

**REGULAR MEETING NOTICE/AGENDA OF THE
Northeast Public Development Authority**

**MEETING OF FRIDAY, September 8th, 2023,
2:00 P.M. – Northeast Community Center**

A regular meeting of the Northeast Public Development Authority will be held at **2:00 P.M. on Friday, September 8th, 2023**, at the Northeast Community Center – 4001 North Cook Street.

The meeting will be conducted in a regular format and will be open to the public. Public testimony will be taken, and discussion will be limited to appropriate officials and staff.

Executive Session

At any time during or after the regular agenda, the NEPDA Board may choose to adjourn into Executive Session for the purpose of discussing privileged legal matters. This portion of the meeting would be closed to the public.

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY (NEPDA) REGULAR BOARD MEETING AGENDA

Date: September 8th, 2023

Time: 2:00 pm to 3:30 pm (Pacific Time)

Location: Northeast Community Center - 4001 N Cook St., South Room (lower level), or virtual via Zoom

Join Zoom Meeting:

<https://zoom.us/j/5453150461?pwd=VWUzRTg2Y3I5dGhRcVNJS2pCeW8yZz09>

Attendees: Northeast Public Development Authority Board of Directors, Staff, Invitees and Guests

Discussion Items:

2:00 pm - 2:05 pm

Welcome and Introductions

Approval of Minutes:

Approval of meeting minutes from July 14th, 2023

Public Comment

2:05 pm - 2:20 pm

Beacon Hill

1. Project update & substantial completion of booster station

Executive Session to discuss with legal counsel litigation, potential litigation and/or legal risks, per RCW 42.30.110(1)(i)

2:20 pm - 2:40 pm

3011 E Wellesley Property

1. Asset transfer status
2. Purchase and Sale Agreement
3. Project next steps

Action Item: Resolution No. 2023-003: A RESOLUTION of the Northeast Public Development Authority (the "NEPDA") Board of Directors authorizing the acquisition of the real property situated at 3011 E. Wellesley Avenue, Spokane, Washington from the City of Spokane.

2:40 pm - 2:50 pm

Downtown Hillyard cleanup project

1. Potential role for PDA
2. Cost, management expectations
3. Formation of Hillyard Business District

2:50 pm - 3:05 pm

ED Employment Agreement

1. Executive Session to review with legal counsel the performance of a public employee, per RCW 42.30.110(1)(g)
2. Potential action on minor amendment

3:05 pm - 3:25 pm

Executive Director Update

1. Financials review
2. Jubilant HollisterStier conversations
3. Boundary expansion update
4. Esmerelda Commerce Park incentive package
5. Infrastructure Updates
 - a. East Wellesley public meetings
 - b. NSC/Wellesley/COS Trail Openings
 - c. Wellesley ribbon cutting?
6. Upcoming NEPDA board meetings
 - a. Budget/workplan season

3:30 pm

Other Business, Closing

Next Meeting: October 13th, 2023, 10:30 am - 12:00 pm

DISCLOSURES

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION: The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. Individuals requesting reasonable accommodations or further information may call, write, or email Human Resources at 509.625.6363, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or. Persons who are deaf or hard of hearing may contact Human Resources through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

EXECUTIVE SESSION: An Executive Session may be called during the meeting. The purpose must be announced and is limited by RCW 42.30.110. Examples include: (1) to discuss with legal counsel litigation, potential litigation and/or legal risks (RCW 42.30.110(1)(i)); (2) to consider the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price (RCW 42.30.110(1)(b)); and (3) to consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price (final action selling or leasing public property shall be taken in a meeting open to the public)(RCW 42.30.110(1)(c)).

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY

Date: July 14th, 2023

Meeting Time: 10:30 am

Location: Northeast Community Center, South Room, or virtual via Zoom

Attendees

NEPDA Board of Directors

- Chair Michael Cathcart (joined 11:08 am)
- Vice-chair Josh Kerns
- Scott Simmons
- Marlene Feist
- Cheryl Stewart

Not in attendance:

- Angel Fiorini

Board Staff

- Jesse Bank, Executive Director
- Megan Clark, Legal Counsel

Guests

- Amanda Beck, City of Spokane
- Shae Blackwell, City of Spokane
- Ron Valencia, Spokane County

Welcome and Introductions

Vice-chair Kerns called the meeting to order at 10:32 AM.

Public Comment

No public comments.

Approval of Minutes

1. Vice-chair Kerns called for a motion approving the minutes of the June 9th NEPDA board meeting. A motion was made by member Feist and seconded by member Simmons. A vote was taken and passed unanimously.

General Facilities Charges

1. ED Bank introduced the topic by providing an overview of, and some follow-up on, what has been discussed on the issue to date at the NEPDA board level and the tenor of the discussion within the city review committee – as well as an update on their process going forward. The stated goal of the discussion at this meeting is to arrive at a points of agreement which ED can memorialize and submit into the record as official comment of the NEPDA.
 - a. City committee wrapping up week of 7/24 and will compile opinions and findings for official submittal in August/September.

