

October 11, 2018

Housing Authority Board of Commissioners  
Clackamas County

Members of the Board:

Approval of the Acquisition of approximately 3.4 acres at 13907-13957 S. Holcomb Blvd., Oregon City, Oregon to increase the number of Affordable Housing Units to be created under the Clackamas Heights Redevelopment Plan

<b>Purpose/Outcomes</b>	Approval of an Option to Purchase Real Property by Housing Authority of Clackamas County (HACC) from Beaver Creek Enterprises, LLC, Steven and Brenda Morrow for the Clackamas Heights Redevelopment Project
<b>Dollar Amount and Fiscal Impact</b>	\$2,650,000. No County General Funds
<b>Funding Source</b>	U.S. Department of Housing and Urban Development Section 108 Loan Funds
<b>Duration</b>	N/A
<b>Previous Board Action</b>	On August 7, 2018, during an Executive Session, the Board of Commissioners of the Housing Authority of Clackamas County approved placing the Letter of Intent on the September 18th HACC Board Agenda which has been rescheduled for October 11, 2018
<b>Strategic Plan Alignment</b>	1. Sustainable and affordable housing 2. Ensure safe, healthy and secure communities
<b>Contact Person</b>	Chuck Robbins - Executive Director, Housing Authority 503-650-5666
<b>Contract No.</b>	N/A

**BACKGROUND:**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services Department, a separate municipal corporation requests approval to execute an Option Agreement (Option) to purchase property owned by Steven Morrow, Brenda Morrow, and Beaver Creek Enterprises, LLC.

Steven and Brenda Morrow individually and on behalf of Beaver Creek Enterprises, LLC (“Owner”) agreed to sign the Option with HACC along with the associated documents referenced in the Option. In addition, the Owner understands HACC may condemn the Property if they do not agree to sell it.

The property located at 13907-13957 S. Holcomb Blvd, Oregon City is approximately 3.40 acres (“Property”). Current uses on the land include a Grocery and Gas station known as “Steve’s Market” and three single family homes rented to tenants by Owner. Zoning of the Property is Mixed Use Corridor (MUC-1) with permitted uses including Residential Units, Multi-Family, Restaurants, Services, Retail Trade, Bed and Breakfast, Health and Fitness clubs, Medical Clinics, Repair Shops and most General Commercial applications. The allowed housing density in a MUC-1 zone permits a significantly higher number of units than allowed in the zoning of the adjacent Clackamas Heights site.

HACC's Clackamas Heights Public Housing development abuts the property on the northern boundary. Clackamas Heights is 16.64 acres in size and contains 100 units of Public Housing and HACC's maintenance and administrative offices. With its R 3.5 Medium Density Residential zoning, HACC is limited to the number of affordable housing units it can build. HACC's interest in acquiring the Property results from the Property's zoning, which enhances the development capacity for the combined sites. When linked with the Property, HACC's plan for Clackamas Heights includes a mixed use/mixed income development and increases the number of affordable housing units.

Additionally, if the Property is not developed to its maximum allowable density, through the planning mechanism of "density transfer", additional units could be built on the Clackamas Heights site. It is estimated that combining the Property with the Clackamas Heights site, HACC could build between 350 and 400 new affordable units to replace the current 100.

The Board previously authorized staff to negotiate a purchase price in the range of \$2.1 and \$2.6 million. The proposed Option has a purchase price of \$2.65 million and includes an agreement to lease the Market to the Owner who will collect the rents and maintain the Market. This retains the Market in operation, on the tax rolls, keeps it occupied and maintained while HACC goes through the financing and entitlement process. The three single family homes will be transferred into HACC's portfolio of residential units.

As part of the negotiations, Owner inquired whether HACC would exercise its power of eminent domain to acquire the Property if a voluntary sale does not proceed. The acquisition by threat of condemnation provides the Owner with certain tax treatment. Owner agrees to reduce the sale price of the Property by \$100,000 to reflect the prospective tax attributes. However, to be eligible for these tax benefits, HACC needs to condemn the Property if the parties cannot negotiate a sale on mutually agreeable terms.

HACC staff requests that the Board confirm it concurs with the key terms for the Option, and authorize HACC to proceed with negotiating, drafting and executing an Option. HACC also requests that the Board pass a resolution declaring its intent to exercise the power of eminent domain to acquire the Property in the event a negotiated sale does not proceed.

**RECOMMENDATION:**

Staff recommends the Board approve the Option, authorize the Board Chair and Richard Swift, H3S Director to sign on behalf of the Housing Authority of Clackamas County and pass a resolution exercising its power of eminent domain.

Respectfully submitted,

Richard Swift, Director  
Health, Housing and Human Services

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF THE HOUSING AUTHORITY OF CLACKAMAS COUNTY, OREGON**

In the Matter of Authorizing the Execution and Delivery of a Letter of Intent to Evidence the Acquiring of Real Property and providing for related matters



Resolution No. 1933  
*Page 1 of 3*

Whereas, pursuant to Oregon Revised Statutes (“ORS”) 456.005 through 456.235, the Housing Authority of Clackamas County (the “Authority”) is duly authorized and empowered to locate, acquire, develop, construct, reconstruct, alter and enlarge, renew, replace, operate, and maintain housing and related facilities that in the judgment of the Board are necessary and proper affordable housing for persons and families of lower income, and

Whereas, under and by virtue of the laws of the State of Oregon, the Authority may acquire by purchase, gift, devise, condemnation proceedings, or otherwise, such real and personal property, and interests therein, within Clackamas County as in the judgment of the Board are necessary or proper to exercise its powers and purpose to provide affordable housing, and

Whereas, for purposes of providing affordable housing to serve Clackamas County and for the health, safety, benefit, and general welfare of its citizenry, the Authority plans to locate, develop, construct, operate, maintain, and repair affordable housing within Clackamas County; and

Whereas, Authority staff has agreed with Steve and Brenda Morrow and Beaver Creek Enterprises, LLC (collectively the “Owner”) to the terms of an Option Agreement and related documents (collectively the “Option Agreement”); and

Whereas, the Authority needs to execute and deliver the proposed Option Agreement; and

Whereas, the Authority intends to acquire by negotiated purchase or if necessary, by the exercise of its power of eminent domain, the real property legally described on exhibit 1 and incorporated by this reference (the “Property”).

