

## PURCHASE AND SALE AGREEMENT

**THIS PURCHASE AND SALE AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2014, between **MULTNOMAH COUNTY**, a political subdivision of the State of Oregon ("**County**") and **MICHAEL MCMENAMIN** ("**Purchaser**").

### RECITALS

A. County owns the real property in the City of Troutdale, Multnomah County, Oregon, commonly known as the "**Pig Farm**", described in the attached **Exhibit A** and depicted on attached **Exhibit B** (the "**Larger Parcel**").

B. County desires to sell that portion of the Larger Parcel substantially as depicted in cross-hatching on attached **Exhibit C** (together with all rights and appurtenances, the "**Property**") to Purchaser, and Purchaser desires to purchase the Property from County, on the terms and conditions set forth in this Purchase and Sale Agreement (this "**Agreement**"). Purchaser intends to use the Property for commercial development for hospitality, retail, entertainment and events, multi-family residential for employee housing, agricultural uses, and related uses, all in conjunction with or as an extension of Purchaser's property known as Edgefield Manor at 2126 SW Halsey St., south of Halsey St. across from the Property ("**Edgefield Manor**") ("**Purchaser's Intended Uses**"). Any use of the Property other than Purchaser's Intended Uses shall require County's prior, written approval, which shall not be unreasonably withheld, conditioned or delayed, provided that such other use(s) do not adversely impact or interfere with County's operation of the CROPS programs or use of the CROPS Easement Area on the Property or County's use and operations of the Animal Shelter on the Animal Shelter Parcel, as defined in Recital C.

C. The actual legal description of the Property will be established by survey obtained and approved by the parties as provided below. The Property shall include all crops growing and grown thereon, excepting only County's crops growing or grown within the CROPS Easement Area, as defined in this Agreement. The area of the Larger Parcel, exclusive of the Property, is sometimes referred to in this Agreement as the "**Animal Shelter Parcel**," provided that, to the extent any existing power, communications, drainage, irrigation, sewer, water, or other utility services or facilities serving the Property, runs or is located on, over, under or through the Animal Shelter Parcel, the Deed to Purchaser shall include nonexclusive, perpetual easements for the same and the continuing right, subject to Purchaser obtaining any required rights or permits from the utility providers, to access, operate, use, inspect, maintain, repair, replace, alter, improve and remove the same, provided such activities do not obstruct or interfere with County's use and operations of the Animal Shelter Parcel. As used in this Agreement, unless the context clearly indicates to the contrary, "**includes**" and "**including**" and the like mean "includes, without limitation" and "including, without limitation" and the like.

### AGREEMENTS

1. **PURCHASE AND SALE OF THE PROPERTY**. County agrees to sell the Property to Purchaser, and Purchaser agrees to purchase the Property from County, on the terms and conditions set forth in this Agreement.

2. **TOTAL PURCHASE PRICE.** The total purchase price for the Property is THREE MILLION TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,200,000.00) ("**Purchase Price**"), payable pursuant to the Note and secured by the Trust Deed as provided below.

3. **EARNEST MONEY DEPOSIT.** Within two (2) business days after the mutual execution of this Agreement, Purchaser shall execute and deliver to an escrow officer ("**Escrow Officer**") of First American Title Insurance Company of Oregon ("**Title Company**") at its office described in Section 7.2, below, a promissory note to Title Company in the amount of \$10,000 ("**Earnest Money Note**"), payable in cash into escrow within five (5) business days after removal of the contingencies in Sections 4 and 5 below, at which time it will become non-refundable (except in the event of County default or as provided in Sections 8.4 or 10.1(h), below) and released to County as a forfeitable earnest money deposit in accordance with the terms of this Agreement. The deposit shall be applied to the amount due at closing of the sale.

4. **CONTINGENCIES.**

4.1 **Partition/Survey.** County, at its expense, shall cause the Property to be surveyed by an Oregon licensed surveyor reasonably approved beforehand by both Purchaser and County (the "**Surveyor**") sufficient for identifying the CROPS Easement Area, the Access Easement Area, and the Water Line Easement Area, each as defined in Section 4.3 below, the Right-of-Way Reservations, as defined in Section 4.5 below, and effecting a partition of the Property from the Larger Parcel as contemplated in this Agreement (the "**Survey**"). The Survey will be certified by the Surveyor to both parties. The area and configuration of the Property shall be substantially as shown on attached **Exhibit C** and reasonably approved by both parties within five (5) business days after the Survey is delivered. Upon approval of the description and Survey, County, at its expense and on or before the later of (a) ninety (90) days following Purchaser's notice to County that Final BFE Approval, as defined in Section 4.2 below, has been obtained or (b) December 30, 2015, shall obtain the final partitioning of the Property from the Larger Parcel (which shall mean that the final plat has been approved and recorded in the appropriate offices and the partition, sometimes referred to in this Agreement as the "partitioning" or "partition," is effective and not subject to appeal or further review or challenge, "**Final Map**"), in form and content approved in writing beforehand by Purchaser in its sole discretion. In the event that County's application for Final Map approval is pending or is being subjected to judicial and/or administrative review as of the approval deadline, then the time for County to obtain the Final Map approval shall be extended without further act of the parties until the City shall render the Final Map approval and any appeal periods for administrative and/or judicial review expire, or the tribunal or agency conducting such review has rendered a final decision with respect to the Final Map approval. County shall comply with all local, county and state requirements for the issuance, approval and recordation of the Final Map. If County fails to obtain the partitioning as set forth in this Section 4.1, by the approval deadline set forth above (as may be extended), at any time thereafter until such Final Map is obtained, Purchaser may, among its other rights and remedies, terminate this Agreement upon notice to County, in which event the Earnest Money Note shall be returned to Purchaser and Purchaser shall have no further obligation to County under this Agreement, except for Purchaser's obligations to restore any physical damage to the Property to the extent caused by Purchaser's entry and to indemnify County with respect to the same as provided in Section 8.2, below, to the extent accrued as of

such termination and County's obligation to reimburse Purchaser for amounts incurred in connection with seeking the Final BFE Approval as provided in Section 4.2, below. At Purchaser's option and expense, Purchaser may direct the Surveyor to provide an ALTA survey consistent with, reflecting and referring to the Title Report (as defined in Section 5.1, below) and the special exceptions listed in the Title Report (to the extent such are locatable), certified to Purchaser (and its successors and assigns) and Title Company in accordance with the latest Minimum Standard Detail Requirements for ALTA-ACSM Land Title Surveys, and shall include any Table A items designated by Purchaser ("**ALTA Survey**"). The legal description of the Property in the Deed shall be the same as the legal description of the Property in the Survey, ALTA Survey and Title Policy to be delivered at Closing. If Purchaser elects to obtain the ALTA Survey, Purchaser shall bear the additional charges of the Surveyor for the ALTA Survey over the charges for the Survey.

4.2 **FEMA Approval of BFE.** Purchaser will use good faith efforts to apply on or before October 1, 2014, and to obtain Federal Emergency Management Agency ("**FEMA**") final approval (without the possibility of appeal) of a base flood elevation for the Property (the "**BFE**") satisfactory to Purchaser ("**Final BFE Approval**") on or before December 30, 2015. Purchaser shall provide County with quarterly updates on the status of the Final BFE Approval and shall deliver to County copies of all submittals and correspondence sent to FEMA. In the event that Purchaser's application for Final BFE Approval is pending or is being subjected to judicial and/or administrative review as of December 30, 2015, then the time for Purchaser to obtain the Final BFE Approval shall be extended without further act of the parties until FEMA shall render the Final BFE Approval and any appeal periods for administrative and/or judicial review expire, or the tribunal or agency conducting such review has rendered a final decision with respect to the Final BFE Approval. If this Agreement terminates because of County's default, Purchaser's termination of this Agreement pursuant to Section 4.1, County's termination of this Agreement pursuant to Section 4.4, Purchaser's termination of this Agreement pursuant to Section 4.3 because of failure by County and Purchaser to mutually agree upon the location of the CROPS Easement Area (provided said location complies with Section 4.3[i]), Access Easement Area, or Water Line Easement Area, or FEMA's failure to issue a Final BFE Approval satisfactory to Purchaser, County shall reimburse Purchaser on demand for all direct, third party costs incurred by Purchaser in connection with seeking the Final BFE Approval (not to exceed \$100,000 unless County otherwise agrees in writing) before Purchaser gave or received notice of such termination. If this Agreement is not otherwise terminated, Purchaser shall be entitled to a credit against the Purchase Price in the amount of all direct, third party costs incurred by Purchaser in connection with seeking the Final BFE Approval (not to exceed \$100,000 unless County otherwise agrees in writing) which shall be applicable and credited at the earlier to occur of (i) Purchaser's pre-payment of the entire balance of the Purchase Price before the sixth (6th) anniversary of the Closing Date or (ii) the final balance owed by Purchaser under the Note on the 6th anniversary of the Closing Date.

4.3 **CROPS Easement Area.** Upon Purchaser giving notice to County of FEMA's issuance of a Final BFE Approval satisfactory to Purchaser (the "**Final BFE Approval Notice**"), the parties shall use good faith efforts to approve in writing, not later than sixty (60) days after Purchaser gives notice to County the Final BFE Approval Notice, (a) an approximately three (3)-acre area of the Property ("**CROPS Easement Area**") with respect to which County shall reserve an easement in the form set forth on the Deed (defined below) for the continuation of

County's CROPS Program, or a successor or similar agriculturally-based program benefitting County's citizens, which easement shall be effective for so long as County or a successor public agency or non-profit organization (provided such non-profit organization is approved in advance by Purchaser, which approval shall not be unreasonably withheld, conditioned or delayed) operates the CROPS (or successor or similar agriculturally-based) Program thereon, without any requirement for rent being paid to Purchaser for the use of the same, though County or its successor operator will be solely responsible for all costs, expenses, risks and liabilities related to or arising out of its use thereof, (b) an approximately fifteen (15) foot wide portion of the Property (the "**Access Easement Area**") with respect to which County shall reserve a nonexclusive easement in the form set forth on the Deed for access and egress to and from the CROPS Easement Area, and (c) an approximately fifteen (15) foot wide portion of the Property (the "**Water Line Easement Area**") with respect to which County shall reserve a nonexclusive easement in the form set forth on the Deed for use, maintenance, repair and replacement of a water line to serve the CROPS Easement Area. In the event Purchaser and County do not mutually approve in writing the location of the CROPS Easement Area, the Access Easement Area, and the Water Line Easement Area within sixty (60) days after Purchaser gives to County the Final BFE Approval Notice, either Purchaser or County may terminate this Agreement by written notice of termination to the other given at any time thereafter prior to Purchaser and County approving in writing the location of the CROPS Easement Area, Access Easement Area and Water Line Easement Area. However, notwithstanding any provision in this Section 4.3 to the contrary, County shall not unreasonably withhold, condition or delay its approval of the location of the CROPS Easement Area, the Access Easement Area, or the Water Line Easement Area in the location of the CROPS Easement Area, the Access Easement Area, and the Water Line Easement Area approved in writing by Purchaser if (i) Purchaser has approved in writing the location of the CROPS Easement Area on substantially the same portion of the Property on which the County's CROPS Program is currently located or in an area that has at least one (1) acre in common with the current location of the County's CROPS Program and is approximately rectangular shaped or in another area of the Property that is approximately rectangular shaped (as shown on a site plan provided by Purchaser to County that depicts such area as approximately rectangular shaped) if Purchaser provides to County a written determination by a certified professional soil classifier that such location of the CROPS Easement Area is a location where the soil is of the same or better capability class and subclass as the soil of the current location of the CROPS Program, as determined pursuant to the classification system set forth in Land Capability Classification (Part 622.02) of the National Soil Survey Handbook, (ii) Purchaser has approved in writing the location of the Access Easement Area on a fifteen (15) foot wide portion of the Property that connects the CROPS Easement Area (in a location approved in writing by Purchaser and County or in a location described in clause (i) above) to a public road, (iii) Purchaser has approved in writing the location of the Water Line Easement Area on a fifteen (15) foot wide portion of the Property that connects the CROPS Easement Area (in a location approved in writing by Purchaser and County or in a location described in clause (i) above) with the water source on the Property for the water that is the subject of the Water Line Easement, (iv) Purchaser has provided County written notice of Purchaser's schedule for performing any such re-location(s), which shall be performed outside of the growing season to minimize disruption of the CROPS Program; and (v) Purchaser has agreed to pay all costs in connection with any such relocation(s) (including costs of clearing brush, debris and rocks, plowing and conditioning the CROPS Easement Area for County to plant its crops in the initial growing season after Closing,

as defined in Section 7.1. In the event this Agreement is terminated pursuant to this Section 4.3, the Earnest Money Note shall, only if the location of the CROPS Easement Area complies with Section 4.3(i), be returned to Purchaser, County shall, only if the location of the CROPS Easement Area complies with Section 4.3(i) reimburse Purchaser on demand for all direct, third party costs incurred by Purchaser in connection with seeking Final BFE Approval (not to exceed \$100,000 unless County otherwise agrees in writing) before Purchaser receives or gives such notice of termination, and Purchaser shall have no further obligation to County under this Agreement, except for Purchaser's obligations to restore any physical damage to the Property to the extent caused by Purchaser's entry and to indemnify County with respect to the same as provided in Section 8.2, below, to the extent accrued as of such termination. In the event Purchaser selects a location of the CROPS Easement Area not in compliance with Section 4.3(i), then County shall be entitled to terminate this Agreement pursuant to this Section 4.3 without paying any of said reimbursements to Purchaser. After County and Purchaser have approved in writing the initial location of the CROPS Easement Area, Purchaser's qualified right to relocate the CROPS Easement Area, the Access Easement Area, and/or the Water Line Easement Area, shall be governed by Exhibit A to the Bargain and Sale Deed, attached hereto as Exhibit G.