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2. ED Bank provided an analysis of GFCs waived within PDA area since 2019, using city-provided data. This analysis was in response to a question posed by member Simmons at the previous NEPDA board meeting.
 - a. Waived GFCs in NEPDA area account for approximately 2.5% of total GFCs during that period. Amounts varied widely by year from \$7,300 to \$141,000.
3. ED Bank asked member Feist to explain where GFC dollars collected within the NEPDA – should the waivers be rescinded – would be spent, or whether there is a nexus between the growth the fees represent and the work being performed, similar to impact fees in Latah Valley.
 - a. Member Feist indicated that fees go to citywide capacity improvements that allow the water and sewer systems to grow over time, rather than repair/maintenance of any specific item within the district. She added that the two-zone scheme proposed by the city would serve to localize GFCs charged in the NEPDA as those fees would build capacity in the immediate area.
 - b. ED Bank then asked board members if there is consensus that the NEPDA should advocate for the two-zone option should the waivers be rescinded. The board generally agreed.
4. ED Bank addressed Commissioner Kerns' comment from the previous board meeting that the PDA revenues should be committed to funding these infrastructure costs. ED Bank proposed a scenario wherein the GFC waivers are rescinded from the City's perspective but paid for by the NEPDA's revenue district rather than by the end customer. Vice-chair Kerns asked whether we had some form of guarantee that those dollars would somehow come back to benefit the NEPDA. Consensus in the room was that there is no such guarantee, so the position of the board should be that the waivers be retained.
 - a. Member Feist continued that should the waivers be retained, the NEPDA could perhaps look at special connection charges in lieu of GFCs, which would be held in escrow to cover NEPDA related projects. If nothing else, the extra cost would fall to the ratepayers.
 - b. Member Feist summarized by saying that she's hearing the waiver is an important incentive for businesses locating in the PDA area and is a different factor in the NEPDA and UDPDA than in the West Plains. Perhaps in those "inner" PDAs there could be a different strategy – perhaps a 50/50 cost share – that acknowledges their current sufficiency.
5. Member Simmons asked about when a development project triggers an infrastructure upgrade, and the developer needs to pay for that upgrade outside the GFC process. Member Feist confirmed that was the case but explained that it was typical to reimburse that developer some percentage via GFC funds. This is the case on Beacon Hill with the interim storage tank. If the waiver is to be retained, that reimbursement vehicle doesn't exist. This would not only cost the project proponent more but would also make it difficult for the City to make larger, system-wide improvements in the area to facilitate multi-site growth, rather than just the site in question. In that case, it's likely the City would come to the PDA to seek additional funding or use ratepayer funds, as is being done today.
6. Member Stewart asked if, following the previous logic and given that the waivers are currently in place, there is need for a capacity-building project today that we don't get it because there are no GFCs being paid in. Member Simmons clarified by saying we have sufficient capacity today, but if there comes a time where that is not the case, there will need to be a conversation between the City, the PDA, and the project proponent about how to pay for that.
 - a. Commissioner Kerns added that he feels the PDA is going to have to pay for growth at some point either way by the city coming to ask for support.
7. Member Stewart asked if GFC waivers exist elsewhere outside of PDAs. Member Feist said that most of downtown has been waived for some time. That waiver will go away as part of these changes, but new incentives are being developed by city staff to take its place.
8. ED Bank summarized the conversation for the group:
 - a. Preference is to retain the waivers as-is
 - b. Preference is to get more clarity on intended purposes/uses of NEPDA funds
 - c. Preference is to explore other solutions than simple binary between waivers/no waivers
 - d. If waiver is to be rescinded, preference is to the two-zone solution

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1. ED Bank reminded the group the state of the discussion with Stone Properties and the particulars of the framework incentive package both parties have agreed to.
2. ED and NEPDA counsel developed a draft agreement based on that framework and the previous development agreement. The goal of this discussion is to review the draft, make any desired changes, and authorize ED to distribute.
3. Counsel Megan Clark presented draft agreement and special terms. She noted that she and ED are looking for guidance with respect to timing and deadlines in particular.
 - a. Member Simmons said he agreed with the concept for developing the agreement and noted the difficulty of assigning tight timelines. He stressed flexibility and a balance between a desire to incentivize the project and appropriate safeguards for public money.
 - b. Consensus is that we should indicate that NEPDA would like to work with Stone to develop realistic timelines that are agreeable to both parties.
4. Counsel also indicated that there will need to be coordination between the City, NEPDA, and Stone with respect to the termination of the existing agreement and execution of the new one. This could happen simultaneously.
5. ED Bank shared an updated site plan with the board reflecting changes to horizontal work to be completed.

3011 E Wellesley Property Update

1. ED Bank briefed City Council on asset transfer request Monday, 7/10. There seemed to be good support on Council. Some Councilmembers encouraged NEPDA to ask the City to simply walk away from its lien, rather than delaying repayment of the lien as per the current request.
2. City Legal said that the property needs to go through Real Estate Review Committee and be declared surplus prior to Council vote, which will add several weeks to the process. It is not expected to be problematic.
3. ED spoke with County Treasurer's office about possible construction financing via the SCIP. The conversation was promising so ED Bank will keep in touch with them as the project evolves.

Executive Director Update

1. E Wellesley rebuild project is moving along. City is in the process of producing drawings in anticipation of a public meeting in July/August. ED Shared updated renderings. Subject of initial public meetings will be whether the adjacent property owners are in favor of a two-lane or three-lane project.
2. City Integrated Capital Management submitted a supplemental funding request to the State Public Works Board to fully capitalize the Freya (Garland to Wellesley) rebuild. NEPDA submitted a letter of support.
 - a. Member Simmons asked whether the ICM team was aware of or worried about the December 21, 2024 obligation date for County ARP funds. ED Bank indicated that they have been in the loop the whole time and are not concerned.
3. Wellesley on/off ramp to NSC has had its opening date moved up – now expected in Q4 2023. Wellesley between Freya and Market is projected for Q3 2023. Roundabouts are complete and paving is expected to begin imminently. ED highlighted how transformative this will be for the Market Street corridor.
4. ED Bank reviewed June 2023 financials
 - a. ED reported he is working with County treasurer regarding unexpected income from property taxes.
 - b. Financial condition is generally very good.
5. Boundary expansion was approved by City Council. Member Simmons announced it is on consent agenda before the BOCC on 7/20.
6. ED reported that Pete Rayner is going to begin construction on an interim water storage tank. Per his development agreement, he is to be reimbursed for this tank out of GFCs that flow from property sales. Pete has asked the city to pay this reimbursement upfront using a SIP loan, per

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suggestion from Councilman Bingle. The city is not able to do this. Chair Cathcart suggested that the PDA, however, may. The amount requested is approximately \$970k.