BE IT RESOLVED by the AUTHORITY as follows:

Section 1. Authorization to Execute and Deliver the Letter of Intent. The Authority is authorized to execute and deliver the proposed Option Agreement to acquire the Property.

Section 2. Authorization to Negotiate the Option Agreement and related documents.

Authority staff is authorized to negotiate an Option Agreement and related documents pursuant to the letter of intent to acquire the Property.

Section 3. Delegation. The Chair of the Authority or, if the Chair is not available, the Executive Director of the Authority or the Director of Health, Housing and Human Services for Clackamas County (each of whom is referred to in this resolution as a "Director") may, on behalf of the Authority and without further action by the Board: Finalize the terms of, and execute, acknowledge and deliver the Option Agreement. Before executing and delivering the Option Agreement, the Director may, after consulting with Counsel and transaction counsel, make changes to it that are reasonable and necessary in the Director's discretion to facilitate the execution of the Option Agreement. However, the changes authorized by the preceding sentence shall not materially change the Option Agreement.

Section 4. The Authority finds there is needed and required for the location, development, construction, operation, maintenance, repair and improvement of affordable housing the acquisition of the Property.

Section 5. The location, construction, operation, maintenance, repair, and improvement of the affordable housing to be located on the Property is required and the real property proposed to be taken is necessary in the public interest to provide affordable housing which will be planned, designed, located and constructed in a manner that will be most compatible with the greatest public benefit with the least private injury or damage.

Section 6. The Authority and its lawyers are authorized to attempt to agree with the Owner and other persons who hold interest in the Property, as to the compensation to be paid for the appropriation of the Property. In the event no satisfactory agreement can be reached, then the lawyers for the Authority are directed and authorized to commence and prosecute to final determination such proceedings as may be necessary to acquire the Property and interest therein and upon the filing of such proceeding, possession of the Property and interest therein may be taken immediately.

Section 7. Upon the trial of any suit or action instituted to acquire the Property or entry interest therein, the lawyers acting for and on behalf of the Authority are authorized to make such stipulation, agreement, or admission in their judgment may be for the best interest of the Authority.

Section 8. In order to protect the health, safety, and welfare of the public, an emergency exists and is necessary that no undue delay be encountered in obtaining access to and possession of the Property in order to establish and implement the affordable housing and therefore this Resolution shall be in force and effect from and after its passage by the Board.

NOW, THEREFORE, BE IT RESOLVED, that the Chair or one of the Directors may finalize negotiations, execute, acknowledge and deliver the Option Agreement and any other documents and take any actions that are necessary or desirable to acquire the Property pursuant to this Resolution and Order.

**DATED** this 11th day of October, 2018

**BOARD OF COUNTY COMMISSIONERS FOR THE  
HOUSING AUTHORITY OF CLACKAMAS COUNTY**

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Jim Bernard, Chair

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Recording Secretary

COMMERCIAL ASSOCIATION OF BROKERS OREGON/SW WASHINGTON  
OPTION AND RECEIPT FOR OPTION DEPOSIT  
(Oregon Commercial Form)

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AGENCY ACKNOWLEDGMENT

Optionee shall execute this Acknowledgment concurrent with the execution of the Agreement below and prior to delivery of that Agreement to Owner. Owner shall execute this Acknowledgment upon receipt of the Agreement by Owner, even if Owner intends to reject the Agreement or make a counter-offer. In no event shall Owner's execution of this Acknowledgment constitute acceptance of the Agreement or any terms contained therein.

Pursuant to the requirements of Oregon Administrative Rules (OAR 863-015-0215), both Optionee and Owner acknowledge having received the Oregon Real Estate Agency Disclosure Pamphlet, and by execution below acknowledge and consent to the agency relationships in the following real estate purchase and sale transaction as follows:

(a) Owner Agent: Skip Rotticci of Colliers International firm (the "Selling Firm") is the agent of (check one):  
 Optionee exclusively;  Owner exclusively;  both Owner and Optionee ("Disclosed Limited Agency").

(b) Optionee Agent: \_\_\_\_\_ of \_\_\_\_\_ firm (the "Buying Firm") is the agent of (check one):  
 Optionee exclusively;  Owner exclusively;  both Owner and Optionee ("Disclosed Limited Agency").

If the name of the same real estate firm appears in both Paragraphs (a) and (b) above, Optionee and Owner acknowledge that a principal broker of that real estate firm shall become the Disclosed Limited Agent for both Optionee and Owner, as more fully set forth in the Disclosed Limited Agency Agreements that have been reviewed and signed by Optionee, Owner and the named real estate agent(s).

ACKNOWLEDGED

Optionee: Housing Authority of Clackamas County

(sign) \_\_\_\_\_ Date: \_\_\_\_\_

Owner: Steven A. and Brenda M. Morrow

(sign) \_\_\_\_\_ Date: \_\_\_\_\_

Beaver Crekk Enterprises, Inc.

