

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“Agreement”), made and entered into as of this _____ day of _____, 2014, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado whose address is 1437 Bannock Street, Denver, Colorado 80202 (the "City" or “Seller”), and Craft Development, Inc., whose address is 2105 E. Virginia Avenue, Denver, CO 80209 (“Purchaser”).

WITNESSETH:

WHEREAS, City owns property located at 20 East Center Avenue in the City and County of Denver, which property is no longer in use and has been determined to be surplus property; and

WHEREAS, City has agreed to sell and the Purchaser has agreed to purchase such property subject to the terms and conditions hereinafter set forth; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations set forth herein, the parties agree as follows:

1. **PROPERTY TO BE PURCHASED:** The Purchaser agrees to purchase and the City agrees to sell, the real property located at approximately 20 East Center Avenue, Denver, Colorado, which is more particularly described in **Exhibit A**, attached hereto and incorporated herein ("Property").

2. **PURCHASE PRICE and EARNEST MONEY:** The Purchase Price to be paid by the Purchaser for the Property shall be Two Hundred Thousand Dollars (\$200,000.00) ("Purchase Price") payable to the City in good funds as follows: (a) Purchaser shall make an earnest money deposit payable to the Land Title Guarantee Company in the amount of Ten Thousand Dollars (\$10,000.00) (the “Earnest Money”), to be held pursuant to an escrow instruction letter to be mutually agreed upon by Seller and Purchaser with Land Title Guarantee Company, within one (1) business day of Purchaser’s execution of this Agreement, or other disbursement in accordance with the terms of this Agreement and (b) One Hundred Ninety Thousand Dollars (\$190,000.00), the balance of the Purchase Price, at the time of closing. The escrow instruction letter, which may be signed on behalf of the City by the Director of the Division of Real Estate, shall state that the Earnest Money shall be refundable (i) in the event Purchaser terminates this Agreement prior to the expiration of the Due Diligence Period, as defined below, or (ii) in the event necessary City approvals, including that of City Council, are not obtained, or (iii) in the event that the prerequisites

11-384

to Closing specified in Section 9 below have not been met. The Earnest Money is not refundable if the Purchaser terminates this Agreement after the Due Diligence Period expires.

3. ENVIRONMENTAL CONDITION:

(a) Environmental Information: City has disclosed to the Purchaser all information the Director of Real Estate (the "Director") has regarding environmental contamination or the presence of any Hazardous Waste or Toxic Substances on, under or about the Property. For purposes hereof, "Hazardous Wastes" mean all waste materials subject to regulations under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund or CERCLA), 42 U. S. C., Sec. 9601 et seq., or applicable state law, and any other applicable federal or state laws now in force or hereafter enacted relating to hazardous waste disposal. "Toxic Substance" means and includes any materials present on the Property which are subject to regulation under the Toxic Substance Control Act (TSCA), 15 U. S. C., Sec. 2601 et seq., applicable state law, or any other applicable federal or state law now in force or hereafter enacted relating to toxic substances. "Toxic Substances" includes, but is not limited to asbestos, polychlorinated biphenyls (PCB's), and lead-based paints.

(b) Environmental Audit: The Purchaser may, at its sole expense, retain a consultant to conduct an environmental audit of the Property. The purpose of the environmental audit shall be to identify any existing or potential environmental problems located in, on, or under the Property, including but not limited to, the presence of Hazardous Wastes and Toxic Substances. The initial environmental audit shall consist of a nonintrusive review of records, documents and photographs relating to the Property and an inspection of the Property. Upon completion of the initial environmental audit, the Purchaser may perform reasonable supplemental studies, including soil and ground water sampling and analysis, required to fulfill the objectives of the audit and perform a phase 2 environmental audit at the Purchaser's sole expense. The City hereby grants the Purchaser and its consultants a license for the right to enter upon the Property to perform environmental testing and inspections. The Purchaser shall give the Director or her/his designee forty-eight (48) hours notice prior to performing such work. Upon completion of the inspection, the Purchaser's consultant shall return the Property to the condition it was in prior to such testing. All environmental audits and testing shall be completed by the end of the Due Diligence Period, as defined below.

