

CAPITAL CITY DEVELOPMENT CORPORATION  
Board of Commissioners Meeting  
Conference Room, Fifth Floor, 121 N. 9th Street  
December 20, 2017 2:00 p.m.

A G E N D A

I. CALL TO ORDER ..... Chair Hale

II. AGENDA CHANGES/ADDITIONS ..... Chair Hale

III. ACTION ITEM

A. CONSIDER: Resolution #1519 – Authorizing Purchase of Property within Westside District  
.....John Brunelle

IV. ADJOURN

*This meeting is being conducted in a location accessible to those with physical disabilities. Participants may request reasonable accommodations, including but not limited to a language interpreter, from CCDC to facilitate their participation in the meeting. For assistance with accommodation, contact CCDC at 121 N 9th St, Suite 501 or (208) 384-4264 (TTY Relay 1-800-377-3529).*

## RESOLUTION NO. 1519

BY THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO:

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO, APPROVING AN AGREEMENT OF PURCHASE AND SALE BY AND BETWEEN THE URBAN RENEWAL AGENCY OF THE CITY OF BOISE AND IDAHO SPORTING GOODS CO. AND RATIFYING EXECUTION OF SAME; AUTHORIZING AND DIRECTING THE CHAIRMAN, VICE-CHAIRMAN, OR EXECUTIVE DIRECTOR AND SECRETARY, RESPECTIVELY, TO EXECUTE AND ATTEST ANY AND ALL DOCUMENTS OR AGREEMENTS NECESSARY TO ACQUIRE THE PROPERTY, SUBJECT TO CERTAIN CONTINGENCIES; AUTHORIZING ANY TECHNICAL CORRECTIONS TO THE AGREEMENT; AUTHORIZING THE APPROPRIATION OF CERTAIN FUNDS PURSUANT TO THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

THIS RESOLUTION, is made on the date hereinafter set forth by the Urban Renewal Agency of Boise City, Idaho, an independent public body, corporate and politic, authorized under the authority of the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code, and the Local Economic Development Act, as amended and supplemented, Chapter 29, Title 50, Idaho Code (collectively the "Act"), as a duly created and functioning urban renewal agency for Boise City, Idaho (hereinafter referred to as the "Agency").

WHEREAS, the City Council of the City of Boise City, Idaho (the "City"), after notice duly published, conducted a public hearing on the 1987 Amended and Restated Urban Renewal Plan for the Boise Central District Project I, Idaho R-4, and Project II, Idaho R-5 (the "Boise Central District Urban Renewal Plan") and, following said public hearing, the City adopted its Ordinance No. 5026 on August 19, 1987, approving the Boise Central District Urban Renewal Plan and making certain findings; and,

WHEREAS, the City, after notice duly published, conducted a public hearing on the 1994 Amended and Restated Urban Renewal Plan for the Boise Central District Project I, Idaho R-4, and Project II, Idaho R-5 (the "1994 Amended Urban Renewal Plan") and, following said public hearing, the City adopted its Ordinance No. 5597 on December 6, 1994, approving the 1994 Amended Urban Renewal Plan and making certain findings; and,

WHEREAS, the City, after notice duly published, conducted a public hearing on the 2007 Amended and Restated Urban Renewal Plan for the Boise Central District Project I, Idaho R-4, and Project II, Idaho R-5 (the "Central District Plan") and, following said public hearing, the City adopted its Ordinance No. 6576 on June 26, 2007, effective upon publication on July 23, 2007, approving the Central District Plan; and,

WHEREAS, the City after notice duly published, conducted a public hearing on the River Street-Myrtle Street Urban Renewal Plan (the "River Street Plan"), and following said public hearing the City adopted its Ordinance No. 5596 on December 6, 1994, approving the River Street Plan and making certain findings; and,

WHEREAS, the City, after notice duly published, conducted a public hearing on the First Amended and Restated Urban Renewal Plan, River Street-Myrtle Street Urban Renewal Project (annexation of the Old Boise Eastside Study Area and Several Minor Parcels) and Renamed River Myrtle-Old Boise Urban Renewal Project (the "River Myrtle-Old Boise Plan"); and,

WHEREAS, following said public hearing, the City adopted its Ordinance No. 6362 on November 30, 2004, approving the River Myrtle-Old Boise Plan and making certain findings; and,

WHEREAS, the City, after notice duly published, conducted a public hearing on the Westside Downtown Urban Renewal Plan (the "Westside Plan"), and following said public hearing, the City adopted its Ordinance No. 6108 on December 4, 2001, approving the Westside Plan and making certain findings; and,

WHEREAS, Idaho Sporting Goods Co., an Idaho corporation (the "Owner"), is the owner of certain real property (the "Property") located in the City of Boise, County of Ada, State of Idaho, at 421 North 10<sup>th</sup> Street, and within the Westside Plan Urban Renewal Area; and,

WHEREAS, under the terms and provisions of the Westside Plan, the Property or portions thereof, have been identified by Agency staff as a potential site for private development, for certain public improvements and / or other mixed uses consistent with the Westside Plan; and,

WHEREAS, the Agency's Executive Director submitted an offer to purchase the Property by signing the "*Real Estate Purchase and Sale Agreement: 421 N. 10<sup>th</sup> Street*" with four (4) amendments (collectively, the "Agreement"), all of which have been signed by the Owner and the Agency Executive Director, a copy of which is attached hereto as Exhibit A; and,

WHEREAS, the Agency desires to purchase the Property from Idaho Sporting Goods Co. for purposes of redevelopment in compliance with the Westside Plan; and,

WHEREAS, based upon information received by the Agency during the Due Diligence period of the Agreement, including an appraisal prepared by Langston & Associates Inc. and an inspection performed by Building Specs, LLC., the Agency finds that the price required by Idaho Sporting Goods Co. is based upon reasonable market information and that the purchase price constitutes a compromise; and,

WHEREAS, the Agency has sufficient funds to acquire the Property; and,

WHEREAS, the Agency Board finds it in the best interest of the Agency and the public to approve the purchase of the Site and to authorize the Chairman, Vice-Chairman, or Executive Director and Secretary, respectively, to execute all closing documents and to pay the purchase price subject to the conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF BOISE CITY, AS FOLLOWS:

Section 1: That the above statements are true and correct.

Section 2: That the Agency Board hereby approves and ratifies the Executive Director's execution of the *"Real Estate Purchase and Sale Agreement: 421 N. 10<sup>th</sup> Street"* with four (4) amendments, attached hereto as Exhibit A and incorporated herein by reference.

Section 3: That the Chairman, Vice-Chairman, or Executive Director and Secretary, respectively, are authorized and directed to execute any and all documents or agreements necessary to acquire the Property, including the documents necessary to appropriate and tender the purchase price of TWO MILLION ONE-HUNDRED THOUSAND DOLLARS (\$2,100,000.00) along with specified closing costs from the Agency FY 2018 budget, subject to satisfaction of all contingencies set forth in the Agreement, including but not limited to any necessary escrow instructions and any necessary technical changes to the Agreement or other closing documents, upon advice from Agency legal counsel that said changes are consistent with the provisions of this Resolution.

Section 4: That this Resolution shall be in full force and effect immediately upon its adoption and approval.

