The individuals named in this Section 10.4 shall not have any personal liability for any breach or inaccuracy of any of the Seller's or Buyer's representations and warranties herein stated.

10.5 The representations and warranties of Seller set forth in Section 10.1 above shall survive the Close of Escrow for a period of nine (9) months. In the event the Closing occurs, Buyer hereby expressly waives, relinquishes, and releases any right or remedy available to it at law, in equity, or under this Agreement to make a claim against Seller for damages that Buyer may incur, as the result of any of Seller's representations or warranties being untrue, inaccurate, or incorrect if any of the Buyer Knowledge Parties had actual knowledge that such representation or warranty was untrue, inaccurate, or incorrect at the time of the Closing and Buyer nevertheless closes hereunder. Following Closing, Seller shall have no liability to Buyer for a breach of any representation or warranty under Section 10.1 above.

## **11. Seller's Covenants**

Seller covenants that from and after the Effective Date :

(a) If any mechanic's or materialmen's liens should be filed and/or claimed against or encumber the Property as a result of the activities on the Property prior to the Close of Escrow giving rise to such liens or claims, Seller shall indemnify, defend, and hold Buyer harmless against any damages, costs, losses, expenses, including reasonable attorneys' fees, that it may incur in connection with or arising directly or indirectly out of any mechanic's or materialmen's lien or claims described above, or in any action to foreclose or enforce such liens.

(b) In the event (i) a demand is made by a governmental authority prior to the Close of Escrow to cure any violation of any applicable law, statute, code, ordinance, regulation, rule, or restriction pertaining to or affecting the Property or Seller's use and operation thereof, or (ii) a defect shall arise in the Property prior to the Close of Escrow that would render the same unsuitable for the present use, to the extent commercially reasonable, Seller shall cure any such violation or defect prior to Closing.

(c) Except as Buyer may otherwise consent in writing, which consent shall not be unreasonably withheld, until the Closing, Seller shall: (i) operate, manage, and maintain the Property in accordance with applicable laws, rules, regulations, and ordinances; (ii) carry on the business of the Property in the ordinary course and in a manner consistent with Seller's prior practices; (iii) maintain the Property in its present condition and repair, ordinary wear and tear excepted; (iv) undertake repairs and replacements in accordance with its past practices, including, without limitation, day-to-day maintenance and repair of parking lot and related improvements, landscaping, gates, and fences and other items requiring periodic maintenance and repair; (v) maintain the existing insurance policies for the Property and the operation thereof (and any replacements thereof) in full force and effect; (vi) not grant to any third party any interest in the Property or any part thereof, except pursuant to leases which Seller may enter into after the Effective Date as permitted under this Agreement; and (vii) not enter into any service or other new contract that cannot be terminated with thirty (30) days' notice without liability, including, without limitation, a termination fee or similar payment, on or after the Closing Date. Seller shall not, without first obtaining the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned, or delayed, (1) make any material structural alterations or additions to the Property except as (w) in the ordinary course of operating the Property, (x) required for maintenance

and repair, (y) reserved, or (z) required by this Agreement; (2) voluntarily sell, transfer, encumber, or change the status of title of all or any portion of the Property; (3) change or attempt to change, directly or indirectly, the current zoning of the Real Property in a manner materially adverse to it, except as may be described in the Development Agreement; (4) cancel, amend, or modify, in a manner materially adverse to the Property, any license or permit held by Seller with respect to the Property or any part thereof which would be binding upon Buyer after the Closing; or (5) take any action or permit any action to be taken which would invalidate, impair, or limit the scope of any warranty. Seller shall use its commercially reasonable efforts to maintain in existence all licenses, permits, and approvals that are now in existence with respect to, and are required for, the ownership, operation, or improvement of the Property, and are of a continuing nature .

(d) Seller shall not enter into any new lease, license, easement, or other occupancy agreement related to the Property without Buyer's written consent, which consent shall not be unreasonably withheld.

(e) Seller shall be solely responsible for and shall pay the following items which accrue prior to the Close of Escrow: all trade obligations of the Property; and all social security, payroll taxes, unemployment and workmen's compensation, and all accrued vacation pay incident to any persons employed by Seller, if any, with respect to the Property.