- a. This is not a supportable amount given the PDA's current financial picture. Debt could perhaps be used, but that would potentially threaten our ability to borrow for other projects.
 - b. Chair Cathcart suggested that because the PDA is partly the County, potentially a SCIP loan could be used. The idea is that the PDA provides bridge funding in this scenario, not a cash incentive.
 - c. Vice-chair Kerns suggested Pete may contact Treasurer, or the PDA could do it on Pete's behalf. Member Simmons reminded Vice-chair that Treasurer can only lend to who he banks for, which are government entities only. Treasurer is not allowed to loan to private citizens or businesses.
 - d. Member Simmons questioned what would be put up as collateral for this kind of project. We want this project to happen, but not at a risk to the other projects the PDA currently has underway. Vice-chair Kerns agreed.
7. Subarea plan is up and running, public outreach will take place in September.
 8. ED reminded board that he is going on paternity leave for the month of August, so August meeting will be cancelled. ED asked board about whether they would like to hold September meeting knowing that will be ED's first week back. Board consensus is we'd play it by ear.

Other Business

1. No other business was reported

Notable items, Around the Room, Closing

There were no additional comments. Vice-chair Kerns adjourned the meeting at 12:01 PM.

NEXT MEETING

October 13th, 2023, 10:30 – 12:00 PM, Northeast Community Center (4001 N. Cook St.) or virtual via Zoom

**NORTHEAST PUBLIC DEVELOPMENT AUTHORITY
RESOLUTION NO. 2023-003**

A RESOLUTION of the Northeast Public Development Authority (the “NEPDA”) Board of Directors authorizing the acquisition of the real property situated at 3011 E. Wellesley Avenue, Spokane, Washington from the City of Spokane.

WHEREAS, the NEPDA was originally established by City of Spokane Ordinance No. C-34813 on December 12, 2011 and reformed by the Interlocal Agreement between the City of Spokane and Spokane County through City of Spokane OPR #2019-0928 and Spokane County Resolution #19-1390 to assist the City of Spokane and Spokane County to facilitate economic development of the Northeast area of the City and County;

WHEREAS, the NEPDA’s goals and mission are to facilitate economic development within its boundaries. There are currently infrastructure and development projects ongoing in or near the NEPDA that will provide future opportunities for development, including the North Spokane Corridor (NSC), and Wellesley Avenue interchange;

WHEREAS, the City of Spokane adopted City Resolution 2016-0037 establishing a policy regarding the transfer of assets to the public development authorities created by the City of Spokane, and the NEPDA is permitted to receive a transfer of real property from the City pursuant to RCW 35.21.730-.747;

WHEREAS, the City of Spokane is the owner of real property, Spokane County Parcel Number 36343.3007 (commonly known as “3011 E. Wellesley Avenue”), located in the City of Spokane, County of Spokane, State of Washington, and more particularly described in the Purchase and Sale Agreement attached hereto as Exhibit A;

WHEREAS, 3011 E. Wellesley is within the boundaries of the NEPDA, and this property requires planning and design, and may require environmental assessment and remediation prior to redevelopment.

WHEREAS, it is the intent of the NEPDA to acquire the property located at 3011 E. Wellesley from the City of Spokane to facilitate redevelopment of the property in furtherance of the NEPDA’s mission and goals, and in accordance with the NEPDA’s Bylaws, policies and procedures;

WHEREAS, the City of Spokane and NEPDA have negotiated a Purchase and Sale Agreement, to facilitate the terms and conditions of the NEPDA’s acquisition of 3011 E. Wellesley, attached hereto as Exhibit A and incorporated herein by this reference; and

BE IT RESOLVED, that pursuant to the authority provided in the NEPDA bylaws and applicable policies, the NEPDA Board approves of the acquisition of the property located at 3011 E. Wellesley from the City of Spokane, in order to facilitate planning, environmental assessment, and future redevelopment of the property in furtherance of the NEPDA’s mission and goals, and in accordance with the NEPDA’s Bylaws, policies and procedures.

BE IT FURTHER RESOLVED, that pursuant to the authority provided in the NEPDA bylaws and applicable policies, the NEPDA Board hereby directs the Executive Director to execute a Purchase and Sale Agreement with the City of Spokane in the same or substantially similar form as the attached Exhibit A, and in accordance with the terms of this Resolution, and take any and all necessary and proper action to effectuate the transfer of 3011 E. Wellesley.

BE IT FURTHER RESOLVED, that the Executive Director and officers of the NEPDA are hereby authorized and directed to take all action necessary and proper to effectuate the foregoing.

BE IT FURTHER RESOLVED, any actions of the Executive Director, Board of Directors or staff of the NEPDA prior to the date hereof and consistent with the terms of this resolution are ratified and confirmed.

ADOPTED by an affirmative majority vote of the Board of the Northeast Public Development Authority on the 8th day of September 2023.

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY

BOARD CHAIR

CERTIFICATE

I, the undersigned, Secretary of the Northeast Public Development Authority Board of Directors, a municipal corporation organized under the laws of the State of Washington, do hereby certify that the foregoing resolution was duly approved and adopted by the Board of Directors of the corporation at a meeting of the Board of Directors duly called and held on the 8th day of September 2023, at which meeting a quorum was present; and that said resolution, as set out above, will appear in the minutes of said meeting in the corporation's minute book.

