

**ORIGINAL**

RESOLUTION 2011 - 33

**A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF SUNNYSIDE, WASHINGTON  
APPROVING THAT CERTAIN COMMERCIAL AND INVESTMENT REAL ESTATE  
PURCHASE AND SALE AGREEMENT FOR PURCHASE BY THE CITY OF  
PROPERTY AT 718 EAST FRANKLIN AVENUE, SUNNYSIDE, WASHINGTON**

**WHEREAS**, the City of Sunnyside requires additional real property for the City owned Fire Station and needed improvements thereto; and

**WHEREAS**, the City Manager has signed a Commercial & Investment Real Estate Purchase & Sale Agreement ("Agreement" herein) with a reference date of April 20, 2011, between the City of Sunnyside, as Buyer, and Kenneth L. Drewel and Fawn E. Drewel and Richard W. Roach and LuAnn Roach, as Sellers, for the purchase and sale of property at 718 East Franklin Avenue, Sunnyside, Washington, for a purchase price of \$250,000.00, which Agreement was accepted by the Seller on April 25, 2011; and

**WHEREAS**, the Agreement is not mutually accepted unless approved by the Sunnyside City Council within thirty (30) days after Seller's acceptance; and

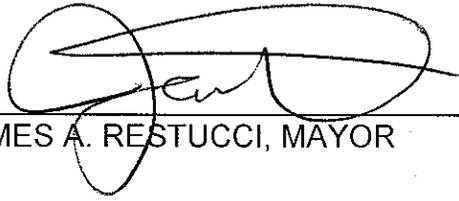
**WHEREAS**, the City Council finds that the Agreement is in the best interest of the City and the health, safety and welfare of the City's residents;

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF  
THE CITY OF SUNNYSIDE, WASHINGTON, as follows:**

**SECTION 1.** That the Sunnyside City Council hereby approves the Agreement in the form attached hereto as Exhibit A and authorizes the City Manager to take all actions and execute all documents reasonably necessary to complete the purchase as provided in such Agreement.

**SECTION 2.** This Resolution shall be effective upon passage, approval and signatures hereon in accordance with law.

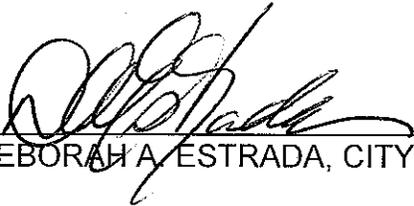
PASSED this 23<sup>rd</sup> day of May, 2011.



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JAMES A. RESTUCCI, MAYOR

ATTEST:



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DEBORAH A. ESTRADA, CITY CLERK

APPROVED AS TO FORM:



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MENKE JACKSON BEYER EHLIS & HARPER, LLP  
Attorneys for the City of Sunnyside

**COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT**

*This has been prepared for submission to your attorney for review and approval prior to signing.  
No representation is made by licensee as to its sufficiency or tax consequences.*

Reference Date: April 20, 2011 1

City of Sunnyside Washington Municipal Corporation ("Buyer") agrees to buy and 2

Kenneth L. Drewel & Richard Roach, see counter addendum ("Seller") agrees to sell, on the 3

following terms, the commercial real estate and all improvements thereon (collectively, the "Property") commonly 4  
known as 718 E Franklin Ave 5

in the City of Sunnyside, Yakima County, Washington, 6  
legally described on attached Exhibit A. The Reference Date above is intended to be used to reference this 7  
Agreement, and is not the date of "Mutual Acceptance," which is defined in Section 23 below. 8

1. **PURCHASE PRICE.** The purchase price is Two Hundred Thousand Dollars \$ 200,000.00 9  
Dollars (~~\$ 200,000.00~~) payable as follows (check only one): 10

All cash at closing with no financing contingency. 11

All cash at closing contingent on new financing in accordance with the Financing Addendum (attach CBA 12  
Form PS\_FIN). 13

\$ \_\_\_\_\_ OR \_\_\_\_\_% of the purchase price in cash at closing with the balance of the 14  
purchase price paid as follows (check one or both, as applicable):  Buyer's assumption of the outstanding 15  
principal balance as of the Closing Date of a first lien note and deed of trust (or mortgage), or real estate contract, 16  
in accordance with the Financing Addendum (attach CBA Form PS\_FIN);  Buyer's delivery at closing of a 17  
promissory note for the balance of the purchase price, secured by a deed of trust encumbering the Property, 18  
in accordance with the Financing Addendum (attach CBA Form PS\_FIN ). 19

Other: \_\_\_\_\_ 20

2. **EARNEST MONEY.** The earnest money in the amount of \$ 1,000.00 21

shall be in the form of  Cash  Personal check  Promissory note (attached CBA Form EMN) 22

Other: Check 23

The earnest money shall be held by  Selling Firm  Closing Agent. Selling Broker may, however, transfer 24  
the earnest money to Closing Agent. 25

Buyer shall deliver the earnest money no later than: 26

4 days after Mutual Acceptance. 27

On the last day of the Feasibility Period defined in Section 5 below. 28

Other: \_\_\_\_\_ 29

If the earnest money is to be held by Selling Broker and is over \$10,000, it shall be deposited to:  Selling Firm's 30  
pooled trust account (with interest paid to the State Treasurer)  A separate interest bearing trust account in 31  
Selling Firm's name. The interest, if any, shall be credited at closing to Buyer. If this sale fails to close, whoever is 32  
entitled to the earnest money is entitled to interest. 33

Selling Firm shall deposit any check to be held by Selling Firm within 3 days after receipt or Mutual Acceptance, 34  
whichever occurs later. Buyer agrees to pay financing and purchase costs incurred by Buyer. Unless otherwise 35  
provided in this Agreement, the earnest money shall be applicable to the purchase price. 36

3. **EXHIBITS AND ADDENDA.** The following Exhibits and Addenda are made a part of this Agreement: 37

Exhibit A - Legal Description 38

Initials: BUYER: [Signature] Date: 04/20/11 SELLER: [Signature] Date: 4-22-11  
BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: [Signature] Date: 4-22-11

**COMMERCIAL & INVESTMENT REAL ESTATE  
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<input type="checkbox"/>	Earnest Money Promissory Note, CBA Form EMN	39
<input type="checkbox"/>	Promissory Note, LPB Form No. 28A/	40
<input type="checkbox"/>	Short Form Deed of Trust, LPB Form No. 20	41
<input type="checkbox"/>	Deed of Trust Rider, CBA Form DTR	42
<input type="checkbox"/>	Utility Charges Addendum, CBA Form UA	43
<input type="checkbox"/>	FIRPTA Certification, CBA Form 22E	44
<input type="checkbox"/>	Assignment and Assumption, CBA Form PS-AS	45
<input type="checkbox"/>	Addendum/Amendment, CBA Form PSA	46
<input type="checkbox"/>	Back-Up Addendum, CBA Form BU-A	47
<input type="checkbox"/>	Vacant Land Addendum, CBA Form VLA	48
<input type="checkbox"/>	Financing Addendum, CBA Form PS_FIN	49
<input type="checkbox"/>	Tenant Estoppel Certificate, CBA Form PS_TEC	50
<input type="checkbox"/>	Defeasance Addendum, CBA Form PS_D	51
<input checked="" type="checkbox"/>	Other: <u>Addendum B</u> <i>ML</i>	52

4. **SELLER'S UNDERLYING FINANCING.** Unless Buyer is assuming Seller's underlying financing, Seller shall be responsible for confirming the existing underlying financing is not subject to any "lock out" or similar covenant which would prevent the lender's lien from being released at closing. In addition, Seller shall provide Buyer notice prior to the end of the Feasibility Period if Seller is required to substitute securities for the Property as collateral for the underlying financing (known as "defeasance"). If Seller provides this notice of defeasance to Buyer, then the parties shall close the transaction in accordance with the process described in CBA Form PS\_D or any different process identified in Seller's defeasance notice to Buyer.