**4.4 Purchaser Financial Conditions.** Within thirty (30) days after the mutual execution of this Agreement and, if Final BFE Approval is obtained more than twelve (12) months following mutual execution of this Agreement, again within thirty (30) days after Final BFE Approval, Purchaser shall provide County with the following:

- (a) A complete credit report (issued not more than ninety (90) days prior to submission to County) by Equifax, Experian or Trans Union showing Purchaser's FICO score and credit history;
- (b) Copies of the three (3) most recent years of Purchaser's federal income tax returns;
- (c) A balance sheet for the past two (2) years or similar detail of Purchaser's assets and liabilities;
- (d) Information regarding loans for which Purchaser currently is maker or guarantor;
- (e) Information regarding any loans on which Purchaser currently is or has been in default;
- (f) Information regarding any bankruptcies by Purchaser;
- (g) Information regarding any judgments entered against Purchaser; and
- (h) Information regarding any current or pending litigation in which Purchaser is a named party.

County will have twenty (20) days after receipt of all materials and information described in this Section 4.4 within which to notify Purchaser, in writing, of County's disapproval of Purchaser's financial condition and the reasons therefor. If County does not disapprove

Purchaser's financial condition within such period, County shall be deemed to have approved Purchaser's financial condition. In the event Final BFE Approval is obtained more than twelve (12) months following mutual execution of this Agreement, County's second evaluation of Purchaser's financial condition shall be limited to evaluation of materials and information that Purchaser did not previously provide to County pursuant to this Section 4.4 in connection with County's first evaluation. Purchaser will have twenty (20) days after receipt of County's disapproval within which to notify County in writing of Purchaser's response and any curative actions Purchaser will undertake. County may elect (i) to terminate the Agreement by delivering written notice to Purchaser within twenty (20) days after receipt of Purchaser's response or upon the lapse of such twenty (20) day period if no response from Purchaser is received or (ii) to extend Purchaser's response period to provide additional time for Purchaser to undertake and complete agreed upon curative actions. If County elects to terminate this Agreement pursuant to this Section 4.4, the Earnest Money Note **shall be returned to Purchaser**, County shall reimburse Purchaser on demand for all direct, third party costs incurred by Purchaser in connection with seeking Final BFE approval (not to exceed \$100,000 unless County otherwise agrees in writing) before Purchaser received such notice of termination, and Purchaser shall have no further obligation to County under this Agreement, except for Purchaser's obligations to restore any physical damage to the Property to the extent caused by Purchaser's entry and to indemnify County with respect to the same as provided in Section 8.2, below, to the extent accrued as of such termination.

4.5 **County's Right of Way Reservations.** County's Transportation Plan contemplates future expansion of SW Halsey St. to an Urban Collector, as required to serve nearby development, as well as improvements to Historic Columbia River Highway north of the Property. County's Road Services Division has recommended reservation of the following rights of way as part of the Closing: (i) ten-foot (10') road purposes right of way and five-foot (5') sidewalk, slope and utility easement on any portion of the south side of Historic Columbia River Highway abutting the Property; (ii) ten-foot (10') road purposes right of way and ten-foot (10') sidewalk, slope and utility easement on the north side of SW Halsey St. east of the existing break between the 90-foot and 100-foot right of way; and (iii) five-foot (5') road purposes right of way and ten-foot (10') sidewalk, slope and utility easement on the north side of SW Halsey St. west of the existing break between the 90-foot and 100-foot right of way (collectively, the "**Right-of-Way Reservations**"). The Right-of-Way Reservations shall be substantially as shown on the attached **Exhibit C**, with staking and legal descriptions to be prepared as part of the Survey, provided that Purchaser and County will cooperate in good faith to explore the feasibility of designing and locating the sidewalks in a way that is compatible with Purchaser's Intended Uses for the Property. The Purchase Price shall be reduced, based on the Survey and final design of the frontage improvements, at the rate of Sixty Five Thousand Dollars (\$65,000) per acre for land area removed from the Property for the Right-of-Way Reservations along SW Halsey St. and reduced at the rate of Twenty Thousand Dollars (\$20,000) per acre for any Right-of-Way Reservations along Historic Columbia River Highway.

## 5. **COUNTY'S TITLE TO THE PROPERTY.**

5.1 **Title Report.** Within twenty (20) days after the mutual execution of this Agreement, County will furnish to Purchaser a preliminary title report from Title Company

showing its willingness to issue a standard ALTA owner's form of title insurance policy on the Property ("**Title Report**"). County has recently learned that it acquired title to the portion of the Property north of the railroad (the "**North Tract**") from the City of Portland in 1923, subject to the City's right of reverter if County ever uses or conveys the North Tract for a non-public use. Documents 1 and 2 in the Exhibit D Due Diligence Materials are the City's Ordinance and Deed, which describe the terms and conditions of the North Tract conveyance. Upon mutual execution of this Agreement, County shall in good faith use commercially reasonable efforts to negotiate removal of the City of Portland's rights (including reverter right) in the North Tract or demonstrate to Purchaser's satisfaction that the City of Portland no longer has any rights (including reverter right) in the North Tract, as a pre-condition of Closing and upon terms mutually agreeable to County and Purchaser. County shall update Purchaser on the status of those efforts from time to time upon request of Purchaser. If, despite such commercially reasonable efforts, County has not, within 365 days after mutual execution of this Agreement, reached agreement with the City of Portland to remove the City of Portland's rights (including the reverter right) or demonstrated to Purchaser's satisfaction that the City of Portland no longer has any rights (including the reverter right) in the North Tract effective at or before Closing on terms mutually agreeable to County and Purchaser, then unless County and Purchaser mutually agree otherwise prior to Closing, this Agreement shall be automatically amended as follows: (a) the term "Property" under this Agreement shall mean the Property less the North Tract, (b) in the third sentence of Recital C, the words "and the North Tract" shall be added after "exclusive of the Property" and the words "and/or the North Tract" shall be added after "under or through the Animal Shelter Parcel," (c) the total purchase price for the Property under Section 2 of this Agreement shall be reduced by Twenty Thousand Dollars (\$20,000.00) per acre of the North Tract, (d) clause (i) of Section 4.5 of this Agreement shall be deleted from this Agreement to the extent the Right-of-Way Reservation for improvements to Historic Columbia River Highway abuts any portion of the North Tract, (e) the term "Permitted Exceptions" in Section 5.2 of this Agreement shall not include items 1 and 2 on Exhibit D or any other special exceptions identified in the preliminary title report described therein that encumber only the North Tract, (f) in the second sentence of Section 8.1, the words "and North Tract" shall be added after "Animal Shelter Parcel," (g) Exhibit C shall be revised to depict in crosshatching on Exhibit C the area of the Larger Parcel exclusive of the North Tract and the Animal Shelter Parcel, (h) Exhibit F shall be revised to substitute, as the legal description for the "Property," the legal description for the Larger Parcel, exclusive of the North Tract and the Animal Shelter Parcel, in place of the legal description of the Property set forth in the Trust Deed, (i) Exhibit G shall be revised to substitute, as the legal description for the "Property," the legal description for the Larger Parcel, exclusive of the North Tract and the Animal Shelter Parcel, in place of the legal description for the Property set forth on Exhibit A of the Bargain and Sale Deed, (j) Exhibit G shall be revised to substitute, as the legal description for "Grantor's Property," the legal description of the North Tract and the Animal Shelter Parcel in place of the legal description for Grantor's Property set forth on Exhibit B of the Bargain and Sale Deed, (k) in Section 8 of Exhibit G, each reference to "Grantor's Property" shall be changed to "the portion of Grantor's Property on which the Animal Shelter is currently located," (l) the following shall be added as a new Section 9 to Exhibit A to the Bargain and Sale Deed, attached hereto as Exhibit G: "Grantor shall not permit Grantor's Property, exclusive of the portion of Grantor's Property on which the Animal Shelter is currently located, to be developed or used for any use(s) that materially and adversely interfere with Grantee's Intended Uses, and Grantor shall maintain Grantor's Property, exclusive of the portion

of Grantor's Property on which the Animal Shelter is currently located, free of trash and debris in a manner that does not materially and adversely interfere with Grantee's Intended Uses.

5.2 Purchaser will have twenty (20) days after receipt of the preliminary title report, together with copies of all exceptions, within which to notify County in writing of disapproval of any of the special documentary exceptions shown in the report, provided, however, if items 1 and 2 on Exhibit D appear as exceptions in such report, Purchaser shall not be required to notify County of disapproval of such exceptions and Purchaser shall be deemed to have notified County in writing of disapproval of such exceptions. Any documentary special exceptions specifically identified in the preliminary title report to which Purchaser does not object in writing, or to which Purchaser is not deemed to have objected in writing pursuant to the previous sentence, shall be deemed permitted exceptions ("**Permitted Exceptions**"), provided that no standard printed exceptions in the Title Report may appear as exceptions in the Deed to Purchaser or, if Purchaser elects to obtain extended coverage, the title policy contemplated in this Agreement. County will have twenty (20) days after receipt of Purchaser's objections to title within which to notify Purchaser in writing of County's response. If County responds that it is unwilling or unable to cure and eliminate any disapproved exception or matter, Purchaser may elect to terminate the Agreement by delivering written notice to County within twenty (20) days after receipt of County's response. If Purchaser terminates this Agreement, the Earnest Money Note shall be returned to Purchaser and the parties hereto shall have no further obligations to each other under this Agreement, except for Purchaser's obligations to restore any physical damage to the Property to the extent caused by Purchaser's entry and to indemnify County with respect to the same as provided in Section 8.2, below, to the extent accrued as of such termination, and except for County's obligation to reimburse Purchaser for amounts incurred in connection with seeking the Final BFE Approval as provided in Section 4.2, above. If Purchaser waives the objection by written notice delivered to County or fails to object in writing on or before the expiration of such twenty (20) day period (which shall be deemed the expiration of the Title Review Period), such documentary special exceptions not objected to by Purchaser (other than monetary liens, taxes and other items to be prorated at Closing) shall be deemed Permitted Exceptions. Upon the approval of the Survey by the parties, County shall cause Title Company to issue a supplemental title report on the Property as more particularly described in the Survey subject to no encumbrances or defects other than the Permitted Exceptions approved by Purchaser as provided above. Nothing in this Section 5.2 shall affect or limit County's obligation in Section 5.1 to use, in good faith, commercially reasonable efforts to negotiate removal of the City of Portland's rights (including reverter right) or demonstrate to Purchaser's satisfaction that the City of Portland no longer has any rights (including the reverter right) in the North Tract effective at or before Closing, on terms mutually agreeable to County and Purchaser. Notwithstanding any provision herein, regardless of whether the Property conveyed to Purchaser at Closing is the Property depicted on Exhibit C or, as a result of any amendment of this Agreement pursuant to Section 5.1, is the Property less the North Tract, the items listed as items 1 and 2 on Exhibit D of this Agreement shall not be Permitted Exceptions and shall not be listed as exceptions in the Deed or in the title policy furnished to Purchaser pursuant to section 7.8.