(c) As Is Where Is Condition: Purchaser acknowledges that it is purchasing the Property in an "As Is Where Is" condition.

4. PHYSICAL INSPECTION: The Purchaser shall have the right to inspect the physical condition of the Property at the Purchaser's expense. The City hereby grants Purchaser and its consultants a license for the right to enter onto the Property to perform such inspections. The Purchaser shall give the Director, or her/his designee, twenty-four (24) hours notice prior to performing such work. Upon completion of the inspection, Purchaser shall return the Property to the condition it was in prior to such inspection. Purchaser acknowledges that it is purchasing the Property in an "As Is Where Is" condition.

5. EVIDENCE OF TITLE: The City shall provide, at Purchaser's expense, a current commitment for owners' title insurance policy for the Property in an amount equal to the Purchase Price from Land Title Guarantee Company ("Title Company") within ten (10) days after execution of this Agreement. The title insurance commitment, together with any copies or abstracts of instruments furnished pursuant to this Section 5, constitute the title documents ("Title Documents"). Purchaser shall be responsible for obtaining any title insurance policy and shall pay the premium and any costs or fees at Closing if a title policy is obtained.

6. TITLE:

(a) Title Review and Deed. The Purchaser shall have the right to inspect the Title Documents. Written notice by the Purchaser of unmerchantability of title or any other unsatisfactory title condition shown by the Title Documents shall be signed by the Purchaser and given to the City before the end of the Due Diligence Period. If the City does not receive the Purchaser's notice by the date specified above, the Purchaser shall be deemed to have accepted the condition of title as disclosed by the Title Documents as satisfactory. If a subsequent title commitment update shows any new matter not set forth in earlier title commitments, Purchaser shall have up to fifteen (15) days before Closing to give the City notice of any unsatisfactory title condition relating to the newly disclosed title matter in the manner set forth above. The City shall convey the Property by a Quitclaim Deed, with no covenants of title or warranties, in the substantially the same form as is attached as **Exhibit B**, "Quitclaim Deed."

(b) Survey and Matters Not Shown by the Public Records. The City represents that there are no current leases or tenancies affecting the Property. The City shall disclose to the Purchaser all easements, liens or other title matters not shown by the public records pertaining to the

Property, of which Director has actual knowledge. The Purchaser shall have the right to inspect the Property to determine if any third party has any right in the Property not shown by the public records (such as an unrecorded easement, unrecorded lease, or boundary line discrepancy). The Purchaser, at Purchaser's expense, may obtain a current boundary and improvements survey of the Property, reasonably acceptable to the City, showing thereon the correct legal description, property dimensions, easements, rights of way and encroachments, if any, recorded or in place, and all improvements, with the dimensions thereof, certified to the City, Purchaser and to the Title Company. Written notice of any unsatisfactory condition(s) discovered by the survey or disclosed by the City or revealed by the inspection shall be signed by the Purchaser and given to the City on or before the end of the Due Diligence Period. If the City does not receive the Purchaser's notice by said date, the Purchaser shall be deemed to have accepted title subject to such rights, if any, of third parties of which the Purchaser has actual knowledge.

(c) Right to Cure. If the City receives notice of any unsatisfactory title matter, or other condition(s) revealed by a survey or inspection as provided in subsection (a) or (b) above or as otherwise given by the Purchaser, the City may cure such unsatisfactory condition(s) prior to Closing. If the City determines not to correct said unsatisfactory condition(s) on or before Closing, the Purchaser, in its sole discretion, may elect to (i) waive such defect and proceed to Closing; (ii) cure such defect itself; or (iii) terminate this Agreement.