5. **FEASIBILITY CONTINGENCY.** Buyer's obligations under this Agreement are conditioned upon Buyer's satisfaction in Buyer's sole discretion, concerning all aspects of the Property, including its physical condition; the presence of or absence of any hazardous substances; the contracts and leases affecting the property; the potential financial performance of the Property; the availability of government permits and approvals; and the feasibility of the Property for Buyer's intended purpose. This Agreement shall terminate and Buyer shall receive a refund of the earnest money unless Buyer gives written notice to Seller within 45 days (30 days if not filled in) (the "Feasibility Period") of Mutual Acceptance stating that this condition is satisfied. If such notice is timely given, the feasibility contingency stated in this Section 5 shall be deemed to be satisfied.

a. **Books, Records, Leases, Agreements.** Seller shall make available for inspection by Buyer and its agents within \_\_\_\_\_ days (2 days if not filled in) after Mutual Acceptance all documents in Seller's possession or control relating to the ownership, operation, renovation or development of the Property, excluding appraisals or other statements of value, and including: statements for real estate taxes, assessments, and utilities for the last three years and year to date; property management agreements and any other agreements with professionals or consultants; leases or other agreements relating to occupancy of all or a portion of the Property and a suite-by-suite schedule of tenants, rents, prepaid rents, deposits and fees; plans, specifications, permits, applications, drawings, surveys, and studies; maintenance records, accounting records and audit reports for the last three years and year to date; and "Vendor Contracts" which shall include maintenance or service contracts, and installments purchase contracts or leases of personal property or fixtures used in connection with the Property. Buyer shall determine within the Feasibility Period: (i) whether Seller will agree to terminate any objectionable Vendor Contracts; and (ii) whether Seller will agree to pay any damages or penalties resulting from the termination of objectionable Vendor Contracts. Buyer's waiver of the Feasibility Contingency shall be deemed Buyer's acceptance of all Vendor Contracts which Seller has not agreed in writing to terminate. Buyer shall be solely responsible for obtaining any required consents to such assumption and the payment of any assumption fees. Seller shall cooperate with Buyer's efforts to receive any such consents but shall not be required to incur

Initials: BUYER: *ML* Date: 04/20/11 SELLER: *KW SLD* Date: 4-22-11  
 BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: *JL* Date: 4-22-11

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any out-of-pocket expenses or liability in doing so. Seller shall transfer the Vendor Contracts as provided in Section 17. 84 85

- b. Access. Seller shall permit Buyer and its agents, at Buyer's sole expense and risk to enter the Property at reasonable times subject to the rights of and after legal notice to tenants, to conduct inspections concerning the Property and improvements, including without limitation, the structural condition of improvements, hazardous materials, pest infestation, soils conditions, sensitive areas, wetlands, or other matters affecting the feasibility of the Property for Buyer's intended use. Buyer shall schedule any entry onto the Property with Seller in advance and shall comply with Seller's reasonable requirements including those relating to security, confidentiality, and disruption of Seller's tenants. Buyer shall not perform any invasive testing including environmental inspections beyond a phase I assessment or contact the tenants or property management personnel without obtaining the Seller's prior written consent, which shall not be unreasonably withheld. Buyer shall restore the Property and improvements to the same condition they were in prior to inspection. Buyer shall be solely responsible for all costs of its inspections and feasibility analysis and has no authority to bind the Property for purposes of statutory liens. Buyer agrees to indemnify and defend Seller from all liens, costs, claims, and expenses, including attorneys' and experts' fees, arising from or relating to entry onto or inspection of the Property by Buyer and its agents. This agreement to indemnify and defend Seller shall survive closing. Buyer may continue to enter the Property in accordance with the foregoing terms and conditions after removal or satisfaction of the feasibility contingency only for the purpose of leasing or to satisfy conditions of financing. 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101
- c. Buyer waives the right to receive a seller disclosure statement ("Form 17-Commercial") if required by RCW 64.06. However, if Seller would otherwise be required to provide Buyer with a Form 17-Commercial, and if the answer to any of the questions in the section of the Form 17-Commercial entitled "Environmental" would be "yes," then buyer does not waive the receipt of the "Environmental" section of the Form 17-Commercial which shall be provided by Seller. 102 103 104 105 106

**6. TITLE INSURANCE.** 107

- a. Title Report. Seller authorizes Buyer, its Lender, Listing Broker, Selling Broker and Closing Agent, at Seller's expense, to apply for and deliver to Buyer a  standard  extended (standard, if not completed) coverage owner's policy of title insurance. If an extended coverage owner's policy is specified, Buyer shall pay the increased costs associated with that policy including the excess premium over that charged for a standard coverage policy, and the cost of any survey required by the title insurer. The title report shall be issued by First American Title (a title company of Seller's choice, if not completed). If Seller previously received a preliminary commitment from a title insurer that Buyer declines to use, Buyer shall pay any cancellation fee owing to the original title insurer. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed. 108 109 110 111 112 113 114 115 116
- b. Permitted Exceptions. Buyer shall notify Seller of any objectionable matters in the title report or any supplemental report within the earlier of: (1) twenty (20) days after mutual acceptance of this Agreement; or (2) the expiration of the Feasibility Period. This Agreement shall terminate and Buyer shall receive a refund of the earnest money, less any costs advanced or committed for Buyer, unless within five (5) days of Buyer's notice of such objections (1) Seller agrees, in writing, to remove all objectionable provisions or (2) Buyer notifies Seller that Buyer waives any objections which Seller does not agree to remove. If any new title matters are disclosed in a supplemental title report, then the preceding termination, objection and waiver provisions shall apply to the new title matters except that Buyer's notice of objections must be delivered within five (5) days of delivery of the supplemental report and Seller's response or Buyer's waiver must be delivered within two (2) days of Buyer's notice of objections. The closing date shall be extended to the extent necessary to permit time for these notices. Buyer shall not be required to object to any mortgage or deed of trust liens, or the statutory lien for real property taxes, and the same shall not be deemed to be Permitted Exceptions; provided that the lien securing 117 118 119 120 121 122 123 124 125 126 127 128

*Handwritten signature/initials*

Initials: BUYER: MS Date: 04/20/11 SELLER: [Signature] Date: 4-22-11  
 BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: [Signature] Date: 4-22-11

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any financing which Buyer has agreed to assume shall be a Permitted Exception. Except for the foregoing, those 129 provisions not objected to or for which Buyer waived its objections shall be referred to collectively as the 130 "Permitted Exceptions." Seller shall cooperate with Buyer and the title company to clear objectionable title 131 matters but shall not be required to incur any out-of-pocket expenses or liability other than payment of monetary 132 encumbrances not assumed by Buyer and proration of real property taxes, and Seller shall provide an owner's 133 affidavit containing the information and reasonable covenants requested by the title company. The title policy shall 134 contain no exceptions other than the General Exclusions and Exceptions common to such form of policy and the 135 Permitted Exceptions. 136

7. **CLOSING OF SALE.** This sale shall be closed on July 1, 2011 ("closing") by 137 Schiewen First American Title ("Closing Agent") (Seller shall select the Closing Agent, 138 if not completed). Buyer and Seller shall deposit with Closing Agent by 12:00 p.m. on the scheduled Closing date all 139 instruments and monies required to complete the purchase in accordance with this Agreement. "Closing" shall be deemed 140 to have occurred when the deed is recorded and the sale proceeds are available to Seller. Time is of the essence in 141 the performance of this Agreement. Sale proceeds shall be considered available to Seller, even though they 142 cannot be disbursed to Seller until the next business day after Closing. Notwithstanding the foregoing, if Seller 143 informed Buyer during the Feasibility Period that Seller's underlying financing requires that it be defeased and 144 may not be paid off, then Closing shall be conducted in accordance with the three-day closing process described 145 in CBA Form PS\_D. This Agreement is intended to constitute escrow instructions to Closing Agent. Buyer and 146 Seller will provide any supplemental instructions requested by Closing Agent provided the same are consistent 147 with this Agreement. 148