PASSED by the Urban Renewal Agency of Boise City, Idaho, on December 20, 2017.  
Signed by the Chairman of the Board of Commissioners and attested by the Secretary to the Board of Commissioners on December 20, 2017.

URBAN RENEWAL AGENCY OF BOISE CITY

By: \_\_\_\_\_  
John Hale, Chairman

ATTEST:

By: \_\_\_\_\_  
Ryan Woodings, Secretary

EXHIBIT A  
to Resolution No. 1519  
(on following page)

#### FOURTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS IS A LEGALLY BINDING CONTRACT, READ THE ENTIRE DOCUMENT, INCLUDING ANY ATTACHMENTS, CAREFULLY, BEFORE SIGNING. IF YOU HAVE ANY QUESTIONS CONSULT YOUR ATTORNEY BEFORE SIGNING.

This Fourth Amendment, is made as of **December 19, 2017**, to the Real Estate Purchase and Sale Agreement dated November 1, 2017, First Amendment dated November 9, 2017, Second Amendment dated November 10, 2017, Third Amendment dated November 10, 2017:

PROPERTY: 421 N. 10<sup>th</sup> Street, Boise, Idaho 83702

BUYER: Capital City Development Corporation

SELLER: Idaho Sporting Goods Co.

**SELLER and BUYER hereby acknowledge and agree to the following:**

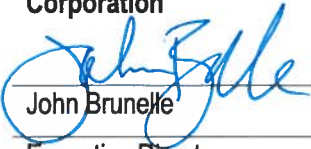
1. Buyer has completed its inspection of the Property and hereby waives any and all contingencies.
2. The Purchase Price shall be Two Million One Hundred Thousand and No/100 Dollars (\$2,100,000.00).

To the extent the terms of this Amendment modify or conflict with any provisions of the Purchase and Sale Agreement including all prior Amendment(s), Amendment(s), or Counter Offer(s), these terms shall control. All other terms and conditions of the Purchase and Sale Agreement not modified by this Amendment shall remain the same. Upon its execution by both parties, this Amendment is made an integral part of the aforementioned Agreement.


If a signed acceptance is not received on or before December 28, 2017, this Amendment shall be null and void.

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment as of the date first above written.

BUYER: Capital City Development Corporation

By:   
Name: John Brunelle  
Its: Executive Director  
Date: 12/19/17

SELLER: Idaho Sporting Goods Co.

By:   
Name: Nicholas Brady  
Its: Treasurer  
Date: Dec. 19, 2017

### THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS IS A LEGALLY BINDING CONTRACT, READ THE ENTIRE DOCUMENT, INCLUDING ANY ATTACHMENTS, CAREFULLY, BEFORE SIGNING. IF YOU HAVE ANY QUESTIONS CONSULT YOUR ATTORNEY BEFORE SIGNING.

This Third Amendment, is made as of November 10, 2017, to the Real Estate Purchase and Sale Agreement dated November 1, 2017, First Amendment dated November 9, 2017 and Second Amendment dated November 10, 2017:

PROPERTY: 421 N. 10<sup>th</sup> Street, Boise, Idaho 83702

BUYER: Capital City Development Corporation

SELLER: Idaho Sporting Goods Co.

**SELLER and BUYER hereby acknowledge and agree to the following:**

**1. RESPONSIBLE BROKER**

The RESPONSIBLE BROKER in this transaction is Michael J. Ballantyne, Designated Broker for Thornton Oliver Keller Commercial Real Estate, LLC.

Listing Agency: Thornton Oliver Keller Commercial Real Estate  
Agent: Patrick Shalz  
Address: 250 S. 5<sup>th</sup> Street, 2<sup>nd</sup> Floor, Boise, ID 83702  
Phone: 208-947-0834

Selling Agency: None  
Agent:  
Address:  
Phone:

**2. REPRESENTATION CONFIRMATION**

Check one (1) box in Section 1 below and one (1) box in Section 2 below to confirm that in this transaction, the brokerage(s) involved had the following relationship(s) with the BUYER(S) and SELLER(S).

**Section 1:**

- A. ☐ The brokerage working with the BUYER(S) is acting as an AGENT for the BUYER(S).
- B. ☐ The brokerage working with the BUYER(S) is acting as a LIMITED DUAL AGENT for the BUYER(S), without an ASSIGNED AGENT.
- C. ☐ The brokerage working with the BUYER(S) is acting as a LIMITED DUAL AGENT for the BUYER(S), and has an ASSIGNED AGENT acting solely on behalf of the BUYER(S).
- D. ☒ The brokerage working with the BUYER(S) is acting as a NONAGENT for the BUYER(S).

**Section 2:**

- A. ☒ The brokerage working with the SELLER(S) is acting as an AGENT for the SELLER(S).
- B. ☐ The brokerage working with the SELLER(S) is acting as a LIMITED DUAL AGENT for the SELLER(S), without and ASSIGNED AGENT.
- C. ☐ The brokerage working with the SELLER(S) is acting as a LIMITED DUAL AGENT for the SELLERS(S), and has an ASSIGNED AGENT acting solely on behalf of the SELLER(S).
- D. ☐ The brokerage working with the SELLER(S) is acting as a NONAGENT for the SELLER(S).

Each party signing this document confirms that he has received, read and understood the attached Agency Disclosure brochure adopted or approved by the Idaho Real Estate Commission and has consented to the relationship confirmed above. In addition, each party confirms that the brokerage agency office policy was made available for inspection and review. EACH PARTY UNDERSTANDS THAT HE IS A "CUSTOMER" AND IS NOT REPRESENTED BY A BROKERAGE UNLESS THERE IS A SIGNED WRITTEN AGREEMENT FOR AGENCY REPRESENTATION.

To the extent the terms of this Amendment modify or conflict with any provisions of the Purchase and Sale Agreement including all prior Amendment(s), Amendment(s), or Counter Offer(s), these terms shall control. All other terms and conditions of the Purchase and Sale Agreement not modified by this Amendment shall remain the same. Upon its execution by both parties, this Amendment is made an integral part of the aforementioned Agreement.

If a signed acceptance is not received on or before December 28, 2017, this Amendment shall be null and void.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

BUYER: Capital City Development  
Corporation

By:   
Name: John Brunelle

Its: Executive Director

Date: 11/30/17

SELLER: Idaho Sporting Goods Co.

By:   
Name: Nicholas Brady

Its: Treasurer

Date: 11/21/17



## SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS IS A LEGALLY BINDING CONTRACT, READ THE ENTIRE DOCUMENT, INCLUDING ANY ATTACHMENTS, CAREFULLY, BEFORE SIGNING. IF YOU HAVE ANY QUESTIONS CONSULT YOUR ATTORNEY BEFORE SIGNING.

This Second Amendment, is made as of November 10, 2017, to the Real Estate Purchase and Sale Agreement:

Agreement Dated  
and First

Amendment: November 1, 2017 and November 9, 2017.

PROPERTY: 421 N. 10<sup>th</sup> Street, Boise, Idaho 83702

BUYER: Capital City Development Corporation

SELLER: Idaho Sporting Goods Co.

**SELLER and BUYER hereby acknowledge and agree to the following:**

1. All terms of the Purchase and Sale Agreement are acceptable except the Purchase Price (Section 1 of the Real Estate Purchase and Sale Agreement) shall be Two Million Two Hundred Thousand and No/100(\$2,200,000.00)(the "Purchase Price").
2. The Closing Date (Section 7 of the Real Estate Purchase and Sale Agreement) shall not occur before January 2, 2018.