## 6. COUNTY'S OTHER OBLIGATIONS.

6.1 County Documents. Within twenty (20) days after mutual execution of this Agreement, County shall deliver to Purchaser true and complete copies of the studies, reports,



surveys, inspections, analyses and other documentation listed in **Exhibit D** (collectively, the **"Due Diligence Materials"**).

6.2 **UCC Search.** On or before the Closing Date described below, County shall provide to Purchaser a certificate of the Secretary of State of the State of Oregon dated not earlier than five (5) days prior to such Closing Date, indicating that no financing statements are on file pertaining to any interest under the Uniform Commercial Code in the Property.

6.3 **Other Business Documents.** At or before Closing, County shall deliver to Purchaser any documents and records relating to the operation of the Property in County's possession as Purchaser may reasonably need to operate the Property after the Closing Date.

6.4 **Certification of Nonforeign Status.** County warrants that County is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1954, as amended ("**FIRPTA**"), that County is not a "transferor" subject to withholding under ORS 314.258 ("**ORFIRPTA**"), and that each such warranty will be true as of the Closing Date.

## 7. **CLOSING.**

7.1 **Closing Date.** This transaction shall be closed ("**Closing**") on a date to be selected by Purchaser and reasonably acceptable to County, on or before thirty (30) days after removal of the contingencies in Section 4 and 5 (the "**Closing Date**"), or at such other time as the parties may mutually select.

7.2 **Manner and Place of Closing.** This transaction shall be closed by Escrow Officer at Title Company's office at \_\_\_\_\_ in \_\_\_\_\_, Oregon, or at such other place as the parties may mutually select. Closing shall take place in the manner and in accordance with the provisions set forth in this Agreement.

### 7.3 **Prorations, Adjustments.**

(a) All ad valorem real property taxes, assessments, personal property taxes and utility expenses shall be prorated and adjusted between the parties as of the Closing Date; provided that County shall be and remain solely responsible for all taxes, assessments and expenses relating to the CROPS Easement Area and its use thereof. At closing, County shall pay or credit to Purchaser all accrued but unpaid expenses and Purchaser shall pay to County all prepaid but not yet accrued expenses. Any taxes or additional penalties that would be due as a result of removal of the Property from any tax deferral program shall be charged to County as though the Property were removed from such program on the Closing Date.

(b) To the extent there are any utilities serving the Property other than the CROPS Easement Area, County shall attempt to have utility meters read as of the Closing Date. To the extent that this is not possible and to the extent that any other obligation for continuing services is incurred, and statements are rendered for such services covering periods both before and after the Closing Date, the amount shall be adjusted between the parties as of the Closing Date outside of escrow on a time elapsed basis. County shall forward all such statements which are proper statements to Purchaser. County or Purchaser, as applicable, shall remit any amount owed by it pursuant to such post-closing calculations immediately upon demand.

(c) Purchaser shall pay the recording or filing fees for the Deed to Purchaser and for the Trust Deed in favor of County.

(d) County and Purchaser shall each pay one-half of the escrow and closing fees charged by the Escrow Officer.

(e) Purchaser shall pay all costs and expenses related to any financing obtained by Purchaser.

(f) County shall pay the cost of a standard owner's policy of title insurance in the amount of the Purchase Price, any Government Service Fee and any simultaneous issue owner's or lender's policy insuring County. Purchaser shall pay any additional premium for extended coverages or other coverages if arranged with Title Company by Purchaser.

**7.4 Payment of the Purchase Price.** Purchaser shall pay the total Purchase Price, less a credit of \$10,000 for the earnest money deposit previously paid, pursuant to the Note and Trust Deed described below, though Purchaser shall receive a credit against the Note balance for any other credits to which Purchaser may be entitled at Closing under this Agreement, whether pursuant to Section 7.3 or otherwise.

**7.5 Promissory Note.** The unpaid balance of the Purchase Price shall be evidenced by a non-negotiable promissory note substantially in the form attached as **Exhibit E** or such other form as may be approved in writing by the parties ("**Note**"). In the event that Purchaser desires that a member-managed limited liability company, or similar entity in which Purchaser holds one hundred percent (100%) of the ownership interests, acquire title to the Property and be the Maker (as defined in the Note) of the Note, Purchaser shall execute and deliver to County a guaranty of Maker's performance of the Note, in form approved in writing by County.

**7.6 Trust Deed.** The Note shall be secured by a commercial trust deed on the Property from Purchaser in favor of County, substantially in the form attached as **Exhibit F** or such other form as may be approved in writing by the parties ("**Trust Deed**"). In the event that Purchaser desires that a member-managed limited liability company, or similar entity in which Purchaser holds one hundred percent (100%) of the ownership interests, acquire title to the Property and be the Grantor (as defined in the Trust Deed) of the Trust Deed, Purchaser shall execute and deliver to County a guaranty of Grantor's performance of the Trust Deed, in form approved in writing by County.

**7.7 Events of Closing.** Provided the Escrow Officer has received the sums and is in a position to cause the title insurance policy to be issued as described below, this transaction shall be closed on the Closing Date as follows:

(a) The Escrow Officer shall perform the prorations and adjustments described in Section 7.3, and the parties shall be charged and credited accordingly. If Purchaser is the party owing any net payment to County for any such prorations or adjustments, Purchaser shall deposit the amount thereof in immediately available funds with the Escrow Officer to be disbursed to or for the benefit of County at Closing. Any net amount owed Purchaser by County will be credited at Closing against the principal balance of the Note.

(b) Any liens required to be paid by County at closing shall be paid and satisfied of record at County's expense.

(c) County shall convey the real property to Purchaser by statutory bargain and sale deed substantially in the form attached as **Exhibit G** or such other form as may be approved in writing by the parties ("**Deed**"), subject only to the CROPS Easement, the Access Easement, the Water Line Easement, the Parking Easement, and the encumbrances accepted by Purchaser pursuant to Section 5.1.

(d) Purchaser shall execute and deliver the Note and Trust Deed in favor of County.

(e) Title Company shall deliver its unconditional commitment letter to Purchaser committing to issue the title policy contemplated in Section 7.8, upon Closing. If requested by County, Title Company shall also issue to County at Purchaser's expense a "simultaneous issue" owner's mortgagee's policy of title insurance insuring the Trust Deed on the Property.

(f) County will execute and deliver to Purchaser and Escrow Officer, respectively, at closing (1) a certificate of nonforeign status, in form reasonably acceptable to Purchaser setting forth County's address and United States taxpayer identification number and certifying that County is not a "foreign person" as defined in FIRPTA reasonably acceptable to Escrow Officer and Purchaser and sufficient to reasonably assure Escrow Officer and Purchaser that no withholding is required under FIRPTA, and (2) a certificate and other documentary evidence complying with ORFIRPTA reasonably acceptable to Escrow Officer and sufficient to reasonably assure Escrow Officer that no withholding is required under ORFIRPTA.

(g) Escrow Officer shall record the Deed to Purchaser and the Trust Deed in favor of County.

**7.8 Title Insurance.** As soon as possible after the Closing Date, County shall furnish a standard owner's policy of title insurance to Purchaser in the amount of the total Purchase Price for the Property, subject only to the standard printed exceptions of the Title Company and exceptions for the matters accepted by Purchaser pursuant to Section 5.1. The cost of any extended coverage requested by Purchaser in excess of the cost of standard coverage shall be paid by Purchaser. Notwithstanding the foregoing or any other provision of this Agreement, no standard printed exceptions of a standard coverage policy of title insurance may be listed as exceptions on the Deed, or, if Purchaser elects to obtain extended coverage, the Title Policy. County shall deliver to Title Company at Closing such affidavits, seller certifications and other documents typically required by Title Company in connection with the issuance of an extended coverage ALTA policy, except County will not be required to provide any ALTA survey not already in County's possession or otherwise required of County by this Agreement.

**7.9 Possession.** County shall deliver exclusive possession of the Property to Purchaser on the Closing Date, subject to County's rights under the CROPS Easement, the Access Easement, the Water Line Easement and the Parking Easement described above.

7.10 **Tax-Deferred Exchange.** Purchaser may elect to purchase the Property as a part of an IRS Section 1031 tax-deferred exchange. In such event, County agrees to cooperate with Purchaser and the exchange intermediary to comply with all procedures as required by Section 1031, provided, however, that County shall bear no costs and bear no liability of any kind in connection with such exchange and shall not be required to take title to any other exchange property.

## 8. **DEVELOPMENT OF PROPERTY.**

8.1 **Governmental Permits.** Prior to the Closing Date, County, in its capacity as owner of the Property and Larger Parcel (and thereafter so long as the CROPS Easement is in place respecting County's capacity as holder of the CROPS Easement), agrees to join in executing any applications reasonably required by Purchaser in connection with its attempts to obtain use, building or other governmental permits and approvals for Purchaser's Intended Uses (as defined in Recital B) of the Property, including, any required text amendment or other zone change required to make farm use and Purchaser's Intended Uses (as defined in Recital B) allowed as of right, provided such permits and approvals, text amendment or zone change do not adversely impact or interfere with County's operation of the CROPS program. Further, County, in its capacity as owner of the Animal Shelter Parcel agrees not to object to Purchaser's efforts to obtain any such text amendment and/or zone change for the Property or portions thereof after Closing as well, provided such text amendment and/or zone change do not adversely impact, interfere with or add restrictions to County's operation of the Animal Services programs. Purchaser, in its capacity as owner of the Property, agrees not to object to County's efforts to obtain any governmental entitlements needed for County's continued operation of the CROPS program on the CROPS Easement or of the Animal Services program on the Animal Shelter Parcel after Closing as well, provided such approvals do not impose additional restrictions upon Purchaser's Intended Uses for the Property. Purchaser stipulates that County's lawful operation of the Animal Services programs shall not constitute an interference with Purchaser's Intended Uses for the Property. The rights and obligations of the parties under this Section shall survive Closing and delivery of the Deed.

8.2 **Purchaser's Right to Enter and Inspect.** At all times before Closing, Purchaser may enter the Property, following 48 hours' notice to County's property manager, and perform reasonable tests, engineering studies, surveys, soil tests, and other inspections, studies and tests on the Property as Purchaser may deem necessary, at Purchaser's expense. Purchaser agrees to restore and repair, at its sole cost and expense, any damage to the Property resulting from Purchaser's exercise of the rights granted by this Section 8.2 and to indemnify, defend and hold harmless County (and its contractors, agents and employees) for, from and against all injuries, losses, liens, claims, demands, judgments, liabilities, damages, penalties imposed by governmental agencies, costs and expenses (including, without limitation, court costs and reasonable attorneys' fees and expenses) sustained by or threatened against County to the extent such claims result from or arise out of or in connection with any such entry, inspection, test or study conducted by Purchaser, its engineers, consultants or agents, except to the extent such claims are caused by the willful or negligent act or omission of County, its agents, contractors or employees; provided, however, that Purchaser shall not be liable for, and Purchaser shall not indemnify County with respect to, any pre-existing or other condition, except to the extent such condition is caused or physically made worse by Purchaser or Purchaser's representatives.

8.3 **Negation of Agency, Partnership.** County's agreement to cooperate with Purchaser in connection with Purchaser's development of the Property and any other provision of this Agreement shall not be construed as making either party an agent or partner of the other party.

8.4 **Material Casualty Loss or Condemnation.** In the event all or a material part of the Property to be conveyed to Purchaser is damaged or destroyed (other than due to the intentional act of County) or is taken by eminent domain prior to the Closing Date, either party may elect to rescind this Agreement prior to the Closing Date by written notice to the other; provided, however, that County's notice shall not be effective if, within fifteen (15) days after receipt of such notice, Purchaser elects to accept the insurance proceeds or condemnation proceeds attributable to such destruction or taking in lieu of the portion of the Property that has been so destroyed or taken.

9. **FAILURE TO CLOSE.**

9.1 **County's Remedies.** In the event that this transaction fails to close on account of Purchaser's fault or inability to close, Purchaser shall redeem the Earnest Money Note and pay the Earnest Money to County as liquidated damages. Such amount has been agreed by the parties to be reasonable compensation and the exclusive remedy for Purchaser's default, since the precise amount of such compensation would be difficult to determine.