(f) Seller acknowledges that Buyer will incur material expenses in connection with its inspections and other diligence relating to the potential purchase of the Property. Therefore, Seller will not negotiate with or market the Property to any other parties, conduct any property tours, respond to any offers to purchase, or apply for any financing relating to the Property until the termination of this Agreement.

(g) Seller shall not remove or replace any of the personal property at the Property other than as required due to breakage, malfunction, or obsolescence, or in the normal course of its ownership of the Property, in all of which cases such personal property shall be replaced with personal property or appliances of equal or greater utility, value, and quality. In the case of replacement of personal property of material value (in excess of \$10,000 for any such replacement), Seller shall promptly notify Buyer of any

such replacement and Buyer shall have the right to enter the Property to confirm the foregoing.

## **12. Warranties and Representations of Buyer**

Buyer warrants and represents to Seller as of the Effective Date as follows :

(a) Buyer is a valid, legal, and duly constituted entity, organized under the laws of its State of formation, and the persons executing this Agreement and the documents at the Close of Escrow on behalf of Buyer, are and will be duly authorized so as to fully and legally bind Buyer.

(b) All requisite action (municipal, corporate, trust, partnership, or otherwise) has been taken by Buyer in connection with entering into this Agreement, the instruments referenced herein, and the consummation of the transactions contemplated hereby. No consent of any partner, shareholder, member, creditor, investor, judicial or administrative body, governmental authority or agency, or other party is required. The execution and delivery of this Agreement and the consummation of the transaction contemplated hereby will not result in any breach of the terms, conditions, or constitute a default under any instrument or obligation to which Buyer is now a party, or by which Buyer may be bound or affected, or violate any order writ, injunction, or decree of any court in any litigation to which Buyer is a party.

(c) Buyer has the right, power, and authority to execute, deliver, and perform this Agreement without obtaining any consent or approval from, or the taking of any other actions concerning, any other person or entity, judicial or administrative body, governmental authority, or other party. Upon the execution of the Agreement on behalf of Buyer by the person shown in Buyer's signature block below, this Agreement constitutes the valid and binding agreement of Buyer.

(d) Neither the entry into nor the consummation of the transactions contemplated in this Agreement will constitute (or with the passage of time or the giving of notice will constitute) a violation or breach by Buyer of any agreement, contract, or other instrument to which it is a party, or to which it is subject, or of any judgment, order, writ, injunction, or decree issued against or imposed upon Buyer.

(e) No proceedings involving Buyer under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, or liquidation law or statute of the federal government or any state government, whether voluntary or involuntary, are currently pending and Buyer is not currently contemplating initiating or filing any such proceedings and is not in receivership or dissolution.

(f)

(i) As of the Closing, (1) Buyer will not be an employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), which is subject to Title I of ERISA, nor a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (each of the foregoing hereinafter referred to collectively as "Plan"), and (2) the assets of the Buyer will not constitute "plan assets" of one or more such Plans within the meaning of Department of Labor ("DOL") Regulation Section 2510.3-101.

(ii) As of the Closing, if Buyer is a "governmental plan" as defined in Section 3(32) of ERISA, the closing of the sale of the Property will not constitute or result in a violation of state or local statutes regulating investments of and fiduciary obligations with respect to governmental plans.

(iii) As of the Closing, Buyer will be acting on its own behalf and not on account of or for the benefit of any Plan.

(iv) Buyer has no present intent to transfer the Property to any entity, person, or Plan which will cause a violation of ERISA.

(v) Buyer shall not assign its interest under this Agreement to any entity, person, or Plan which will cause a violation of ERISA.

(g) All of the representations and warranties of Buyer set forth in this Agreement shall be true upon the execution of this Agreement and, as a condition to Closing, shall be true at and as of the Close of Escrow and shall survive the Close of Escrow for a period of nine (9) months.