To the extent the terms of this Amendment modify or conflict with any provisions of the Purchase and Sale Agreement including all prior Amendment(s), Amendment(s), or Counter Offer(s), these terms shall control. All other terms and conditions of the Purchase and Sale Agreement not modified by this Amendment shall remain the same. Upon its execution by both parties, this Amendment is made an integral part of the aforementioned Agreement.

If a signed acceptance is not received on or before November 13, 2017, this Amendment shall be null and void.

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment as of the date first above written.

**BUYER:** Capital City Development  
Corporation

By: 

Name: John Brunelle

Its: Executive Director

Date: 11/13/17

**SELLER:** Idaho Sporting Goods Co.

By: 

Name: Nicholas Brady

Its: Treasurer

Date: 11/10/17

### FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS IS A LEGALLY BINDING CONTRACT, READ THE ENTIRE DOCUMENT, INCLUDING ANY ATTACHMENTS, CAREFULLY, BEFORE SIGNING. IF YOU HAVE ANY QUESTIONS CONSULT YOUR ATTORNEY BEFORE SIGNING.

This First Amendment , is made as of November 9, 2017, to the Real Estate Purchase and Sale Agreement:

Agreement Dated: November 1, 2017

PROPERTY: 421 N. 10<sup>th</sup> Street, Boise, Idaho 83702

BUYER: Capital City Development Corporation

SELLER: Idaho Sporting Goods Co.,

SELLER and BUYER hereby acknowledge and agree to the following:

1. The acceptance date (Section 13 of the Real Estate Purchase and Sale Agreement) shall be extended to Friday, November 10, 2017.

To the extent the terms of this Amendment modify or conflict with any provisions of the Purchase and Sale Agreement including all prior Amendment s, Amendment s, or Counter Offers, these terms shall control. All other terms and conditions of the Purchase and Sale Agreement not modified by this Amendment shall remain the same. Upon its execution by both parties, this Amendment is made an integral part of the aforementioned Agreement.

If a signed acceptance is not received on or before November 10, 2017, this Amendment shall be null and void.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

BUYER: Capital City Development Corporation

By: 

Name: John Brunelle

Its: Executive Director

Date: 11/9/17

SELLER: Idaho Sporting Goods Co.,

By: 

Name: Nicholas Brady

Its: Treasurer

Date: 11/9/17



**REAL ESTATE PURCHASE AND SALE AGREEMENT: 421 N. 10<sup>th</sup> Street**

THIS REAL ESTATE PURCHASE AGREEMENT (this "**Agreement**") is made this 1<sup>st</sup> day of November, 2017, by and between Idaho Sporting Goods Co., an Idaho corporation ("**Seller**") and Capital City Development Corporation or its assigns ("**Buyer**"). Seller owns that certain property located at 421 N. 10<sup>th</sup> Street, City of Boise, County of Ada, State of Idaho, 83702, and more particularly described on **Exhibit A**, attached hereto and made a part hereof, together with all rights appurtenant thereto, including all right, title and interest of Seller in and to all easements, tenements, hereditaments, privileges and appurtenances thereunto belonging, improvements, buildings and structures thereon and all of Seller's personal property used in the operation of the Property except: NONE (the "**Personalty**") (the foregoing collectively, the "**Property**").

1. **PURCHASE PRICE; PAYMENT TERMS.** The purchase price to be paid by Buyer to Seller for the Property shall be TWO MILLION and No/100 Dollars (\$2,000,000.00) (the "**Purchase Price**"), payable in the following manner:

- ☒ **Earnest Money.** Within five (5) business days of the execution of this Agreement, Buyer shall deposit with TitleOne Corporation, Attn: Scott Darling, an amount equal to Twenty Thousand and No/100 Dollars (\$20,000.00) (the "**Earnest Money**"). If the Earnest Money is not deposited with the Escrow Agent (defined below), the broker receiving the Earnest Money agrees to hold it in trust for the parties hereto and deliver the Earnest Money to the Escrow Agent at Closing (defined below). The Earnest Money and interest earned thereon (if any) shall be fully refundable to Buyer until the expiration of the Due Diligence Period (defined below). The Earnest Money and interest earned thereon (if any) shall be applied toward the Purchase Price at Closing; provided the transaction contemplated by this Agreement proceeds through Closing.
- ☐ **New Loan Proceeds.** \_\_\_\_\_ and No/100 Dollars (\$\_\_\_\_\_.00) to be paid by a new loan to be obtained from a bank or other financing institution on at least the following terms or other terms reasonably satisfactory to Buyer: (a) bearing interest at a fixed rate of not more than \_\_\_\_% per annum; (b) maximum \_\_\_\_ points paid at Closing; and (c) repayable in monthly installments of principal and interest amortized over a \_\_\_\_-year term, maturing not sooner than \_\_\_\_ years from Closing. The new loan will be secured by a first position deed of trust on the Property. Buyer shall have until the end of the Due Diligence Period to obtain a commitment to lend on the foregoing terms. The balance of the Purchase Price, including the Earnest Money, shall be paid in cash at Closing.
- ☐ **Seller-Carry Financing.** By Buyer's execution and delivery of a promissory note on mutually agreeable terms and secured by a first-position deed of trust to be recorded against the Property in a mutually agreeable form in the principal amount of \$\_\_\_\_\_. The balance of the Purchase Price, including the Earnest Money, shall be paid at Closing.
- ☒ **Cash.** The Purchase Price, plus or minus prorations set forth herein, shall be paid by cash proceeds, wire transfer, personal check or official bank check on the Closing Date (defined below).

2. **TITLE MATTERS.** Not more than five (5) business days after mutual execution of this Agreement, Seller shall deliver or cause to be delivered to Buyer, a commitment for an owner's title insurance policy, dated after the date hereof, issued by TitleOne Corporation (the "**Title Insurer**") in the amount of the Purchase Price, with ☒ standard ☐ extended form coverage (the "**Title Commitment**"), together with legible copies of all documents referenced therein as exceptions, showing marketable and insurable title to the Property subject only to: (a) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount that may be removed by the payment of money or otherwise on the Closing Date, and which Seller shall so remove at Closing; (b) standard exceptions printed by the Title Insurer; and (c) title exceptions not otherwise objected to by Buyer (collectively, the "**Permitted Exceptions**"). Buyer shall have until expiration of the Due Diligence Period, within which to object in writing to any material exception shown thereon and, if said exception cannot be removed by Seller on or before the Closing Date, Buyer shall have the right to terminate this Agreement, in which event the Earnest Money and all interest earned thereon (if any) shall be returned to Buyer and all parties thereafter released and discharged from any further obligation under this Agreement. The failure of the Buyer to deliver written notice of an objection to a material exception shown on the Title Commitment within such title review period shall conclusively constitute the approval by Buyer of the exceptions shown in the Title Commitment. Without limiting the foregoing, Seller shall not take any action or record any documents that would affect title to the Property after the date of this Agreement. In addition, Seller shall remove any defect or encumbrance attaching by, through or under Seller after the date of this Agreement. Any and all monetary encumbrances recorded against the Property may be discharged by Seller at Closing out of the Purchase Price. The legal description set forth in the Title Commitment shall be the legal description used to described the Property on the warranty deed delivered to Buyer by Seller at Closing.