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

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

**OPTION AGREEMENT AND RECEIPT FOR OPTION MONEY**

1 This OPTION AGREEMENT AND RECEIPT FOR OPTION DEPOSIT (this "Agreement") dated October  
2 \_\_\_\_, 2018, for reference purposes only, shall be effective on the date when this Agreement has been executed and  
3 delivered by Owner and Optionee (the "Execution Date");  
4

5 BETWEEN: Beavercreek Enterprise, Inc., **Steven A. and Brenda M. Morrow (collectively "Owner")**  
6 Address: **13927 Holcomb Blvd. Oregon City, Oregon 97045**  
7 Home Phone:  
8 Office Phone: **(503) 722-4470**  
9 Fax No.:  
10 E-Mail:

11  
12  
13 AND: **Housing Authority of Clackamas County or assigns ("Optionee")**  
14 Address: **P.O. Box 1510 Oregon City, OR 97045**  
15  
16 Office Phone: **(503) 650-3140**  
17 Fax No.:  
18 E-Mail: **momeara@co.clackamas.or.us**  
19

20  
21 **1. Option.**  
22

23 1.1 Generally. Owner grants Optionee the sole and exclusive right to purchase the Property in  
24 accordance with this Agreement. Optionee agrees to exercise its right to buy and acquire from Owner, and Owner  
25 agrees to sell to Optionee the following, all of which are collectively referred to in this Agreement as the "Property:"  
26 (a) the real property and all improvements thereon generally described or located at **13907 Holcomb Blvd., 13921**  
27 **Holcomb Blvd., and 13927 Holcomb Blvd.** in the City of **Oregon City**, County of **Clackamas**, Oregon legally  
28 described on Exhibit A, attached hereto (the "Real Estate") (if no legal description is attached, the legal  
29 description shall be based on the legal description provided in the Preliminary Report (described in Section  
30 5), subject to the review and approval of both parties hereto), including all of Owner's right, title and interest in  
31 and to all fixtures, appurtenances, and easements thereon or related thereto; and (b) except for the personal  
32 property identified on schedule 1\_\_\_\_any and all personal property located on and used in connection with the  
33 operation of the Real Estate and owned by Owner (the "Personal Property"). If there are any Leases, see Section  
34 21.1, below. The occupancies of the Property pursuant to any Leases are referred to as the "Tenancies" and the  
35 occupants thereunder are referred to as "Tenants." If there is any Personal Property, see Section 21.2, below.  
36

37 1.2 Purchase Price. The purchase price for the Property shall be **Two Million Six Hundred Fifty**  
38 **Thousand** dollars (**\$2,650,000.00**) (the "Purchase Price"). The Purchase Price shall be adjusted, as applicable, by  
39 the net amount of credits and debits to Owner's account at Closing (defined below) made by Escrow Holder  
40 pursuant to the terms of this Agreement. The Purchase Price shall be payable as follows:  
41

42 **1.2.1 Option Deposit.**

43 (a) Within **five (5)** days of the Execution Date, Optionee shall deliver into Escrow (as  
44 defined herein), for the account of Optionee, \$ **50,000.00** as an Option deposit (the "Option Deposit") in the form of:  
45  Promissory note (the "Note");  Check; or  Cash or other immediately available funds.

46  
47 If the Option Deposit is being held by the  Selling Firm  Buying Firm, then the firm holding such Option Deposit  
48 shall deposit the Option Deposit in the  Escrow (as hereinafter defined)  Selling Firm's Client Trust Account  
49  Buying Firm's Clients' Trust Account, no later than 5:00 PM Pacific Time three (3) business days after such  
50 firm's receipt, but in no event later than the date set forth in the first sentence of this Section 1.2.1(a).

51  
52 (b) The purchase and sale of the Property shall be accomplished through an escrow (the  
53 "Escrow") that Owner has established or will establish with **Fidelity National Title Company Portland, Oregon** (the  
54 "Escrow Holder") within **three (3)** days after the Execution Date. Except as otherwise provided in this Agreement: (i)  
55 any interest earned on the Option Deposit shall be considered to be part of the Option Deposit; (ii) the Option  
56 Deposit shall be non-refundable upon satisfaction or waiver of all Conditions as defined in Section 2.1; and (iii) the  
57 Option Deposit shall be applied to the Purchase Price at Closing.

58  
59 1.2.2 Balance of Purchase Price. Optionee shall pay the balance of the Purchase Price at  
60 Closing by  cash or other immediately available funds; or  Other: **Cash and the proceeds of financing from**  
61 **other sources.**

62  
63 1.3 Section 1033 Exchange. Owner acknowledges that Optionee is a governmental entity with the  
64 power of eminent domain and has threatened to exercise that power. Optionee and Owner each hereby agrees to  
65 reasonably cooperate with the other in completing each such 1033 Exchange.

