

Restrictive Covenant

When Recorded Return To:

Avista Corporation
1411 E Mission Ave
Spokane, Washington 99201

Document Title:

Amended and Restated Restrictive Covenant and Limited Indemnity

Reference Number of Documents assigned or released:

N/A

Grantor:

Courtyard Office Center, LLC, a Washington limited liability company

Grantee:

Avista Corporation, a Washington corporation

Abbreviated Legal Description:

L 1, 2, 3 & ptn 4 B 16 Railroad Addition

Full legal description on Exhibit 1

Assessor's Property Tax Parcel Numbers:

35192.0901, 35192.0902, and 35192.0903

**AMENDED AND RESTATED RESTRICTIVE COVENANT
AND LIMITED INDEMNITY**

RECITALS

- A. Courtyard Office Center, LLC, a Washington limited liability company, as successor in merger to Courtyard Office Center, LP and SPS Inn, L.P. (Grantor), is the fee owner of real estate situated in Spokane County, Washington, and legally described on Exhibit 1, attached hereto and by this reference incorporated herein (the Property).
- B. Hazardous substances have been released into soil and groundwater beneath the Property. The Property is part of a site that is being remediated under Washington's Model Toxics Control Act, RCW 70A.305, known as the Washington Water Power Central Steam Plant Site (Site).
- C. Avista Corporation, a Washington corporation (Grantee), is a party to the Amended Consent Decree filed December 2, 1996 in *State of Washington, Department of Ecology v. The Washington Water Power Company*, Spokane County Superior Court Cause No. 94-2-05788-4 (Consent Decree). Pursuant to its obligations under the Consent Decree, Grantee has installed, and must operate, monitor, and maintain, various remediation and monitoring equipment, including, without limitation, groundwater monitoring wells, oil recovery well vaults, bioventing injection wells, bioventing extraction wells, piping, and stormwater catch basins (collectively, the Remediation System). Portions of the Remediation System are located on the Property.
- D. Grantee also has installed in an enclosed space in the parking garage at the Property, and must operate, monitor, and maintain, electronic controls over the Remediation System (Control Room). The Control Room is used to control the Remediation System throughout the Site.
- E. This Amended and Restated Restrictive Covenant and Limited Indemnity (Agreement) supersedes and replaces the Restrictive Covenant recorded November 16, 2022 under Spokane County Auditor File No. 7253539.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor agrees and covenants with Grantee, said covenants to run with the land for the benefit of Grantee, its successors and assigns, and to be binding on all parties and all parties claiming under them, as follows:

- 1. Remediation System and Control Room. Grantor shall not disturb or allow disturbance of the Control Room, or any equipment therein, or of the Remediation System at

the Property without the approval of the Washington Department of Ecology (Ecology) and of Grantee.

2. Redevelopment. Before undertaking any Redevelopment of the Property, Grantor shall present its proposed Redevelopment to Ecology and Grantee. Grantor shall not proceed with the Redevelopment without Grantee's approval, which may be withheld if Grantee determines there is a reasonable likelihood Grantor will not successfully complete the Redevelopment. Grantee may require the posting of a completion bond or equivalent before the start of construction. Grantor shall implement any remedial actions that Ecology determines are necessary as a result of such Redevelopment. Grantor shall be solely responsible for all costs and liabilities arising out of such Redevelopment, including, without limitation, costs of demolition; excavation, management, treatment, and disposal of contaminated or potentially contaminated soil, groundwater, stormwater, or other environmental media; removal, repair, and replacement of the Remediation System, Control Room, or any component thereof; operation and maintenance of any component of the Remediation System or Control Room repaired or replaced as a result of Redevelopment; any measures required by Ecology to limit or monitor exposure to contamination; and Ecology's oversight of the Redevelopment. For purposes of this Agreement, "Redevelopment" means any activity that disturbs soil below ground surface; exposes soil that is, as of the date this Agreement is recorded with the Spokane County Auditor, contained beneath pavement, a building, or other impervious surface; or has the potential to interfere with the operation, maintenance, or monitoring of, or access to, any component of the Remediation System or the Control Room, or with Grantee's ability to implement remedial action required by Ecology.

