

PURCHASE AND SALE AGREEMENT
(700 West Colfax Avenue and 1449 Galapago Street)

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) made and entered into as of the Effective Date, between the **CITY AND COUNTY OF DENVER**, a home rule city and municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, Colorado 80202 (the “City”), and **UWG 8 LLC**, a Colorado Limited Liability Company, whose address is 3798 Spring Valley Road, Boulder, Colorado 80304 (“Seller”). City and Seller are collectively referred to herein as the “Parties” and individually as a “Party.”

RECITALS

A. Seller owns certain real Property (as defined in Section 1 below) in the City and County of Denver, State of Colorado; and

B. Subject to the terms of this Agreement, Seller agrees to sell and the City agrees to purchase the Property for any allowable City purpose; and

NOW, THEREFORE, in consideration of the promises and the mutual covenants and obligations set forth herein, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. SUBJECT PROPERTY. Subject to the terms of this Agreement, the City shall purchase and the Seller shall sell the real property interests generally located at 700 West Colfax Avenue and 1449 Galapago Street, Denver, Colorado 80216, more particularly described in **Exhibit 1**, attached hereto and incorporated herein by reference, together with Seller’s interest, if any, in: (i) all easements, rights of way and vacated roads, streets and alleys appurtenant to the property described in **Exhibit 1**; (ii) all buildings, fixtures and improvements on the property described in **Exhibit 1**; (iii) all of Seller’s right, title and interest in and to all utility taps, licenses, permits, contract rights, and warranties and guarantees associated with the property described in **Exhibit 1**; and (iv) all water rights and conditional water rights that are appurtenant to or that have been used or are intended for use in connection with the property, (a) any ditch, well, pipeline, channel, spring, reservoir or storage rights, whether or not adjudicated or evidenced by any well, decree, order, stock certificate, permit or other instrument, (b) all rights with respect to nontributary or not nontributary groundwater (and other groundwater that is subject to the provisions of Colorado Revised Statutes Section 37-90-137(4) or the corresponding provisions of any successor statute) underlying the land, (c) any permit to own, use or construct any water well on or about the land (including those from which water is intended to be used in connection with the land), and (d) all of Grantor's right, title and interest in, to or under any decreed or pending plan of augmentation or water exchange plan. (collectively “**Property**”).

2. PURCHASE PRICE.

- a. The total purchase price for the Property to be paid by the City at Closing (as defined in this Agreement is **THREE MILLION AND 00/100 DOLLARS (\$3,000,000.00)** (“**Purchase Price**”), which shall be paid in good funds which comply with all applicable Colorado laws, including cash, certified check, cashier’s check or electronic wire transfer.

- b. Earnest Money Deposit. Within ten (10) business days after full execution and delivery of this Agreement, Purchaser shall deposit an earnest money deposit, in certified funds, in the amount of **FIFTY THOUSAND DOLLARS AND ZERO CENTS (\$50,000.00)** (“**Earnest Money Deposit**”) with Land Title Guarantee Company (“**Title Company**”) that shall be fully refundable if Purchaser terminates the Agreement on or before the expiration of the Due Diligence Period, as hereinafter defined. The Earnest Money Deposit shall apply to the Purchase Price at Closing.