## 66 67 2. Conditions to Purchase.

68  
69 2.1 Optionee's exercise of its option to purchase the Property is conditioned on the following:

70  
71  The later of, one hundred twenty (**120**) days of the Execution Date, Optionee's  
72 approval of the results of (collectively, the "Feasibility Contingency"): (a) the  
73 Property inspection described in Section 3 below; (b) the document review  
74 described in Section 4 below; and (c) Environmental Assessment and review;  
75 and Optionee's receipt of confirmation of satisfactory financing (the "Financing  
76 Condition") and if applicable, approval of Release of Funds by the Department of  
77 Housing and Urban Development. **Upon successful completion of the Feasibility**  
78 **Contingency, and approval of a Release of Funds from the Department of Housing and**  
79 **Urban Development ("HUD") the Option Deposit will become non-refundable to Optionee,**  
80 **released to Owner, and be applicable to the Purchase Price at closing. In addition, Optionee**  
81 **will submit to escrow an additional Option Deposit of Fifty Thousand Dollars (\$50,000)**  
82 **which shall be subject to the conditions set forth elsewhere in this Agreement. All Option**  
83 **Deposits and accrued interest shall remain in Escrow and be applied to the purchase price**  
84 **at closing. If after the Optionee has exhausted its financing Contingency Period and any**  
85 **applicable extensions, Optionee fails to close on the transaction for any reason, the**  
86 **additional Fifty Thousand Dollars (\$50,000.00) Option Deposit will be released to the**  
87 **Owner; and/or**

88  
89  Other **Notwithstanding any other provision of this Agreement, Optionee shall have no**  
90 **obligation to purchase the Property, and no transfer of title to the Optionee may occur, unless**  
91 **and until Clackamas County Community Development Division has provided Optionee and/or**  
92 **Owner with a written determination approved by HUD, on the basis of a federally required**



93 environmental review and an approved request for release of federal funds, that purchase of the  
94 property by Optionee may proceed, subject to any other Contingencies in this Agreement, or  
95 may proceed only if certain conditions to address issues in the environmental review shall be  
96 satisfied before or after the purchase of the property. Clackamas County Community  
97 Development Division shall use its best efforts to conclude the environmental review of the  
98 property expeditiously.  
99

100  Other Upon closing of the transaction the Optionee agrees to the Right of First Offer to  
101 leaseback the commercial property to the Owner under a "Master Lease Agreement" whereby  
102 Optionee (Lessor) leases the market and gas station to Beaver Creek Enterprises, Inc. Steven L.  
103 Morrow and Brenda E. Morrow for the sum of One dollar (\$1.00) per annum for the term of the  
104 lease. The minimum Lease term is proposed to be three years from the date of closing but may  
105 be extended annually in Lessor's sole discretion. Lessor reserves the right to terminate the  
106 Lease and require Lessee to vacate all premises with ninety days (90) written notice following  
107 the expiration of the minimum term.  
108

109 The Feasibility Contingency, Financing Conditions or any other Conditions noted shall be defined as "Conditions."  
110

111 2.2 If Optionee decides to proceed to Closing, Optionee will give written notice to Owner before the  
112 expiration of the Feasibility Contingency indicating that Optionee waives the Conditions set forth in Section 2.1 or  
113 that the Conditions set forth in Section 2.1 have been satisfied. If, for any reason Optionee fails to give written  
114 waiver of the Conditions set forth in Section 2.1, or state in writing that such Conditions have been satisfied, by  
115 notice to Owner before the expiration of the Feasibility Contingency, this Agreement shall be deemed automatically  
116 terminated, the Option Deposit shall be promptly returned to Optionee, and thereafter, except as specifically  
117 provided to the contrary herein, neither party shall have any further right or remedy hereunder. In addition, if  
118 Optionee is unable to receive a Release of Funds from HUD, the Option Deposit(s) shall be immediately returned to  
119 Optionee, and thereafter, except as specifically provided to the contrary herein, neither party shall have any further  
120 right or remedy hereunder.  
121

122 3. Property Inspection. Owner shall permit Optionee and its agents, at Optionee's sole expense and risk,  
123 to enter the Property at reasonable times after reasonable prior notice to Owner and after prior notice by Owner to  
124 the Tenants as required by the applicable Leases, if any, to conduct any and all inspections, tests, and surveys  
125 concerning the structural condition of the improvements, all mechanical, electrical and plumbing systems, hazardous  
126 materials, pest infestation, soils conditions, wetlands, Americans with Disabilities Act compliance, zoning, and all  
127 other matters affecting the suitability of the Property for Optionee's intended use and/or otherwise reasonably related  
128 to the purchase of the Property including the economic feasibility of such purchase. If the transaction contemplated  
129 in this Agreement fails to close for any reason (or no reason) as a result of the act or omission of Optionee or its  
130 agents, Optionee shall promptly restore the Property to substantially the condition the Property was in prior to  
131 Optionee's performance of any inspections or work.  
132

133 4. Owner's Documents. Within **seven (7)** days after the Execution Date, Owner shall deliver to Optionee  
134 or Optionee's designee, legible and complete copies of the following documents, including without limitation, a list of  
135 the Personal Property, and other items relating to the ownership, operation, and maintenance of the Property to the  
136 extent now in existence and to the extent such items are or come within Owner's possession or control: **Including  
137 but not limited to Business records as the pertain to the facility, plans, permits and approvals, surveys,  
138 reports, studies, assessments related to the property, environmental assessments, soils assessments and  
139 Geotechnical reports, correspondence from or to any governmental agency or regulatory agency regarding  
140 the Property within the last 5 years, any recorded or unrecorded easement related to the property.**  
141