### 3. DUE DILIGENCE.

(a) **Right to Inspect.** For a period of **Forty-Five (45) days** from the date of mutual execution of this Agreement (the "**Due Diligence Period**"), Seller hereby grants a license to Buyer and Buyer's agents to enter on to the Property for all purposes reasonably related to making a full and adequate determination of the suitability of the Property for Buyer's intended use, and Buyer and Buyer's agents shall have the right, during reasonable hours, to inspect the Property, and to undertake, at Buyer's expense, such inspections and other activities as it shall determine in connection therewith, including, without limitation, the right to make: (i) a complete physical inspection of the Property; provided that no subsurface or invasive testing, drilling or other investigation will occur without Seller's prior consent, which shall not be unreasonably withheld, conditioned or delayed; (ii) investigations regarding zoning, subdivision and code requirements; (iii) real estate tax analysis and investigation of available financing; (iv) investigation of all records and all other documents and matters, public or private pertaining to Seller's ownership of the Property; (v) investigation of the structural integrity of all improvements including the roof of each building, and all operating systems serving the improvements including, without limitation, heating, ventilation and air conditioning systems, plumbing, electrical, and all other systems; and (vi) to make application for and receive any and all permits, approvals and written agreements satisfactory to Buyer (including, without limitation, building and use permits) required by the appropriate public or governmental authorities to permit the use of the Property in accordance with Buyer's intended use. The foregoing shall hereinafter sometimes be collectively referred to as the "**Inspection**." The Inspection shall not disturb the quiet enjoyment of Seller or Seller's tenant(s) (if any) or be without prior notice to Seller. Buyer agrees to indemnify and hold Seller harmless from any and all costs and expenses incurred or sustained by Seller as a result of such acts of Buyer, or Buyer's agents or independent contractors pursuant to the right granted by this paragraph; provided Buyer's liability and indemnification obligation shall not extend to any condition of the Property currently existing thereon or discovered by Buyer, Buyer's agents or contractors.

(b) **Due Diligence Information.** Within **ten (10) days** following the mutual execution of this Agreement, Seller shall provide to Buyer copies of any and all documents, contracts, reports, studies, maps, tax billings, as-built drawings, warranty information, copies of all service contracts relating to the Property (including landscaping and janitorial contracts), and other information in Seller's possession relating to the Property including, without limitation, those certain Due Diligence items referenced on **Exhibit C** attached hereto and made a part hereof (collectively, the "**Due Diligence Information**"). In the event Buyer terminates this Agreement pursuant to paragraph 3(c) below, Buyer shall return to Seller all Due Diligence Information provided by Seller.

(c) **Approval Notice.** In the event that Buyer, in Buyer's sole and exclusive discretion, is not satisfied for any reason with the results of the Inspection or does not receive final purchase approval by the Buyer's Board of Commissioners at the board's public meeting during the Due Diligence Period, Buyer may, by written notice (the "**Termination Notice**") delivered to Seller on or before the expiration of the Due Diligence Period, terminate this Agreement, which thereafter shall be of no force and effect without further action by the parties hereto. If Buyer terminates this Agreement by timely delivering the Termination Notice, the Earnest Money shall be returned to Buyer.

4. **CONDITIONS PRECEDENT TO CLOSING.** This Agreement, and the parties' obligation to close the transaction contemplated herein, are subject to the following express conditions:

(a) **Title.** Title to the Property shall be good and marketable and shall be free and clear of all liens, encumbrances, easements, assessments, restrictions, tenancies (whether recorded or unrecorded) and other exceptions to title, except the lien of taxes not yet due and payable, and the Permitted Exceptions.

(b) **Financing Condition.** If Buyer is using new loan proceeds to close the transaction contemplated by this Agreement, Buyer shall have obtained during the Due Diligence Period a commitment to lend on terms not less favorable than those terms set forth above.

(c) **Additional Conditions and Contingencies.**

1. Existing leases: all existing tenant leases will stay in place until their expiration (Seller to provide copies of all existing leases). 2. Board Approval Required: Buyer is a public agency and must receive final purchase approval by the Buyer's Board of Commissioners. In the event Buyer does not receive final purchase approval by the Buyer's Board of Commissioners at a public meeting during the Due Diligence Period, Buyer may terminate this Agreement with a Termination Notice, as set forth above.

Notwithstanding anything to the contrary that may be contained herein, each of the conditions precedent may be waived in writing by the party benefitted by such condition. The parties will have until the expiration of the Due Diligence Period to satisfy or waive all conditions precedent to Closing. In the event of a failure of any other condition precedent set forth herein, then the party benefitted by the condition may declare this Agreement null and void, in which event the refundable Earnest Money shall be returned to Buyer, and the parties shall have no further obligations or liabilities hereunder.

5. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER.** In addition to the those representations and warranties attached hereto as **Exhibit B** and made a part hereof, Seller hereby represents, warrants and covenants to Buyer that as of the date of this Agreement and as of the Closing Date: (a) Seller is and shall be the owner of marketable and insurable fee simple title to the Property, free and clear of all liens, encumbrances, covenants, conditions, restrictions, rights-



of-way, easements, leases, tenancies, licenses, claims, options, options to purchase and any other matters affecting title, except, as of the date hereof, for the exceptions shown on the Title Commitment, and those liens of a definite and ascertainable amount that shall be removed at Closing, and there shall be no change in the ownership, operation or control of the Property from the date hereof to the Closing Date; (b) there are no condemnation or judicial proceedings, administrative actions or examinations, claims or demands of any type that have been instituted or are pending or threatened against Seller, the Property or any part thereof, and in the event Seller receives notice of any such proceeding, action, examination or demand, Seller shall promptly deliver a copy of such notice to Buyer; (c) there is legal access to the Property from adjoining private or public streets, highways, roads and ways, and the improvements are serviced by all utilities necessary for Buyer's intended use of the Property including, without limitation, electric, telephone, drainage and other utility equipment and services required by law or necessary for the operation of the Property; and (d) Notwithstanding anything to the contrary in this Agreement, Seller represents and warrants to Buyer that Seller and Seller's directors, officers, shareholders, employees, agents, licensees, invitees, and contractors have not used, produced, released, stored, transported, disposed of, generated, deposited any Hazardous Materials on the Property except in compliance with the applicable Environmental Leases. The term "**Hazardous Materials**" shall collectively refer to underground storage tanks, petroleum and petroleum products, asbestos, PCBs, urea-formaldehyde and any hazardous or toxic substances, pollutants, contaminants, wastes or materials as defined under any Environmental Laws. "**Environmental Laws**" shall collectively refer to shall collectively refer to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("**CERCLA**"), The Toxic Substances Control Act, the Clean Water Act 33 U.S.C. § 1251-1387, the Resource Conservation and Recovery Act as amended ("**RCRA**"), or any other similar federal, state or local law, rule or regulation respecting Hazardous Materials together with all rules and regulations promulgated thereunder and all amendments thereto.