3. **ENVIRONMENTAL CONDITION.**

- a. Environmental Information. By the timeframe set forth in Section 7(a), Seller shall disclose, in writing, to the City all information Seller has actual knowledge of regarding any environmental contamination (including asbestos-contaminated soils) or the presence of any hazardous substances or toxic substances on, under, or about the Property (collectively, the “Environmental Reports”). All of the Environmental Reports which are available, to the knowledge of Seller, are as follows: (i) Geotechnical Engineering Report dated May 1, 2014, prepared by Pickering, Cole & Hivner, LLC, (ii) Phase I Environmental Site Assessment dated June 12, 2013, prepared by Pickering, Cole & Hivner, LLC, and (iii) Phase I Environmental Site Assessment dated June 27, 2014, prepared by Pickering, Cole & Hivner, LLC. If Seller acquires any actual knowledge of any additional information regarding environmental contamination, Seller has the ongoing duty to provide such information to the City up to the time of Closing, and will do so within five (5) days of the receipt of such additional information. For purposes of this Agreement: “hazardous substances” means all substances listed pursuant to regulation and promulgated under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C., § 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; provided, however, that the term hazardous substance also includes “hazardous waste” and “petroleum” as defined in the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6901 *et seq.* §6991(1). The term “toxic substances” means and includes any materials present on the Property that are subject to regulation under the Toxic Substance Control Act (“TSCA”), 15 U. S. C. § 2601 *et seq.*, applicable state law, or any other applicable federal or state law now in force or later enacted relating to toxic substances. The term “toxic substances” includes, but is not limited to, asbestos, polychlorinated biphenyls (PCB’s), and lead-based paints.
- b. Environmental Review. City, at its sole option and expense, may conduct or cause to be conducted environmental audits and perform other environmental tests on the Property to identify any existing or potential environmental problems located in, on, or under the Property, including but not limited to, the presence of any hazardous waste, hazardous substances or toxic substances. Seller hereby grants the City and any of its employees and consultants access to the Property to perform such audits and tests at reasonable times and upon reasonable prior notice to Seller; provided, however, that City shall at all times

comply with applicable laws; shall cause no material disturbance to or interference with the rights of the tenants of the Property; shall cause no damage to the Property (and if any damage is caused, City shall repair the same); and shall not allow any liens to be filed against the Property as a result of such activities of City, its consultants or employees.

- c. Notice of Unacceptable Environmental Conditions, Cure, City Election. By the deadline set forth in Section 7(b) of this Agreement, the City shall give notice to Seller of any unacceptable environmental condition relating to the Property. Seller may elect (in Seller's sole discretion), at Seller's sole cost and expense, to cure such unacceptable environmental conditions to the City's reasonable satisfaction and shall notify the City in writing of such election by the deadline set forth in Section 7(c). In the event Seller declines to cure the unacceptable environmental conditions or fails to respond to City's notice thereof by the date set forth in Section 7(c) of this Agreement, the City, in its sole discretion, may elect to waive such unacceptable conditions and proceed to Closing by the deadline set forth in Section 7(d) of this Agreement or treat this Agreement as terminated with no further obligation on the part of either Party.

4. INSPECTION/SURVEY. The City has the right to inspect the physical condition of the Property, at reasonable times and upon reasonable prior notice to Seller; provided, however, that City shall at all times comply with applicable laws; shall cause no material disturbance to or interference with the rights of the tenants of the Property; shall cause no damage to the Property (and if any damage is caused, City shall repair the same); and shall not allow any liens to be filed against the Property as a result of such inspection by City, its consultants or employees. Seller, at its sole cost and expense, shall provide to the City copies of any surveys of the Property in its possession or under its control in accordance with the delivery schedule set forth in the Section 7 (a) below. In addition, City, at its sole cost and expense, shall either update any survey delivered to the City by Seller, or have a new survey completed. This right to inspect is in addition to the right of the City to obtain an environmental audit. The City shall give notice of any unacceptable physical or survey condition of the Property to Seller by the deadline set forth in Section 7(b). Seller may elect (in Seller's sole discretion) at Seller's sole cost and expense, to cure such unacceptable physical or survey condition to the City's reasonable satisfaction and shall notify the City in writing of such election by the deadline in Section 7(c) of this Agreement. In the event Seller declines to cure the unacceptable physical or survey conditions or fails to respond to the City's notice thereof by the date set forth in Section 7 (c) of this Agreement, the City, at its sole discretion, may elect to waive such unacceptable physical or survey condition by the date set forth in Section 7(d) of this Agreement and proceed to Closing or treat this Agreement as terminated with no further obligation on the part of either Party.

Seller shall deliver to City copies of any and all agreements, contracts or arrangements for management, service, maintenance or operation with respect to the Property ("**Service Contracts**") within five (5) days of the Effective Date. Prior to the expiration of the Due Diligence Period (defined in Section 7(b)(i) below), City shall notify Seller which of the Service Contracts it elects to assume at Closing, if any. In the event City fails to notify Seller of such election the Service Contracts shall be terminated on or before the Closing Date at the sole and exclusive cost of Seller.