3. Remediation Following Redevelopment. Following any Redevelopment of the Property, Grantor shall assume responsibility for fulfilling Grantee's obligations under the Consent Decree, as it may be amended, with respect to (a) hazardous substances on or under the Property that were released into the environment before the date on which Grantor acquired fee title to the Property; and (b) operation, monitoring, and maintenance of electronic controls over the Remediation System for the Site.

4. Release. Except to enforce this Restrictive Covenant, Grantor releases Grantee, Avista Development, Inc., SPS Inn, LP, Courtyard Office Center, LP, Center Place Suites, LLC, Center Place Office Center, LP, and their respective officers, directors, employees, agents, and affiliates, from any and all claims, liability, damages, demands, costs, expenses, and causes of action of any kind (Claims) arising out of the presence of hazardous substances released on or under the Property before the date on which Grantor acquired fee title to the Property, including without limitation Claims under the Model Toxics Control Act, RCW 70A.305, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.*, or similar state, federal, or local laws, or for death, bodily injury, illness, or property damage, trespass or nuisance.

5. Enforcement. Grantee may bring an action in the Superior Court of Spokane County to enforce this Agreement, to temporarily restrain any violation of the terms of this Agreement, including by seeking relief *ex parte*; to enjoin the violation; to seek declaratory relief; and to

recover any damages to which it may be entitled for such violation. Grantor agrees that its failure to comply with the terms of this Agreement would cause Grantee irreparable harm. The prevailing party in any action related to the enforcement of the terms of this Agreement shall be entitled to recover its reasonable attorneys' fees and costs.

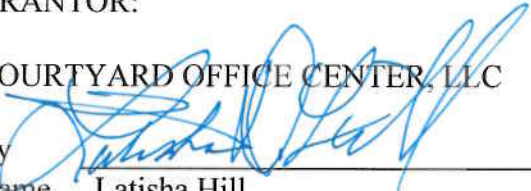
6. Limited Indemnity. Grantee shall indemnify and defend Grantor against any and all Claims to the extent arising out of the presence of hazardous substances released on or under the Property before the date on which Grantor acquired fee title to the Property, including without limitation Claims under the Model Toxics Control Act, RCW 70A.305, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq., or similar state, federal, or local laws, or for death, bodily injury, illness, or property damage, trespass or nuisance (Grantee's Indemnity); provided, however, that Grantee's Indemnity shall cease if and when Redevelopment commences on the Property.

7. Commission Approval Contingency. This Agreement is subject to the approval of the Washington Utilities and Transportation Commission (the "Commission"). This Agreement will not be effective until such time as the Commission chooses to either approve the Agreement or otherwise chooses not to act. Should the Commission disapprove, this Agreement will be null and void.

DATED THIS 20th DAY OF March, 2023.


GRANTOR:

COURTYARD OFFICE CENTER, LLC

By 
Name Latisha Hill
Title Senior Vice President of Avista Development, Inc., sole Member of Courtyard Officer Center, LLC

GRANTEE:

AVISTA CORPORATION

By 
Name Jason Thackston
Title Senior Vice President

STATE OF WASHINGTON

} ss.

COUNTY OF SPOKANE

I certify that I know or have satisfactory evidence that **Latisha Hill** is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Senior Vice President of Avista Development, sole member of Courtyard Office Center, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 20th day of March, 2023.



Leslie M. Koep

Printed Name Leslie M. Koep

NOTARY PUBLIC in and for the State of Washington,
residing at Spokane, WA

My Commission Expires 6/18/23

STATE OF WASHINGTON

} ss.

COUNTY OF SPOKANE

I certify that I know or have satisfactory evidence that **Jason Thackston** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Senior Vice President of Avista Corporation to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 20th day of March, 2023.



Leslie M. Koep

Printed Name Leslie M. Koep

NOTARY PUBLIC in and for the State of Washington,
residing at Spokane, WA

My Commission Expires 6/18/23

EXHIBIT 1
Legal Description of Property

Parcel 1:

Lots 1 and 2, Block 16, Railroad Addition, according to plat recorded in Volume "D" of Plats, page 82;

Situate in the City of Spokane, County of Spokane, State of Washington

(35192.0901 and 35192.0902)

Parcel 2:

All of Lot 3 and the South 77.5 feet of the West half of Lot 4, Block 16, Railroad Addition, according to plat recorded in Volume "D" of Plats, page 82;

Situate in the City of Spokane, County of Spokane, State of Washington

(35192.0903)