**6. REPRESENTATIONS, WARRANTIES AND COVENANTS OF BUYER.** Buyer hereby represents, warrants and covenants to Seller that as of the date of this Agreement and as of the Closing Date: (a) Buyer has the full power and authority to: (i) acquire title to the Property; (ii) enter into this Agreement; and (iii) carry out and consummate the transactions contemplated by this Agreement; (b) execution and delivery of this Agreement by the signatories hereto on behalf of Buyer, and the performance of this Agreement by Buyer, have been duly authorized by Buyer, and neither the execution of this Agreement nor the consummation of the transactions contemplated hereby will: (i) result in a breach of or default under any agreement, document or instrument to which Buyer is a party or by which Buyer is bound; or (ii) violate any existing statute, restriction, order, writ, injunction or decree of any court, administrative agency or governmental body to which Buyer is subject; (c) there is no action, suit, proceeding, inquiry or investigation before any court, governmental agency or instrumentality pending or, to the actual knowledge of Buyer, threatened against Buyer wherein an unfavorable decision, ruling or finding would adversely affect Buyer's ability to consummate the transactions contemplated by this Agreement; and (d) Buyer has or will have at Closing the financial resources to consummate the transactions contemplated by this Agreement.

**7. CLOSING AND RELATED MATTERS.** The closing of the transaction contemplated by this Agreement shall occur when Seller and Buyer deliver to TitleOne Corporation, Attn: Scott Darling; 1101 W. River Street, Suite 201, Boise, Idaho 83702; #(208) 287-5300 (the "**Escrow Agent**") their respective "Closing Deposits" set forth below ("**Closing**"). Closing shall take place at a time mutually agreed upon by the parties at the office of Escrow Agent within **ten (10) days** following expiration of the Due Diligence Period (the "**Closing Date**"). Closing shall be through escrow, using form escrow instructions then in use by Escrow Agent, modified to reflect the terms and conditions of the transaction contemplated herein. The parties shall use their best efforts to have the Title Insurer commit to insure the title of Buyer upon receipt of all of Buyer's and Seller's deposits, and the title policy shall be issued as soon as reasonably practicable following Closing. This Agreement shall not be merged into any escrow agreement, and the escrow agreement shall always be deemed auxiliary to this Agreement. The provisions of this Agreement shall always be deemed controlling as between Seller and Buyer. The respective attorneys for Seller and Buyer are hereby authorized to enter into and execute such escrow agreement and any amendments thereto.

(a) **Seller's Closing Deposits.** On or before the Closing Date, Seller shall deliver the following to Escrow Agent: (i) Warranty deed executed by Seller conveying the Property to Buyer subject only to the Permitted Exceptions; (ii) assignment to Buyer of all of Seller's right, title and interest in and to warranties relating to the Property; (iii) assignment to Buyer of all of Seller's right, title and interest in and to any service contracts in effect at the date of this Agreement of which Buyer agrees to assume; provided nothing herein shall obligate Buyer to assume any such service contracts, in which event Seller shall terminate such contract(s) on or before Closing; (iv) bill of sale transferring to Buyer all of Seller's Personalty; (v) Seller-approved Closing statement; and (vi) such other documents as the Title Insurer, Buyer or Buyer's attorneys may reasonably require in order to effectuate or further evidence the intent of any provision in this Agreement. All of the documents and instruments to be delivered by Seller hereunder shall be in form and substance reasonably satisfactory to counsel for Buyer.

(b) **Buyer's Closing Deposits.** On or before the Closing Date, Buyer shall deliver the following to Escrow Agent: (i) Buyer-approved Closing statement; (ii) cash or certified funds in an amount sufficient to meet Buyer's obligations hereunder; and (iii) such other documents as the Title Insurer, Seller or Seller's attorneys may reasonably require in order to effectuate or further evidence the intent of any provision in this Agreement. All of the documents and instruments to be delivered by Buyer hereunder shall be in form and substance reasonably satisfactory to counsel for Seller.

(c) **Prorations and Adjustments; Closing Costs.** The following items shall be prorated and adjusted as of the Closing Date: (i) general real estate taxes and all other levies and charges against the Property for the year of Closing that are accrued but not yet due and payable, and such taxes shall be prorated on the basis of the most recent ascertainable tax bills; (ii) any and all unpaid installments of any assessment levied against the Property, including those that become due and

payable after the Closing Date; (iii) all charges for utilities, including water charges, shall be paid by Seller to the Closing Date, and bills received after Closing that relate to expenses incurred or services performed allocable to the period prior to the date of Closing shall be paid by Seller post-Closing as and when due; and (iv) such other items as are customarily prorated in transaction of the type contemplated in this Agreement. Buyer shall not be liable for any state, county, federal income, excise or sales tax liabilities of Seller. In addition to the foregoing, the parties agree to pay the following costs as indicated below:

COSTS	Buyer	Seller	Shared Equally	N/A	CONTINGENCIES	Buyer	Seller	Shared Equally	N/A
Appraisal Fee				X					
Long Term Escrow Fees				X					
Closing Escrow Fee			X						
Survey				X					
Flood Certification / Tracking Fee				X					
Title Ins. Standard Coverage Owner's Policy			X						
Title Ins. Extended Coverage Lender's Policy				X					
Additional Title Coverage – Endorsements				X					
Attorney Contract Preparation or Review Fee				X					
Recording Fees - Deed			X						
Recording Fees – Loan Documents				X					

None of the costs to be paid by the parties in this Section creates an inspection or performance obligation other than strictly for the payment of costs. There may be other costs incurred in addition to those set forth below. Such costs may be required by the lender (if any), law, or other such circumstances.

(d) **Possession.** Possession of the Property shall be delivered to Buyer on the Closing Date.

(e) **Tax-deferred Exchange.** Notwithstanding any other provisions contained herein, either party may use the transaction contemplated herein to facilitate a tax-deferred exchange of real property under such terms and conditions that qualify as a tax-deferred exchange under Section 1031 of the Internal Revenue Code of 1986, as amended. The parties hereby agree to cooperate with each other fully in completing such tax-deferred exchange(s); provided, however that: (i) such tax-deferred exchange(s) creates no additional liability to the party not effecting such exchange; (ii) all costs of facilitating such tax-deferred exchange are paid by the party effecting the 1031 Exchange; and (iii) Closing of the transaction contemplated by this Agreement is not delayed due to such tax-deferred exchange.

## 8. DEFAULT AND REMEDIES.

(a) **Default by Buyer.** If Buyer should fail to consummate the transaction contemplated herein for any reason other than default by Seller, Seller's sole remedies shall be retention of that portion of the Earnest Money paid by Buyer as of the date of default, and termination of this Agreement, in which neither party shall have any further obligation to the other except as expressly set forth in this Agreement. Seller shall make demand for the Earnest Money from the Escrow Agent, and Escrow Agent shall pay from the Earnest Money costs incurred by Seller's Broker(s) relating to the transaction including, without limitation, cancellation fees for title insurance and escrow, credit report fees, inspection fees, and attorneys' fees. Then, Escrow Agent shall distribute the balance of the Earnest Money, one-half (1/2) to Seller and one-half (1/2) to Seller's Broker(s); provided that the amount paid to Seller's Broker(s) shall not exceed such Broker's agreed commission.