142 5. Title Insurance. Within **ten (10)** days after the Execution Date, Owner shall cause to be delivered to  
143 Optionee a preliminary title report from the title company (the "Title Company") selected by Owner (the "Preliminary  
144 Report"), showing the status of Owner's title to the Property, together with complete and legible copies of all  
145 documents shown therein as exceptions to title ("Exceptions"). Optionee shall have **five (5)** days after receipt of a  
146 copy of the Preliminary Report and Exceptions within which to give notice in writing to Owner of any objection to  
147 such title or to any liens or encumbrances affecting the Property. Within **five (5)** days after receipt of such notice  
148 from Optionee, Owner shall give Optionee written notice of whether it is willing and able to remove the objected-to  
149 Exceptions. Without the need for objection by Optionee, Owner shall, with respect to liens and encumbrances that  
150 can be satisfied and released by the payment of money, eliminate such exceptions to title on or before Closing.  
151 Within      **five (5)** days after receipt of such notice from Owner (the "Title Contingency Date"), Optionee shall elect  
152 whether to: (i) purchase the Property subject to those objected-to Exceptions which Owner is not willing or able to  
153 remove; or (ii) terminate this Agreement. If Optionee fails to give Owner notice of Optionee's election, then such  
154 inaction shall be deemed to be Optionee's election to terminate this Agreement. On or before the Closing Date  
155 (defined below), Owner shall remove all Exceptions to which Optionee objects and which Owner agrees, or is  
156 deemed to have agreed, Owner is willing and able to remove. All remaining Exceptions set forth in the Preliminary  
157 Report and those Exceptions caused by or agreed to by Optionee shall be deemed "Permitted Exceptions."  
158

159 6. Default; Remedies. Notwithstanding anything to the contrary contained in this Agreement, in the event  
160 Optionee fails to deposit the Option Deposit(s) in Escrow strictly as and when contemplated under Section 1.2.1 or  
161 Section 1.2 above, Owner shall have the right at any time thereafter, but prior to Optionee's deposit of the Option  
162 Deposit to Escrow, to terminate this Agreement and all further rights and obligations hereunder by giving written  
163 notice thereof to Optionee. If the conditions, if any, to Optionee's obligation to consummate this transaction are  
164 satisfied or waived by Optionee and Optionee fails, through no fault of Owner, to close on the purchase of the  
165 Property, Owner's sole remedy shall be to retain the Option Deposit(s) paid by Optionee. In the event Owner fails,  
166 through no fault of Optionee, to close the sale of the Property, Optionee shall be entitled to pursue  
167 any remedies available at law or in equity, including without limitation, the return of the Option Deposit(s) paid by  
168 Optionee or the remedy of specific performance. In no event shall either party be entitled to punitive or  
169 consequential damages, if any, resulting from the other party's failure to close the sale of the Property.  
170

#### 171 7. Closing of Sale.

172  
173 7.1 Optionee and Owner agree the sale of the Property shall be consummated, in Escrow,  on or  
174 before      or  The later of, **sixty (60)** days after the conditions set forth in Sections 2.1, 3, 4 and 5 have been  
175 satisfied or waived in writing by Optionee, or receipt of funds from HUD(the "Closing" or the "Closing Date"). The  
176 sale of the Property shall be deemed closed when the document(s) conveying title to the Property is/are delivered  
177 and recorded and the Purchase Price is disbursed to Owner.  
178

179 7.2 At Closing, Optionee and Owner shall deposit with the Escrow Holder all documents and funds  
180 required to close the transaction in accordance with the terms of this Agreement. At Closing, Owner shall  
181 deliver a certification in a form provided by the Escrow Holder confirming whether Owner is or is not a "foreign  
182 person" as such term is defined by applicable law and regulations.  
183

184 7.3 At Closing, Owner shall convey fee simple title to the Property to Optionee by  statutory  
185 warranty deed or       (the "Deed"). At Closing, Owner shall cause the Title Company to deliver to Optionee a  
186 standard ALTA form owner's policy of title insurance (the "Title Policy") in the amount of the Purchase Price insuring  
187 fee simple title to the Property in Optionee subject only to the Permitted Exceptions and the standard preprinted  
188 exceptions contained in the Title Policy. Owner shall reasonably cooperate in the issuance to Optionee of an ALTA  
189 extended form policy of title insurance. Optionee shall pay any additional expense resulting from the ALTA  
190 extended coverage and any endorsements required by Optionee.  
191

192 8. Closing Costs; Prorations. Owner shall pay the premium for the Title Policy, provided, however, if  
193 Optionee elects to obtain an ALTA extended form policy of title insurance and/or any endorsements, Optionee shall  
194 pay the difference in the premium relating to such election. Owner and Optionee shall each pay one-half (1/2) of the  
195 escrow fees charged by the Escrow Holder. Any excise tax and/or transfer tax shall be paid in accordance with the  
196 local custom determined by the Title Company and applicable law. Real property taxes for the tax year of the  
197 Closing, assessments (if a Permitted Exception), personal property taxes, rents and other charges arising from  
198 existing Tenancies paid for the month of Closing, interest on assumed obligations, and utilities shall be prorated as  
199 of the Closing Date. If applicable, prepaid rents, security deposits, and other unearned refundable deposits relating  
200 to Tenancies shall be assigned and delivered to Optionee at Closing.  Owner  Optionee  N/A shall be  
201 responsible for payment of all taxes, interest, and penalties, if any, upon removal of the Property from any special  
202 assessment or program.  
203

204 9. Possession. Owner shall deliver exclusive possession of the Property, subject to the Tenancies (if any)  
205 existing as of the Closing Date, to Optionee  on the Closing Date or  \_\_\_\_.