DATED this _____ day of _____, 2023.

SECRETARY

PURCHASE AND SALE AGREEMENT

This Agreement is entered into as of _____ (the “Effective Date”), by and between the CITY OF SPOKANE, a Washington municipal corporation (“City”), and NORTHEAST PUBLIC DEVELOPMENT AUTHORITY (“NEPDA”), collectively (“the Parties”).

Whereas, the NEPDA was originally established by City of Spokane Ordinance No. C-34813 on December 12, 2011 and reformed by the Interlocal Agreement between the City of Spokane and Spokane County through City of Spokane OPR #2019-0928 and Spokane County Resolution #19-1390 to assist the City of Spokane and Spokane County to facilitate economic development of the Northeast area of the City and County; and

Whereas, pursuant to RCW 35.21.730(1), City is authorized to transfer to the NEPDA, with or without consideration, any funds, real or personal property, property interests, or services; and

Whereas, pursuant to RCW 35.21.747, in transferring real property to the NEPDA, City is required to impose appropriate deed restrictions necessary to ensure the continued use of such property for the public purpose or purposes for which such property has been transferred to the NEPDA, and further requires City to impose certain procedural requirements which must be satisfied prior to any sale or encumbrance of such property; and

Whereas, the Parties wish to enter into an agreement under which the NEPDA will purchase from City and City will sell to the NEPDA certain real property located at 3011 E Wellesley Avenue, in the City of Spokane, WA (the “Property”) for purposes consistent with the Interlocal Agreement, the NEPDA Charter, and Washington laws governing the formation and operation of public development authorities, including but not limited to, affordable housing; and

Whereas, the City acquired the Property from Spokane County via a Treasurer’s Deed; and

Whereas, prior to the City’s ownership of the Property, a fire caused extensive damage to an apartment building located on the property and the building was subsequently condemned as uninhabitable; and

Whereas, to ensure public safety, the City’s Code Enforcement Department erected a fence around the Property and eventually had the apartment building demolished, incurring \$418,323.28 in fees which were placed as a lien on the Property (“City Lien”); and

NOW, THEREFORE, in consideration of the respective agreements set forth below and for good and valuable consideration, the receipt and sufficiency of which is acknowledged, City and NEPDA agree as follows:

1. Sale of Property. City agrees to sell and convey to the NEPDA and the NEPDA agrees to purchase from City, subject to the terms and conditions set forth in this Agreement, and further subject to any rights of redemption under Chapter 84.64. RCW, the real property commonly located at 3011 E Wellesley Avenue, in the City and County of Spokane, State of Washington, and legally described in Exhibit “A” hereto, Spokane County Parcel No. 36343.3007 (the “Property”).

2. Earnest Money. [intentionally omitted]

3. Purchase Price. The purchase price for the Property (the “Purchase Price”) will be One Dollar (\$1.00), paid to City in cash through escrow at closing. As additional consideration for the purchase and sale of the Property to the NEPDA, upon any future sale of the Property, the City Lien shall be repaid. For such repayment of the City Lien, and the City shall receive a preferred position sale proceeds, pari-passu with the NEPDA’s development partners for the Property (if any) and before the NEPDA, until the City is made whole on its lien amount of \$418,323.28.

4. Title to the Property.

4.1 Conveyance. At closing, City shall convey to NEPDA fee simple title to the Property by a duly executed and acknowledged Quitclaim Deed (the “Deed”), subject to those exceptions that the NEPDA approves pursuant to Section 4.2 below, and further subject to such appropriate deed restrictions as the City deems necessary to satisfy the requirements of RCW 35.21.747 (collectively the “Permitted Exceptions”). The Deed shall provide that the Property will be used by the NEPDA for any lawful purpose consistent with the NEPDA’s Charter and Bylaws, including affordable housing, and will provide that any sale or encumbrance of the Property by the NEPDA must comply with the provisions contained in RCW 35.21.747, as now existing or hereafter amended. The Deed shall further provide that, upon a sale of the Property, the City shall receive a preferred position on sale proceeds, as set forth in Paragraph 3.

4.2 Preliminary Commitment. City shall order a preliminary commitment for an owner’s standard coverage policy of title insurance in the amount of the Purchase Price to be issued by a title company of the City’s choosing (the “Title Company”) and accompanied by copies of all documents referred to in the commitment (the “Preliminary Commitment”). Within fifteen (15) business days of City’s delivery of a copy of the Preliminary Comment to the NEPDA, the NEPDA shall advise City by written notice of the exceptions to title, if any, that are disapproved by the NEPDA (“Disapproved Exceptions”). City will then have ten (10) business days after receipt of the NEPDA’s notice to give the NEPDA notice that (i) City will remove Disapproved Exceptions or (ii) City elects not to remove Disapproved Exceptions. If City fails to give the NEPDA notice before the expiration of the ten (10) day period, City will be deemed to have elected not to remove Disapproved Exceptions. In no event shall City have any obligation to spend any money to have Disapproved Exceptions removed.

If City elects not to remove any Disapproved Exemptions, the NEPDA will have until the expiration of the Feasibility Study Period, as set forth in Section 5, to notify City of the NEPDA's election either to proceed with the purchase and acquire the Property subject to the Disapproved Exceptions, or to terminate this Agreement. If City gives notice that it will cause one or more Disapproved Exception(s) to be removed, but fails to remove any of them from title on or before the Closing Date, the NEPDA will have the right to either (i) elect to terminate this Agreement by written notice to City or (ii) proceed with the purchase and acquire the Property subject to any remaining Disapproved Exception(s). If the NEPDA elects to terminate this Agreement, the escrow will be terminated, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement except as otherwise provided in this Agreement. If this Agreement is terminated through no fault of either party, then City and the NEPDA shall share equally any costs of terminating the escrow and any cancellation fee for the Preliminary Commitment.