9.2 **Purchaser's Remedies.** In the event that the transaction fails to close on account of County's fault or County's inability to close, the Earnest Money Note (and, if the Earnest Money Note was previously paid, the amount of the Earnest Money Note) shall be returned to Purchaser. Purchaser shall be entitled to such remedies for breach of contract as may be available under applicable law, including (without limitation) the remedy of specific performance.

10. **REPRESENTATIONS; CONDITION OF PROPERTY.**

10.1 **County's Representations and Warranties.** County represents and warrants to Purchaser as follows:

(a) The persons who have executed this Agreement have been duly authorized to do so by County. All documents delivered at closing will be executed by a duly authorized person. County has a good and legal right to enter into this Agreement and to perform all covenants of County contained in this Agreement and all agreements and instruments to be delivered pursuant to this Agreement in accordance with their respective terms.

(b) To County's knowledge, each item of information furnished by County to Purchaser in connection with this Agreement is accurate and complete in all material respects, unless otherwise noted.

(c) County warrants that now and at the time of Closing, to County's knowledge, there exists no pending or threatened condemnation or other legal actions materially affecting the Property or the sale thereof to Purchaser.

(d) To County's knowledge, the Property and County's operations on the Property are in compliance with all applicable statutes, laws, codes, ordinances, regulations and requirements and with any covenants, conditions and restrictions. To County's knowledge, County has received no written notice of and has no knowledge of any violations or investigations any impending condemnation, utility moratorium, special assessment, annexation or proposed governmental use or development restriction or dedication requirement affecting the Property.

(e) To County's knowledge, there are no leases or other occupancy or use agreements affecting all or any part of the Property (except for the CROPS Easement, the Access Easement, the Water Line Easement and the Parking Easement), and there are no other written or oral promises, understandings, agreements or other commitments affecting the Property (except for the CROPS Easement, the Access Easement, the Water Line Easement and the Parking Easement) and except those matters of record specifically listed as documentary special exceptions in the title report to be delivered to Purchaser.

(f) To County's knowledge, except as specified in the Due Diligence Materials, there are no outstanding agreements of sale, exchange, options or other rights of any third party(ies) to acquire the Property or any interest therein.

(g) To County's knowledge, except as specified in the Due Diligence Materials, (i) no portion of the Property is identified as having any Native American, archaeological or historic significance or lies within any riparian corridor, wetland or other environmentally sensitive area which prohibits or restricts development; and (ii) County is not aware of any facts, including without limitation, the presence or suspected presence of poorly or improperly filled ground or other geological or engineering conditions that may preclude, significantly interfere with or significantly increase the cost of the development and/or use of the Property or that would prevent or interfere with Purchaser from developing the Property for Purchaser's intended purpose as previously disclosed to County in Recital B.

(h) To County's knowledge, except as specified in the Due Diligence Materials, (i) during the time County has owned the Property, County has not released to the soil or groundwater on the Property or Larger Parcel or adjacent property any hazardous substances, as defined under any environmental law, in any material concentration or quantity; (ii) there are no material concentrations of hazardous wastes or hazardous substances on, in or under the Property; (iii) there has been no production, discharge, disposal, release, application or storage on or from or onto the Property, or any property adjacent thereto, of any hazardous or other toxic substance, including without limitation asbestos or PCBs, there are no underground storage tanks on the Property, and there is no proceeding or inquiry by any governmental body with respect thereto. (If, prior to the Closing Date, any such substances or tanks are discovered on, in, under the Property or on property adjacent thereto such that they may affect the Property, or any updated environmental report shows any material new or additional contamination not specified in the Due Diligence Materials, Purchaser may elect to cancel and terminate this Agreement by written notice to County, in which case Purchaser's earnest money deposit shall be refunded.)

(i) County makes no warranty or representation as to the suitability for Purchaser's Intended Uses of any irrigation and other water diversion, storage, transport or

distribution systems and facilities, if any, and other systems and facilities, if any, on or serving the Property, nor as to whether such facilities are in good and safe working order and condition or in compliance with applicable building codes and other laws.

(j) Except as specified in the Due Diligence Materials, the execution and the carrying out of the provisions of this Agreement by County will not result in a breach of or constitute a default under any lease, contract or other agreement to which County is a party or by which County is bound which may in any manner affect the title to or use of the Property.

(k) Except as provided in the Deed, County makes no warranty or representation as to its title to the Property, nor with respect to any water rights relating to the Property, if any.

10.2 **"To County's Knowledge" Defined.** As used in Section 10.1, the terms "County's knowledge" or "County's actual knowledge" shall mean the actual, not constructive, knowledge of County's Property Manager, and County's Environmental Compliance Manager, without any duty of special or further investigation or inquiry.

10.3 **Purchaser's Representations and Warranties.** Purchaser represents and warrants to County as follows:

(a) The persons who have executed this Agreement have been duly authorized to do so by Purchaser. All documents delivered at Closing will be executed by a duly authorized person. Purchaser has a good and legal right to enter into this Agreement and to perform all covenants of Purchaser contained in this Agreement and all agreements and instruments to be delivered pursuant to this Agreement in accordance with their respective terms.

(b) To Purchaser's knowledge, each item of information furnished by Purchaser to County in connection with this Agreement is accurate and complete in all material respects, unless otherwise noted.

(c) If requested by County during the ten (10) day period immediately preceding the Closing Date, Purchaser shall provide to County prior to Closing updates of any of the information provided to County pursuant to Section 4.4 if there have been material changes to such information.

(d) The execution and the carrying out of the provisions of this Agreement by Purchaser will not result in a breach of or constitute a default under any lease, contract or other agreement to which Purchaser is a party or by which Purchaser is bound.

10.4 **Survival.** All representations and warranties contained in this Agreement shall be true on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date, and shall survive closing and not be merged into any documents delivered at closing.

## 11. **GENERAL PROVISIONS.**

11.1 **Time of Essence.** Time is of the essence of this Agreement.

11.2 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties, and their respective heirs, personal representatives, successors, and assigns, but Purchaser shall not assign or otherwise transfer any interest, except to an entity controlled by or under common control with Purchaser. Upon any assignment by Purchaser permitted under this Agreement, the assigning party automatically shall be relieved and released from any and all liabilities and obligations under this Agreement accruing from and after the effective date of such assignment to and assumption by the assignee of Purchaser's rights and obligations under this Agreement; provided that if such assignment occurs before the Earnest Money Note is converted to cash in escrow, the assignee shall provide the Escrow Officer with a replacement note and the Earnest Money Note from the assigning party shall be returned to the maker.

11.3 **Notices.** Notices under this Agreement shall be in writing and shall be effective when actually delivered. If mailed, a notice shall be deemed effective on the second day after deposited as registered or certified mail, postage prepaid, directed to the other party at the address shown below. Either party may change its address for notices by at least fifteen (15) days advance written notice to the other.

The initial address of each party to this Agreement for purposes of notice shall be as follows:

COUNTY: Multnomah County  
Facilities & Property Management Division  
Attention: Strategic Projects Lead  
401 N. Dixon Street  
Portland, OR 97227

With a copy to: Multnomah County Attorney  
Attention: Property Group  
501 SE Hawthorne, Suite 500  
Portland, OR 97214

PURCHASER: Michael McMenamin  
c/o McMenamins, Inc.  
430 N. Killingsworth  
Portland, OR 97217

11.4 **Waiver.** Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision. Waiver of any breach of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

11.5 **Attorneys' Fees.** If any proceeding, suit or action is instituted to interpret or enforce the terms of this Agreement or to rescind this Agreement, the prevailing party will be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees and costs at trial, on any appeal, and on any petition for review or other proceedings, including, without limitation, any bankruptcy case or proceeding (and issues peculiar to bankruptcy) or arbitration, in addition to all other sums provided by law.



11.6 **Integration.** This Agreement supersedes and replaces all written and oral agreements previously made or existing between the parties respecting the subject matter hereof and states the entire agreement of the parties with respect to the subject matter of this Agreement.

11.7 **Applicable Law.** This Agreement shall be construed, applied and enforced in accordance with the laws of the State of Oregon.

11.8 **No Brokers.** County and Purchaser each represent and warrant that it has had no dealings with any broker in connection with negotiation or execution of this Agreement. Each party shall defend, indemnify, and hold the other party harmless from any claim, loss, or liability made or imposed by any other party claiming a commission or fee in connection with this transaction and arising out of its own conduct.

11.9 **Changes in Writing.** This Agreement and any of its terms may only be changed or modified by written agreement of both parties, and no waiver or discharge shall be effective unless evidenced by a written instrument signed by the party against whom enforcement of the waiver is sought.

11.10 **Indemnified Parties.** Any indemnification contained in this Agreement for the benefit of a party shall extend to such party's members, officers, employees, and agents.

11.11 **Facsimile Signatures.** Facsimile or pdf or other electronic transmission of any signed original document, and retransmission of any signed facsimile or other electronic transmission, shall be the same as delivery of an original. At the request of either party, or the Escrow Officer, the parties shall confirm facsimile transmitted signatures by signing an original document.

11.12 **Counterparts.** This Agreement may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

11.13 **Invalidity of Provisions.** In the event any provision of this Agreement, or any instrument to be delivered by Purchaser at closing pursuant to this Agreement, is declared invalid or is unenforceable for any reason, such provision shall be deleted from such document and shall not invalidate any other provision contained in the document.

11.14 **Saturday, Sunday and Legal Holidays.** If the time for performance of any of the terms, conditions and provisions of this Agreement shall fall on a Saturday, Sunday or legal holiday, or if participation or action by Escrow Officer is required for a particular matter on a certain day and the offices or personnel of Escrow Officer, or any governmental office or any wire service required for such performance, are not available or able to perform the required function(s) on such day then the time of such performance shall be extended to the next business day thereafter when such is available.

11.15 **Survival of Covenants.** Any covenants and agreements which this Agreement does not require to be fully performed prior to the Closing Date shall survive the Closing Date and shall be fully enforceable thereafter in accordance with their terms.

11.16 **Expiration of Offer.** Upon execution of this Agreement by one of the parties, this Agreement shall constitute an offer to sell or purchase the Property on the terms and conditions set forth herein. If such offer is not accepted in writing by the other party within five (5) days following delivery, such offer shall automatically expire and terminate, unless the term of such offer is extended in writing by the executing party.

11.17 **Vacation of NE 242nd Connector.**

(a) County will initiate, on or before November 1, 2014, statutory proceedings under ORS Chapter 368.326 et seq. to vacate the NE 242<sup>nd</sup> Connector and the NE 238<sup>th</sup> Connector rights of way, located within and as more particularly described in the recorded plat of the Edgefield District subdivision between SW Halsey and Glisan Streets in the City of Troutdale (the "**Street Vacation**"). County will use good faith efforts to obtain all necessary governmental approvals including sharing equally with Purchaser the cost of pursuing an initial appeal in the State Court System or the Land Use Board of Appeals ("Appellate Tribunals") of the Street Vacation on or before December 30, 2015. In the event the Street Vacation is pending or is being subjected to appeal as provided herein as of December 30, 2015, then the time for County to obtain all necessary governmental approvals shall be extended without further act of the parties until County or any Appellate Tribunals shall render a final order approving the Street Vacation and any appeal periods for Appellate Tribunals expire. If County approves the Street Vacation and the approval is appealed, the parties shall share equally the costs and fees for defending one appeal to the first Appellate Tribunal. Purchaser, at its sole discretion, may pursue petitions for review to higher courts, but shall bear all costs and fees for such petitions and for any appeals following reversal or remand.