8. **CLOSING COSTS AND PRORATIONS.** Seller shall deliver an updated rent roll to Closing Agent not later than 149 two (2) days before the scheduled Closing date in the form required by Section 5(a) and any other information 150 reasonably requested by Closing Agent to allow Closing Agent to prepare a settlement statement for Closing. 151 Seller certifies that the information contained in the rent roll is correct as of the date submitted. Seller shall pay 152 the premium for the owner's standard coverage title policy. Buyer shall pay the excess premium attributable to 153 any extended coverage or endorsements requested by Buyer, and the cost of any survey required in connection 154 with the same. Seller and Buyer shall each pay one-half of the escrow fees. Any real estate excise taxes shall be 155 paid by the party who bears primary responsibility for payment under the applicable statute or code. Real and 156 personal property taxes and assessments payable in the year of closing; collected rents on any existing 157 tenancies; interest; utilities; and other operating expenses shall be pro-rated as of Closing. If tenants pay any of 158 the foregoing expenses directly, then Closing Agent shall only pro rate those expenses paid by Seller. Buyer shall 159 pay to Seller at Closing an additional sum equal to any utility deposits or mortgage reserves for assumed 160 financing for which Buyer receives the benefit after Closing. Buyer shall pay all costs of financing including the 161 premium for the lender's title policy. If the Property was taxed under a deferred classification prior to Closing, then 162 Seller shall pay all taxes, interest, penalties, deferred taxes or similar items which result from removal of the 163 Property from the deferred classification. At Closing, all refundable deposits on tenancies shall be credited to 164 Buyer or delivered to Buyer for deposit in a trust account if required by state or local law. Buyer shall pay any 165 sales or use tax applicable to the transfer of personal property included in the sale. 166

a. **Unpaid Utility Charges.** Buyer and Seller  WAIVE  DO NOT WAIVE (do not waive if neither box 167 checked) the right to have the Closing Agent disburse closing funds necessary to satisfy unpaid utility charges 168 affecting the Property pursuant to RCW 60.80. If "do not waive" is checked, then attach CBA Form UA ("Utility 169 Charges" Addendum) to this Agreement. 170

9. **POST-CLOSING ADJUSTMENTS, COLLECTIONS, AND PAYMENTS.** After Closing, Buyer and Seller shall 171 reconcile the actual amount of revenues or liabilities upon receipt or payment thereof to the extent those items 172 were prorated or credited at Closing based upon estimates. Any bills or invoices received by Buyer after Closing 173

Initials: BUYER: MSJ Date: 04/20/11 SELLER: WJ JED Date: 4-22-11  
BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: [Signature] Date: 4-22-11

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which relate to services rendered or goods delivered to the Seller or the Property prior to Closing shall be paid by 174 Seller upon presentation of such bill or invoice. At Buyer's option, Buyer may pay such bill or invoice and be 175 reimbursed the amount paid plus interest at the rate of 12% per annum beginning fifteen (15) days from the date 176 of Buyer's written demand to Seller for reimbursement until such reimbursement is made. Notwithstanding the 177 foregoing, if tenants pay certain expenses based on estimates subject to a post-closing reconciliation to the actual 178 amount of those expenses, then Buyer shall be entitled to any surplus and shall be liable for any credit resulting 179 from the reconciliation. Rents collected from each tenant after closing shall be applied first to rentals due most 180 recently from such tenant for the period after closing, and the balance shall be applied for the benefit of Seller for 181 delinquent rentals owed for a period prior to closing. The amounts applied for the benefit of Seller shall be turned 182 over by Buyer to Seller promptly after receipt. Seller shall be entitled to pursue any lawful methods of collection of 183 delinquent rents but shall have no right to evict tenants after Closing. 184

**10. OPERATIONS PRIOR TO CLOSING.** Prior to Closing, Seller shall continue to operate the Property in the 185 ordinary course of its business and maintain the Property in the same or better condition than as existing on the 186 date of Mutual Acceptance, but shall not be required to repair material damage from casualty except as otherwise 187 provided in this Agreement. After the Feasibility Period, Seller shall not enter into or modify existing rental 188 agreements or leases (except that Seller may enter into, modify, extend, renew or terminate residential rental 189 agreements or residential leases in the ordinary course of its business), service contracts, or other agreements 190 affecting the Property which have terms extending beyond Closing without first obtaining Buyer's consent, which 191 shall not be unreasonably withheld. 192

**11. POSSESSION.** Buyer shall be entitled to possession  on Closing  \_\_\_\_\_ (on Closing, if 193 not completed). Buyer shall accept possession subject to all tenancies disclosed to Buyer during the Feasibility 194 Period. 195

**12. SELLER'S REPRESENTATIONS.** Except as disclosed to or known by Buyer prior to the satisfaction or waiver of 196 the feasibility contingency stated in Section 5 above, including in the books, records and documents made 197 available to Buyer, or in the title report or any supplemental report or documents referenced therein, Seller 198 represents to Buyer that, to the best of Seller's actual knowledge, each of the following is true as of the date 199 hereof: (a) Seller is authorized to enter into the Agreement, to sell the Property, and to perform its obligations 200 under the Agreement; (b) The books, records, leases, agreements and other items delivered to Buyer pursuant to 201 this Agreement comprise all material documents in Seller's possession or control regarding the operation and 202 condition of the Property; (c) Seller has not received any written notices that the Property or the business 203 conducted thereon violate any applicable laws, regulations, codes and ordinances; (d) Seller has all certificates of 204 occupancy, permits, and other governmental consents necessary to own and operate the Property for its current 205 use; (e) There is no pending or threatened litigation which would adversely affect the Property or Buyer's 206 ownership thereof after closing; (f) There is no pending or threatened condemnation or similar proceedings 207 affecting the Property, and the Property is not within the boundaries of any planned or authorized local 208 improvement district; (g) Seller has paid (except to the extent prorated at closing) all local, state and federal taxes 209 (other than real and personal property taxes and assessments described in Section 8 above) attributable to the 210 period prior to closing which, if not paid, could constitute a lien on Property (including any personal property), or 211 for which Buyer may be held liable after closing; (h) Seller is not aware of any concealed material defects in the 212 Property except as disclosed to Buyer in writing during the Feasibility Period; (i) There are no Hazardous 213 Substances (as defined below) currently located in, on, or under the Property in a manner or quantity that 214 presently violates any Environmental Law (as defined below); there are no underground storage tanks located on 215 the Property; and there is no pending or threatened investigation or remedial action by any governmental agency 216 regarding the release of Hazardous Substances or the violation of Environmental Law at the Property. As used 217 herein, the term "Hazardous Substances" shall mean any substance or material now or hereafter defined or 218 regulated as a hazardous substance, hazardous waste, toxic substance, pollutant, or contaminant under any 219

Initials: BUYER: WJ Date: 04/20/11 SELLER: WS JED Date: 4-22-11  
BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: [Signature] Date: 4-22-11

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federal, state, or local law, regulation, or ordinance governing any substance that could cause actual or suspected harm to human health or the environment ("Environmental Law"). The term "Hazardous Substances" specifically includes, but is not limited to, petroleum, petroleum by-products, and asbestos.

If prior to Closing Seller or Buyer discovers any information which would cause any of the representations above to be false if the same were deemed made as of the date of such discovery, then the party discovering the same shall promptly notify the other party in writing. If the newly-discovered information will result in costs or liability to Buyer in excess of the lesser of \$100,000 or five percent (5%) of the purchase price stated in this Agreement, or will materially adversely affect Buyer's intended use of the Property, then Buyer shall have the right to terminate the Agreement and receive a refund of its earnest money. Buyer shall give notice of termination within five (5) days of discovering or receiving written notice of the new information. Nothing in this paragraph shall prevent Buyer from pursuing its remedies against Seller if Seller had actual knowledge of the newly-discovered information such that a representation provided for above was false.

13. **AS-IS.** Except for those representations and warranties specifically included in this Agreement: (i) Seller makes no representations or warranties regarding the Property; (ii) Seller hereby disclaims, and Buyer hereby waives, any and all representations or warranties of any kind, express or implied, concerning the Property or any portion thereof, as to its condition, value, compliance with laws, status of permits or approvals, existence or absence of hazardous material on site, occupancy rate or any other matter of similar or dissimilar nature relating in any way to the Property, including the warranties of fitness of a particular purpose, tenantability, habitability and use; (iii) Buyer otherwise takes the Property "AS IS;" and (iv) Buyer represents and warrants to Seller that Buyer has sufficient experience and expertise such that it is reasonable for Buyer to rely on its own pre-closing inspections and investigations.