### **13. Broker's Commission**

Buyer and Seller each represent and warrant to the other that neither has had any dealing with any person, firm, broker, or finder in connection with the negotiation of this Agreement and/or the consummation of the purchase and sale contemplated hereby. Except as set forth herein, Buyer and Seller each do hereby indemnify, defend, and hold the other harmless from and against any costs, expenses, or liabilities for compensation, commissions, or charges which may be claimed by any other broker, finder, or similar party by reason of any actions of the indemnifying party.

### **14. Limited Liability**

Buyer and Seller each agree to the following statements in this Section 14, agreement to each of which is a condition to entry into this Agreement :

14.1 No member or manager of Seller nor any officer, director, or shareholder of any member or manager thereof, nor any principal, agent, officer, director, or employee of Seller's manager shall have any personal liability directly or indirectly, under or in connection with this Agreement or any agreement made or entered into by Seller under or in connection with this Agreement, and Buyer and Buyer's successors and assigns shall look solely to the assets of Seller (and the proceeds thereof) for the payment of any claim or for any performance hereunder, and Buyer hereby waives any and all claims for personal liability against any and all members, managers, officers, directors, shareholders, and principals of each of Seller, Seller's manager, and any employee or agent of the foregoing under or in connection with this Agreement or the transactions contemplated by this Agreement.

14.2 No member, manager, partner, trustee, or owner of Buyer, nor any officer, director, or shareholder of Buyer, nor any employee or agent of Buyer, shall have any personal liability directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or in connection with this Agreement, and Seller and Seller's successors and assigns shall look solely to the assets of Buyer for the payment of any claim or for any performance hereunder, and Seller hereby waives any and all claims for personal liability against Buyer, any and all members, managers, partners, trustees, or owners of Buyer, and any officer, director, or shareholder of Buyer and/or any such member, manager, partner, trustee, or owner comprising Buyer, and any employee or agent of the

foregoing under or in connection with this Agreement or the transaction contemplated by this Agreement.

**15. Jurisdiction and Venue**

. Jurisdiction and venue for any lawsuit or proceeding to enforce or otherwise arising from or with respect to this Agreement shall lie exclusively in the state or federal courts located in Pierce County, Washington. Each of Seller and Buyer consents to jurisdiction and venue in said courts and agrees venue for any such lawsuit or proceeding is proper therein.

**16. Waiver of Right to Trial by Jury**

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING OR ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE DEED, ANY DOCUMENT OR INSTRUMENT DELIVERED BY EITHER PARTY AT CLOSING, OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION WITH THE TRANSACTION (WHETHER SUCH CLAIM OR ACTION IS BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH OF BUYER AND SELLER FURTHER:

(a) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER;

(b) ACKNOWLEDGES THAT THIS WAIVER AND THE PROVISIONS OF THIS SECTION WERE A MATERIAL INDUCEMENT FOR ITS ENTRY INTO THIS AGREEMENT;

(c) CERTIFIES THAT THIS WAIVER IS KNOWINGLY, WILLINGLY, AND VOLUNTARILY MADE;

(d) AGREES AND UNDERSTANDS THAT THIS WAIVER CONSTITUTES A WAIVER OF TRIAL BY JURY OF ALL CLAIMS AGAINST ALL PARTIES TO SUCH PROCEEDING OR ACTION, INCLUDING CLAIMS AGAINST PARTIES WHO ARE NOT PARTIES TO THIS OR ANY OTHER AGREEMENT, AND FURTHER AGREES THAT SUCH PARTY

SHALL NOT SEEK TO CONSOLIDATE ANY SUCH PROCEEDING OR ACTION WITH ANY OTHER PROCEEDING OR ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED;

(e) AGREES THAT EITHER PARTY TO THIS AGREEMENT IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING OR ACTION AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL; AND

(f) REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS AGREEMENT AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL.