(b) Upon completion of the Street Vacation (including recording in the Records of Multnomah County, Oregon required to effect the Street Vacation) as provided in Subsection 11.17 (a) (without possibility of further appeal) and upon recording in the Records of Multnomah County, Oregon of an easement termination agreement executed by County for purposes of terminating any slope or other easements in favor of County related to and over areas adjacent to the 242nd Connector, including the easement recorded as Document No. 95-97069, Records of Multnomah County, Oregon and the easement agreement recorded as Document No. 95-97074, Records of Multnomah County, Oregon (the "Easement Agreements"), the Purchase Price and Note balance due shall, effective upon closing of the sale of the Property from County to Purchaser, be increased at the rate of Sixty Five Thousand Dollars (\$65,000) per acre for the portions of the Street Vacation (being the portion of the NE 242nd Connector that is adjacent to Lots 2 and 4 of the plat of Edgefield District) that becomes vested in Purchaser (or its affiliate, Red Shed Properties, LLC) under ORS Chapter 368.326 et seq., as a result of the Street Vacation or as a result of the County conveying fee title to such area to Purchaser by statutory bargain and sale deed immediately following the recording of the Street Vacation, (in the event title to such area vests in County as a result of the Street Vacation), based on the bearings and distances shown on the recorded plat of the Edgefield District subdivision. If the final result of the appeal is that the Street Vacation is disallowed and the Street Vacation does not occur, the NE 242<sup>nd</sup> Connector and the NE 238<sup>th</sup> Connector shall remain County rights of way and no adjustment shall be made to the Purchase Price based on the Street Vacation. Notwithstanding any provision of this Section 11.17, in the event the sale of the Property from County to Purchaser does not close for any reason on or before the Closing Date, or in the event an easement termination

agreement has not been recorded in the Records of Multnomah County, Oregon for purposes of terminating the Easement Agreements and the Street Vacation has not been completed as provided in Subsection 11.17 (a) (without possibility of further appeal) with title to the portions of the Street Vacation (being the portion of the NE 242nd Connector that is adjacent to Lots 2 and 4 of the plat of the Edgefield District) having become vested in Purchaser (or its affiliate, Red Shed Properties, LLC) under ORS Chapter 368.326 et seq., as a result of the Street Vacation or as a result of County conveying fee title to such area to Purchaser by statutory bargain and sale deed immediately following the recording of the Street Vacation (in the event title to such area vests in County as a result of the Street Vacation), at or before the time of closing of the sale of the Property from County to Purchaser pursuant to this Agreement, the parties' rights and obligations under this Section 11.17 shall cease and the provisions of this Section 11.17 shall become of no further force and effect. County and Purchaser acknowledge and agree that completion of the Street Vacation is not a condition of County's obligation to sell the Property or Purchaser's rights to purchase the Property, on the terms and conditions set forth in this Agreement.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

**NO MORE TEXT THIS PAGE - SIGNATURES NEXT PAGE(S)**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate as of the day and year first above written.

COUNTY:

MULTNOMAH COUNTY,  
a political subdivision of the State of Oregon

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

REVIEWED & APPROVED:

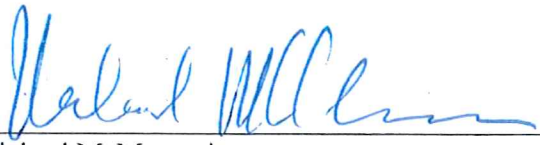
JENNY M. MADKOUR, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By: \_\_\_\_\_

Assistant County Attorney

Dated: \_\_\_\_\_, 20\_\_

PURCHASER:

  
\_\_\_\_\_  
Michael McMenamin

Date: 5-8-14

**EXHIBIT A**

**Legal Description of Larger Parcel**

*[Description of the Larger Parcel to be determined by the Survey (pursuant to Section 4.1 of this Agreement) and inserted on this Exhibit A]*

**EXHIBIT B**

**Depiction of Larger Parcel**

**[to be attached]**

# Exhibit B Larger Parcel

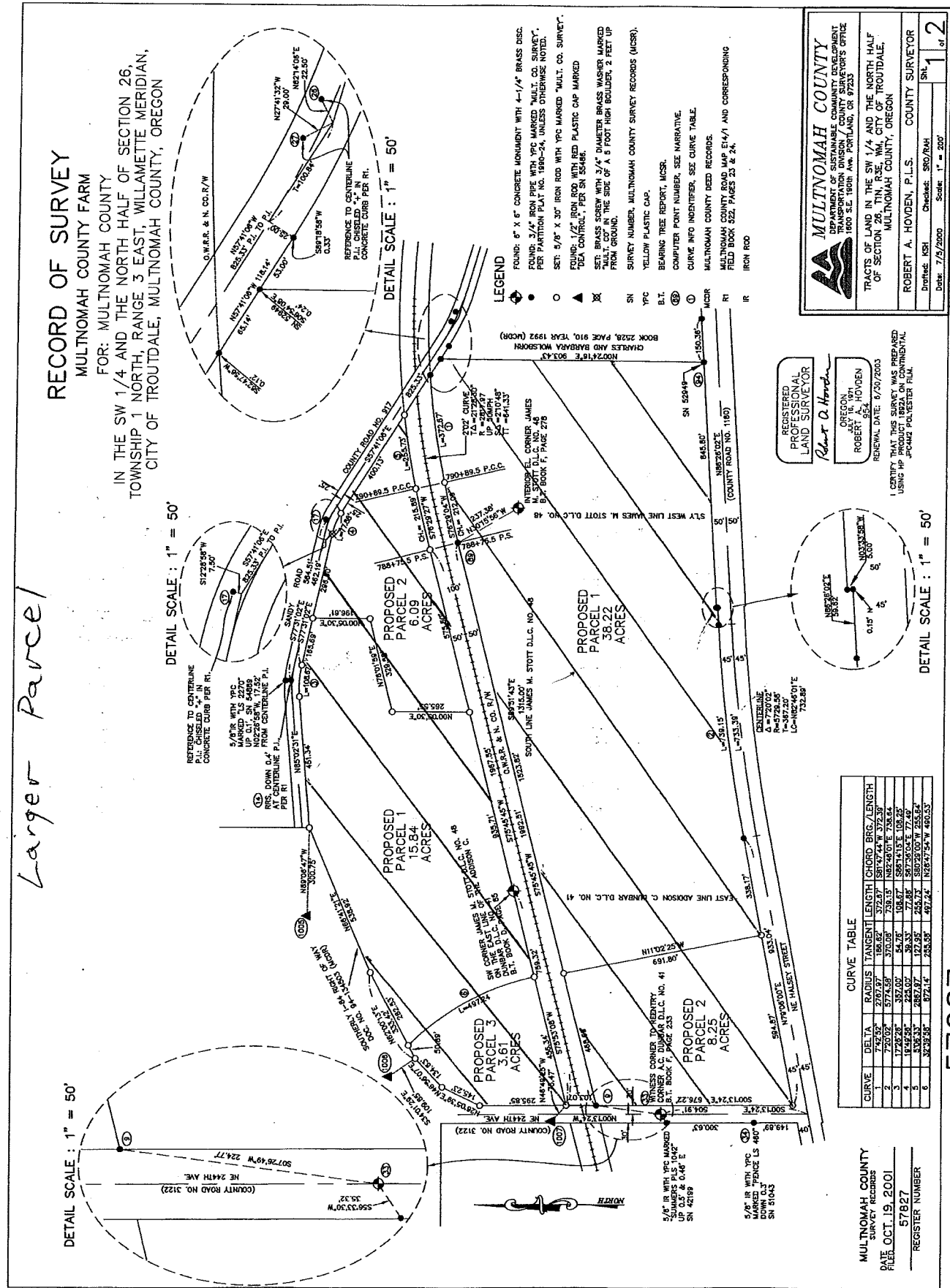
RECORD OF SURVEY  
MULTNOMAH COUNTY FARM  
FOR: MULTNOMAH COUNTY  
IN THE SW 1/4 AND THE NORTH HALF OF SECTION 26,  
TOWNSHIP 1 NORTH, RANGE 3 EAST, WILLAMETTE MERIDIAN,  
CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON

DETAIL SCALE: 1" = 50'

DETAIL SCALE: 1" = 50'

DETAIL SCALE: 1" = 50'

DETAIL SCALE: 1" = 50'



**EXHIBIT C**

**Depiction of Property**

**[to be attached]**



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## **EXHIBIT D**

### **Due Diligence Materials**

**[In reverse chronological order]**

- 1. City of Portland Ordinance No. 43311 – Passed July 27, 1923**
- 2. City of Portland Deed to Multnomah County – Recorded August 7, 1923**
- 3. County Poor Farm Operating Records – 1930s and 1940s [to be provided]**
- 4. Multnomah County Farm Record of Survey – July 5, 2000**
- 5. Phase One Environmental Assessment, Anderson Geological – July 2004**
- 6. Wetlands Delineation Report, ESA, LLC – March 2009**
- 7. CROPS Program Permit Documents – May 2009 [to be provided]**
- 8. DSL Letter Re: Wetlands Delineation – September 29, 2009**
- 9. Development Considerations Report, Pacific Habitat Services, Inc. – May 21, 2012**
- 10. Waste Water Treatment Plant Closeout Report, PBS Environmental – August 2012**

## EXHIBIT E

### Note

#### PROMISSORY NOTE ("NOTE")

\$3,190,000

\_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_, Oregon

1. **PROMISE TO PAY; INTEREST.** FOR VALUE RECEIVED, [Must be Michael McMenamin or Purchaser needs to provide separate financial info for Maker] ("Maker"), whose address is \_\_\_\_\_, promises to pay to the order of MULTNOMAH COUNTY, a political subdivision of the State of Oregon ("Holder"), c/o Facilities & Property Management, 401 N. Dixon St., Portland, OR 97227 or such other address as Holder may direct by not less than thirty (30) days' written notice to Maker, the principal sum of THREE MILLION ONE HUNDRED NINETY THOUSAND DOLLARS (\$3,190,000) in lawful money of the United States of America, with interest thereon in like lawful money, payable in the manner and on the terms set forth in this Note. No interest shall be charged or accrue on the Note balance until the third anniversary of the First Payment Date set out in 2(a), below. From and after the third anniversary of the first payment date under 2(a), below, the unpaid principal balance due on this Note from time to time shall bear interest at the rate of FOUR AND ONE-HALF PERCENT (4.5%) per annum as provided below. Capitalized terms not otherwise defined in this Note shall have the meanings described in that certain Purchase and Sale Agreement, dated as of \_\_\_\_\_, 2014, between the maker hereof, as Purchaser, and the Holder, as Seller (as now or hereafter amended, the "Sale Agreement"), which Sale Agreement is hereby incorporated by this reference herein as if fully set forth.

2. **PAYMENT.** Maker agrees to pay Holder the Note indebtedness as follows:

(a) Commencing on the first day of the first full month after the date of this Note ("First Payment Date"), and on the first day of each month thereafter through the third anniversary of the First Payment Date, Maker will pay Holder \$10,000 per month, without interest, which payments shall be fully creditable against the principal balance of this Note.

(b) Commencing on the first day of the first month after the period described in (a), above, and on the first day of each month thereafter through the sixth anniversary of the First Payment Date, Maker will pay Holder equal monthly payments of principal and interest determined by amortizing the outstanding Note balance at the end of the period described in (a) over a 25-year term, bearing simple interest at the rate of 4.5% per annum.

(c) Maker will pay Holder all the entire remaining balance of principal and accrued but unpaid interest by the earlier of Maker receiving financing for the purpose of constructing its first non-agricultural site improvements or building on the Property or the sixth (6<sup>th</sup>) anniversary of the First Payment Date under (a), above.

3. **PREPAYMENT/SET OFF RIGHTS.** Maker may prepay the principal balance and accrued but unpaid interest in whole or in part at any time without premium or penalty. In the Deed of the Property to Maker, Holder has reserved certain rights and obligations with respect to the CROPS Easement Area and reserved the CROPS Easement, the Access Easement, the Water Line Easement and the Parking Easement (which easements are also hereby incorporated by this reference herein). Maker has certain rights of setoff for amounts owed Maker, if any, by Holder pursuant to the CROPS Easement.

4. **SECURITY.** This Note is secured by the Trust Deed, including the addendum thereto, recorded in the records of Multnomah County, Oregon, of even date herewith, to which reference is hereby made for a description of the nature and extent of the security, the rights and limitations of the rights of the holder of this Note and the terms and conditions upon which this Note is secured.

5. **ATTORNEY FEES.** If suit or action is instituted to interpret or enforce the terms of this Note, the prevailing party will be entitled to recover from the other party such sums as the court or tribunal may adjudge reasonable as attorneys' fees at trial, on appeal and on any petition for review or other proceedings, including any bankruptcy or arbitration proceedings (provided nothing herein will imply either party the unilateral right to require arbitration), in addition to all other sums provided by law.

6. **LAWFUL RATE.** Notwithstanding any other provision of this Note or of the Trust Deed or of any other instrument or document, interest, fees and charges payable by reason of the indebtedness evidenced by this Note shall not exceed the maximum, if any, permitted by any governing law.

7. **BUSINESS PURPOSES.** Maker represents that this loan is for business or commercial use and not for personal, family or household purposes.