7. DUE DILIGENCE PERIOD: The due diligence period shall be the period of time during which Purchaser may perform any and all examinations and inspections authorized by Paragraphs 3,4 5 and 6 above, and such period shall run from the time of the mutual execution of this Agreement for thirty (30) days (the "Due Diligence Period"). The Due Diligence Period may be waived or shortened by the Purchaser. Purchaser may terminate this Agreement for any or no reason during the Due Diligence Period, notwithstanding the City's right to cure.

8. DATE OF CLOSING: The date of Closing shall be thirty (30) days after the Due Diligence Period ends ("Closing"). The time and place of the Closing shall be agreed upon by the parties.

9. PREREQUISITES TO CLOSING: The parties' obligations to proceed to Closing shall be conditioned upon the following prerequisite occurring prior to the Closing:

Purchaser shall have obtained a major encumbrance permit ("MEP") from the City, including approval by City Council, permitting the encroachment of the front building steps into the

sidewalk right-of-way. City will prepare, process and file for City Council approval of the MEP application. The City intends to request City Council approval of the MEP application concurrently with its City Council request to approve this Agreement.

10. TRANSFER OF TITLE: Subject to completion of all prerequisites to Closing set forth herein and the tender of the Purchase Price, the City shall execute and deliver a Quitclaim Deed to the Purchaser at Closing. The City and Purchaser shall execute all customary or required documents at or before Closing. The City's Director, or her/his designee, shall be authorized to execute on behalf of the City any and all documents necessary or helpful to close the transaction contemplated herein, provided no such document transfers title to real property.

11. POSSESSION: Possession of the Property shall be delivered to the Purchaser at Closing.

12. CLOSING COSTS, DOCUMENTS AND SERVICES: Purchaser shall pay all closing costs at Closing. The City and Purchaser shall sign and complete all customary or required documents at or before Closing. The Director of the Division of Real Estate or his designee shall execute on behalf of the City any necessary documents for the Closing, so long as none transfers property rights.

13. TIME IS OF THE ESSENCE/REMEDIES: It is understood and agreed between the parties that time is of the essence hereof, and all the agreements herein contained shall be binding upon and inure to the benefit of each party's successors and assigns. If any payment due in accordance with this Agreement is not paid, honored or tendered when due, or if any other obligation hereunder is not performed or waived as herein provided, there shall be the following remedies:

(a) If the City is in default: Purchaser may elect to treat this Agreement as canceled, in which case all payments and things of value received hereunder shall be returned to Purchaser. Purchaser expressly waives all other remedies in law and equity.

(b) If Purchaser is in default: The City may elect to treat this Agreement as canceled, in which case all payments and things of value received hereunder shall be retained by the City and both parties shall thereafter be released from all obligations hereunder, or the City may elect to treat this Agreement as being in full force and effect and the City shall have the right to specific performance, damages, and all remedies in law or equity including the right to enforce

performance and payment bonds as a dual obligee, and all rights set forth in promissory notes and deeds of trust.

14. TERMINATION: In the event this Agreement is terminated for reason other than default, all payment and things of value received hereunder shall be returned to the parties providing the same and the parties shall be relieved of all obligations hereunder.

15. AUTHORITY TO EXECUTE: Purchaser represents that the persons who have affixed their signatures hereto have all necessary and sufficient authority to bind the Purchaser.

16. COOPERATION OF THE PARTIES: In the event that any third party brings an action against the City regarding the validity or operation of this Agreement, Purchaser shall reasonably cooperate with the City in any such litigation.

17. NO BROKER'S FEES: The City is not represented by a broker. No commission shall be due from the City to either Craft Development or Landmark Western, or any other broker.

18. SEVERABILITY: The promises and covenants contained herein are several in nature. Should any one or more of the provisions of this Agreement be judicially adjudged invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Agreement.

19. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event shall any performance hereunder constitute or be construed to be a waiver by any party of any breach of covenant or condition or of any default which may then exist. The rendering of any such performance when any such breach of default exists shall in no way impair or prejudice any right of remedy available with respect to such breach of default. Further, no assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of the Agreement shall be deemed or taken to be a waiver or any other default or breach.

20. SUBJECT TO LOCAL LAWS; VENUE: Each and every term, provision, and condition herein is subject to the provisions of the laws of the United States, the State of Colorado, the Charter and Ordinances of the City and County of Denver, and regulations enacted pursuant thereto. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference. This Agreement is made, shall be deemed to be made, and shall be construed in accordance with the laws of the State of Colorado. Venue for any legal action

arising under or relating to this Agreement shall lie in the District Court in and for the City and County of Denver, Colorado.

21. NOTICES: All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the parties at the addresses given below or at such other address that may be specified by written notice in accordance with this paragraph:

If to the City: Mayor
Mayor's Office
City and County Building
1437 Bannock Street, Room 350
Denver, Colorado 80202

With copies to: Director of Real Estate
201 W. Colfax, Dept. 1010
Denver, CO 80202

Denver City Attorney
Denver City Attorney's Office
1437 Bannock Street, Room 353
Denver, Colorado 80202

If to Purchaser: Craft Development, Inc.
2105 Virginia Avenue
Denver, CO 80209

22. PARTIES' LIABILITIES: Each party shall be responsible for any and all suits, demands, costs, or actions proximately resulting from its own individual acts or omissions.

23. AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS: This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent notation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement executed by the parties.

24. PARAGRAPH HEADINGS: The paragraph headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be a part of this Agreement or to define, limit or describe the scope or intent of this Agreement or the particular paragraphs hereof to which they refer.

25. THIRD-PARTY BENEFICIARY: It is the intent of the parties that no third party beneficiary interest is created in this Agreement. The parties are not presently aware of any actions by them or any of their authorized representatives, which would form the basis for interpretation construing a different intent, and in any event expressly disclaim any such acts or actions, particularly in view of the integration of this Agreement.

26. COUNTERPARTS: This Agreement shall be executed in at least two (2) counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same document.

27. REASONABLENESS OF CONSENT OR APPROVAL: Whenever under this Agreement “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards, as well as business and economic considerations.

28. NO PERSONAL LIABILITY: No elected official, director, officer, agent or employee of the City nor any director, officer, employee or personal representative of Purchaser shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.

29. CONFLICT OF INTEREST BY CITY OFFICER: Purchaser represents that to the best of its information and belief no officer or employee of the City is either directly or indirectly a party to or in any manner interested in this Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee.

30. RIGHT TO EXTEND TIME FOR PERFORMANCE: The parties agree that any time for performance of any term or condition hereunder may be extended for up to two (2) additional thirty (30) day periods by a letter signed by the Director and an authorized representative of Purchaser, except as otherwise provided for herein. All other amendments to this Agreement except for certain approvals granted to the Director herein, must be fully executed by the City and the Purchaser, and may require further City Council approval, if so required by the City’s Charter.

31. NO MERGER: The parties intend that the terms of this Agreement shall survive Closing and shall not be merged into the deed conveying the Property.

32. ASSIGNMENT: Neither party may assign its rights and obligations under this Agreement to any entity without the prior written consent of the other party. However, Purchaser

may assign its rights and obligations under this Agreement to an entity to be formed by Craft Development, Inc. and Landmark Western for the purpose of purchasing the Property from the City. For the City, such consent shall be given by the Director of Real Estate or his designee, at the Director's sole discretion.

33. SUBJECT TO COUNCIL APPROVAL: This Agreement is subject to the approval of the City Council in accordance with the provisions of the City Charter, and this Agreement shall not take effect until its final approval by City Council, and until signed by all appropriate City officials, including the Mayor, the Clerk and Recorder and the Auditor.

IN WITNESS WHEREOF, the parties hereto have here unto set their hand and affix their seals at Denver, Colorado as of the day first above written.