206  
207 10. Condition of Property. Owner represents that Owner has received no written notices of violation of any  
208 laws, codes, rules, or regulations applicable to the Property ("Laws"). Owner represents that, to the best of Owner's  
209 knowledge without specific inquiry, Owner is not aware of any such violations or any concealed material defects in  
210 the Property. Unless caused by Optionee, Owner shall bear all risk of loss and damage to the Property until Closing,  
211 and Optionee shall bear such risk at and after Closing. Except for Owner's representations set forth in this Section  
212 10 and the attached Exhibit E, Optionee shall acquire the Property "AS IS" with all faults and Optionee shall rely on  
213 the results of its own inspection and investigation in Optionee's acquisition of the Property. It shall be a condition of  
214 Optionee's Closing obligation that all of Owner's representations and warranties stated in this Agreement are  
215 materially true and correct on the Closing Date. Owner's representations and warranties stated in this Agreement  
216 shall survive Closing for three (3) years.  
217

218 11. Operation of Property. Between the Execution Date and the Closing Date, Owner shall continue to  
219 operate, maintain and insure the Property consistent with Owner's current operating practices. After Optionee has  
220 satisfied or waived the conditions to Optionee's obligation to purchase the Property, and the Option Deposit is non-  
221 refundable, Owner may not, without Optionee's prior written consent, which consent shall not be unreasonably  
222 withheld, conditioned, or delayed, enter into: (a) any new leases or occupancy agreements for the Property; (b) any  
223 material amendments or modification agreements for any existing leases or occupancy agreements for the Property;  
224 or (c) any service contracts or other agreements affecting the Property that are not terminable at the Closing.  
225

226 12. Assignment. Assignment of this Agreement:  is PROHIBITED;  is PERMITTED, without consent  
227 of Owner;  is PERMITTED ONLY UPON Owner's written consent; is PERMITTED ONLY IF the assignee is an  
228 entity owned and controlled by Optionee. **Assignment is PROHIBITED, if no box is checked.** If Owner's written  
229 consent is required for assignment, such consent may be withheld in Owner's reasonable discretion. In the event of  
230 a permitted assignment, Optionee shall remain liable for all Optionee's obligations under this Agreement.  
231

232  
233 13. Statutory Notice. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A  
234 FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE  
235 LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR  
236 SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS  
237 DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE  
238 PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER  
239 ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS  
240 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8,  
241 OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE

{00045955;1}

242 TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING  
243 DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED  
244 LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT  
245 OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE  
246 ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND  
247 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND  
248 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.  
249

250 14. Cautionary Notice About Liens. UNDER CERTAIN CIRCUMSTANCES, A PERSON WHO  
251 PERFORMS CONSTRUCTION-RELATED ACTIVITIES MAY CLAIM A LIEN UPON REAL PROPERTY AFTER A  
252 SALE TO THE PURCHASER FOR A TRANSACTION OR ACTIVITY THAT OCCURRED BEFORE THE SALE. A  
253 VALID CLAIM MAY BE ASSERTED AGAINST THE PROPERTY THAT YOU ARE PURCHASING EVEN IF THE  
254 CIRCUMSTANCES THAT GIVE RISE TO THAT CLAIM HAPPENED BEFORE YOUR PURCHASE OF THE  
255 PROPERTY. THIS INCLUDES, BUT IS NOT LIMITED TO, CIRCUMSTANCES WHERE THE OWNER OF THE  
256 PROPERTY CONTRACTED WITH A PERSON OR BUSINESS TO PROVIDE LABOR, MATERIAL, EQUIPMENT  
257 OR SERVICES TO THE PROPERTY AND HAS NOT PAID THE PERSONS OR BUSINESS IN FULL. Owner agrees  
258 not to contract for any construction related activities without the Optionee's written consent.  
259

260 15. Brokerage Agreement. For purposes of Sections 14 and 17 of this Agreement, the Agency  
261 Acknowledgement on page 1 this Agreement is incorporated into this Agreement as if fully set forth herein. Optionee  
262 agrees to pay a commission to Selling Firm in the amount of either:  two and one half percent (2.5%) of the  
263 Purchase Price or  \$. Such commission shall be divided between Selling Firm and Buying Firm such that Selling  
264 Firm receives **zero percent (0%)** and Buying Firm receives **one hundred percent (100 %)**. Optionee shall cause  
265 the Escrow Holder to deliver to Buying Firm the real estate commission on the Closing Date or upon Owner's breach  
266 of this Agreement, whichever occurs first.  
267

268 16. Notices. Unless otherwise specified, any notice required or permitted in, or related to this Agreement  
269 must be in writing and signed by the party to be bound. Any notice will be deemed delivered: (a) when personally  
270 delivered; (b) when delivered by facsimile or electronic mail transmission (in either case, with confirmation of  
271 delivery); (c) on the day following delivery of the notice by reputable overnight courier; or (d) on the day following  
272 delivery of the notice by mailing by certified or registered U.S. mail, postage prepaid, return receipt requested; and in  
273 any case shall be sent by the applicable party to the address of the other party shown at the beginning of this  
274 Agreement, unless that day is a Saturday, Sunday, or federal or Oregon State legal holiday, in which event such  
275 notice will be deemed delivered on the next following business day.  
276

277 17. Miscellaneous. Time is of the essence of this Agreement. If the deadline under this Agreement for  
278 delivery of a notice or performance of any obligation is a Saturday, Sunday, or federal or Oregon State legal holiday,  
279 such deadline will be deemed extended to the next following business day. The facsimile and/or electronic mail  
280 transmission of any signed document including this Agreement in accordance with Section 18 shall be the same as  
281 delivery of an original. At the request of either party, the party delivering a document by facsimile and/or electronic  
282 mail will confirm such transmission by signing and delivering to the other party a duplicate original document. This  
283 Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall  
284 constitute one and the same Agreement. This Agreement contains the entire agreement and understanding of the  
285 parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous  
286 agreements between them. Without limiting the provisions of Section 12 of this Agreement, this Agreement shall be  
287 binding upon and shall inure to the benefit of Optionee and Owner and their respective successors and assigns. The  
288 person signing this Agreement on behalf of Optionee and the person signing this Agreement on behalf of Owner  
289 each represents, covenants and warrants that such person has full right and authority to enter into this Agreement  
290 and to bind the party for whom such person signs this Agreement to its terms and provisions. Neither this  
291 Agreement nor a memorandum hereof shall be recorded unless the parties otherwise agree in writing.