5. **TITLE.**

- a. Title Review. Seller shall obtain at its expense, a title commitment for Seller's title insurance policy (ALTA Form B) for the Property from the Title Company, including updates thereto, and all copies or abstracts of instruments or documents identified in the commitment ("**Title Documents**"). Seller has the right to review the Title Documents. The Seller shall provide a copy of the Title Documents to the City within seven (7) days of the Effective Date of this Agreement.
- b. Matters Not Shown by the Public Records. By the deadline set forth in Section 7(a) of this Agreement, Seller shall deliver to the City complete and accurate copies of all lease(s) and survey(s) in Seller's possession pertaining to the Property that are not included in the Title Documents and shall disclose, in writing, to the City all easements, licenses, right to use agreements, liens or other title matters not shown by the public records of which Seller has actual knowledge that are not included in the Title Documents. In addition, Seller shall provide all documents that pertain to the Property in Seller's possession including but not limited to soil reports, geo tech reports, traffic studies, surveys, leases, operating expenses and any other documents in Seller's possession that are reasonably likely to affect one's decision to purchase the Property.
- c. Notice of Unacceptable Condition, Cure, and City Elections. The City shall give notice of any unacceptable condition of title to Seller by the deadline set forth in Section 7(b) of this Agreement. At Seller's sole cost and expense, Seller may cure such unacceptable conditions to the City's reasonable satisfaction and shall notify the City in writing of such election by the date in Section 7(c) of this Agreement. In the event Seller declines to cure such unacceptable conditions or fails to respond to the City's notice thereof by the date in Section 7(c) of this Agreement, the City in its sole discretion and by the date set forth in Section 7(d) of this Agreement, may elect to waive such unacceptable conditions and proceed to Closing or treat this Agreement as terminated with no further obligation on the part of either Party.
- d. Subsequently Discovered Defects. At any time prior to Closing if any matter affecting title to the Property ("Defect") shall arise or be discovered by the City which is not set out in the Commitment or disclosed to the City by Seller prior to the expiration of the Due Diligence Period, the City shall have the right to object to such Defect by the delivery to Seller of notice of such Defect within five (5) days after the City discovers such Defect provided that, if such Defect is discovered within five (5) days prior to the Closing Date, the Closing shall be extended for such period as may be necessary to give effect to the provisions of this Section 5 (d). Upon receipt of notice of the City's objection to any such Defect, Seller shall have the right, but not the obligation, to cure such Defect to the reasonable satisfaction of the City and the Title Company for a period of five (5) days from the date of such notice. If such cure period extends beyond the Closing Date, the Closing Date shall be extended to three (3) days after the expiration of such cure period. If Seller cures the City's objection to the

reasonable satisfaction of the City within such cure period, then the Closing shall occur on the original or postponed date of the Closing but otherwise upon the terms and provisions contained herein. If Seller has not cured such Defect to the reasonable satisfaction of the City and the Title Company, the City shall either (a) close on such original or postponed date (and the City shall thereby be deemed to have waived such objection); or (b) extend the Closing Date by written notice to Seller to allow such additional time as the parties may agree for Seller to cure the Defect; or (c) terminate this Agreement by giving notice to Seller before such original or postponed date, in which case the parties shall be released from all further obligations under this Agreement. If, in Seller's attempt to cure a Defect, other Defects not set out in the Commitment or Survey are discovered, such additional Defects shall be subject to the procedure set forth above.

6. CLOSING PRE-CONDITIONS.

- a. Seller shall reasonably cooperate with the City to do all things necessary, including execute affidavits as necessary and provide adequate assurances necessary for removal of the standard exceptions from the owner's title insurance policy, including for defects, liens, mechanic's liens, tax or assessment liens, encumbrances, encroachments, prescriptive easements, adverse claims, and any other standard printed exceptions. Seller shall have terminated the Service Contracts unless such Service Contract has been assumed in writing by City. Seller's aforementioned obligation to execute necessary affidavits and provide adequate assurances for the removal of the standard exceptions from title insurance to be issued is a condition precedent to the City's obligation to purchase the Property. If Seller does not provide the adequate assurances by the date in Section 7(d) of this Agreement, then the City may elect to waive the failure to provide the adequate assurances and proceed to Closing or treat this Agreement as terminated with no further obligation on the part of either Party.
- b. From the Effective Date until the Closing Date or earlier termination of this Agreement, Seller: (a) shall operate and maintain the Property in the manner that it is currently being operated and maintained by Seller; (b) shall not enter into any new lease, lease modification, lease extension or other occupancy or use agreement without obtaining City's prior written consent, which consent may be withheld or delayed in City's sole and absolute discretion; and (c) shall not enter into any contracts or commitments that will survive the Closing other than a contract that is terminated on less than thirty (30) days' notice.