## **17. Notices**

17.1 All notices shall be given in writing by registered or certified mail, postage prepaid, by Federal Express or similar courier or via email, to the parties as follows:

To Buyer: Urban Puyallup Mixed Use LLC  
P.O. Box 7534  
Olympia, WA 98507  
Attn: Walker John  
Email: [walker@urbanolympia.com](mailto:walker@urbanolympia.com)

To Seller: City of Puyallup  
Attn. City Manager Steve Kirkelie  
333 South Meridian  
Puyallup, WA 98371  
Telephone: (253) 770-3324  
Email: [skirkelie@puyallupwa.gov](mailto:skirkelie@puyallupwa.gov)

With a copy to: City Attorney  
Joseph N. Beck  
333 South Meridian  
Puyallup, WA 98371  
Telephone: (253) 864-4196  
Email: [jbeck@puyallupwa.gov](mailto:jbeck@puyallupwa.gov)

17.2 Notices shall be considered given on the earlier of:

- (a) Receipt, if delivered by Federal Express or other courier to the addressee or to an officer of the addressee, or
- (b) Forty-eight (48) hours following deposit in the United States mail, postage prepaid, certified, return receipt requested, or
- (c) Transmission if via email.

Any party may change the address to which such notices shall be given by written notice to the other party as provided herein.

## **18. Amendments**

This Agreement may be amended only by a writing signed by each of the parties hereto.

## **19. Binding Agreement**

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

## **20. Attorneys' Fees; Governing Law**

The prevailing party in any action or proceeding between the parties hereto with respect to this Agreement and the transactions contemplated hereby shall be entitled to have and recover all costs, expenses, and reasonable attorneys' fees incurred in connection therewith, including any such fees and costs incurred upon any appeals. This Agreement shall be interpreted in accordance with the laws of the State of Washington.

## **21. Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

## **22. Merger and Interpretation**

This Agreement supersedes any prior agreement, oral or written, and contains the entire agreement between the parties pertaining to the subject matter hereof; provided, however, to the extent there is any conflict between the terms and conditions contained in this Agreement and in the Development Agreement, the Development Agreement shall control.

## **23. Time of Essence**

Seller and Buyer expressly agree that time is of the essence with respect to this Agreement. If the final day of any period or any date of performance or making any election under this Agreement falls on a date which is a weekend or holiday recognized by banks in the State of Washington, then the final day of the period or the date of performance or the date for making such election, as applicable, shall be extended to the next day which is not a weekend or holiday recognized by banks in the State of Washington.

## **24. Exchange**

Buyer and Seller acknowledge that each party may acquire or dispose of their respective interests in the Property pursuant to a tax-deferred exchange under Section 1031 and/or 1033 of the Internal Revenue Code of 1986, as amended (the "Exchange"). Each party agrees to reasonably cooperate with the other in order to effect such Exchange. This provision shall not materially impact the closing timeline, nor incur any additional cost of Seller.

## **25. Tax Reporting**

Escrow Holder, as the party responsible for closing the transaction contemplated hereby within the meaning of Section 6045(e)(2)(A) of the Internal Revenue Code of 1986, as amended ("the Code"), shall file all necessary information, reports, returns, and statements (collectively, the "Reports") regarding the transaction required by the Code including, but not limited to, the reports required to indemnify and hold Buyer, Seller, and their respective agents, attorneys, and brokers harmless from and against any and all claims, costs, liabilities, penalties, or expenses resulting from Escrow Holder's failure to file the reports Escrow Holder is required to file pursuant to this Section 25.

## **26. Assignment**

Buyer shall have the right without Seller's consent to assign its right, title, and interest in and to this Agreement to one or more entities in which Buyer or an affiliate thereof is a direct or indirect partner, member, or shareholder or is owned partially or wholly or controlled directly or indirectly by Buyer or its affiliates, or to one or more tenant-in-common entities. Buyer shall not have the right to assign its right, title, and interest in and to this Agreement to an unrelated or unaffiliated entity without Seller's consent. Such consent shall not be unreasonably withheld. Such assignment, if consented to by Seller, shall relieve the Buyer named in the opening paragraph of any and all terms of this Agreement and absolve Buyer of or from any duty or obligation of Buyer under this Agreement, including, but not limited to duties and obligations which survive termination or Closing.

## **27. Electronic Signatures**

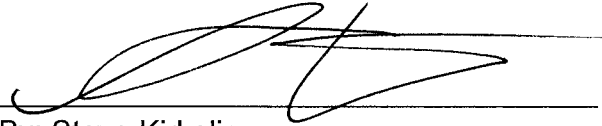
In order to expedite the transaction contemplated herein, telecopied or internet transmission of PDF file signatures may be used in place of original signatures on this

Agreement. Seller and Buyer intend to be bound by the signatures on the transmitted document, are aware that the other party will rely on the transmitted signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

**IN WITNESS WHEREOF**, this Agreement has been duly executed by the parties hereto as of the last day and year indicated below (the "Effective Date").