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292  
293 18. Governing Law. This Agreement is made and executed under, and in all respects shall be governed  
294 and construed by, the laws of the State of Oregon.

295  
296 19. Lease(s) and Personal Property.

297  
298 19.1 Leases. See Exhibit F Residential Lease Agreement

299  
300  
301 19.2 Personal Property. If applicable, Owner shall convey all Personal Property to Optionee  
302 by executing and delivering to Optionee at Closing through Escrow (as defined below), a Bill of Sale substantially in  
303 the form of Exhibit C attached hereto (the "Bill of Sale"). A list of such Personal Property shall be attached to the Bill  
304 of Sale.

305  
306 20. Residential Lead-Based Paint Disclosure. IF THE PROPERTY CONSISTS OF RESIDENTIAL  
307 HOUSING BUILT PRIOR TO 1978, OPTIONEE AND OWNER MUST COMPLETE THE LEAD-BASED PAINT  
308 DISCLOSURE ADDENDUM ATTACHED HERETO AS EXHIBIT D.

309  
310 21. Addenda; Exhibits. The following named addenda and exhibits are attached to this Agreement and  
311 incorporated within this Agreement:

- 312  Exhibit A – Legal Description of Property **[REQUIRED]**  
313  Exhibit B – Assignment of Lessor's Interest under Lease (if applicable)  
314  Exhibit C – Bill of Sale (if applicable)  
315  Exhibit D – Lead Paint Disclosure Addendum (if applicable)  
316  Exhibit E – Lease Agreement (if applicable)

317  
318  
319 22. Time for Acceptance. If Owner does not return to Optionee a signed and dated version of this  
320 Agreement on or before 5:00 PM Pacific Time on **October**, 2018, then the Option Deposit shall be promptly  
321 refunded to Optionee and thereafter, neither party shall have any further right or obligation hereunder.

322  
323 23. OFAC Certification. The Federal Government, Executive Order 13224, requires that business persons  
324 of the United States not do business with any individual or entity on a list of "Specially Designated nationals and  
325 Blocked Persons" - that is, individuals and entities identified as terrorists or other types of criminals. Optionee  
326 hereinafter certifies that:

327  
328 23.1 It is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation  
329 named by any Executive Order or the United States Treasury Department as a terrorist, specially designated  
330 national and/or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is  
331 enforced or administered by the Office of Foreign Assets Control; and

332  
333 23.2 It has not executed this Agreement, directly or indirectly on behalf of, or instigating or  
334 facilitating this Agreement, directly or indirectly on behalf of, any such person, group, entity, or nation.

335  
336  
337  
338 **Optionee Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

339  
340 CONSULT YOUR ATTORNEY. THIS DOCUMENT HAS BEEN PREPARED FOR SUBMISSION TO YOUR  
341 ATTORNEY FOR REVIEW AND APPROVAL PRIOR TO SIGNING. NO REPRESENTATION OR

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342 RECOMMENDATION IS MADE BY THE COMMERCIAL ASSOCIATION OF BROKERS OREGON/SW  
343 WASHINGTON OR BY THE REAL ESTATE AGENTS INVOLVED WITH THIS DOCUMENT AS TO THE LEGAL  
344 SUFFICIENCY OR TAX CONSEQUENCES OF THIS DOCUMENT.

345  
346 THIS FORM SHOULD NOT BE MODIFIED WITHOUT SHOWING SUCH MODIFICATIONS BY REDLINING,  
347 INSERTION MARKS, OR ADDENDA.

348  
349 Optionee **HOUSING AUTHORITY OF CLACKAMAS COUNTY**

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

351 Name: **Chuck Robbins**

352 Title: **Director**

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

354  
355 Owner Acceptance. By execution of this Agreement, Owner agrees to sell the Property on the terms and conditions  
356 in this Agreement.

357  
358 Owner: **STEVEN A. and BRENDA M. MORROW** Beavercreek Enterprises, Inc.

359  
360  
361 By: \_\_\_\_\_

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

363  
364 By: \_\_\_\_\_

365 Name: **Steven A. Morrow**

366 Title: **an individual**

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

368  
369  
370 By: \_\_\_\_\_

371 Name: **Brenda M. Morrow**

372 Title: **an Individual**

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

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CRITICAL DATE LIST:

The last party to execute this Agreement shall complete the information below (the “Critical Date List”), initial where indicated, and return a copy of the same to the other party for such party’s review. This Critical Date List is for reference purposes only and, in the event of a conflict between this Critical Date List and the Agreement, the terms of the Agreement shall prevail.