7. TIMEFRAMES.

- a. Seller's Disclosure. Seller shall deliver any documents and make the disclosures required by this Agreement, including as required under Sections 3(a) and 5(b) of this Agreement, no later than 5 p.m. local time five (5) days after the Effective Date.
- b. City's Objection Notice and Right to Terminate.

- i. The City shall notify Seller in writing of any unacceptable environmental, physical, survey, title conditions and all other unacceptable matters under Sections 3(c), 4 and 5(c) of this Agreement, above, no later than 5 p.m. local time, sixty (60) days after the Effective Date (“**Due Diligence Period**”).
 - ii. The City may terminate this Agreement for any reason or no reason at all in the City’s sole and absolute discretion by delivering written notice to Seller on or before the expiration of the Due Diligence Period.
- c. Seller’s Cure. Seller shall have until no later than 5 p.m. local time five (5) days from the date of Seller’s receipt of City’s objection notice to notify City in writing that Seller elects to cure all the unacceptable conditions set forth in any objection notice under Sections 3(c), 4, 5(c) and 7(b) of this Agreement.
 - d. City’s Election. The City, by written notice to Seller, may elect to waive any uncured objections and proceed to Closing or to terminate this Agreement within five (5) business days of the deadline to cure established in Section 7(c) of this Agreement, above. In the event the City terminates this Agreement, the parties shall be relieved of any further obligation under the Agreement.
 - e. Deadlines. In the event any date for a party’s performance occurs on a Saturday, Sunday or national holiday, the date for such performance shall occur on the next regular business day following such weekend or national holiday.

8. DATE OF CLOSING. The date of closing will occur thirty (30) days after expiration of the Due Diligence Period, or on a date as otherwise agreed by the Parties in writing signed by the Director of the Division of Real Estate and the Seller, but in no event later than December 17, 2018 (“**Closing Date**”). Seller shall give the City a minimum of thirty (30) days advance notice of any date on which it desires to close this transaction.

9. CLOSING. The Closing shall take place at the offices of the Title Company and shall be completed on or before 4:00 p.m. Mountain Standard Time on the Closing Date (“Closing”). Seller or Buyer may elect to close in escrow without attending the Closing.

- a. Obligations of Seller at Closing. The following events shall occur at the Closing:
 - i. Seller shall execute and deliver: (i) a Special Warranty Deed in substantially the form set forth as **Exhibit 2** herein (“Deed”) to the City at Closing conveying the Property free and clear of all taxes (with proration as provided herein).
 - ii. Seller shall execute, have acknowledged and deliver to the City a bill of sale conveying to City all of Seller’s right, title and interest in and to any personal property located on the Property.
 - iii. Seller shall execute and deliver to the City a notice to all tenants or other occupants of the Property under any occupancy agreement regarding the sale of the Property to the City.

- iv. Seller shall deliver a written notice to tenants under any occupancy agreements that City is the new owner of the Property as of the Closing Date, and that their tenancies will be terminated.
- v. Seller shall deliver such other instruments and documents as may be reasonably necessary or required to transfer title to the Property to City in the condition herein contemplated, including without limitation any affidavit or agreement required by the Title Company.

b. Obligations of City at Closing: The following events shall occur at Closing:

- i. City shall deliver or cause to be delivered to the Title Company good funds payable to the order of Seller in the amount of the Purchase Price.
- ii. Such delivery may be made pursuant to a closing instruction letter.

c. Closing Costs. Closing costs shall be as provided for in Section 13 below.

d. No Material Adverse Change. During the period from the date of Seller's execution of this Agreement to the Closing Date, there shall have been no material adverse change in the environmental condition or results of operations of the Property, and the Property shall not have sustained any loss or damage which materially adversely affects its use.