- 4.3 Title Policy. City shall cause Title Company to issue to the NEPDA at closing a standard coverage owner's policy of title insurance insuring the NEPDA's title to the Property in the full amount of the Purchase Price subject only to the Permitted Exceptions (the "Title Policy"). The Title Policy must be dated as of the Closing Date. PROVIDED, notwithstanding the foregoing, the City and NEPDA acknowledge and understand that the Title Company may be unwilling to issue a title commitment immediately due to the fact that certain individuals may have three (3) years to redeem (RCW 84.64.070).

5. Conditions to Closing.

5.1 Feasibility Study.

- 5.1.1 Feasibility Study Period. During the period ending on the date which is one hundred eighty (180) days following the Effective Date (the "Feasibility Study Period"), the NEPDA may conduct a review with respect to the Property and satisfy itself with respect to the condition of and other matters related to the Property and its suitability for the NEPDA's intended use (the "Feasibility Study").

The Feasibility Study may include all inspections and studies the NEPDA deems necessary or desirable, in its sole discretion. The NEPDA and its agents, representatives, consultants, architects, and engineers will have the right, from time to time, during the Feasibility Study Period to enter onto the Property and make borings, drive test piles and conduct any other test and studies that may be necessary or desirable to ascertain the condition and suitability of the Property for the NEPDA's intended use. NEPDA shall protect and indemnify City from and against any construction or other liens or encumbrances arising out of or in connection with its exercise of this right of entry and shall cause any such liens or encumbrances to be promptly released.

5.1.2 Termination. The NEPDA will have the right to terminate this Agreement if, in the NEPDA's good faith judgment, the Property is not suitable for the NEPDA's intended use or does not meet the NEPDA's intended investment objectives. The NEPDA's right to terminate must be exercised by delivering written notice of its election to City on or before the expiration of the Feasibility Study Period, or any reasonable extension as agreed to by the Parties in writing. In the event the NEPDA does not complete the purchase, the NEPDA shall return the Property as near as is practicable to its condition at the time the Feasibility Study began. If the NEPDA terminates this Agreement under this Section, this Agreement will terminate, and City and the NEPDA will be released from all further obligation or liability hereunder, except for the NEPDA's obligations under Sections 5.1.1 and 5.1.4 herein.

5.1.3 Confidentiality. Prior to the Closing Date, the NEPDA will not distribute or divulge the information or materials it and its agents and consultants may generate in connection with the Feasibility Study to other persons except as may be required by law or as may be necessary or desirable in connection with the NEPDA's evaluation of the Property and its suitability; provided, that during this time period no information or materials concerning environmental matters will be divulged to any governmental entity without City's written consent, unless required by law. If the NEPDA elects not to purchase the Property, the NEPDA agrees that, except as may be required by law, it will not further divulge or further distribute the information and materials except with City's consent.

Notwithstanding the foregoing, if the NEPDA elects not to purchase the Property, and if City requests copies of the written reports and studies prepared for the NEPDA in connection with its Feasibility Study, then the NEPDA will deliver to City copies of the final reports and studies. The NEPDA will, in that event, cooperate reasonably with City to coordinate City's communications with the consultants, provided the NEPDA will not be obligated to bear any costs or expend more than a reasonable period of time in doing so.

5.1.4 Indemnification. The NEPDA agrees to assume all liability for and to indemnify and save City harmless from all liability and expense (including reasonable attorneys' fees) in connection with all claims, suits and actions of every name, kind and description brought against City or its agents or employees by any person or entity as a result of or on account of injuries or damages to person, entities and/or property received or sustained, arising out of, in connection with or as a result of the acts or omissions of NEPDA or its agents or employees in exercising its rights under the right of entry granted in this Section 5, except for claims caused by City's negligence.

5.2 Contingencies. The NEPDA's obligation to purchase the Property is expressly contingent upon the following (collectively referred to in this Agreement as the "NEPDA's Contingencies"):

- 5.2.1 Feasibility Study. The NEPDA's approval, prior to expiration of the Feasibility Study Period or any extension thereof, of the suitability of the Property as a result of the Feasibility Study;
- 5.2.2 Environmental condition. The NEPDA's approval, prior to expiration of the Feasibility Study Period, of the environmental condition of the Property pursuant to Section 11 below;
- 5.2.3 Title Policy. The NEPDA's receipt of Title Company's firm commitment to issue, upon closing, the Title Policy as described in Section 4.3;
- 5.2.4 City's compliance. City's timely performance of all of its obligations under this Agreement; provided, City will be given reasonable notice of any failure on its part to perform any such obligations and will have a period of time that is reasonable under the circumstance to cure its nonperformance; and

The Parties shall diligently attempt to timely satisfy all of the NEPDA's Contingencies.

5.3 Satisfaction/Waiver of the NEPDA's Contingencies. The NEPDA's Contingencies are solely for the benefit of NEPDA. The Parties shall diligently attempt to timely satisfy all of the NEPDA's Contingencies. If any of the NEPDA's Contingencies are not timely satisfied, the NEPDA will have the right at its sole discretion to either waive any of them in writing and proceed with the purchase, or to terminate this Agreement. If the NEPDA elects to terminate this Agreement, the escrow will be terminated, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement. If this Agreement is terminated under this Section, then City and the NEPDA shall share equally any costs of terminating the escrow.