14. **PERSONAL PROPERTY.**

a. This sale includes all right, title and interest of Seller to the following tangible personal property:  None  That portion of the personal property located on and used in connection with the Property, which Seller will itemize in an Exhibit to be attached to this Agreement within ten (10) days of Mutual Acceptance (None, if not completed). The value assigned to the personal property shall be \$ \_\_\_\_\_ (if not completed, the County-assessed value if available, and if not available, the fair market value determined by an appraiser selected by the Listing Broker and Selling Broker). Seller warrants title to, but not the condition of, the personal property and shall convey it by bill of sale.

b. In addition to the leases and Vendor Contracts assumed by Buyer pursuant to Section 5(a) above, this sale includes all right, title and interest of Seller to the following intangible property now or hereafter existing with respect to the Property including without limitation: all rights-of-way, rights of ingress or egress or other interests in, on, or to, any land, highway, street, road, or avenue, open or proposed, in, on, or across, in front of, abutting or adjoining the Property; all rights to utilities serving the Property; all drawings, plans, specifications and other architectural or engineering work product; all governmental permits, certificates, licenses, authorizations and approvals; all rights, claims, causes of action, and warranties under contracts with contractors, engineers, architects, consultants or other parties associated with the Property; all utility, security and other deposits and reserve accounts made as security for the fulfillment of any of Seller's obligations; any name of or telephone numbers for the Property and related trademarks, service marks or trade dress; and guaranties, warranties or other assurances of performance received.

15. **CONDEMNATION AND CASUALTY.** Seller bears all risk of loss until Closing, and thereafter Buyer shall bear the risk of loss. Buyer may terminate this Agreement and obtain a refund of the earnest money if improvements on the Property are destroyed or materially damaged by casualty before Closing, or if condemnation proceedings are commenced against all or a portion of the Property before closing. Damage will be considered material if the cost of repair exceeds the lesser of \$100,000 or five percent (5%) of the purchase price stated in this Agreement.

Initials: BUYER: MA Date: 04/20/11 SELLER: KD Date: 4-22-11  
BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: JD Date: 4-22-11

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Alternatively, Buyer may elect to proceed with closing in which case at closing Seller shall assign to Buyer all 265 claims and right to proceeds under any property insurance policy and shall credit to Buyer at Closing the amount 266 of any deductible provided for in the policy. 267

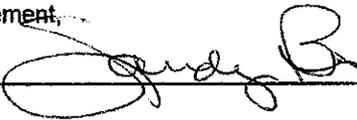
**16. FIRPTA - TAX WITHHOLDING AT CLOSING.** Closing Agent is instructed to prepare a certification (CBA or 268 NWMLS Form 22E, or equivalent) that Seller is not a "foreign person" within the meaning of the Foreign 269 Investment in Real Property Tax Act and Seller shall sign it on or before Closing. If Seller is a foreign person, and 270 this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the 271 required amount to the Internal Revenue Service. 272

**17. CONVEYANCE.** Title shall be conveyed by a Statutory Warranty Deed subject only to the Permitted Exceptions. 273 If this Agreement is for conveyance of Seller's vendee's interest in a Real Estate Contract, the Statutory Warranty 274 Deed shall include a contract vendee's assignment sufficient to convey after acquired title. At Closing, Seller and 275 Buyer shall execute and deliver to Closing Agent CBA Form No. PS-AS Assignment and Assumption Agreement 276 transferring all leases and Vendor Contracts assumed by Buyer pursuant to Section 5(a) and all intangible 277 property transferred pursuant to Section 14(b). 278

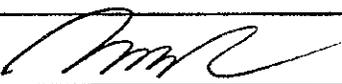
**18. NOTICES AND COMPUTATION OF TIME.** Unless otherwise specified, any notice required or permitted in, or 279 related to, this Agreement (including revocations of offers and counteroffers) must be in writing. Notices to Seller 280 must be signed by at least one Buyer and must be delivered to Seller and Listing Broker with a courtesy copy to 281 any other party identified as a recipient of notices in Section 28. A notice to Seller shall be deemed delivered only 282 when received by Seller, Listing Broker, or the licensed office of Listing Broker. Notices to Buyer must be signed 283 by at least one Seller and must be delivered to Buyer with a copy to Selling Broker with a courtesy copy to any 284 other party identified as a recipient of notices in Section 28. A notice to Buyer shall be deemed delivered only 285 when received by Buyer, Selling Broker, or the licensed office of Selling Broker. Selling Broker and Listing Broker 286 have no responsibility to advise of receipt of a notice beyond either phoning the represented party or causing a 287 copy of the notice to be delivered to the party's address provided in this Agreement. Buyer and Seller shall keep 288 Selling Broker and Listing Broker advised of their whereabouts in order to receive prompt notification of receipt 289 of a notice. If any party is not represented by a licensee, then notices must be delivered to and shall be effective 290 when received by that party at the address, fax number, or email indicated in Section 28. 291

Unless otherwise specified in this Agreement, any period of time in this Agreement shall mean Pacific Time and 292 shall begin the day after the event starting the period and shall expire at 5:00 p.m. of the last calendar day of the 293 specified period of time, unless the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, in 294 which case the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal 295 holiday. Any specified period of five (5) days or less shall not include Saturdays, Sundays or legal holidays. 296 Notwithstanding the foregoing, references to specific dates or times or number of hours shall mean those dates, 297 times or number of hours; provided, however, that if the Closing Date falls on a Saturday, Sunday, or legal holiday 298 as defined in RCW 1.16.050, or a date when the county recording office is closed, then the Closing Date shall be 299 the next regular business day. 300

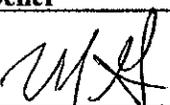
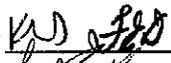
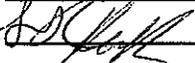
**19. AGENCY DISCLOSURE.** At the signing of this Agreement, 301

Selling Broker Sandy Bos  302

represented Buyer 303

and the Listing Broker Travis Davis  304

represented Seller 305

Initials: BUYER:  Date: 04/20/11 SELLER:  Date: 4-22-11  
BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER:  Date: 4-22-11

**COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT**  
(Continued)

Selling Firm, Selling Firm's Designated Broker, Selling Broker's Branch Manager (if any) and Selling Broker's Managing Broker (if any) represent the same party that Selling Broker represents. Listing Firm, Listing Firm's Designated Broker, Listing Broker's Branch Manager (if any), and Listing Broker's Managing Broker (if any) represent the same party that the Listing Broker represents. If Selling Broker and Listing Broker are different persons affiliated with the same Firm, then both Buyer and Seller confirm their consent to the Broker's Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as a dual agent. If Selling Broker and Listing Broker are the same person representing both parties then both Buyer and Seller confirm their consent to that person and his/her Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. All parties acknowledge receipt of the pamphlet entitled "The Law of Real Estate Agency."

20. **ASSIGNMENT.** Buyer  may  may not (may not, if not completed) assign this Agreement, or Buyer's rights hereunder, without Seller's prior written consent, unless provided otherwise herein. If the "may not" option is selected and the words "and/or assigns" or similar words are used to identify the Buyer, then this Agreement may be assigned with notice to Seller but without Seller's consent only to an entity which is controlled by or under common control with the Buyer identified in this Agreement. Any other assignment requires Seller's consent. The party identified as the initial Buyer shall remain responsible for those obligations of Buyer stated in this Agreement notwithstanding any assignment and, if this Agreement provides for Seller to finance a portion of the purchase price, then the party identified as the initial Buyer shall guarantee payment of the Seller financing.

21. **DEFAULT AND ATTORNEY'S FEE.**

a. **Buyer's default.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then (check one):

- Seller may terminate this Agreement and keep the earnest money as liquidated damages as the sole and exclusive remedy available to Seller for such failure; or
- Seller may, at its option, (a) terminate this Agreement and keep as liquidated damages the earnest money as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue any other rights or remedies available at law or equity.

b. **Seller's default.** In the event Seller fails, without legal excuse, to complete the sale of the Property, then (check one):

- As Buyer's sole remedy, Buyer may either (a) terminate this Agreement and recover all earnest money or fees paid by Buyer whether or not the same are identified as refundable or applicable to the purchase price; or (b) bring suit to specifically enforce this Agreement and recover incidental damages, provided, however, Buyer must file suit within sixty (60) days from the scheduled date of closing or from the date Seller has informed Buyer in writing that Seller will not proceed with closing, whichever is earlier; or
- Buyer may, at its option, (a) bring suit against Seller for Buyer's actual damages, (b) bring suit to specifically enforce this Agreement and recover any incidental damages, or (c) pursue any other rights or remedies available at law or equity.

Neither Buyer nor Seller may recover consequential damages such as lost profits. If Buyer or Seller institutes suit against the other concerning this Agreement, the prevailing party is entitled to reasonable attorneys' fees and expenses. In the event of trial, the amount of the attorney's fee shall be fixed by the court. The venue of any suit shall be the county in which the Property is located, and this Agreement shall be governed by the laws of the state where the Property is located.