**SELLER:**

**CITY OF PUYALLUP**, a state of Washington  
municipal corporation

A handwritten signature in black ink, appearing to read 'Steve Kirkelie', written over a horizontal line.

By: Steve Kirkelie  
Its: City Manager

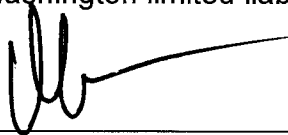
Approved as to form:

A handwritten signature in black ink, appearing to read 'Joseph N. Beck', written over a horizontal line.

By: Joseph N. Beck  
Its: City Attorney

**BUYER:**

**URBAN PUYALLUP MIXED USE LLC**, a state  
of Washington limited liability company

A handwritten signature in black ink, appearing to read 'Walker John', written over a horizontal line.

By: Walker John  
Its: Governor

### CONSENT OF ESCROW HOLDER

The undersigned Escrow Holder agrees to (i) accept the foregoing Agreement, (ii) be escrow agent under the Agreement for the fees therein specified, and (iii) be bound by the Agreement in the performance of its duties as escrow agent; however, the undersigned will have no obligations, liability or responsibility under (i) this consent or otherwise, unless and until the Agreement, fully signed by the parties and has been delivered to the undersigned, or (ii) any amendment to the Agreement unless and until the amendment is accepted by the undersigned in writing.

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

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION**

Section 28 Township 20 Range 04 Quarter 41 MEEKERS 1ST & 2ND:  
MEEKERS 1ST & 2ND NE OF SE 28-20-04E PARCEL "A" OF DBLR  
96-09-27-0520 DESC AS ALL OF B 23, B 26, L 1 THRU 5 B 25 TOG/W  
20 FT WIDE E-W ALLEY BETWEEN B 26, 25 & 23 VAC PER ORD  
1301 EXC FOLL DESC PROP BEG AT NW OF SD B 26 TH S ALG W  
LI SD B 26 & B 25 300.83 FT TO SW COR OF L 5 B 25 TH E 110.13 FT  
TO SE COR SD L 5 TH N ALG E LI SD L 5 3.15 FT TO EXIST FENCE  
LI TH ALG SD FENCE LI S 88 DEG 20 MIN 49 SEC E 10.24 FT TH N  
00 DEG 51 MIN 52 SEC E 132.90 FT TH S 89 DEG 03 MIN 38 SEC E  
8.61 FT TH N 00 DEG 51 MIN 28 SEC E 165 FT TO N LI OF SD B 26  
TH N 89 DEG 04 MIN 43 SEC W 129 FT TO POB EASE OF RECORD  
APPROX 48,336 SQ FT OUT OF 137-0 & 136-0 SEG 1-0393 JU  
12/11/96JU

**EXHIBIT B  
WARRANTY DEED**

AFTER RECORDING RETURN TO:

City of Puyallup  
City Clerk's Office  
333 S. Meridian  
Puyallup WA 98371

---

(Space above this line for recorder's use only)

|                                        |                         |
|----------------------------------------|-------------------------|
| DOCUMENT TITLE                         | Statutory Warranty Deed |
| REFERENCE NUMBERS OF RELATED DOCUMENTS |                         |

Additional reference numbers on page(s) \_\_\_\_ of document.

|                               |                              |
|-------------------------------|------------------------------|
| GRANTOR:                      | CITY OF PUYALLUP             |
| GRANTEE:                      | URBAN PUYALLUP MIXED USE LLC |
| ABBREVIATED LEGAL DESCRIPTION |                              |

Additional legal on page 4 of document.

|                             |  |
|-----------------------------|--|
| ASSESSOR'S TAX PARCEL NO(S) |  |
|-----------------------------|--|

**STATUTORY WARRANTY DEED**

THIS STATUTORY WARRANTY DEED is granted this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by CITY OF PUYALLUP, a municipal corporation of the State of Washington, hereinafter referred to as "Grantor," to URBAN PUYALLUP MIXED USE LLC, a state of Washington limited liability company, hereinafter referred to as "Grantee."