6. Closing Date. This transaction will be closed in escrow by the Title Company acting as escrow agent ("Escrow Agent"). The closing will be held at the offices of the Title Company on or before that date which is sixty (60) days after the end of the Feasibility Study Period or satisfaction/waiver of the NEPDA's Contingencies, but in any event no later than 5:00 p.m. Pacific Time, on _____ (the "Closing Date"). If closing does not occur on or before _____, or any later date mutually agreed to in writing by City and the NEPDA, Escrow Agent will immediately terminate the escrow and return all documents to the party that deposited them.

7. Closing.

7.1 City's Escrow Deposits. On or before the Closing Date, City shall deposit into escrow the following:

7.1.1 the duly executed and acknowledged Quitclaim Deed; and

- 7.1.2 a duly executed and acknowledged Real Estate Tax Affidavit;
- 7.2 NEPDA's Escrow Deposits. On or before the Closing Date, the NEPDA shall deposit into escrow the following:
- 7.2.1 cash in an amount sufficient to pay the Purchase Price and the NEPDA's share of closing costs;
- 7.2.2 a duly executed and completed Real Estate Excise Tax Affidavit; and
- 7.2.3 any other documents or instruments the NEPDA is obligated to provide pursuant to this Agreement in order to close this transaction.
- 7.3 Additional Instruments and Documentation. City and the NEPDA shall each deposit any other instruments and documents that are reasonably required by Escrow Agent or otherwise required to close the escrow and consummate the purchase and sale of the Property in accordance with this Agreement.
- 7.4 Closing Costs.
- 7.4.1 City's Costs. City shall pay the premium for a standard coverage owner's policy of title insurance in the full amount of the Purchase Price, the Title Company's escrow fee, and the cost of recording the Deed. It is understood between the parties that pursuant to WAC 458-61A-205 this sale will be exempt from the Washington State real estate excise tax, and the NEPDA agrees to cooperate with City in executing such documents as are required to qualify City for such exemption.
- 7.4.2 NEPDA's Costs. NEPDA shall pay the additional premium, if any, attributable to the extended coverage owner's policy of title insurance (if elected by the NEPDA) and any endorsements required by the NEPDA.
- 7.5 Foreign Investment in Real Property Tax Act. The parties agree to comply in all respects with Section 1445 of the Internal Revenue Code and the regulations issued thereunder.
8. Adjustments and Prorations. The following adjustments and prorations will be made as of the Closing Date (with NEPDA either responsible for or entitled to a credit for, as the case may be, the actual Closing Date).
- 8.1 Property Taxes. All property taxes payable in the year of closing and assessments approved by NEPDA, if any, will be prorated as of the Closing Date.
- 8.2 Utilities. All gas, electric and other utility charges will be prorated as of the Closing Date.
9. Covenants. [intentionally omitted]

10. Representations and Warranties.

10.1 City's Representations and Warranties. Except as specifically provided in this Agreement, City makes no warranty or representation, express or implied, with respect to the condition of the Property or its suitability for any particular purpose.

10.1.1 City has not received notice of any special assessment or condemnation proceedings affecting the Property.

10.1.2 To the best of City's knowledge, there is no litigation pending or threatened against City (or any basis for any claim) that arises out of the ownership of the Property and that might materially and detrimentally affect (i) the use or operation of the Property for the NEPDA's intended use, or (ii) the ability of City to perform its obligations under this Agreement.

10.1.3 City represents and warrants to the NEPDA that this Agreement and all documents executed by City that are to be delivered to NEPDA at closing are, or at the time of closing will be (i) duly authorized, executed and delivered by City, (ii) legal, valid and binding obligations of City, and (iii) in compliance with all provisions of all agreements and judicial orders to which City is a party or to which City is subject.

10.2 Waiver of City Disclosure Statement. The NEPDA expressly waives the NEPDA's right to receive from City a signed and dated Real Property Transfer Disclosure Statement as contemplated by Chapter 64.06 RCW.

10.3 NEPDA's Representations and Warranties. The NEPDA represents and warrants to City that this Agreement and all documents executed by NEPDA that are to be delivered to City at closing are, or at the time of closing will be (i) duly authorized, executed and delivered by NEPDA, (ii) legal, valid and binding obligations of NEPDA, and (iii) in compliance with all provisions of all agreements and judicial orders to which NEPDA is a party or to which NEPDA is subject.

11. Hazardous Materials. Notwithstanding the representations set forth above, the City makes no representation regarding any Hazardous Materials Condition, as defined below, affecting the Property. The NEPDA takes the Property "AS IS" with all physical defects, including those that cannot be observed by casual inspection. City will have no obligation to repair or remedy any physical defects of the Property. The NEPDA may, at its sole cost, expense, and liability, conduct an environmental site assessment of the Property during the Feasibility Study Period. For the purposes of this paragraph, "Hazardous Materials" shall include, but not be limited to, substances defined as "Hazardous Substances," "Hazardous Materials," "Hazardous Waste," "Toxic Substances", in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, 42 U.S.C. Section 9601 et seq., the Model Toxic Control Act of the State of Washington and all regulations adopted and publications promulgated pursuant to such laws, collectively "Environmental Laws". A "Hazardous Materials Condition" for purposes of this Agreement is defined as the existence on, under or relevantly adjacent to the Property of

Hazardous Materials that would require remediation and/or removal under applicable Federal, State or local law. In the event the NEPDA notifies City prior to the Closing Date that the Property is affected by a Hazardous Materials Condition and such notice is accompanied by a report from an engineering company with experience in evaluating such matters, the NEPDA may either (a) terminate this Agreement, or (b) proceed to Closing notwithstanding such contamination. To the extent allowed by law, the environmental due diligence investigation provided for herein and any information or documents produced or collected by the environmental consultant in connection with this investigation shall be considered to be confidential information by the NEPDA and City until Closing. Prior to Closing, or in the event Closing does not occur, the NEPDA shall not disclose such information to any third party or initiate or have any direct contact with any governmental agencies in connection with the environmental investigation without the prior written consent of the City's Director of Asset Management, unless otherwise required by law. The NEPDA may disclose said information to its employees, attorneys, consultants, lenders, or others who have a need to know and use the information in connection with this Agreement, and may disclose said information if required to do so by law, or by court order. If the environmental investigation reveals any conditions that applicable laws require to be reported to any governmental agency, the City shall have the responsibility to make such reports or disclosures.