Initials: BUYER: MSH Date: 04/20/11 SELLER: WD 360 Date: 4-22-11  
 BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: [Signature] Date: 4-22-11

**COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT**

(Continued)

**22. MISCELLANEOUS PROVISIONS.**

348

- a. **Complete Agreement.** The Agreement and any addenda and exhibits thereto state the entire understanding of Buyer and Seller regarding the sale of the Property. There are no verbal or other written agreements which modify or affect the Agreement. 349 350 351
- b. **Counterpart Signatures.** The Agreement may be signed in counterpart, each signed counterpart shall be deemed an original, and all counterparts together shall constitute one and the same agreement. 352 353
- c. **Electronic Delivery.** Electronic delivery of documents (e.g., transmission by facsimile or email) including signed offers or counteroffers and notices shall be legally sufficient to bind the party the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will replace electronically delivered offers or counteroffers with original documents. 354 355 356 357
- d. **Section 1031 Like-Kind Exchange.** If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party agrees to cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to closing. Notwithstanding Section 20 above, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange. 358 359 360 361 362 363 364

**23. ACCEPTANCE; COUNTEROFFERS.** Seller has until midnight of April 21, 2011 (if not filled in, the third business day) following the day Buyer delivers the offer to accept this offer, unless sooner withdrawn. If this offer is not timely accepted, it shall lapse and the earnest money shall be refunded to Buyer. If either party makes a future counteroffer, the other party shall have until 5:00 p.m. on the \_\_\_\_\_ business day (if not filled in, the second business day) following receipt to accept the counteroffer, unless sooner withdrawn. If the counteroffer is not timely accepted or countered, this Agreement shall lapse and the earnest money shall be refunded to the Buyer. No acceptance, offer or counteroffer from the Buyer is effective until a signed copy is received by the Seller, the Listing Broker or the licensed office of the Listing Broker. No acceptance, offer or counteroffer from the Seller is effective until a signed copy is received by the Buyer, the Selling Broker or the licensed office of the Selling Broker. "Mutual Acceptance" shall occur when the last counteroffer is signed by the offeree, and the fully-signed counteroffer has been received by the offeror, his or her broker, or the licensed office of the broker. If any party is not represented by a Broker, then notices must be delivered to and shall be effective when received by that party.

**24. INFORMATION TRANSFER.** In the event this Agreement is terminated, Buyer agrees to deliver to Seller within ten (10) days of Seller's written request copies of all materials received from Seller and any non-privileged plans, studies, reports, inspections, appraisals, surveys, drawings, permits, application or other development work product relating to the Property in Buyer's possession or control as of the date this Agreement is terminated.

**25. CONFIDENTIALITY.** Until and unless closing has been consummated, Buyer and Seller shall follow reasonable measures to prevent unnecessary disclosure of information obtained in connection with the negotiation and performance of this Agreement. Neither party shall use or knowingly permit the use of any such information in any manner detrimental to the other party.

**26. SELLER'S ACCEPTANCE AND BROKERAGE AGREEMENT.** Seller agrees to sell the Property on the terms and conditions herein, and further agrees to pay a commission in a total amount computed in accordance with the listing or commission agreement. If there is no written listing or commission agreement, Seller agrees to pay a commission of \_\_\_\_\_% of the sales price or \$\_\_\_\_\_. The commission shall be apportioned between Listing Firm and Selling Firm as specified in the listing or any co-brokerage agreement. If there is no listing or written co-brokerage agreement, then Listing Firm shall pay to Selling Firm a commission of \_\_\_\_\_% of the sales price or \$\_\_\_\_\_. Seller assigns to Listing Firm and Selling Firm a portion of the sales proceeds

Initials: BUYER: MS Date: 04/20/11 SELLER: KWS JED Date: 4-22-11  
 BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: JED Date: 4-22-11

**COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT**  
(Continued)

equal to the commission. If the earnest money is retained as liquidated damages, any costs advanced or 393  
committed by Listing Firm or Selling Firm for Buyer or Seller shall be reimbursed or paid therefrom, and the 394  
balance shall be paid one-half to Seller and one-half to Listing Firm and Selling Firm according to the listing 395  
agreement and any co-brokerage agreement. In any action by Listing Firm or Selling Firm to enforce this Section, 396  
the prevailing party is entitled to reasonable attorneys' fees and expenses. Neither Listing Firm nor Selling Firm 397  
are receiving compensation from more than one party to this transaction unless disclosed on an attached 398  
addendum, in which case Buyer and Seller consent to such compensation. The Property described in attached 399  
Exhibit A, is commercial real estate. Notwithstanding Section 25 above, the pages containing this Section, the 400  
parties' signatures and an attachment describing the Property may be recorded. 401

**27. LISTING BROKER AND SELLING BROKER DISCLOSURE.** EXCEPT AS OTHERWISE DISCLOSED IN 402  
WRITING TO BUYER OR SELLER, THE SELLING BROKER, LISTING BROKER, AND FIRMS HAVE NOT 403  
MADE ANY REPRESENTATIONS OR WARRANTIES OR CONDUCTED ANY INDEPENDENT INVESTIGATION 404  
CONCERNING THE LEGAL EFFECT OF THIS AGREEMENT, BUYER'S OR SELLER'S FINANCIAL 405  
STRENGTH, BOOKS, RECORDS, REPORTS, STUDIES, OR OPERATING STATEMENTS, THE CONDITION 406  
OF THE PROPERTY OR ITS IMPROVEMENTS; THE FITNESS OF THE PROPERTY FOR BUYER'S 407  
INTENDED USE; OR OTHER MATTERS RELATING TO THE PROPERTY, INCLUDING WITHOUT 408  
LIMITATION, THE PROPERTY'S ZONING, BOUNDARIES, AREA, COMPLIANCE WITH APPLICABLE LAWS 409  
(INCLUDING LAWS REGARDING ACCESSIBILITY FOR DISABLED PERSONS), OR HAZARDOUS OR TOXIC 410  
MATERIALS INCLUDING MOLD OR OTHER ALLERGENS. SELLER AND BUYER ARE EACH ADVISED TO 411  
ENGAGE QUALIFIED EXPERTS TO ASSIST WITH THESE DUE DILIGENCE AND FEASIBILITY MATTERS, 412  
AND ARE FURTHER ADVISED TO SEEK INDEPENDENT LEGAL AND TAX ADVICE RELATED TO THIS 413  
AGREEMENT. 414

Initials: BUYER: MS Date: 04/20/11 SELLER: KD SA Date: 4-22-11  
BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: JK AK Date: 4-22-11

**COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT**  
(Continued)

**28. IDENTIFICATION OF THE PARTIES.** The following is the contact information for the parties involved in this Agreement:

**Buyer**

Contact: City of Sunnyside Washington Municip  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Business Phone: \_\_\_\_\_  
Mobile Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**Seller**

Contact: Kenneth L. Drewel & Richard Roach  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Business Phone: \_\_\_\_\_  
Mobile Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**Selling Firm**

Name: Coldwell Banker  
Assumed Name (if applicable): \_\_\_\_\_  
Selling Broker: Sandy Bos  
Address: 210 Chardonnay Ave., Suite D  
Prosser, Washington 99350  
Business Phone: 509-786-1452  
Mobile Phone: 509-840-9164  
Email: sandy@cbwinecountry.com  
Fax: 509-786-4772  
MLS Office No.: \_\_\_\_\_

**Listing Firm**

Name: Coldwell Banker  
Assumed Name (if applicable): \_\_\_\_\_  
Listing Broker: Travis Davis  
Address: 210 Chardonnay Ave., Suite D  
Prosser, Washington 99350  
Business Phone: 509-786-1452  
Mobile Phone: 509-786-9456  
Email: Travis@cbwinecountry.com  
Fax: 509-786-4772  
MLS Office No.: \_\_\_\_\_

**Licensed Office of the Selling Broker**

Address: Same  
\_\_\_\_\_  
Business Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Fax: \_\_\_\_\_  
CBA Office No.: \_\_\_\_\_

**Licensed Office of the Listing Broker**

Address: Same  
\_\_\_\_\_  
Business Phone: \_\_\_\_\_  
Email: \_\_\_\_\_  
Fax: \_\_\_\_\_  
CBA Office No.: \_\_\_\_\_

INITIALS: Buyer MR Date 04/20/11  
Buyer \_\_\_\_\_ Date \_\_\_\_\_

Seller KD RD Date 4-22-11  
Seller RR Date 4-22-11

**COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT**  
(Continued)

Courtesy Copy of Notices to Buyer to:

Courtesy Copy of Notices to Seller to:

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

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

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_

Business Phone: \_\_\_\_\_

Mobile Phone: \_\_\_\_\_

Mobile Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

IN WITNESS WHEREOF, the parties have signed this Agreement intending to be bound.