(b) **Default by Seller.** If Seller should fail to consummate the transaction contemplated herein for any reason other than default by Buyer, Buyer may elect any one or more of the following remedies: (i) to enforce specific performance of this Agreement; (ii) to bring a suit for damages for breach of this Agreement; (iii) to terminate this Agreement, whereupon Seller shall return all of the Earnest Money to Buyer and reimburse Buyer for Buyer's out-of-pocket expenses incurred with respect to this transaction, including reasonable attorneys' fees and inspection costs, and Seller shall pay cancellation fees for title insurance and escrow, credit report fees, and brokerage fees; or (iv) pursue any and all remedies at law or equity.

9. **BROKERAGE.** The RESPONSIBLE BROKER in this transaction is \_\_\_\_\_, for Thornton Oliver Keller Commercial Real Estate, LLC.

Listing Broker: Thornton Oliver Keller CRE, LLC  
Agent:  
Address:  
Phone:  
Email:

Selling Broker:  
Agent:  
Address:  
Phone:  
Email:

Except as expressly set forth above, the parties agree that no other broker or agent was the procuring cause of the transaction contemplated by this Agreement, and each of the parties represents and warrants to the other that it has not incurred and will not incur any liability for finder's or brokerage fees or commissions in connection with this Agreement. Buyer and Seller each agree to protect, defend, indemnify and hold harmless the other, their respective successors and assigns, from and against any and all obligations, costs, expenses, and liabilities including, without limitation, all reasonable attorneys' fees and court costs, arising out of or relating to any claim for finder's or brokerage fees or commissions or other such compensation resulting from the dealings of Buyer and Seller in connection with the transaction completed by this Agreement.

**10. REPRESENTATION CONFIRMATION.** Check one (1) box in Section 1 and one (1) box in Section 2 below to confirm that in this transaction, the brokerage(s) involved had the following relationship(s) with the Buyer and Seller, respectively:

**Section 1:**

- ☐ A. The brokerage working with the Buyer(s) is acting as an AGENT for Buyer(s).  
☐ B. The brokerage working with the Buyer(s) is acting as a LIMITED DUAL AGENT for Buyer(s), without an ASSIGNED AGENT.  
☐ C. The brokerage working with the Buyer(s) is acting as a LIMITED DUAL AGENT for Buyer(s) and has an ASSIGNED AGENT acting solely on behalf of the Buyer(s).  
☒ D. The brokerage working with the Buyer(s) is acting as a NONAGENT for Buyer(s).

**Section 2:**

- ☐ A. The brokerage working with Seller(s) is acting as an AGENT for Seller(s).  
☐ B. The brokerage working with Seller(s) is acting as a LIMITED DUAL AGENT for Seller(s), without an ASSIGNED AGENT.  
☐ C. The brokerage working with Seller(s) is acting as a LIMITED DUAL AGENT for Seller(s) and has an ASSIGNED AGENT acting solely on behalf of the Seller(s).  
☐ D. The brokerage working with the Seller(s) is acting as a NONAGENT for Seller(s).

Each party signing this Agreement confirms that such party has received, read and understood the Agency Disclosure Brochure attached hereto as **Exhibit D** and made a part hereof, adopted or approved by the Idaho Real Estate Commission, and has consented to the relationship confirmed above. In addition, each party confirms that the Selling/Listing Brokerage's agency office policy was made available for inspection and review. Each party understands that such party is a "Customer," and is not represented by a brokerage unless there is a signed written agreement for agency representation.

**CONSENT TO LIMITED DUAL REPRESENTATION AND ASSIGNED AGENCY**

In addition to the foregoing, the undersigned understand that the brokerage involved in this transaction may be providing agency representation to both Buyer and Seller. The undersigned each understands that, as an agent for both Buyer/client and Seller/client, a brokerage will be a limited dual agent of each client and cannot advocate on behalf of one client over another, and cannot legally disclose to either client certain confidential client information concerning price negotiations, terms or factors motivating the Buyer/client to buy or the Seller/client to sell without specific written permission of the client to whom the information pertains. The specific duties, obligations and limitations of a limited dual agent are contained in the Agency Disclosure Brochure as required by Section 54-2085, Idaho Code. The undersigned each understands that a limited dual agent does not have duty of undivided loyalty to either client.

The undersigned further acknowledge that, to the extent the brokerage firm offers assigned agency as a type of agency representation, individual sales associates may be assigned to represent each client to act solely on behalf of the client consistent with applicable duties set forth in Section 54-2087, Idaho Code. In an assigned agency situation, the designated broker (the broker who supervises the sales associates) will remain a limited dual agent of the client and shall have the duty to supervise the assigned agents in the fulfillment of their duties to their respective clients, to refrain from advocating on behalf of any one client over another, and to refrain from disclosing or using, without permission, confidential information of any other client with whom the brokerage has an agency relationship.

**11. NOTICES.** All notices, demands, requests and other communications under this Agreement shall be in writing and shall be deemed properly served or delivered, if delivered by hand to the party whose attention it is directed, or when sent, three (3) days after deposit in the U.S. mail, postage prepaid, certified mail, return receipt requested, or one (1) day after deposit with a nationally recognized air carrier providing next day delivery, or if sent via facsimile transmission, when received as determined by the facsimile transmission report related thereto, to the party's address listed below.

**12. MISCELLANEOUS.**

(a) **Binding on Successors and Assigns; Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, personal representatives, successors and assigns. Buyer may assign its interest in and to this Agreement to an entity related to or affiliated with Buyer, or to a third party, ☐ with ☒ without Seller's prior consent.



(b) **Business Days; Time for Performance.** Wherever under the terms and provisions of this Agreement the time for performance falls upon a Saturday, Sunday, or legal holiday recognized by Section 73-108, Idaho Code, such time for performance shall be extended to the next business day.

(c) **Execution in Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same instrument. The signature pages may be detached from each counterpart and combined into one instrument. The parties expressly agree that the transactions contemplated by this Agreement may be conducted by electronic means. In furtherance of the foregoing, this Agreement may be signed and delivered by facsimile or via email in PDF or other similar format, each of which shall be effective as an original.

(d) **Survival.** The terms, provisions, and covenants (to the extent applicable) and indemnities shall survive Closing and delivery of the warranty deed, and this Agreement shall not be merged therein, but shall remain binding upon and for the parties hereto until fully observed, kept or performed.

(e) **Entire Agreement.** This Agreement embodies the entire contract between the parties hereto with respect to the subject matter hereof, and supersedes any and all prior agreements, whether written or oral, between the parties. No extension, change, modification or amendment to or of this Agreement of any kind whatsoever shall be made or claimed by Seller or Buyer, and no notice of any extension, change, modification or amendment made or claimed by Seller or Buyer shall have any force or effect whatsoever unless the same shall be endorsed in writing and be signed by the party against which the enforcement of such extension, change, modification or amendment is sought, and then only to the extent set forth in such instrument. Nothing herein is intended, nor shall it be construed, as obligating either party to agree to any modification of this Agreement.

(f) **Severability.** In the event any term or provisions of this Agreement shall be held illegal, invalid or unenforceable or inoperative as a matter of law, the remaining terms and provisions of this Agreement shall not be affected thereby, but each such term and provision shall be valid and shall remain in full force and effect. This Agreement shall be governed by the laws of the State of Idaho, without regard to conflicts of laws principles.

(g) **Time of Essence.** All times provided for in this Agreement or in any other instrument or document referred to herein or contemplated hereby, for the performance of any act will be strictly construed, it being agreed that time is of the essence of this Agreement.