ATTEST:

STEPHANIE Y. O'MALLEY
Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

CITY AND COUNTY OF DENVER

By _____
Mayor

RECOMMENDED AND APPROVED:

By 
Director, Real Estate

APPROVED AS TO FORM:

City Attorney for the City and
County of Denver

By _____
Assistant City Attorney

REGISTERED AND COUNTERSIGNED:

By _____
Manager of Finance
Contract Control No. RC10011

By _____
Auditor

“CITY”

Attest (if required by corporation)

CRAFT DEVELOPMENT, INC.

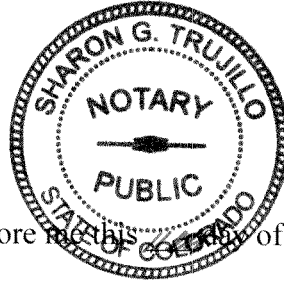
By: _____

By: [Signature]

By: Kirk M. Smith, Owner

STATE OF COLORADO

)
) ss.
)



CITY AND COUNTY OF DENVER

This foregoing instrument was acknowledged before me this 16th day of March, 2011, by Kirk M. Smith, of Craft Development, Inc., its _____ WITNESS my hand and official seal.

My commission expires: 09-22-12

[Signature]
Notary Public

“PURCHASER”

Exhibit List

Exhibit A – Legal Description of the Property

Exhibit B – Form of Quitclaim Deed

EXHIBIT A
LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THAT PARCEL AS DESCRIBED IN THAT DOCUMENT ORIGINALLY RECORDED IN ARAPAHOE COUNTY NOW IN THE OFFICE OF THE CLERK AND RECORDER, CITY AND COUNTY OF DENVER AT BOOK 718, PAGE 491, ON JUNE 5, 1891, SAID PARCEL LYING IN THE NE ¼ OF SECTION 15, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PM, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 53 FEET OF LOTS ONE (1) AND TWO (2), BLOCK 8, EXPOSITION ADDITION TO DENVER, AS ORIGINALLY RECORDED IN ARAPAHOE COUNTY, COLORADO.

Prepared by: Joel Schmidt
For and on behalf of: The City and County of Denver
Address: 201 W. Colfax Ave., Dept. 507
Denver, CO 80202
Phone: 720-865-3122

EXHIBIT B

After recording, return to:
Jennifer Welborn
City Attorney's Office, 201 W. Colfax Ave., 12th Floor
Denver, CO 80202

QUITCLAIM DEED

THIS DEED, made this _____ day of _____, between the CITY AND COUNTY OF DENVER, a Colorado municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, Colorado 80202 ("Grantor") and [NEW ENTITY] ("Grantee"), whose address is _____;

WITNESSETH, That Grantor, for and in consideration of the sum of Two Hundred Thousand Dollars, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has remised, released, sold and QUITCLAIMED, and by these presents does remise, release, sell and QUITCLAIM unto Grantee and Grantee's heirs, successors, and assigns, forever, all the right, title, interest, claim and demand which Grantor has in and to the real property, together with improvements, if any, situate, lying and being in the County of Denver, And the State of Colorado, described as follows:

See Exhibit A attached hereto;

Also known by street and number as 20 E. Center Avenue, Denver, Colorado

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of Grantor, either in law or equity, to the only proper use, benefit, and behoof of Grantee and Grantee's heirs, successors, and assigns forever.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed on the date set forth above.

Signed this _____ day of _____, 2011

ATTEST: CITY AND COUNTY OF DENVER

By _____
STEPHANIE Y. O'MALLEY,
Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

By _____
Mayor

APPROVED AS TO FORM:
DAVID R. FINE, Attorney for
the City and County of Denver

By _____
Assistant City Attorney

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ___ day of _____, 2011 by
Guillermo ("Bill") Vidal, Mayor of the City and County of Denver.

Witness my hand and official seal.

My commission expires: _____

Notary Public