10. POSSESSION. Possession of the Property shall be delivered to the City at Closing.

11. REPRESENTATIONS AND WARRANTIES.

- a. Seller warrants and represents that as of the Effective Date and at the time of conveyance:
 - i. Except with respect to the leases disclosed to City by Seller in accordance with Section 5(b) (the "Leases"), there are no other parties in possession and the City shall have possession as of Closing or as otherwise agreed to herein; and
 - ii. There are no leasehold interests in the Property other than the Leases; and
 - iii. To Seller's knowledge, there is no condition existing with respect to the Property or its operation, that violates any law, rule regulation, code or ruling of the local jurisdiction, the State of Colorado, the United States, or any agency or court thereof; and
 - iv. To Seller's knowledge, except as provided in the Environmental Reports, there are no patent or latent defects, soil deficiencies, or subsurface anomalies existing on the Property; and
 - v. There is no pending or, to Seller's knowledge, threatened litigation, proceeding, or investigation by any governmental authority or any other

person affecting the Property, nor does Seller know of any grounds for any such litigation, proceeding or investigations; and

- vi. To Seller's knowledge, each and every document, schedule, item, and other written information delivered or to be delivered by the Seller to the City or made available to the City for inspection under this Agreement is complete and accurate in all material respects, or will be complete and accurate in all material respects on the timeframes set forth herein; and
- vii. Seller has provided or will provide, on the timeframes set forth herein, the City with a copy of all leases or rental and all other agreements and documents not shown in the real property records relating to the Property, or to any part thereof under Section 5 of this Agreement (Title); and
- viii. There are no improvements, real or personal, on the Property not owned by the Seller and Seller warrants to the City that it is the lawful seller of all other improvements located in or on the Property and is entitled to the Purchase Price allocable to such items as compensation for the same; and
- ix. There are no claims of possession not shown by record, as to any part of the Property, other than the Leases; and
- x. With respect to environmental matters, except as previously disclosed herein:
 - 1. No part of the Property has ever been used as a landfill by Seller; and
 - 2. Except as set forth in the Environmental Reports, Seller has no reason to believe or suspect and has no actual knowledge of the presence of asbestos-contaminated soils existing within the Property; and
 - 3. Except as set forth in the Environmental Reports, Seller has no knowledge or information that the Property is or may be contaminated with any hazardous substances or toxic substances; and
 - 4. Seller has not caused and will not cause, and to the best of the Seller's knowledge, except as set forth in the Environmental Reports, there never has occurred, the release of any hazardous substances or toxic substances on the Property; and
 - 5. Seller has received no written or official notification that the Property is subject to any federal, state or local lien, proceedings, claim, liability or action or the threat or likelihood thereof, for the cleanup, removal, or remediation of any hazardous substances or toxic substances from the Property; and
 - 6. Seller has no knowledge or information as to any storage tanks on or beneath the Property.

b. Each Party hereto represents to the other Party that:

- i. It has the requisite power and authority to execute and deliver this Agreement and the related documents to which such Party is a signatory;
- ii. The execution and delivery of this Agreement by such Party has been duly authorized by all requisite action(s) and creates valid and binding obligations of such Party, enforceable in accordance with its terms subject to the effect of general principles of equity, including without limitation concepts of materiality, reasonableness, good faith and fair dealing, the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law, and subject to or limited by bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws relating to or affecting the rights of creditors;
- iii. To the actual knowledge of (a) the Director of the Division of Real Estate for the City; and (b) Seller: neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate any constitution, statute, regulation, rule, injunction, judgment, order, decree or other restriction of any governmental authority or conflict with, result in a breach of, or constitute a default under any contract, lease, license instrument or other arrangement to which such Party is bound;
- iv. It is authorized to execute this Agreement on behalf of its officers, directors, representatives, employees, subsidiaries, affiliates, members/shareholders, agents, trustees, beneficiaries, attorneys, insurers, successors, predecessors and assigns. Each person who signs this Agreement in a representative capacity represents that he or she is duly authorized to do so;
- v. It has not sold, assigned, granted or transferred to any other person, natural or corporate, any chose in action, demand or cause of action encompassed by this Agreement;
- vi. IT IS FREELY AND VOLUNTARILY ENTERING INTO THIS AGREEMENT UNCOERCED BY ANY OTHER PERSON AND THAT IT HAS READ THIS AGREEMENT AND HAS BEEN AFFORDED THE OPPORTUNITY TO OBTAIN THE ADVICE OF LEGAL COUNSEL OF ITS CHOICE WITH REGARD TO THIS AGREEMENT IN ITS ENTIRETY AND UNDERSTANDS THE SAME; and
- vii. EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, CITY ACKNOWLEDGES THAT SELLER IS CONVEYING THE PROPERTY TO CITY IN AN “AS IS” CONDITION, “WHERE IS” AND “WITH ALL FAULTS.” SELLER MAKES NO WARRANTY OF HABITABILITY, SUITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