(h) **Recitals and Exhibits.** The recitals and exhibits attached to this Agreement are incorporated into this Agreement as if set forth in full herein.

(i) **Attorneys' Fees.** If either party shall default in the full and timely performance of this Agreement and said default is cured with the assistance of an attorney for the other party and before the commencement of a suit thereon, as a part of curing said default, the reasonable attorneys' fees incurred by the other party shall be reimbursed to the other party upon demand. In the event that either party to this Agreement shall file suit or action at law or equity to interpret or enforce this Agreement hereof, the unsuccessful party to such litigation agrees to pay to the prevailing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party, including the same with respect to an appeal.

13. **ACCEPTANCE.** Buyer's offer is made subject to acceptance of Seller on or before November 9, 2017 at 5:00 pm. If Seller does not accept this Agreement within the time specified, the Earnest Money shall be refunded to Buyer upon demand.

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[Signatures follow on next page.]



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the last signature date set forth below.

**SELLER:**

Seller ☐ does ☐ does not currently hold an active Idaho real estate license.

By:

Name:

Title:

Address:

Phone:

Email:

Date:

Time: 4:30 PM

☐ SIGNATURE(S) SUBJECT TO COUNTER OFFER

☐ SEE ATTACHED COUNTER OFFER(S)

☒ SEE ATTACHED ADDENDUM(S) - Amendment

**BUYER:**

Buyer ☐ does ☒ does not currently hold an active Idaho real estate license

By:

Name:

Title:

Address:

Phone:

Email:

Date:

Time: 12:12 PM

☐ SIGNATURE(S) SUBJECT TO COUNTER OFFER

☐ SEE ATTACHED COUNTER OFFER(S)

☐ SEE ATTACHED ADDENDUM(S)

List of Exhibits:

Exhibit A – Legal Description of Property

Exhibit B – Additional Representations and Warranties

Exhibit C – Due Diligence Information (Owner-Occupied Building)

Exhibit D – Agency Disclosure Brochure

**Budget Info / For CCDC Office Use**

Fund/District	302
Account	6800
Activity Code	18053

**EXHIBIT A**  
**Legal Description of Property**

PARCEL 1: THE EAST 40 FEET OF LOT 10 AND ALL OF LOT 11 IN BLOCK 68 OF BOISE CITY ORIGINAL TOWNSITE, ACCORDING TO THE OFFICIAL PLAT THEREOF FILED IN BOOK 1 OF PLATS AT PAGE 1 RECORDS OF ADA COUNTY, IDAHO.

PARCEL 2: LOT 12 IN BLOCK 68 OF BOISE CITY ORIGINAL TOWNSITE, ACCORDING TO THE OFFICIAL PLAT THEREOF FILED IN BOOK 1 OF PLATS AT PAGE 1, RECORDS OF ADA COUNTY, IDAHO.

**EXHIBIT B**  
**Additional Representations and Warranties**

**Seller's Representations and Warranties.** In addition to other representations set forth in this Agreement, Seller represents and warrants to Buyer as of the date of Closing that: (check all applicable boxes)

☒ **No Violation of Law.** Neither the Property nor the sale of the Property violates any applicable statute, ordinance or regulation, nor any order of any court or any governmental authority or agency, pertaining to the Property or the use occupancy or condition thereof.

☒ **No Defects.** Seller is unaware of any material defect in the Property.

☒ **No Liens.** All persons and corporations supplying labor, materials and equipment to the Property have been paid in the ordinary course of business and there are no claims of liens.

☒ **No Assessments.** There are no currently due and payable assessments for public improvements against the Property and Seller is not aware of any local improvement district or other taxing authority having jurisdiction over the Property in the process of formation.

☒ **Legal Access.** The Property has legal access to all streets adjoining the Property.

☒ **Vehicular Access.** There is access to the Property sufficient to allow construction and development of the Property and the Property is accessible by vehicular traffic. Seller has no knowledge of any proposed changes in or to existing traffic patterns near the Property or vehicular access to the Property.

☒ **Title.** Seller has good and marketable title to the Property.

☒ **Utilities.** All utilities, including but not limited to gas, electricity, telephone, water, and sanitation and storm sewers, are available to and currently servicing the Property. All such utilities are over valid easements of record or dedicated rights of way that have been accepted by local authorities having jurisdiction thereof.

☒ **Flood; Drainage.** The Property ☐ is ☒ is not located in an area identified by the Secretary of Housing and Urban Development or other governmental agency as an area having special flood hazards, and no separate areas within the Property are required to be set aside for water retention, "green belt," open space or drainage.

☒ **Construction Permitted and Approved.** All improvements, construction, water retention and storm drainage facilities, streets, curbs, gutters, sidewalks and utilities have been completed in accordance with applicable plans, specifications and permits, and will have been approved by the applicable governmental entity prior to Closing.

☒ **Certificate of Occupancy.** A final certificate of occupancy has been issued for all buildings and improvements on the Property.

☒ **Zoning.** The current zoning for the Property is \_\_\_\_\_. Seller has no knowledge of any plan by any person or entity to change the existing zoning applicable to the Property.

☒ **Commercial Use.** Seller acknowledges that Buyer is acquiring the Property with the intention of using the Property and improvements thereon for commercial use.

☒ **All Building Systems Operational.** All utilities and systems serving the improvements on the Property including, without limitation, heating, ventilation and air conditioning, plumbing, the roof, elevator(s) (if any), are in good condition and working order.

☒ **Restrictive Covenants.** The Property is subject to certain covenants, conditions and restrictions (CC&Rs) recorded against the Property. Seller's use of the Property is in compliance with all terms of the CC&Rs, and Seller has paid all amounts and assessments due and owing under the CC&Rs through the Closing Date.

☐ **Owners' Association.** Membership in an owners' association is required. Seller's use of the Property is in compliance with all owners' association documents including, without limitation, the Articles of Incorporation, the Bylaws, and the rules and regulations of such owners' association. Annual owners' association dues are \$\_\_\_\_\_, and Seller has paid such dues through the Closing Date. A set up fee of \$\_\_\_\_\_ and a property transfer fee of \$\_\_\_\_\_ will be paid by ☐ Seller ☐ Buyer at Closing.

The terms, covenants, warranties, and representations contained in this Agreement shall not merge with the deed or conveyance, but shall continue and survive Closing.

**EXHIBIT C**  
**Due Diligence (Owner-Occupied Building)**

**FINANCIAL/OPERATING STATEMENTS**

1. Capital expenditure records for the past 5 years.
2. Maintenance/service contracts and agreements including contracts relating to ownership, operation, and maintenance of Property (including janitorial, laundry, pool, pest control, landscaping, and snow removal contracts).
3. Current ad valorem tax bills and real property tax statements and assessments.
4. List of vendors, contractors, and utility companies with account numbers.
5. List of tangible personal property owned by Seller and used in connection with the ownership, operation, use, and maintenance of Property.
6. Current appraisal (if available).
7. List of all operating expenses for past 5 years (including, without limitation, insurance, maintenance costs, utilities, cleaning and janitorial services, landscaping, snow removal, and common area maintenance costs).
8. Copies of occupancy permits.
9. Copies of all owners' association documents (including meeting minutes, assessments, marketing, and promotional expenses) for past 5 years.
10. Copies of restrictive covenants applicable to the Property.
11. Copies of all service agreements and amendments thereto (including, without limitation, alarm systems, antennae/cable/satellite dishes, cleaning and janitorial services, extermination, landscaping, snow removal, security, elevator, etc.).
12. Copies of all utility bills for the past 24 months.