8. **APPLICABLE LAW.** This Note shall be construed in accordance with and governed by the laws of the State of Oregon.

[Must be Michael McMenamin or Purchaser needs to provide separate financial info for Maker]

By: \_\_\_\_\_

**EXHIBIT F**

**Trust Deed**

ATTACH STEVENS NESS FORM (ASSIGNMENT RESTRICTED) WITH EDITS AND  
ADDENDUM

**EXHIBIT A  
TO  
TRUST DEED**

**ADDENDUM TO TRUST DEED**

DATED as of: \_\_\_\_\_, 201\_\_

AMONG: [Must be Michael McMenamin or Purchaser needs to provide separate financial  
info for Grantor] \_\_\_\_\_

a \_\_\_\_\_

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

**“GRANTOR”**

AND: First American Title Insurance Company of Oregon

\_\_\_\_\_, Oregon \_\_\_\_\_

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

**“TRUSTEE”**

AND: MULTNOMAH COUNTY,  
a political subdivision of the State of Oregon  
c/o Facilities & Property Management  
401 N Dixon St.  
Portland, Oregon 97227  
Fax: \_\_\_\_\_

**“BENEFICIARY”**

This Addendum to Trust Deed (“**Addendum**”) hereby amends, supplements and modifies that certain Trust Deed, dated as of this same date, among Grantor, Trustee and Beneficiary affecting that certain real property in Multnomah County, Oregon, and as more particularly described in the Trust Deed (the “**Property**”). This Addendum is hereby attached to and incorporated into and made part of the Trust Deed. In the event and to the extent of any inconsistency between the terms or conditions of this Addendum and the terms or conditions of the Trust Deed, the terms and conditions of this Addendum shall control. The Real Property Tax Account No(s). for the Property is/are \_\_\_\_\_.

The Trust Deed is hereby amended, supplemented and modified as follows:

1. Grantor shall not be deemed to be in default under this Trust Deed and Beneficiary may not take curative action at Grantor’s expense unless and until: (i) Grantor fails to make any payment to Beneficiary required by the Note or this Trust Deed within fifteen (15) business days after written notice from Beneficiary to Grantor that the same is past due; or (ii) Grantor fails to take any other action required by this Trust Deed within thirty (30) days after written notice from Beneficiary that the same is past due and reasonably identifying such failure; provided, in the event Grantor’s failure is of a nature that cure reasonably requires more than 30 days, Grantor shall not be deemed in default if Grantor undertakes such curative action within such 30-day period and diligently pursues the same to completion as soon as practical.

2. Grantor may contest the alleged construction liens and protest tax assessments and the application of applicable law without such constituting a default provided: (i) if the contest involves a lien, Grantor delivers a bond sufficient to remove the lien from the Property under Oregon law or provides Beneficiary such other assurances as are reasonably satisfactory to Beneficiary within fifteen (15) days after written demand from Beneficiary, and (ii) if such contest involves compliance with applicable Laws or governmental regulation, which finally is resolved adverse to Grantor, that Grantor complies with the applicable requirements promptly upon final resolution of such contest or abandonment of such contest by Grantor.

3. The parties agree that the value of any improvements existing on the Property on the date of this Trust Deed is negligible. Grantor shall not be required to maintain any insurance against loss of any existing improvements or any property or improvements installed by Grantor upon the Property. Subject to any interest of any Grantor Lender as described below, any fire and casualty insurance policies obtained or maintained by Grantor (at its discretion) shall have Grantor and Beneficiary as loss payees as their respective interests appear. So long as Grantor is not in default beyond the period allowed for cure under this Trust Deed, the proceeds of any fire or other casualty insurance policy and the net proceeds of any condemnation received by Beneficiary with respect to the Property promptly shall be made available to Grantor for the restoration, repair or replacement of the damage to the property (or the remainder thereof) that gave rise to the payment of such proceeds on such commercially reasonable terms and conditions as a reasonable and prudent construction lender would disburse funds.

4. Grantor intends to develop the Property for commercial uses (including hospitality, retail, entertainment and events, multi-family residential for employee housing, agricultural uses, and related uses, all in conjunction with or as an extension of Purchaser's property known as Edgefield Manor at 2126 SW Halsey St., south of Halsey St. across from the Property ("**Edgefield Manor**") ("**Grantor's Intended Uses**"). Any use of the Property other than Grantor's Intended Uses shall require Beneficiary's prior, written approval, which shall not be unreasonably withheld, conditioned or delayed, provided that such other use(s) do not adversely impact or interfere with Beneficiary's operation of the CROPS programs or use of the CROPS Easement Area (described in the Deed) on the Property or Beneficiary's use and operations of the Animal Shelter on the Property described as "Grantor's Property" in the Deed. No lawful activity of Grantor in such preparatory or development work or subsequent operations shall be deemed waste or a violation of this Trust Deed, except that Grantor shall be obligated to pay the Note in full by the earlier of Grantor receiving financing for the purpose of constructing its first non-agricultural site improvements or building on the Property or the sixth (6th) anniversary of the First Payment Date (as defined in the Note secured hereby). Beneficiary shall be solely responsible for the maintenance, operation, security and condition of the CROPS Easement Area of the Property over which Beneficiary has or retains entry and use rights as defined in and pursuant to that certain Real Property Purchase Agreement between the parties dated as of \_\_\_\_\_, 20\_\_ (as it may be amended, "**Sale Agreement**") and the bargain and sale deed (the "**Deed**") from Beneficiary to Grantor vesting title to the Property in Grantor and reserving an easement in the CROPS Easement Area, and an Access Easement, a Water Line Easement, and a Parking Easement to Beneficiary as more particularly described in the Deed. Except for Beneficiary's improvements in the CROPS Easement Area, Grantor may repair, remove, demolish, rehabilitate, expand, remodel or replace any or all of the existing improvements on the Property (subject to the terms of the Access Easement, the Water Line Easement, and the Parking Easement reserved in the Deed) in connection with Grantor's proposed development or use of the Property without being in default of this Trust Deed.

5. Except as expressly stated herein, wherever Beneficiary's approval, consent or satisfaction is required, such shall not be unreasonably withheld or delayed.

6. Any notice, request, demand or other communication required or permitted to be given hereunder shall be in writing, may be personally served, faxed (by machine that creates a written record of transmission and receipt) or sent by an internationally recognized overnight delivery or courier service or mailed by certified mail, and shall be deemed to have been given when delivered in person or by courier or overnight service or upon receipt of a fax or certified letter addressed to the party at the address stated in this Trust Deed. Any party may change its address for notices by written notice to the other.

7. Grantor may lease all or any portion(s) of the Property without Beneficiary's further consent; provided that the tenant's use of the Property is restricted to Grantor's Intended Uses. Any tenant's use of the Property other than Grantor's Intended Uses shall require Beneficiary's prior, written approval, which shall not be unreasonably withheld, conditioned or delayed, provided that such other use(s) do not adversely impact or interfere with Beneficiary's operation of the CROPS programs or use of the CROPS Easement Area on the Property or Beneficiary's use and operations of the Animal Shelter on the Property described as "Grantor's Property" in the deed. Such lease agreement shall be subject to this Trust Deed. At the request of Grantor, the parties and the proposed tenant or occupant shall enter into a commercially reasonable, recordable subordination, non-disturbance and attornment agreement whereby Beneficiary agrees, among other things, that the tenant shall not be disturbed in its possession of its premises or enjoyment of its other rights under the lease, by reason of any foreclosure or deed in lieu of foreclosure under, or other enforcement of, this Trust Deed (subject to the remedies of Grantor as landlord

under the lease for tenant's default), and Beneficiary shall recognize and honor the lease (and the tenant agrees to attorn to Trustee, Beneficiary or its successor) upon any such foreclosure, deed in lieu of foreclosure or other enforcement of this Trust Deed. Grantor may transfer its interest in the Property to a corporation, trust, partnership, limited liability company or other entity or entities owned or controlled by or under common control with Grantor without Beneficiary's further consent, provided the transferee expressly and in writing (a) agrees to restrict its use of the Property to Grantor's Intended Uses, or such uses as are approved by Beneficiary in accordance with Paragraph 4 hereof, and (b) assumes Grantor's obligations under the Note and this Trust Deed, including execution by the transferee's principal owner of personal guaranties of the Note and this Trust Deed. All other transfers of Grantor's ownership interest in the Property shall require Beneficiary's prior written consent, which may be withheld or conditioned in Beneficiary's sole discretion.

8. Grantor obtained the Property from Beneficiary and Grantor's warranty of title under this Trust Deed shall extend only to matters (i) created by Grantor after the date of this Trust Deed and (ii) that have not been approved by Beneficiary. Grantor shall not be responsible for conditions of the Property, title exceptions or defects, liens or taxes or other matters (A) existing before Grantor acquired title to the Property or (B) that are otherwise caused or permitted by Beneficiary or persons acting through or under Beneficiary, or (C) that are the responsibility of Beneficiary or persons acting through or under Beneficiary pursuant to applicable law or the Sale Agreement or any documents delivered pursuant thereto, including the CROPS Easement, the Access Easement, the Water Line Easement and the Parking Easement. Grantor shall have the right to set off against any amounts owed to Beneficiary by Grantor from time to time under this Trust Deed or the Note secured hereby any amounts Beneficiary may owe to Grantor from time to time under the Sale Agreement, CROPS Easement or any other instrument delivered pursuant to the Sale Agreement. Such set-off(s), at Grantor's election, may be applied to the next regularly scheduled payments of principal and interest secured by this Trust Deed or as Grantor may otherwise direct. The existence or exercise of such right of set-off shall not limit Grantor's other rights and remedies with respect to amounts owed it by Beneficiary, and no failure of Grantor to claim or effect any set-off to which it may otherwise be entitled shall be deemed a waiver or limitation on Grantor's rights and remedies against Beneficiary to recover such amounts directly from Beneficiary at any time or to take such set-off at any time.

9. Within ten (10) days after a party's written request, the other party shall deliver a written statement stating the date to which the secured obligations and other charges have been paid under this Trust Deed and the Note, whether this Trust Deed and the Note are unmodified and in full force and effect, and any other matters that may reasonably be requested related to this Trust Deed and/or the Note.

IN WITNESS WHEREOF, Grantor has executed this Addendum to Trust Deed.

**[Must be Michael McMenamin or Purchaser needs to provide separate financial info for Grantor]**

By: \_\_\_\_\_



STATE OF \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by  
\_\_\_\_\_ as \_\_\_\_\_ of  
\_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**EXHIBIT G**

**Deed**

**Recording requested by and  
When recorded, return to:**

Eugene A. Frassetto, Esq.  
Stoel Rives LLP  
900 SW Fifth Avenue, Suite 2600  
Portland, OR 97204-1268

**Until a change is requested, all tax  
statements shall be sent to:**

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Property Tax Nos.:

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

**BARGAIN & SALE DEED  
(with easements and covenants)**

**MULTNOMAH COUNTY**, a political subdivision of the State of Oregon ("**Grantor**"),  
conveys to \_\_\_\_\_, Grantee, the real property in  
Multnomah County, State of Oregon described on attached Exhibit A.

The true consideration for this conveyance is THREE MILLION TWO HUNDRED  
THOUSAND AND NO/100S DOLLARS (\$3,200,000.00).

**BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON  
TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS,  
IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO  
11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855,  
OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.  
THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN  
THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND  
REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE  
PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH  
THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY**

THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

GRANTOR:

MULTNOMAH COUNTY,  
a political subdivision of the State of Oregon

By: \_\_\_\_\_

Its: \_\_\_\_\_

REVIEWED & APPROVED:

JENNY M. MADKOUR, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By: \_\_\_\_\_

Assistant County Attorney

Dated: \_\_\_\_\_, 20\_\_

STATE OF \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.  
County of \_\_\_\_\_ )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_,  
201\_\_ by \_\_\_\_\_ as \_\_\_\_\_ of  
MULTNOMAH COUNTY, a political subdivision of the State of Oregon .