Buyer _____	Buyer _____
<small>Printed name and type of entity</small>	<small>Printed name and type of entity</small>
Buyer <u>Wach Insurance Agency</u>	Buyer _____
<small>Signature and title</small>	<small>Signature and title</small>
Date signed <u>4/20/2011</u>	Date signed _____
Seller <u>Fawn E. Drewel</u>	Seller <u>Richard W. Roach</u>
<small>Printed name and type of entity</small>	<small>Printed name and type of entity</small>
Seller <u>Fawn E. Drewel</u>	Seller <u>Richard W. Roach</u>
<small>Signature and title</small>	<small>Signature and title</small>
Date signed <u>4/22/11</u>	Date signed <u>4/22/11</u>

Initials: BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: WR Date: 4-22-11  
 BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: WR Date: 4-22-11

**IDENTIFICATION OF UTILITIES  
ADDENDUM TO PURCHASE AND SALE AGREEMENT**

The following is part of the Purchase and Sale Agreement dated April 20, 2011 1  
between City of Sunnyside Washington Municipal Corporation ("Buyer") 2  
and Kenneth L Drewel & Richard Roach ("Seller") 3  
concerning 718 E Franklin Ave, Sunnyside Washington (the "Property"). 4

Pursuant to RCW 60.80, Buyer and Seller request the Closing Agent to administer the disbursement of closing funds 5  
necessary to satisfy unpaid utility charges affecting the Property. The names and addresses of all utilities providing 6  
service to the Property and having lien rights are as follows: 7

WATER DISTRICT: Sunnyside 8  
Name \_\_\_\_\_ 8  
Address \_\_\_\_\_ 9  
City, State, Zip \_\_\_\_\_ 10

SEWER DISTRICT: Name Sunnyside 11  
Address \_\_\_\_\_ 12  
City, State, Zip \_\_\_\_\_ 13

IRRIGATION DISTRICT: Name SVID 14  
Address \_\_\_\_\_ 15  
City, State, Zip \_\_\_\_\_ 16

GARBAGE: Name \_\_\_\_\_ 17  
Address \_\_\_\_\_ 18  
City, State, Zip \_\_\_\_\_ 19

ELECTRICITY: Name PP&L 20  
Address \_\_\_\_\_ 21  
City, State, Zip \_\_\_\_\_ 22

GAS: Name Cascade Natural Gas 23  
Address \_\_\_\_\_ 24  
City, State, Zip \_\_\_\_\_ 25

SPECIAL DISTRICT(S): (local improvement districts or utility local improvement districts) Name \_\_\_\_\_ 26  
Address \_\_\_\_\_ 27  
City, State, Zip \_\_\_\_\_ 28

If the above information has not been filled in at the time of mutual acceptance of this Agreement, then (1) within 29  
\_\_\_\_\_ days (5 if not filled in) of mutual acceptance of this Agreement, Seller shall provide the Listing Broker or 30  
Selling Broker with the names and addresses of all utility providers having lien rights affecting the Property and (2) 31  
Buyer and Seller authorize Listing Broker or Selling Broker to insert into this Addendum the names and addresses of 32  
the utility providers identified by Seller. 33

Nothing in this Addendum shall be construed to diminish or alter the Seller's obligation to pay all utility charges 34  
(including unbilled charges). Buyer understands that the Listing Broker and Selling Broker are not responsible for, or 35  
to insure payment of, Seller's utility charges. 36

Initials: BUYER: [Signature] Date: 04/20/11 SELLER: [Signature] Date: 4-22-11  
BUYER: \_\_\_\_\_ Date: \_\_\_\_\_ SELLER: [Signature] Date: 4-22-11

2849048  
Insurance Company

FILED BY  
EXHIBIT 'A'  
DEC 29 2 08 PM '88

FILED FOR RECORD AT REQUEST OF

BETTIE INGHAM  
AUDITOR

THIS SPACE PROVIDED FOR RECORDER'S USE

Adenda "A"

2849048

COUNTY EXCISE TAX

DATE 12-29-88

PAID \$  
REC. NO. 236494

BY DALE A. GRAY, Yakima County Treasurer

WHEN RECORDED RETURN TO

500  
Name: EIGHT AND EIGHTEEN  
Address: 916 FRANKLIN AVE, SUITE 1  
SUNNYSIDE, WASHINGTON 98944  
City, State, Zip:

### Quit Claim Deed

THE GRANTOR, PROFESSIONAL ASSOCIATES, INC., a Washington corporation,

for and in consideration of ONE DOLLAR (\$1.00)

conveys and quit claims to KENNETH L. DREWEL, as his separate estate, as to an undivided one-fourth interest; RICHARD ROACH, as his separate estate, as to an undivided one-half interest; and ALBERT E. MALENG, as his separate estate, as to an undivided one-fourth interest, the following described real estate, situated in the County of Yakima State of Washington, together with all after acquired title of the grantor(s) therein:

Lots 17, 18 and 19, EXCEPT the west 8 feet of said lots, in Block 32, SUNNYSIDE, Washington, according to the plat thereof recorded in Volume "A" of Plats, page 59, records of Yakima County, Washington.

Assessor's Parcel No. 221025-31454

Dated December 28, 19 88

(Individual)  
(Individual)

PROFESSIONAL ASSOCIATES, INC.  
By Richard W. Roach (President)  
By Kenneth L. Drewel (Secretary)

STATE OF WASHINGTON  
COUNTY OF \_\_\_\_\_

On this day personally appeared before me \_\_\_\_\_  
to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged that \_\_\_\_\_  
free and voluntary of his/her own accord and for the uses and purposes therein mentioned.

STATE OF WASHINGTON  
COUNTY OF Yakima

On this 29 day of December 1988, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Richard W. Roach and Kenneth L. Drewel and \_\_\_\_\_  
to me known to be the \_\_\_\_\_ President and \_\_\_\_\_ Secretary, respectively, of Professional Associates, Inc. the corporation that executed the foregoing instrument, and acknowledged to me that they executed the foregoing instrument and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that \_\_\_\_\_ authorized to execute the said instrument and that the said





Form 36  
Counteroffer Addendum  
Rev. 7/10  
Page 1 of 1

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COUNTEROFFER ADDENDUM  
TO REAL ESTATE PURCHASE AND SALE AGREEMENT

All terms and conditions of the offer (Real Estate Purchase and Sale Agreement) dated April 20, 2011 concerning 719 E Franklin Ave, Sunnyside, WA 98944 (the 'Property'), by Drewal / Roach, as Seller and the undersigned City of Sunnyside, as Buyer are accepted, except for the following changes.

The Purchase Price shall be ~~\$250,000.00~~ \$225,000.00 *MA*  
Two Hundred Fifty Thousand

Other. \$250,000 *KLD* *4/27/11*

Sellers are: Kenneth L. Drewal, Fawn E. Drewal, Richard Roach, and Luann Roach

*Mark J. Lewasi*  
*4/26/2011*

This counteroffer shall expire at 9:00 p.m. on April 25<sup>th</sup>, 2011 (If not filed in, the second day following the date of the last signature of the counterofferor below), unless it is sooner withdrawn. Acceptance shall not be effective until a signed copy is received by the counterofferor, their broker or at the licensed office of their broker. If this counteroffer is not so accepted, it shall lapse and the Earnest Money shall be refunded to Buyer.

All other terms and conditions of the above offer are incorporated herein by reference as though fully set forth.

*Fawn E. Drewal* *Richard Roach*  
*Kenneth L. Drewal* *Luann Roach*  
Signature Date Signature Date

The above counteroffer is accepted.  
Signature Date Signature Date

Form 36  
Counteroffer Addendum  
Rev. 7/10  
Page 1 of 1

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**COUNTEROFFER ADDENDUM  
TO REAL ESTATE PURCHASE AND SALE AGREEMENT**

All terms and conditions of the offer (Real Estate Purchase and Sale Agreement) dated April 20, 2011 concerning 719 E Franklin Ave, Sunnyside, WA 98244 (the 'Property'), by Drewel / Roach, as Seller and the undersigned City of Sunnyside, as Buyer are accepted, except for the following changes.