12. **PAYMENT OF ENCUMBRANCES.** Seller is responsible for paying all monetary encumbrances at or before Closing from the proceeds of this transaction or from any other source.

13. **CLOSING COSTS, DOCUMENTS AND SERVICES.** Seller shall pay the premium for a title insurance policy to be issued by the Title Company on the Property for the benefit of the City and one-half of all fees for real estate closing services. The City shall pay for any endorsements it may require to the title insurance policy and one-half of all fees for real estate closing services. The City and Seller shall sign and complete all customary or required documents at or before Closing, including the Deed. Any documents executed before Closing shall be held in escrow until all conditions of Closing are satisfied. The City's Director of Real Estate or his designee, shall sign all such closing documents, including, if necessary, an escrow agreement, on behalf of the City.

14. **PRORATIONS.** Seller shall pay any and all taxes and special assessments accrued and owed on the Property prorated through the date of Closing. Based on the most recent levy and the most recent assessment, at or before Closing, Seller shall pay all utility, water and sewer charges, and other items related to the Property prorated through the date of Closing.

15. **TIME IS OF THE ESSENCE/REMEDIES.** Time is of the essence in this Agreement. All the agreements and representations set forth in this Agreement shall be binding upon and for 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 under this Agreement is not performed or waived as provided in this Agreement, then there shall be the following remedies:

- a. **If City Is In Default.** Seller may elect to treat this Agreement as canceled, the Earnest Money Deposit shall be paid to Seller and the Parties shall thereafter be released from all obligations under this Agreement. It is agreed the Earnest Money Deposit is liquidated damages and not a penalty, and the Parties agree the amount is fair and reasonable and said payment of the Earnest Money Deposit shall be Seller's sole remedy for City's failure to perform the obligations of this Agreement. Seller expressly waives the remedies of specific performance and damages, including delay damages and attorney fees, or both, or any other legal or equitable remedy.
- b. **If Seller Is In Default.** The City may elect to (i) treat this Agreement as canceled, in which case any things of value received by a Party under this Agreement shall be returned to the providing party, and the Parties shall thereafter be released from all obligations under this Agreement; or (ii) treat this Agreement as being in full force and effect and seek specific performance and actual damages, including reasonable attorney fees, or both. Nothing herein waives, impairs, limits or modifies the City's power and authority of condemnation.

16. **TERMINATION.** If this Agreement is terminated, then all things of value received by a Party under this Agreement shall be returned to the providing party, and the Parties shall be relieved of all obligations under this Agreement, except as otherwise provided herein.

17. **COOPERATION OF THE PARTIES.** In the event that any third party brings an action against a Party to this Agreement regarding the validity or operation of this Agreement, the other Party will reasonably cooperate in any such litigation. Any Party named in an action shall bear its own legal costs.

18. **BROKER'S FEES.** The City and Seller represent to each other that they have had no negotiations through or brokerage services performed by any broker or intermediary with the exception of Dennis McLin dba McLin Commercial, the City's broker. Mr. McLin will be paid a brokerage fee of 3% of the purchase price or Ninety Thousand Dollars (\$90,000) at the time of Closing to be paid by the Seller. The Parties are not aware of any other brokers involved that would require Seller to pay any commissions or fees. If any broker or other intermediary alleges a brokerage fee is owed through the acts or conduct of either Party, such Party shall be solely responsible to pay or otherwise resolve the demanded fee. Any commissions or fees owed to any broker or intermediary by the Seller shall be paid pursuant to a separate agreement and shall not be paid by the Seller out of the Purchase Price. Seller hereby agrees to defend, indemnify, and hold harmless the City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demand for damages for any commissions or fees claimed by any broker, intermediary or other third party engaged (or alleged to have been engaged) by Seller.