12. Eminent Domain. If all or any part of the Property is taken by condemnation or eminent domain and the value of the portion of the Property so taken exceeds Fifty Thousand and 00/100 Dollars (\$50,000.00), the NEPDA may, upon written notice to City, elect to terminate this Agreement, and in such event all monies theretofore paid on account must be returned to the NEPDA, and neither party will have any further liability or obligation under this Agreement. If all or any portion of the Property has been or is hereafter condemned or taken by eminent domain and this Agreement is not canceled, City's right, title and interest in and to any awards in condemnation or eminent domain, or damages of any kind, to which City may have become entitled or may thereafter be entitled by reason of any exercise of the power of condemnation or eminent domain with respect to the Property or any portion thereof shall accrue to and are expressly transferred to the NEPDA.

13. Possession. City shall deliver possession of the Property to the NEPDA on the Closing Date.

14. Default. If there is an event of default under this Agreement by City (including a breach of any representation, warranty or covenant), the NEPDA may terminate this Agreement by written notice to City and Escrow Agent. If the NEPDA terminates this Agreement, the escrow will be terminated, the NEPDA's entire deposit, if any, must immediately be returned to the NEPDA, all documents will be immediately returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided in this Agreement except that City shall pay any costs of terminating the escrow and any cancellation fee for the Preliminary Commitment.

15. Notices. Any notice under this Agreement must be in writing and be either (1) personally delivered, (2) delivered by U.S. mail, or (3) e-mailed to the designated representative for the party. Any notice given by U.S. mail must be sent, postage prepaid, by certified or registered mail, return receipt requested. All notices must be addressed to the parties at the following addresses or at such other addresses as the parties may from time to time direct in writing:

City: City of Spokane
Attn: _____
808 W Spokane Falls Blvd
Spokane, WA 99201

With a copy to: Office of the City Attorney
808 W Spokane Falls Blvd
Spokane, WA 99201

NEPDA: Northeast Public Development Authority
Attn: Jesse Bank

Spokane, WA 992__

Any notice will be deemed to have been given, if personally delivered, when delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two business days after deposit at any post office in the United States of America, and if delivered via e-mail, the same day as verified, provided that any verification that occurs after 5 p.m. on a business day, or at any time on a Saturday, Sunday or holiday, will be deemed to have occurred as of 9 a.m. on the following business day.

16. Brokers and Finders. Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any licensed real estate broker or other person who can claim a right to a commission or a finder's fee as procuring cause of the purchase and sale contemplated by this Agreement. If any broker or finder perfects a claim for a commission or finder's fee based upon any other contract, dealings or communication, the party through whom the broker or finder makes his or her claim will be responsible for that commission or fee and shall indemnify and hold harmless the other party from and against any liability, cost or damages (including attorneys' fees and costs) arising out of that claim.

17. Amendments. This Agreement may be amended or modified only by a written instrument executed by City and the NEPDA.

18. Continuation and Survival of Representations and Warranties. All representations and warranties by the respective parties contained in this Agreement or made in writing pursuant to this Agreement are intended to and will remain true and correct as of the Closing Date, will be deemed to be material and will survive the execution and delivery of this Agreement and the delivery of the Deed and transfer of title. Such representations and warranties, however, are not assignable and do not run with the land, except as may be expressly provided herein or contained in a written instrument signed by the party to be charged.

19. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the state of Washington.

20. Entire Agreement. This Agreement and its exhibits constitute the entire agreement between the Parties with respect to the purchase and sale of the Property, and supersede all prior agreements and understandings between the Parties relating to the subject matter of this Agreement. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants, and conditions set forth herein.

21. Attorney Fees. Each party shall pay its own legal fees relating to negotiation and drafting of this Agreement and the documents to be executed at closing. If either party fails to perform any of its obligations under this Agreement or if a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the party not substantially prevailing in the dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights under this Agreement, including, without limitation, court costs and reasonable attorney fees incurred in connection with any federal, state, or bankruptcy court proceeding.

22. Waiver. Neither City's nor NEPDA's waiver of the breach of any covenant under this Agreement will be construed as a waiver of a subsequent breach of the same covenant.

23. Nonmerger. The terms and provisions of this Agreement, including, without limitation, all indemnification obligations will not merge in, but will survive, the closing of the transaction contemplated under this Agreement.

24. Negotiation and Construction. This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either party.

25. Assignment. NEPDA may not assign its rights under this Agreement.

26. Governmental Approval. NEPDA acknowledges and agrees that this Agreement does not bind the City of Spokane until it is signed by the Mayor following approval by the Spokane City Council in open public meeting. The City similarly acknowledges that this Agreement does not bind the NEPDA until it has been signed by the NEPDA following approval of its governing body in an open public meeting.