\_\_\_\_\_  
Notary Public for Oregon

My commission expires: \_\_\_\_\_

**EXHIBIT A  
TO  
BARGAIN & SALE DEED**

**Real Property Legal Descriptions, Use Restrictions and Encumbrances**

The following real property in the City of Troutdale, Multnomah County, Oregon:

[INSERT DESCRIPTION]

(The parcel(s) described above, are referred to herein as the “**Property**”) Subject to: [LIST SPECIFIC APPROVED EXCEPTIONS]

**TOGETHER WITH** non-exclusive, perpetual easements for any and all existing power, communications, drainage, irrigation, slope, setback, sewer, water or any other utility, service or facility serving the Property, located on, over, under or through Grantor’s adjacent property more specifically described on attached Exhibit B (“**Grantor’s Property**”), and the continuing right to access, operate, use, inspect, maintain, repair, replace, alter, improve and remove the same, provided such activities do not obstruct or interfere with Grantor’s use and operations of the Animal Shelter on Grantor’s Property.

**USE RESTRICTIONS**

Grantee’s development and use of the Property shall be restricted to commercial development for hospitality, retail, entertainment and events, multi-family residential for employee housing, agricultural uses, and related uses, all in conjunction with or as an extension of Grantee’s Property known as Edgefield Manor located south of Halsey St. from the Property (“**Edgefield Manor**”) (“**Grantee’s Intended Uses**”). Any use of the Property other than Grantee’s Intended Uses shall require Grantor’s prior, written approval, which shall not be unreasonably withheld, conditioned or delayed, provided that such other use(s) do not adversely impact or interfere with Grantor’s operation of the CROPS programs or use of the CROPS Easement Area on the Property or Grantor’s use and operations of the Animal Shelter on Grantor’s Property.

**RESERVATION AND DECLARATION OF CROPS EASEMENT, ACCESS EASEMENT, WATER LINE EASEMENT AND PARKING EASEMENT, AND COVENANTS**

RESERVING UNTO GRANTOR THE CROPS EASEMENT, ACCESS EASEMENT, WATER LINE EASEMENT AND PARKING EASEMENT DESCRIBED BELOW AND FURTHER DECLARING AS FOLLOWS:

**I. CROPS EASEMENT**

1. CROPS Easement. Grantor hereby reserves an exclusive easement on, over and across (a) an approximately three (3)-acre portion of the Property, more specifically described on attached Exhibit C-1 and shown on the Diagram on Exhibit C-2 ("**CROPS Easement Area**"), which is subject to relocation in accordance with this Section 1. The CROPS Easement Area shall be used solely for the planting, cultivating, growing, tending and harvesting of crops in continuation and operation of Grantor's C.R.O.P.S. (Community Reaps Our Produce and Shares) sustainable community garden program or a successor or similar agriculturally-based program benefitting Grantor's citizens, administered by Grantor or a successor public agency or non-profit organization (provided such non-profit organization is approved in advance by Grantee, which approval shall not be unreasonably withheld, conditioned or delayed) ("**a successor**") (collectively, "**CROPS Program**"), without any requirement for rent being paid to Grantee for the use of the same, though Grantor or its successor operator will be solely responsible for all costs, expenses, risks and liabilities related to or arising out of its use thereof (the "**CROPS Easement**"). The remainder of the Property, net of the CROPS Easement Area, is referred to herein as the "**Remainder**." If Grantee requires relocation of the CROPS Easement Area on the Property after this Deed is recorded, Grantee shall determine and give two (2) years advance notice to Grantor in writing (the "**CROPS Easement Area Relocation Notice**") of any relocation required by Grantee. The CROPS Easement Area Relocation Notice shall include: (a) a written determination by a Certified Professional Soil Classifier that the relocated CROPS Easement Area is in a location where the soil is of the same or better capability class and subclass as the soil of the current location of the CROPS Easement Area, as determined pursuant to the classification system set forth in Land Capability Classification (Part 622.02) of the National Soil Survey Handbook; (b) Grantee's agreement to pay all costs of relocating the Access Easement Area (described in Section 2 below), the Water Line Easement Area (described in Section 3 below), and the improvements in said easements, as necessary to maintain equal or better access and water service to the relocated CROPS Easement Area; (c) Grantee's agreement to pay all costs of clearing brush, debris and rocks, plowing and conditioning the relocated CROPS Easement Area for Grantee to plant its crops in the initial growing season after the relocation of the CROPS Easement Area in accordance with this Section 1; and (d) a site plan depicting the relocated CROPS Easement Area as approximately rectangular-shaped. Grantor shall give notice to Grantee in writing of Grantor's approval or disapproval of Grantee's determination of any relocation required by Grantee of the CROPS Easement Area within ninety (90) days after the CROPS Easement Area Relocation Notice is given by Grantee to Grantor. Provided the proposed relocation of the CROPS Easement Area complies with subsections (a), (b) and (c) and (d) of the CROPS Easement Area Relocation Notice, Grantor shall not unreasonably withhold, condition or delay Grantor's approval of any such relocation required by Grantee on the Property. Upon receipt of Grantor's approval, Grantee shall be permitted to relocate the CROPS Easement Area. With respect to the Access Easement Area and the Water Line Easement Area, Grantee may determine and give notice to Grantor in writing (the "**Easement Relocation Notice**") of any re-location required by Grantee on the Property of the Access Easement Area, and/or the Water Line Easement Area, of Grantee's schedule for performing such re-location(s), and of Grantee's agreement to pay all costs in connection with such re-location(s). Grantee shall schedule and perform said relocation(s) outside of the growing season to minimize disruption of the CROPS Program. Grantor shall give notice to Grantee in writing of Grantor's approval of said relocation(s), which shall not be unreasonably withheld, conditioned or delayed, provided said re-location(s) comply with those conditions stated in the

two preceding sentences hereof, within thirty (30) days after the Easement Relocation Notice is given by Grantee to Grantor. Upon receipt of Grantor's approval, Grantee shall be permitted to relocate the Access Easement Area and/or the Water Line Easement Area, as the case may be. The CROPS Easement, the Access Easement (described below), the Water Line Easement (described below), and the Parking Easement (described below) shall be in effect for so long as Grantor or a successor conducts the CROPS Program on the CROPS Easement Area (taking into consideration the different uses made during each season of the year, including pre- and post-harvest activities, crop rotation, fallowing, and seasons where little or no farming activity is conducted under prudent farming practices), and shall be extinguished and of no further force or effect on the earliest to occur of the following: (i) Grantor or a successor discontinues the CROPS Program and provides Grantee written notice of the decision to discontinue the CROPS Program, (ii) Grantor or a successor fails to actively use the CROPS Easement Area for the conduct of the CROPS Program and such failure continues for a period of twelve (12) continuous months, subject to delays caused by force majeure conditions (including failure of appropriations or failure to receive any permits for the lawful conduct of the CROPS Program) outside of Grantor's or a successor's reasonable control (provided that in no event shall any force majeure delay excuse such lack of use or postpone termination longer than twelve (12) months) or (iii) Grantor or a successor purports to convey or agrees to (A) convey all or any interest of Grantor or a successor under the CROPS Easement to any third party or parties for a use other than the CROPS Program, or (B) allow the use of the CROPS Easement Area for any activity or use other than the CROPS Program. If any of the conditions described in (ii) or (iii) above occurs, the CROPS Easement, the Access Easement, the Water Line Easement and the Parking Easement shall be extinguished sixty (60) days after Grantee's delivery of written notice of intent to extinguish and Grantor or a successor fails to resume operation of the CROPS Program prior to expiration of Grantee's 60-day notice. Upon extinguishment neither Grantor nor a successor shall have any further right, title or interest in or to the CROPS Easement Area, the Access Easement Area, the Water Line Easement Area or any other portion of the Property. Following Grantor's or a successor's assignment of the CROPS Easement, the Access Easement, the Water Line Easement and the Parking Easement to its successor for continuation of the CROPS Program, all of Grantor's or a successor's rights and obligations stated herein shall be deemed assigned to and assumed by its successor.

2. Access Easement. Grantor hereby reserves a non-exclusive easement (the "**Access Easement**") on, over and across that portion of the Remainder described on attached Exhibit C-3 (the "**Access Easement Area**") solely for access and egress to and from the CROPS Easement Area, subject to Grantee's right to relocate all or any part of such Access Easement from time to time in accordance with Section 1 if Grantee deems such is reasonably required or desirable in connection with the use or development of all or any part of the Remainder. If Grantee exercises such relocation right, the removal of any paving or other surfacing by Grantor in the Access Easement Area being relocated and the replacement of such surfacing in the relocated Access Easement Area shall be at Grantee's expense.

3. Water Line Easement. Grantor hereby reserves a nonexclusive easement (the "**Water Line Easement**") on, under and through that portion of the Remainder described on attached Exhibit C-4 (the "**Water Line Easement Area**") solely for use, maintenance, repair and replacement of a water line to serve the CROPS Easement Area, subject to Grantee's right to

relocate, at Grantee's expense (or to cause Grantor to relocate at Grantee's expense) all or any part of the Water Line Easement from time to time in accordance with Section 1 if Grantee deems such is reasonably required or desirable in connection with the use or development of all or any portion of the Remainder. If Grantee exercises its relocation right, the removal of any water line installed by Grantor in the Water Line Easement Area being relocated and the replacement of such water line(s) in the relocated Water Line Easement Area shall be at Grantee's expense. Grantor shall, effective as of the date of completion of any maintenance, repair or replacement of an underground water line in the Water Line Easement Area, at Grantor's sole cost and expense, remove all debris and restore the surface of the Water Line Easement Area to its previous condition.

4. Parking Easement. Grantor hereby reserves a nonexclusive easement (the "**Parking Easement**") on, over and across the Remainder solely for parking of not more than eight (8) automobiles in parking areas located on the Remainder, subject to Grantee's right to relocate all or any part of such Parking Easement from time to time to a specific portion of the Remainder if Grantee deems such is reasonably required or desired in connection with the use or development of all or any part of the Remainder. If Grantee exercises such relocation right, the removal of any paving or other surfacing by Grantor on the Remainder and the replacement of such surfacing shall be at Grantee's expense. Grantee shall have the right to adopt reasonable rules and regulations to promote safety, order, availability and cleanliness of parking areas on the Remainder and Grantor will reasonably cooperate therewith. Grantor will not use the parking areas on the Remainder for overnight storage of vehicles. Grantor will provide, on request, license plate numbers for vehicles of Grantor or its employees.

5. Hazardous Substances. Grantor shall not use or allow the use of the CROPS Easement Area, the Access Easement Area, the Water Line Easement Area or any other portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement for (i) the transportation, generation, use, handling or storage of any hazardous or toxic waste, substance or material or (ii) the storage or handling of any fuels or other hazardous or toxic materials, substances or wastes or (iii) for the servicing or repairing of any vehicles or equipment; except that Grantor may use on the CROPS Easement Area appropriate farm pesticides, herbicides and fertilizer agents, and lubricants, fuel and compounds contained in and reasonably necessary for the use and operation of farm equipment while being used by Grantor, so long as such is accomplished in strict compliance and conformity with the CROPS Easement, applicable local, state or federal laws, and all private covenants, conditions and restrictions of record and with any label instructions. Grantor will not make aerial application of chemicals or store any chemicals on the CROPS Easement Area, the Access Easement Area, the Water Line Easement Area or any other portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement nor bring any chemicals on the CROPS Easement Area, the Access Easement Area, the Water Line Easement Area or any other portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement excepting only those permitted under the CROPS Easement and then only to the extent required to be on site during the active application of such materials to the CROPS Easement Area. Grantor shall ensure that all fuel tanks, hydraulic and lubricating oil reservoirs and other reservoirs of fluids and other substances in or on any equipment, trailers, and motor vehicles brought onto the CROPS Easement Area or any common access by or through Grantor are leak-free and secure so that no spillage, leaking or release of any petroleum

products or other hazardous or potentially hazardous materials, substances or wastes occurs onto or from the CROPS Easement Area, the Access Easement Area, the Water Line Easement Area or any other portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement or any common access.

6. General.

(i) Grantor's Operations and Work at Grantor's Expense/No Liens. Grantor will cause all work and all operations and activities, and all work, materials, services and utilities provided to, by, through or under Grantor on or about the CROPS Easement Area, the Access Easement Area, the Water Line Easement Area or any other portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement to be done at Grantor's sole cost, risk and expense (except as otherwise provided for Grantee's relocations in Paragraphs 2, 3 and 4 hereof), in a good and workmanlike manner, in compliance with all applicable laws and all matters of record, in accordance with prudent and sustainable farming practices, and so as not to interrupt or disturb the use or enjoyment of the Remainder by Grantee or other occupants or users thereof at any time. Grantor shall pay when due for all such matters, and shall not cause or allow any lien or encumbrance to attach to the Property, CROPS Easement Area, the Access Easement Area, and the Water Line Easement Area arising out of such work or otherwise related to the exercise by Grantor of any of its rights hereunder.