19. **SEVERABILITY.** In the event that any provision of this Agreement would be held to be invalid, prohibited, or unenforceable in any jurisdiction for any reason unless narrowed by construction, this Agreement shall, as to such jurisdiction, be construed as if such invalid, prohibited, or unenforceable provision had been more narrowly drawn so as not to be invalid, prohibited, or unenforceable in any jurisdiction for any reason. Such provision, as to such jurisdiction, shall be ineffective to the extent of such invalidity, prohibition, or unenforceability, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

20. **NO DISCRIMINATION IN EMPLOYMENT.** In connection with the performance duties under the Agreement, the Seller agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability.

21. **WHEN RIGHTS AND REMEDIES NOT WAIVED.** In no event shall any performance under this Agreement constitute or be construed to be a waiver by either Party of any breach of covenant or condition or of any default that may then exist. The rendering of any such performance when any breach or default exists in no way impairs or prejudices any right of remedy available with respect to the breach or default. Further, no assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of this Agreement may be deemed or taken to be a waiver or any other default or breach.

22. **SUBJECT TO LOCAL LAWS; VENUE.** This Agreement is subject to and is to be construed in accordance with the laws of the City and County of Denver and the State of Colorado, without regard to the principles of conflicts of law, including, but not limited to, all matters of formation, interpretation, construction, validity, performance, and enforcement. Venue for any action arising out of this Agreement will be exclusively in the District Court of the City and County of Denver, Colorado.

23. NOTICES. All notices provided for in this Agreement must be in writing and be personally delivered, sent via facsimile, electronic mail, or mailed by registered or certified United States mail, postage prepaid, return-receipt requested, if to the Seller at the addresses or facsimile numbers listed below and if to the City at the addresses or facsimile numbers given below. Notices delivered personally or sent electronically or by facsimile are effective when sent. Notices sent by certified or registered mail are effective upon receipt. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered; however, these substitutions will not become effective until actual receipt of written notification.

If to City:

Lisa Lumley
Division of Real Estate
Department of Finance
201 West Colfax Avenue, Department 1010
Denver, Colorado 80202
e-mail: lisa.lumley@denvergov.org

With copies of termination and similar notices to:

Mayor
City and County of Denver
1437 Bannock Street, Room 350
Denver, Colorado 80202

and

Denver City Attorney's Office
201 W. Colfax Ave. Dept. 1207
Denver, Colorado 80202

If to Seller:

UWG 8 LLC
3798 Spring Valley Road
Boulder, Colorado 80304

24. RIGHT TO ALTER TIME FOR PERFORMANCE. The Parties may alter any time for performance set forth in this Agreement by a letter signed by the Director of the Division of Real Estate and an authorized representative of Seller.

25. 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 to this Agreement will have any force or effect whatsoever, unless embodied in writing in this Agreement. Except as expressly provided for in this Agreement, no subsequent novation, modification, renewal, addition, deletion, or other amendment to this Agreement shall have any force or effect unless embodied in a written amendatory or other agreement executed by both Parties.

26. THIRD-PARTY BENEFICIARY. It is the intent of the Parties that no third party beneficiary interest is created in this Agreement except for any assignment pursuant to this Agreement. The Parties are not presently aware of any actions by them or any of their authorized

representatives that 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.

27. APPROPRIATION BY CITY COUNCIL. All obligations of the City under and pursuant to this Agreement are subject to prior appropriations of monies expressly made by the City Council for the purposes of this Agreement and paid into the Treasury of the City.

28. 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, such Party shall be entitled to consider public and governmental policy, moral and ethical standards, as well as business and economic considerations.

29. NO PERSONAL LIABILITY. No elected official, director, officer, agent or employee of the City nor any director, officer, employee or personal representative of Seller 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.

30. CONFLICT OF INTEREST BY CITY OFFICER. Seller represents that to the best of Seller’s 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.