The Grantor, for and in consideration of the sum of ONE AND NO/100 (\$1.00) Dollar and other valuable consideration, hereby conveys and warrants to the Grantee the real property situated in Pierce County, in the State of Washington, described in attached **Exhibit A**.

IN WITNESS WHEREOF, this instrument has been executed the day and year first above written.

GRANTOR:

City of Puyallup, a Municipal Corporation

By: \_\_\_\_\_  
Steve Kirkelie  
Its: City Manager

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Joseph N. Beck, City Attorney

STATE OF WASHINGTON       )  
                                          )       ss:  
COUNTY OF PIERCE       )

I certify that I know or have satisfactory evidence that Steve Kirkelie is the person who appeared before me, and said person acknowledged that he/she signed the instrument, on oath stated that he/she was authorized to execute this instrument and acknowledged it as the City Manager of the City of Puyallup, a Washington State municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: \_\_\_\_\_, 2025.

\_\_\_\_\_  
Print Name:  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_

My Appointment expires: \_\_\_\_\_

**EXHIBIT A  
TO THE WARRANTY DEED**

Section 28 Township 20 Range 04 Quarter 41 MEEKERS 1ST & 2ND:  
MEEKERS 1ST & 2ND NE OF SE 28-20-04E PARCEL "A" OF DBLR  
96-09-27-0520 DESC AS ALL OF B 23, B 26, L 1 THRU 5 B 25 TOG/W  
20 FT WIDE E-W ALLEY BETWEEN B 26, 25 & 23 VAC PER ORD  
1301 EXC FOLL DESC PROP BEG AT NW OF SD B 26 TH S ALG W  
LI SD B 26 & B 25 300.83 FT TO SW COR OF L 5 B 25 TH E 110.13 FT  
TO SE COR SD L 5 TH N ALG E LI SD L 5 3.15 FT TO EXIST FENCE  
LI TH ALG SD FENCE LI S 88 DEG 20 MIN 49 SEC E 10.24 FT TH N  
00 DEG 51 MIN 52 SEC E 132.90 FT TH S 89 DEG 03 MIN 38 SEC E  
8.61 FT TH N 00 DEG 51 MIN 28 SEC E 165 FT TO N LI OF SD B 26  
TH N 89 DEG 04 MIN 43 SEC W 129 FT TO POB EASE OF RECORD  
APPROX 48,336 SQ FT OUT OF 137-0 & 136-0 SEG 1-0393 JU  
12/11/96JU

**EXHIBIT B  
TO WARRANTY DEED**

**PERMITTED EXCEPTIONS**

**[TO BE DRAFTED AND INSERTED BY SELLER PRIOR TO CLOSING]**

## EXHIBIT C

### CERTIFICATE OF NON-FOREIGN STATUS

Section 1445 of the Internal Revenue Code of 1986, as amended, provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by the City of Puyallup (the "Seller"), the undersigned hereby certifies the following on behalf of the Seller:

The Seller is not a foreign corporation, foreign partnership, foreign trust, foreign estate, or disregarded entity (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

Seller is not a disregarded entity as defined in Section 1.1445-2(b)(2)(iii);

The Seller's U.S. employer identification number is \_\_\_\_\_; and

The Seller's office address is: \_\_\_\_\_

The Seller and the undersigned understand that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both. Under penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of the Seller.

**SELLER:**

**CITY OF PUYALLUP**, a state of Washington  
municipal corporation

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

Its:

## **EXHIBIT D**

### **DUE DILIGENCE ITEMS**

**DUE DILIGENCE DOCUMENTS TO BE DELIVERED BY SELLER  
TO BUYER'S OFFICE (OR MADE AVAILABLE TO BUYER AT  
THE REAL PROPERTY IF INDICATED BELOW)**

#### **LIST OF DUE DILIGENCE MATERIALS**

An Owner's title policy with respect to the Property, including copies of all exceptions.