(ii) Indemnification. Subject to any applicable conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300 as applicable to a "local public body" as defined therein (the "OTCA"), Grantor shall defend, indemnify, reimburse and hold Grantee (and its agents, employees, officers, affiliates, members and tenants), harmless for, from and against any claim, loss or liability (including reasonable attorneys' fees) to the extent arising out of or in connection with (a) Grantor's (or its employee's, agent's, contractor's, invitee's, permittee's or tenants') acts or omissions with respect to the rights and obligations under this reservation and/or use of the CROPS Easement, Access Easement, Water Line Easement or Parking Easement described in this Deed; provided that the obligation to defend, indemnify and hold harmless for matters shall in the event of concurrent negligence or misconduct exclude claims to the extent that they are caused by the negligence or intentional misconduct of the indemnified person, or its officers, affiliates, members, permittees, tenants, invitees, agents, contractors or employees; or (b) the indemnified party's failure to comply with the terms, restrictions and provisions of these reservations.

(iii) AS IS/Required Permits. Grantor has owned and occupied, and is familiar with the Property including the CROPS Easement Area. Grantor hereby accepts its easement interest in the CROPS Easement Area, the Access Easement Area, the Water Line Easement Area and the portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement AS IS, WHERE IS, without representation or warranty of any kind, express or implied, and Grantor hereby expressly ASSUMES ALL RISK AND LIABILITY with respect to Grantor's use thereof. Grantor shall obtain and maintain at all times throughout the term of the CROPS Easement at Grantor's sole expense all required authorizations, approvals, permits and consents required for its use, development and operation of the CROPS Program and CROPS



Easement Area and for its use of the Access Easement Area, the Water Line Easement Area, and the portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement.

(iv) Grantee's Use of Easement Areas. Grantee reserves the right to shared use and enjoyment of the Access Easement Area, the Water Line Easement Area and the portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement, so long as such use does not unreasonably interfere with Grantor's use of the CROPS Easement Area or the Access Easement Area, the Water Line Easement Area and the portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement, but in all events subject to (a) Grantee's right to relocate the Access Easement, the Water Line Easement and the Parking Easement as provided above, and (b) Grantee's right to keep, maintain, alter, improve and replace any existing facilities, utilities and/or improvements in the CROPS Easement Area, the Access Easement Area, the Water Line Easement Area and the portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement and serving the Remainder, as provided above in this Deed.

## II. MISCELLANEOUS

1. Binding Effect. The easements and rights granted, declared or reserved above are binding upon the parties and their respective permitted successors in interest and supersede and replace all written and oral agreements previously made or existing with respect to the matters set forth herein. The easements granted for the benefit of the Property are appurtenant to the Property and the covenants for the benefit of the Animal Shelter in Section 8, below, are appurtenant to Grantor's Property, and shall run with the land as to the respective properties benefitted and burdened thereby. The CROPS Easement, the Access Easement, the Water Line Easement and the Parking Easement are easements in gross, are intended to bind the CROPS Easement Area, the Access Easement Area, the Water Line Easement Area and the portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement, but are not appurtenant to any parcel of Grantor's real property and are personal to Grantor.

2. No Third-Party Rights/No Dedication. This instrument is not intended to create and shall not in any way be interpreted or construed to create any third party beneficiary rights in any person except those third persons entitled to indemnification under Article I, Section 6.(ii), above. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the CROPS Easement Area, the Access Easement Area, the Water Line Easement Area, or any other portion of the Property to any third parties or to the general public or for the use of the general public.

3. Attorney Fees. If any suit, action or arbitration (without implying any right of a party to unilaterally require arbitration) is brought to enforce the rights or obligations declared, granted or reserved in this Deed, the prevailing party shall be entitled to all reasonable costs and expenses incurred in connection with such suit or action or arbitration, and shall receive such amount as the court or arbitrator(s) may determine to be reasonable attorney fees at any arbitration or trial, and upon any appeal or petition for review thereof and any other proceedings, including, without limitation, any bankruptcy case or proceedings.

4. Amendment. No modification or amendment of any provision of the rights declared, reserved or granted above shall be binding unless in a written instrument signed and notarized by the parties and recorded in the real property records of Multnomah County, Oregon.

5. Notices. Notices given under the rights and reservations described above shall be in writing and delivered by certified or registered U.S. Mail, postage paid, return receipt requested, by United States Express Mail or other established express delivery service (such as Federal Express or UPS), postage or delivery charge prepaid; by confirmed facsimile transmission or other telecommunication device capable of transmitting or creating a written record, or personally, at the respective address set forth below or such other address as the party may designate by written notice to the other. Such notices shall be effective upon receipt, or, if delivery is refused by the addressee party, upon refusal of such delivery. Until a party designates another address for notice by notice given pursuant to this section, any notice to Grantor shall be made to Grantor at Multnomah County, c/o Facilities & Property Management, 401 N Dixon St., Portland, Oregon 97227 and any notice to Grantee shall be made to Grantee at \_\_\_\_\_ . In the alternative, when the party wishing to give notice has not been provided with the then-current address for the other party, notice to either party may be given to the address of such party to which then-current property tax statements for the applicable party's Parcel benefited or burdened by the rights or obligations set forth above are delivered by the taxing authority.

6. Access Easement Generally. With respect to the Access Easement:

(i) No Parking/Reasonable Use. No parking or storage shall be allowed on any travelled surface of the Access Easement Area except as necessary for and during the performance of a party's maintenance or repair obligations hereunder, and then only in a manner so as to avoid unreasonable interference with the other party's use of the Access Easement Area. Grantor shall cause its invitees, employees, contractors and agents to use the Access Easement Area so as to minimize unnecessary wear or damage and to comply with this Deed.

(ii) Status Certificate. Within twenty (20) days after receipt of a written request, a party shall promptly deliver a written status certificate to the party requesting the same, stating the current status of any work being performed or costs previously incurred which may be subject to reimbursement by the other party under this Deed; whether (to the party's knowledge) the other party is in compliance with its respective obligations hereunder; and any other matters that may be reasonably requested related to the status of the easements described above or obligations of the parties thereunder.

(iii) Gates and Fences. Grantee may erect and maintain gates across any common access on the boundary of or within the Remainder and either party may erect and maintain gates on the Access Easement Area where it crosses the common boundary between the Remainder and the CROPS Easement Area. If any of such gates on the Access Easement Area are at points over which the other party has a right of passage, the party installing such gate shall provide the other party with gate operating devices, combinations, keys or combinations for such gates before securing or locking such gates.

7. Maintenance/Repair.

(i) Except as provided in subparagraph (ii) below, (a) Grantor shall be responsible for the maintenance and upkeep of the CROPS Easement Area (which maintenance and upkeep obligations shall include, without limitation, the obligation of Grantor to maintain the CROPS Easement Area free of trash and debris and in a manner that does not materially and adversely interfere with Grantee's Intended Uses, and (b) maintenance of the Access Easement Area shall be pursuant to ORS 105.170 et seq. In the event, following good faith discussions, Grantor and Grantee are unable to agree regarding whether the CROPS Easement Area is being maintained in a manner that does not materially and adversely interfere with Grantee's Intended Uses, Grantee shall deliver to Grantor a written description of all changes necessary to achieve compatibility with Grantee's Intended Uses, and Grantor shall have the option of allowing Grantee to implement such changes at Grantee's sole cost and expense, subject to Grantee not unreasonably interfering with Grantor's use of the CROPS Easement Area, or of Grantor agreeing to implement such changes subject to Grantee agreeing to pay for all costs and expenses of such changes.

(ii) A party shall promptly repair, at that party's expense, any unusual or extraordinary damage or wear and tear caused to any portion of the CROPS Easement Area and any water line in the Water Line Easement Area that services the CROPS Easement Area, the Access Easement Area, the Water Line Easement Area or the portion of the Remainder utilized by Grantor for parking pursuant to the Parking Easement by such party or its invitees, employees, agents or contractors; provided that the costs of maintenance and repair of any utility lines and facilities located (and with a right to be located) within the applicable easement area and of restoring the surface of the easement area after such work shall be borne (i) in the case of damage to any such utility line or facility caused by a party, by the party whose activity caused the damage, or (ii) subject to (i), in the case of any utility line or facility serving one or more party(ies), by the part(y)ies served by such lines and facilities in proportion to their respective use or as they may otherwise agree in writing.

8. **Animal Shelter.** Grantor hereby declares, and, by taking title to the Property, Grantee hereby acknowledges and agrees that Grantor, through its Animal Services Agency, currently operates an animal shelter facility on Grantor's Property (the "**Animal Shelter**"), which involves, among other things, the housing, care, adoption and disposal of animals, and related noise and odors on Grantor's Property. Grantee hereby accepts the Property subject to such use of Grantor's Property as the Animal Shelter and hereby agrees that the otherwise lawful maintenance and operation of the Animal Shelter on Grantor's Property by Grantor shall not be deemed a nuisance or otherwise give Grantee the right to make any claim against Grantor with respect thereto, and Grantee hereby waives all claims against Grantor respecting the otherwise lawful operation of the Animal Shelter on Grantor's Property.

**EXHIBIT B  
TO  
STATUTORY BARGAIN & SALE DEED**

**Description of Grantor's Property**

*[Description of Grantor's Property to be determined by the Survey (pursuant to Section 4.1 of the Purchase and Sale Agreement to which this Deed is attached) and inserted on this Exhibit B]*

**EXHIBIT C-1  
TO  
STATUTORY BARGAIN & SALE DEED**

**Description of CROPS Easement Area**

*[Description of the CROPS Easement Area to be determined (pursuant to Section 4.3 of the Purchase and Sale Agreement to which this Deed is attached) and inserted on this Exhibit C-1]*

**EXHIBIT C-2  
TO  
STATUTORY BARGAIN & SALE DEED**

**Diagram of CROPS Easement Area**

*[Location and Configuration of the CROPS Easement Area to be determined (pursuant to Section 4.3 of the Purchase and Sale Agreement to which this Deed is attached) and inserted on this Exhibit C-2]*

**EXHIBIT C-3  
TO  
STATUTORY BARGAIN & SALE DEED**

**Description of Access Easement Area**

*[Description of the Access Easement Area to be determined (pursuant to Section 4.3 of the Purchase and Sale Agreement to which this Deed is attached) and inserted on this Exhibit C-3]*

**EXHIBIT C-4  
TO  
STATUTORY BARGAIN & SALE DEED**

**Description of Water Line Easement Area**

*[Description of the Water Line Easement Area to be determined (pursuant to Section 4.3 of the Purchase and Sale Agreement to which this Deed is attached) and inserted on this Exhibit C-4]*



**PROMISSORY NOTE  
(EARNEST MONEY)  
(Troutdale Halsey North Site)**

**\$10,000.00**

Portland, Oregon

\_\_\_\_\_, 201\_\_

The undersigned promises to pay to the order of **FIRST AMERICAN TITLE INSURANCE COMPANY OF OREGON**, as Escrow Officer, at its office at \_\_\_\_\_, Portland, Oregon 972\_\_, the sum of **TEN THOUSAND DOLLARS (\$10,000)**, without interest, as the earnest money deposit in connection with the purchase of certain property located in the City of Troutdale, Multnomah County, Oregon, as more particularly set forth in the Purchase and Sale Agreement ("Agreement") dated \_\_\_\_\_, 20\_\_, wherein the undersigned is purchaser and **MULTNOMAH COUNTY**, a political subdivision of the State of Oregon, is seller. The sum of principal of this note, without interest, is due and payable within thirty (30) days after removal of the contingencies in Sections 4 and 5 in the Agreement, subject to the terms and conditions of the Agreement.

If this Note is placed in the hands of an attorney for collection following default in payment of this Note as and when due, the undersigned promises and agrees to pay holder's reasonable attorneys' fees and collection costs even though no suit or action is filed hereon, and if suit or action is filed, the prevailing party will be entitled to receive from the losing party the amount of such reasonable attorneys' fees as fixed by the court or courts in which the suit or action, including any appeal therein, is tried, heard or decided.

**MICHAEL MCMENAMIN**

By: \_\_\_\_\_