The Purchase Price shall be ~~\$250,000.00~~ \$225,000.00 Two Hundred Fifty Thousand

Other. \$250,000

Sellers are: Kenneth L. Drewel, Fawn E. Drewel, Richard Roach, and Luann Roach

5/2/11 - ACCEPTED AT \$250,000 MIA

*Michael Lewasi*  
4/26/2011

This counteroffer shall expire at 9:00 p.m. on April 25<sup>th</sup>, 2011 (if not filed in, the second day following the date of the last signature of the counterofferor below), unless it is sooner withdrawn. Acceptance shall not be effective until a signed copy is received by the counterofferor, their broker or at the licensed office of their broker. If this counteroffer is not so accepted, it shall lapse and the Earnest Money shall be refunded to Buyer.

All other terms and conditions of the above offer are incorporated herein by reference as though fully set forth.

Fawn E. Drewel 4-22-11 Richard Roach 4-22-11  
Signature Date Signature Date

The above counteroffer is accepted.  
Signature \_\_\_\_\_ Date \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

**SCHREINER TITLE COMPANY**

30 North Second Street

Yakima, WA 98901  
(509) 248-5801

**Receipt for Deposit**

**Receipt No: 000017747**  
Company: W247  
Office: 0002  
File No: 00174803-001

**Bank:** 03 Wells Fargo (5308389138)

**Date:** 05/05/2011

**Received From:** CITY OF SUNNYSIDE

**File Name:** Drewel/Sunnyside

**Type of Deposit:** Earnest Money

**In the amount of:** \$ 1,000.00

**In the form of:**

After Hours

Buyer  Seller  Other  \_\_\_\_\_

By:   
Lindy Carr

**(Customer Copy)**

**FIRST ADDENDUM TO COMMERCIAL & INVESTMENT REAL ESTATE  
PURCHASE & SALE AGREEMENT**

REFERENCE DATE: April 20, 2011.  
SELLER: **KENNETH L. DREWEL & RICHARD ROACH**  
BUYER: **CITY OF SUNNYSIDE**, a Washington Municipal Corporation  
Lots 17, 18 and 19, EXCEPT the west 8 feet of said lots, in Block 32, SUNNYSIDE, Washington, according to the plat thereof recorded in Volume "A" of Plats, page 59, records of Yakima County, Washington.  
Yakima County Assessor's Parcel No. 221025-31454

The following paragraphs of the Purchase & Sale Agreement are modified or amended as follows:

**6.b. Permitted Exceptions.** The first sentence of paragraph 6.b. is amended to read as follows:

Buyer shall notify Seller of any objectionable matters in the title report or any supplemental report within twenty (20) days of receipt of such report.

**23. ACCEPTANCE; COUNTEROFFERS.** The following is added to paragraph 23:

Notwithstanding the provisions above, Mutual Acceptance shall not occur until this Agreement has been approved by the City Council of the City of Sunnyside. If this Agreement is not approved by the City Council of the City of Sunnyside within thirty (30) days after Seller's acceptance of this Agreement, this Agreement shall be of no force or effect, and the earnest money shall be returned to Buyer.

Except as amended and modified herein, the parties hereby ratify and reconfirm the Commercial & Investment Real Estate Purchase and Sale Agreement.

DATED: April 20, 2011.

SELLER:

BUYER:

**CITY OF SUNNYSIDE**, a Washington Municipal Corporation

*Loren E. Drewel*  
*Kenneth L. Drewel*  
\_\_\_\_\_

By: \_\_\_\_\_  
MARK GERVASI, City Manager

KENNETH L. DREWEL  
*Richard Roach*  
*Richard Roach*  
\_\_\_\_\_

**PRELIMINARY COMMITMENT  
SCHEDULE "A"  
ORDER NO.: 00174803-SS**

TO:  
COLDWELL BANKER TOMLINSON WINE COUNTRY  
210 CHARDONNAY SUITE D  
PROSSER, WA 99350  
Attn: Sandy Bos

ISSUED BY:  
SCHREINER TITLE COMPANY  
30 North Second Street  
Yakima, WA 98901  
(509) 248-5801

1. Effective Date: May 4, 2011 at 8:00 a.m.

2. Policy or policies to be issued:

a. 2006 ALTA Owner's Policy Amount \$250,000.00  
Proposed Insured:  
CITY OF SUNNYSIDE

b. None Amount \$  
Proposed Insured:

c. None Amount \$  
Proposed Insured:

3. A. Premium:	\$842.00	Tax: \$69.04	Total: \$911.04
B. Premium:	\$	Tax: \$	Total: \$
C. Premium:	\$	Tax: \$	Total: \$

4. The estate or interest in the land described herein and which is covered by this commitment is:

**Fee Simple Estate**

5. The estate or interest referred to herein is at Date of Commitment vested in:

**KENNETH L. DREWEL, as his separate estate, as to an one-half interest and RICHARD ROACH, as his separate estate, as to an one-half interest**

6. The land referred to in this Commitment is situated in the County of Yakima, State of Washington and is more fully described as follows:

**See Exhibit A attached herefo and made a part hereof.**

**SCHEDULE A - continued**

Commitment No. 00174803

INDEX TO EXCEPTIONS

FOR TAXES, ASSESSMENTS AND OTHER ITEMS WHICH USUALLY ARE CLEARED PRIOR TO CLOSING, SEE SCHEDULE "B".

Investigation should be made to determine if there are any service, installation, maintenance or construction charges for sewer, water, or electricity.

In the event this transaction fails to close, a cancellation fee will be charged for services rendered in accordance with our rate schedule.

**PRELIMINARY COMMITMENT**

**SCHEDULE B**

Commitment No. 00174803

EXCEPTIONS: Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company.

**GENERAL EXCEPTIONS:**

- A. Rights or claims disclosed only by possession, or claimed possession, of the premises.
- B. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
- C. Easements, prescriptive rights, rights-of-way, streets, roads, alleys or highways not disclosed by the public records.
- D. Any lien, or right to a lien, for contributions to employees benefit funds, or for state workers' compensation, or for services, labor or material heretofore or hereafter furnished, all as imposed by law and not shown by the public records.
- E. Taxes or special assessments which are not yet payable or which are not shown as existing liens by the public records.
- F. Any service, installation, connection, maintenance, or construction charges for sewer, water, electricity, natural gas or other utilities or garbage collection and disposal.
- G. Reservations or exceptions in United States Patents or in Acts authorizing the issuance thereof.
- H. Indian tribal codes or regulations, Indian treaty or aboriginal rights, including easements or equitable servitudes.
- I. Water rights, claims or title to water.

**SPECIAL EXCEPTIONS:**

- 1. Real Estate Excise Tax as may be due on this transfer is imposed at the rate of 1.78% of the taxable value for all area codes 305, 325, 331, 333, 334, 335, 349, 420, 460, 540, 581, 585 AND 586; all other areas are 1.53% of the taxable value.
- 2. Local district assessments and/or charges due the City of Sunnyside.
- 3. Real property taxes for the second half of the assessment year 2011 in the sum of \$994.61, which shall be delinquent after October 31st.

NOTE A: According to the Yakima County Assessor, the parcel number for the property described in Exhibit A of our Commitment is 221025-31454. Area Code: 460

Property Address: 718 E. Franklin Avenue, Sunnyside, Washington 98944

NOTE B: Real property taxes and assessments collected by the Yakima County Treasurer for the first half of 2011 in the sum of \$995.60 which has been paid. For further information regarding specific assessment charges, contact the Yakima County Treasurer (509) 574-2800.

EXHIBIT A

**SCHEDULE B - continued**

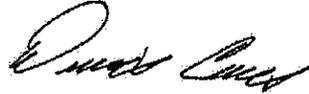
Commitment No. **00174803**

NOTE C: Policies ordered electronically will receive an additional 5% discount to the premium. Said discount has been applied to the forthcoming policy.