27. Exhibits. The following exhibits are attached to and made a part of this Agreement by this reference.

EXHIBIT A – Legal Description of the Property

In witness whereof, the NEPDA and City have signed this Agreement effective as of the date first hereinabove written.

CITY OF SPOKANE

By: _____
Mayor

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

NORTHEAST PUBLIC DEVELOPMENT AUTHORITY

By: _____
Its: Chair

STATE OF WASHINGTON :
 :ss.
County of Spokane :

On this ____ day of _____, 20____, before me personally appeared Nadine Woodward and Terri Pfister, to me known to be the Mayor and the City Clerk, respectively, of the CITY OF SPOKANE, a municipal corporation, that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for the State
of Washington, residing at Spokane
My Appointment expires _____

STATE OF WASHINGTON :
 :ss.
County of Spokane :

On this ____ day of _____, 20__, before me personally appeared _____, to me known to be the _____ of NORTHEAST PUBLIC DEVELOPMENT AUTHORITY, the entity that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of the corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

Notary Public in and for the State
of Washington, residing at Spokane
My Appointment expires _____

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

Lots 7, 8, 9 and the west 27 feet of Lot 10, Block 23, of Hillyard as per plat thereof recorded in Volume "D" of Plats, page 17 in the office of the Spokane County Auditor. All located with the SW Quarter of Section 34, T26N, R43 E.W.M.



Northeast Public Development Authority
Profit & Loss
August 2023

	<u>Aug 23</u>
Ordinary Income/Expense	
Income	
3370000 · Local Grants, Entitlements	
3370040 · Property Taxes	845.75
3370050 · Leasehold & Interest	1,074.84
	<hr/>
Total 3370000 · Local Grants, Entitlements	1,920.59
Total Income	1,920.59
Expense	
5587010 · Wages	12,692.31
5587020 · Payroll Expenses	
FICA	976.70
PFML	0.00
FUTA	0.00
	<hr/>
Total 5587020 · Payroll Expenses	976.70
5587040 · Legal & Professional Services	
Accounting Fees	604.00
Advertising & Marketing	398.00
Legal Fees	3,461.50
	<hr/>
Total 5587040 · Legal & Professional Services	4,463.50
5587044 · Communications	
Website	56.66
Telephone, Telecommunications	75.00
	<hr/>
Total 5587044 · Communications	131.66
5587047 · Other Business Expenses	
Bank Fees	18.43
	<hr/>
Total 5587047 · Other Business Expenses	18.43
Total Expense	18,282.60
Net Ordinary Income	-16,362.01
Net Income	<u><u>-16,362.01</u></u>

These financial statements have not been subjected to an audit or review or compilation engagement, and no assurance is provided on them

Northeast Public Development Authority
Profit & Loss
 January through August 2023

	Jan - Aug 23
Ordinary Income/Expense	
Income	
3370000 · Local Grants, Entitlements	
3370100 · State - Dept. of Ecology	14,846.00
3370011 · Sales Tax - City	38,835.06
3370040 · Property Taxes	156,266.89
3370050 · Leasehold & Interest	7,046.99
Total 3370000 · Local Grants, Entitlements	216,994.94
Total Income	216,994.94
Expense	
Donation	750.00
5587010 · Wages	76,153.86
5587020 · Payroll Expenses	
FICA	5,860.20
SUTA	110.65
PFML	0.00
FUTA	588.50
Life and Disability	562.38
Health Insurance	257.36
Total 5587020 · Payroll Expenses	7,379.09
5587030 · Office Supplies & Software	
Repairs & Maintenance	198.42
Office Supplies	418.44
5587030 · Office Supplies & Software - Other	9.47
Total 5587030 · Office Supplies & Software	626.33
5587040 · Legal & Professional Services	
Engineering	5,000.00
Accounting Fees	5,213.35
Advertising & Marketing	10,203.92
Legal Fees	13,294.60
Outside Contract Services	19,846.00
Total 5587040 · Legal & Professional Services	53,557.87
5587041 · Travel	
Conference, Convention, Meeting	-10.00
Meals & Entertainment	152.62
5587041 · Travel - Other	565.18
Total 5587041 · Travel	707.80
5587043 · Insurance	3,180.00
5587044 · Communications	
Website	480.90
Telephone, Telecommunications	450.00
Total 5587044 · Communications	930.90
5587046 · Rent & Lease	1,000.00
5587047 · Other Business Expenses	
Tax & Licenses	146.19
Bank Fees	117.37
Dues & Subscriptions	35.00
Total 5587047 · Other Business Expenses	298.56
Total Expense	144,584.41
Net Ordinary Income	72,410.53
Net Income	72,410.53

These financial statements have not been subjected to an audit or review or compilation engagement, and no assurance is provided on them

Northeast Public Development Authority
Balance Sheet
As of August 31, 2023

	Aug 31, 23
ASSETS	
Current Assets	
Checking/Savings	
1114000 · Spokane County Investment Pool	499,478.77
1111000 · 1111000 Checking WTB	164,712.55
Total Checking/Savings	664,191.32
Total Current Assets	664,191.32
TOTAL ASSETS	664,191.32
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
24000 · Payroll Liabilities	
FICA	1,291.14
SUTA	88.05
PFMLA	121.30
24000 · Payroll Liabilities - Other	123.40
Total 24000 · Payroll Liabilities	1,623.89
Total Other Current Liabilities	1,623.89
Total Current Liabilities	1,623.89
Total Liabilities	1,623.89
Equity	
32000 · Unrestricted Net Assets	590,156.90
Net Income	72,410.53
Total Equity	662,567.43
TOTAL LIABILITIES & EQUITY	664,191.32

These financial statements have not been subjected to an audit or review or compilation engagement, and no assurance is provided on them