**ARCHITECTURAL/SURVEY/REPORTS**

13. Site plan.
14. Floor plans.
15. Governmental licenses, permits and approvals, and zoning ordinance and letter or restrictions affecting development of the Property.
16. Existing boundary and/or ALTA survey (if available).
17. Existing title policy and underlying documents.
18. As-built drawings.
19. Statement of structural alterations made to Property.
20. Copies of all guaranties and warranties on the building, roofs, major repairs, etc.
21. Phase I environmental report (if available).
22. Market surveys or studies of area or comparable property (if available).

**OTHER INFORMATION**

23. Copies of all existing tenant leases.
- 24.
- 25.
- 26.

EXHIBIT D  
Agency Disclosure Brochure

## Agency Disclosure Brochure



### A Consumer Guide to Understanding Agency Relationships in Real Estate Transactions

Duties owed to Idaho consumers by a real estate brokerage and its licensees are defined in the "Idaho Real Estate Brokerage Representation Act." Idaho Code 54-2082 through 54-2097.

This informational brochure is published by the Idaho Real Estate Commission.



Effective July 1, 2015

#### Right Now You Are a Customer

Idaho law says a real estate brokerage and its licensees owe the following "Customer" duties to all consumers in real estate transactions:

**"Agency" is a term used in Idaho law that describes the relationships between a licensee and the parties to a real estate transaction.**

- Perform necessary and customary acts to assist you in the purchase or sale of real estate;
- Perform these acts with honesty, good faith, reasonable skill and care;
- Properly account for money or property you place in the care and responsibility of the brokerage; and
- Disclose all "adverse material facts" which the licensee knows or reasonably should have known. These are facts that would significantly affect the desirability or value of the property to a reasonable person, or facts establishing a reasonable belief that one of the parties cannot, or does not intend to, complete obligations under the contract.

**If you are a Customer, a real estate licensee is not required to promote your best interests or keep your bargaining information confidential. If you use the services of a licensee and brokerage without a written Representation (Agency) Agreement, you will remain a Customer throughout the transaction.**

A Compensation Agreement is a written contract that requires you to pay a fee for a specific service provided by a brokerage, and it is not the same as a Representation Agreement. If you sign a Compensation Agreement, you are still a Customer, but the brokerage and its licensees owe one additional duty:

- Be available to receive and present written offers and counter-offers to you or from you.

#### You May Become a Client

If you want a licensee and brokerage to promote your best interests in a transaction, you can become a "Client" by signing a Buyer or Seller Representation (Agency) Agreement. A brokerage and its licensees will owe you the following Client duties, which are greater than the duties owed to a Customer:

- Perform the terms of the written agreement;
- Exercise reasonable skill and care;
- Promote your best interests in good faith, honesty, and fair dealing;
- Maintain the confidentiality of your information, including bargaining information, even after the representation has ended;
- Properly account for money or property you place in the care and responsibility of the brokerage;
- Find a property for you or a buyer for your property, and assist you in negotiating an acceptable price and other terms and conditions for the transaction;
- Disclose all "adverse material facts" which the licensee knows or reasonably should have known, as defined above; and
- Be available to receive and present written offers and counter-offers to you or from you.

**A "Sold" price of property is not confidential client information, for either buyers or sellers, and may be disclosed by a licensee.**

**The above Customer or Client duties are required by law, and a licensee cannot agree with you to modify or eliminate any of them.**

If you sign a Representation Agreement or Compensation Agreement with a licensee, the contract is actually between you and the licensee's brokerage. The Designated Broker is the only person authorized to modify or cancel a brokerage contract.

Idaho Real Estate Commission; (208) 334-3285, TRS (800) 377-3529; [rec.idaho.gov](http://rec.idaho.gov)



## These Are Your Agency Options

### Agency Representation (Single Agency)

Under "Agency Representation" (sometimes referred to as "Single Agency"), you are a Client and the licensee is your Agent who represents you, and only you, in your real estate transaction. The entire brokerage is obligated to promote your best interests. No licensee in the brokerage is allowed to represent the other party to the transaction.

**If you are a seller**, your Agent will seek a buyer to purchase your property at a price and under terms and conditions acceptable to you, and assist with your negotiations. If you request it in writing, your Agent will seek reasonable proof of a prospective purchaser's financial ability to complete your transaction.

**If you are a buyer**, your Agent will seek a property for you to purchase at an acceptable price and terms, and assist with your negotiations. Your Agent will also advise you to consult with appropriate professionals, such as inspectors, attorneys, and tax advisors. If disclosed to all parties in writing, a brokerage may also represent other buyers who wish to make offers on the same property you are interested in purchasing.

### Limited Dual Agency

"Limited Dual Agency" means the brokerage and its licensees represent both the buyer and the seller as Clients in the same transaction. The brokerage must have both the buyer's and seller's consent to represent both parties under Limited Dual Agency. You might choose Limited Dual Agency because you want to purchase a property listed by the same brokerage, or because the same brokerage knows of a buyer for your property. There are two kinds of Limited Dual Agency:

**Without Assigned Agents** The brokerage and its licensees are Agents for both Clients equally and cannot advocate on behalf of one Client over the other. None of the licensees at the brokerage can disclose confidential information about either Client. The brokerage must otherwise promote the non-conflicting interests of both Clients, perform the terms of the Buyer and Seller Representation Agreements with skill and care, and other duties required by law.

**With Assigned Agents** The Designated Broker may assign individual licensees within the brokerage ("Assigned Agents") to act solely on behalf of each Client. An Assigned Agent has a duty to promote the Client's best interests, even if those interests conflict with the interests of the other Client, including negotiating a price. An Assigned Agent must maintain the Client's confidential information. The Designated Broker is always a Limited Dual Agent for both Clients and ensures the Assigned Agents fulfill their duties to their respective Clients.

### What to Look For in Any Written Agreement with a Brokerage

A Buyer or Seller Representation Agreement or Compensation Agreement should answer these questions:

- How will the brokerage get paid?
- When will this agreement expire?
- What happens to this agreement when a transaction is completed?
- Can I cancel this agreement, and if so, how?
- Can I work with other brokerages during the time of my agreement?
- What happens if I buy or sell on my own?
- Under an Agency Representation Agreement, am I willing to allow the brokerage to represent both the other party and me in my real estate transaction?

**Real Estate Licensees Are Not Inspectors** Unless you and a licensee agree in writing, a brokerage and its licensees are not required to conduct an independent inspection of a property or verify the accuracy or completeness of any statements or representations made regarding a property. To learn about the condition of a property, you should obtain the advice of an appropriate professional, such as a home inspector, engineer, or surveyor.

The licensee who gave you this brochure is licensed with:

Name of Brokerage: Thornton Oliver Keller Commercial Real Estate, LLC

Phone: 208.378.4600

### RECEIPT

Rev 07/01/16

By signing below, you acknowledge only that a licensee gave you a copy of this Agency Disclosure Brochure. This document is not a contract, and signing it does not obligate you to anything.

Printed Name/Signature

NICK BRADY

Date

11-9-17

Printed Name/Signature

Date

JB

JB