ABBREVIATED LEGAL: LOTS 17-19 BLK 32 SUNNYSIDE A-59

END OF SCHEDULE B

**SCHREINER TITLE COMPANY**



By \_\_\_\_\_

Your Title Officer Is: **DENNIS CAINES**  
[dennisc@schreinertitle.com](mailto:dennisc@schreinertitle.com)

jr/5/5/11

Commitment No. 00174803

Effective Date: 5/1/2008

## Fidelity National Financial, Inc. Privacy Statement

Fidelity National Financial, Inc. and its subsidiaries ("FNF") respect the privacy and security of your non-public personal information ("Personal Information") and protecting your Personal Information is one of our top priorities. This Privacy Statement explains FNF's privacy practices, including how we use the Personal Information we receive from you and from other specified sources, and to whom it may be disclosed. FNF follows the privacy practices described in this Privacy Statement and, depending on the business performed, FNF companies may share information as described herein.

### Personal Information Collected

We may collect Personal Information about you from the following sources:

- Information we receive from you on applications or other forms, such as your name, address, social security number, tax identification number, asset information, and income information;
- Information we receive from you through our Internet websites, such as your name, address, email address, Internet Protocol address, the website links you used to get to our websites, and your activity while using or reviewing our websites;
- Information about your transactions with or services performed by us, our affiliates, or others, such as information concerning your policy, premiums, payment history, information about your home or other real property, information from lenders and other third parties involved in such transaction, account balances, and credit card information; and
- Information we receive from consumer or other reporting agencies and publicly recorded documents.

### Disclosure of Personal Information

We may provide your Personal Information (excluding information we receive from consumer or other credit reporting agencies) to various individuals and companies, as permitted by law, without obtaining your prior authorization. Such laws do not allow consumers to restrict these disclosures.

Disclosures may include, without limitation, the following:

- To insurance agents, brokers, representatives, support organizations, or others to provide you with services you have requested, and to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure in connection with an insurance transaction;
- To third-party contractors or service providers for the purpose of determining your eligibility for an insurance benefit or payment and/or providing you with services you have requested;
- To an insurance regulatory authority, or a law enforcement or other governmental authority, in a civil action, in connection with a subpoena or a governmental investigation;
- To companies that perform marketing services on our behalf or to other financial institutions with which we have joint marketing agreements and/or
- To lenders, lien holders, judgment creditors, or other parties claiming an encumbrance or an interest in title whose claim or interest must be determined, settled, paid or released prior to a title or escrow closing.

We may also disclose your Personal Information to others when we believe, in good faith, that such disclosure is reasonably necessary to comply with the law or to protect the safety of our customers, employees, or property and/or to comply with a judicial proceeding, court order or legal process.

Disclosure to Affiliated Companies – We are permitted by law to share your name, address and facts about your transaction with other FNF companies, such as insurance companies, agents, and other real estate service providers to provide you with services you have requested, for marketing or product development research, or to market products or services to you. We do not, however, disclose information we collect from consumer or credit reporting agencies with our affiliates or others without your consent, in conformity with applicable law, unless such disclosure is otherwise permitted by law.

Commitment No. 00174803

Effective Date: 5/1/2008

Fidelity National Financial, Inc.  
**Privacy Statement - continued**

Disclosure to Nonaffiliated Third Parties – We do not disclose Personal Information about our customers or former customers to nonaffiliated third parties, except as outlined herein or as otherwise permitted by law.

**Confidentiality and Security of Personal Information**

We restrict access to Personal Information about you to those employees who need to know that information to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard Personal Information.

**Access to Personal Information/**

**Requests for Correction, Amendment, or Deletion of Personal Information**

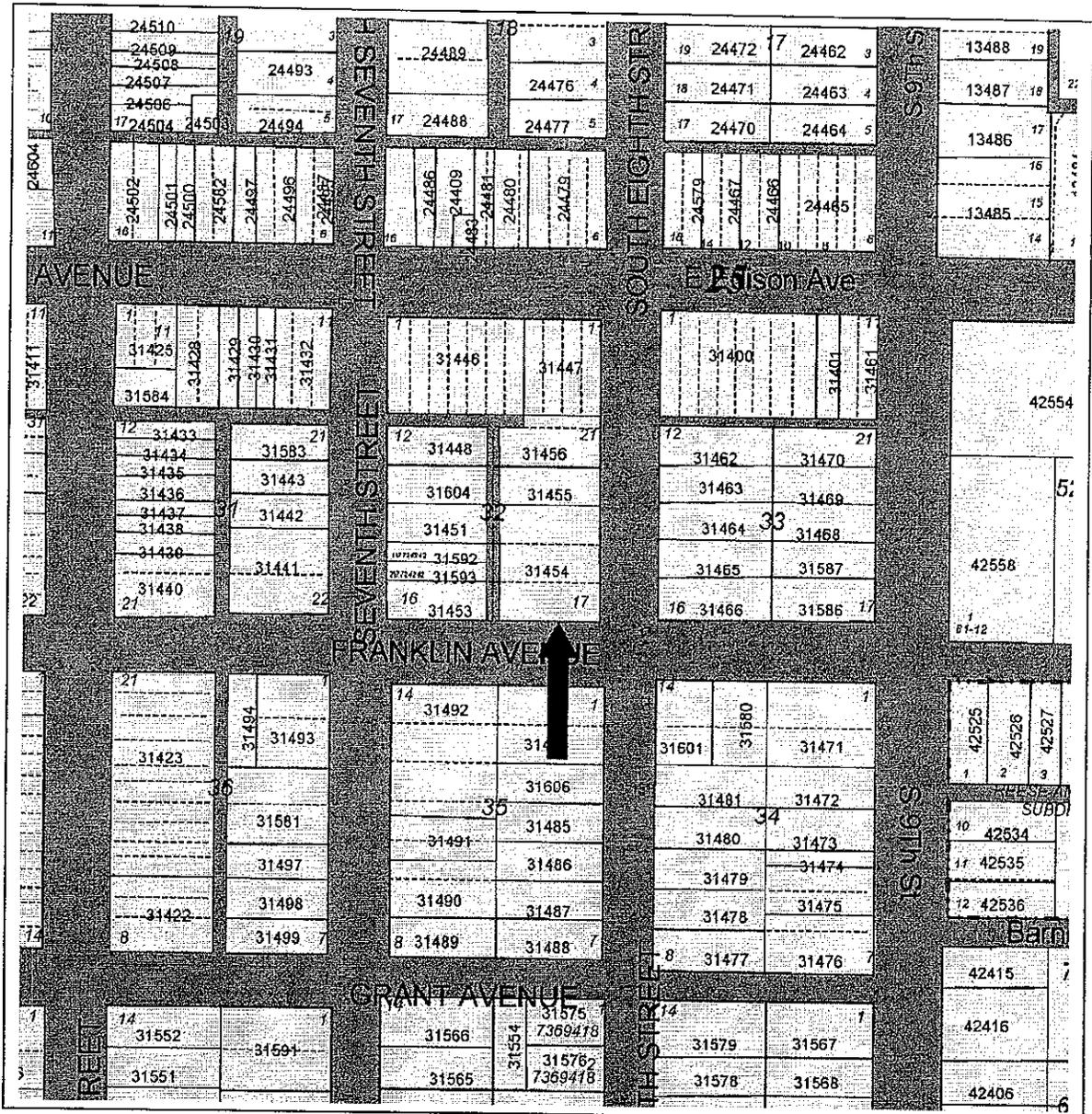
As required by applicable law, we will afford you the right to access your Personal Information, under certain circumstances to find out to whom your Personal Information has been disclosed, and request correction or deletion of your Personal Information. However, FNF's current policy is to maintain customers' Personal Information for no less than your state's required record retention requirements for the purpose of handling future coverage claims.

For your protection, all requests made under this section must be in writing and must include your notarized signature to establish your identity. Where permitted by law, we may charge a reasonable fee to cover the costs incurred in responding to such requests. Please send requests to:

Chief Privacy Officer  
Fidelity National Financial, Inc.  
601 Riverside Avenue  
Jacksonville, FL 32204

**Changes to this Privacy Statement**

This Privacy Statement may be amended from time to time consistent with applicable privacy laws. When we amend this Privacy Statement, we will post a notice of such changes on our website. The effective date of this Privacy Statement, as stated above, indicates the last time this Privacy Statement was revised or materially changed.



Range: 22 Township: 10 Section: 25

# Schreiner Title Company

This sketch is provided, without charge, for your information. It is not intended to show all matters related to the property including, but not limited to, area, dimensions, easements, encroachments, or location of boundaries. It is not a part of, nor does it modify the commitment or policy to which it is attached. The Company assumes NO LIABILITY for any matter related to this sketch. Reference should be made to an accurate survey for further information.