31. MERGER. The terms of this Agreement survive Closing and do not merge into the Deed conveying the Property.

32. CONSTRUCTION. This Agreement may not be interpreted in favor of or against either Seller or the City merely because of their respective efforts in preparing it. The rule of strict construction against the drafter does not apply to this Agreement. This instrument is subject to the following rules of construction:

- a. Specific gender references are to be read as the applicable masculine, feminine, or gender neutral pronoun.
- b. The words “include,” “includes,” and “including” are to be read as if they were followed by the phrase “without limitation.”
- c. The words “Party” and “Parties” refer only to a named party to this Agreement.
- d. Unless otherwise specified, any reference to a law, statute, regulation, charter or code provision, or ordinance means that statute, regulation, charter or code provision, or ordinance as amended or supplemented from time to time and any corresponding provisions of successor statutes, regulations, charter or code provisions, or ordinances.
- e. The recitals set forth in this Agreement are intended solely to describe the background of this Agreement and form no part of this Agreement. Headings and captions contained herein are inserted as a matter of convenience and for

reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provisions hereof.

33. ASSIGNMENT. The City is not obligated or liable under this Agreement to any party other than Seller named in this Agreement. Seller understands and agrees that it may not assign any of its rights, benefits, obligations, or duties under this Agreement without the City's prior written approval.

34. EXECUTION OF AGREEMENT. This Agreement is subject to, and will not become effective or binding on the City until full execution by all signatories of the City (as specified on the signature page attached hereto) and the Seller.

35. COUNTERPARTS. This Agreement may be executed in two (2) counterparts, each of which is an original and together constitute the same document. This Agreement may be executed by facsimile or electronically scanned signatures which shall be deemed an original

36. EFFECTIVE DATE. The effective date shall be the date the City delivers a fully executed copy of this Agreement to the Seller.

37. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS. Each Party consents to the use of electronic signatures by the other Party. This Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the Parties in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

38. NO RELIANCE. The Parties expressly assume any and all risks that the facts and law that may be or become different from the facts and law as known to, or believed to be, by the Parties as of the date of this Agreement. In executing this Agreement, no Party has relied upon any information supplied by the other or by their attorneys, or upon any obligation or alleged obligation of the other Party to disclose information relevant to this Agreement other than the information specifically required to be disclosed by this Agreement.

39. 1031 EXCHANGE. City shall cooperate with Seller in effectuating disposition of the Property as part of an Internal Revenue Code §1031 tax-deferred like-kind exchange, if Seller so chooses, provided such cooperation shall not cause any additional expense or liability to City.

[Remainder of Page Intentionally Left Blank]

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



EXHIBIT 1

(Legal Description of Property)

**WITTERS 1ST ADDITION BLOCK 14 LOTS 1 & 2 and
WITTERS 1ST ADDITION BLOCK 14 LOT 36**

EXHIBIT 2
(Form of Special Warranty Deed)

After recording, return to:
Division of Real Estate
City and County of Denver
201 West Colfax Avenue, Dept. 1010
Denver, Colorado 80202

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED (“Deed”), made as of this _____ day of _____, 2018, by **UWG 8 LLC**, a Colorado Limited Liability Company, whose address is 3798 Spring Valley Road, Boulder, Colorado 80304 (“Grantor”) to the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation of the State of Colorado and home rule city, whose address is 1437 Bannock Street, Denver, Colorado 80202 (“Grantee”).

WITNESSETH, that the Grantor, for and in consideration of the sum of _____ and 00/100 Dollars (\$ _____) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and by these presents does hereby grant, bargain, sell, convey and confirm, unto the Grantee, and its successors and assigns forever, the real property described below, together with all improvements thereon, owned by the Grantor situate, lying and being in the City and County of Denver, State of Colorado, and being more particularly described on Exhibit A attached hereto and incorporated herein (“Property”);

TOGETHER WITH all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all of the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in, and to the above-bargained Property, together with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the Property above bargained and described with the appurtenances, unto the Grantee, and its successors and assigns forever. The Grantor, for itself and its successors and assigns does covenant and agree that it shall and will WARRANT AND FOREVER DEFEND the above-bargained Property in the quiet and peaceable possession of the Grantee, and its successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through, or under the Grantor.

No separate bill of sale with respect to improvements on the Property will be executed.

IN WITNESS WHEREOF, the Grantor has executed this Deed on the date set forth above.

ATTEST:

GRANTOR:
UWG 8 LLC

By: _____
Title: _____

By: _____
Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, ____
by _____, as _____ of _____.

Witness my hand and official seal.
My commission expires: _____

Notary Public