	DATE:
• Execution Date (Introductory paragraph):	
• Option Deposit due date (Section 1.2.1(a)):	
• Owner shall open Escrow with the Escrow Holder (Section 1.2.1(a)):	Before 3 days following execution of this Agreement
• Owner shall deliver Owner’s documents to Optionee (Section 4):	Within <u>7</u> days after the Execution Date
• Owner shall deliver Preliminary Report to Optionee (Section 5):	Within <u>10</u> days after the Execution Date
• Optionee’s title objection notice due to Owner (Section 5):	Within 5 days after receipt of the Preliminary Report
• Owner’s title response due to Optionee (Section 5):	Within 5 days after receipt of Optionee’s title objection notice
• Title Contingency Date (Section 5):	Within 5 days after receipt of Owner’s title response
• Expiration date for satisfaction of Feasibility Contingency (Section 2.1):	Within 45 days of the Execution Date
• Expiration date for satisfaction of Financing Condition (Section 2.1):	Within 120 days of the expiration of Feasibility Contingency Period

<ul style="list-style-type: none"> <li>By this date, Optionee must deliver the notice to proceed contemplated in Section 2.2.</li> </ul>	<p>Within 165 days of the Execution Date</p>
<ul style="list-style-type: none"> <li>Closing Date (Section 7.1):</li> </ul>	<p><u>Within 60 days following expiration of the Financing Conditions Period</u></p>

422  
423

Initials of Optionee: \_\_\_  
Initials of Optionee: \_\_\_

Initials of Owner:  
Initials of Owner:

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EXHIBIT A  
LEGAL DESCRIPTION OF PROPERTY

To Be Provided by Fidelity National Title Company

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EXHIBIT C  
BILL OF SALE

**Steve A. and Brenda M. Morrow and Beaver Creek Enterprises, Inc.** ("Owner"), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby bargain, transfer, convey and deliver to **Housing Authority of Clackamas County**, an **Oregon Public Agency** ("Optionee"), its successors and/or assigns:

All of the personal property owned by Owner (collectively, "Personal Property") located in or on the real property located at **13907, 13921, and 13927 Holcomb Blvd.** in the **City of Oregon City**, County of **Clackamas**, State of **Oregon**, which Personal Property is more particularly described on Schedule 1 attached hereto and incorporated herein by reference.

Owner hereby covenants with Optionee that said Personal Property is free and clear of and from all encumbrances, security interests, liens, mortgages and claims whatsoever and that Owner is the owner of and has the right to sell same. Owner, on behalf of itself and its successors, does hereby warrant and agree to defend the title in and to said Personal Property unto Optionee, its successors or assigns against the lawful claims and demands of all persons claiming by or through Owner.

IT IS UNDERSTOOD AND AGREED THAT OPTIONEE HAS EXAMINED THE PERSONAL PROPERTY HEREIN SOLD AND THAT THIS SALE IS MADE "AS IS, WHERE IS" AND OWNER DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OTHER THAN THE WARRANTY OF TITLE SET FORTH ABOVE, AS TO THE PERSONAL PROPERTY INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Optionee and Owner agree that this Bill of Sale shall be effective upon the delivery thereof by Owner to Optionee.

IN WITNESS WHEREOF, the parties have caused this Bill of Sale to be executed this \_\_\_\_\_ day of \_\_\_\_\_.

**OWNER: STEVEN A. and BRENDA M. MORROW**  
**Beaver Creek Enterprises, Inc.**

\_\_\_\_\_  
**OPTIONEE: HOUSING AUTHORITY OF CLACKAMAS COUNTY**

1 EXHIBIT D  
2 LEAD-BASED PAINT DISCLOSURE ADDENDUM  
3 (TO BE COMPLETED IF THE PROPERTY CONSISTS OF RESIDENTIAL HOUSING BUILT PRIOR TO 1978)  
4

5 Owner and Optionee are parties to that certain Commercial Association of Brokers Oregon / SW Washington  
6 Purchase and Sale Agreement and Receipt for Option Deposit (Oregon Commercial Form) dated \_\_\_\_, 20\_\_ (the  
7 "Purchase Agreement") for the sale of the Property described therein. Capitalized terms used in this addendum  
8 without definition shall have the meanings given them in the Purchase Agreement. Except as expressly modified by  
9 this addendum and any other addendum to the Purchase Agreement executed by Optionee and Owner, the  
10 Purchase Agreement is unmodified. This addendum and the Purchase Agreement may not be modified except in a  
11 writing signed by both Owner and Optionee.

12 LEAD WARNING STATEMENT

13 EVERY PURCHASER OF ANY INTEREST IN RESIDENTIAL REAL PROPERTY ON WHICH A RESIDENTIAL  
14 DWELLING WAS BUILT PRIOR TO 1978 IS NOTIFIED THAT SUCH PROPERTY MAY PRESENT EXPOSURE TO  
15 LEAD FROM LEAD-BASED PAINT THAT MAY PLACE YOUNG CHILDREN AT RISK OF DEVELOPING LEAD  
16 POISONING. LEAD POISONING IN YOUNG CHILDREN MAY PRODUCE PERMANENT NEUROLOGICAL  
17 DAMAGE, INCLUDING LEARNING DISABILITIES, REDUCED INTELLIGENCE QUOTIENT, BEHAVIORAL  
18 PROBLEMS AND IMPAIRED MEMORY. LEAD POISONING ALSO POSES A PARTICULAR RISK TO PREGNANT  
19 WOMEN. THE OWNER OF ANY INTEREST IN RESIDENTIAL REAL PROPERTY IS REQUIRED TO PROVIDE  
20 THE OPTIONEE WITH ANY INFORMATION ON LEAD-BASED PAINT HAZARDS FROM RISK ASSESSMENTS  
21 OR INSPECTIONS IN THE OWNER'S POSSESSION AND NOTIFY THE OPTIONEE OF ANY KNOWN LEAD-  
22 BASED PAINT HAZARDS. A RISK ASSESSMENT OR INSPECTION FOR POSSIBLE LEAD-BASED PAINT  
23 HAZARDS IS RECOMMENDED PRIOR TO PURCHASE.  
24

25 AGENT'S ACKNOWLEDGMENT

26 Owner Agent has informed Owner of Owner's obligations under 42 U.S.C. 4852(d) and Agent is aware of  
27 his/her responsibility to ensure compliance.  
28

29 OWNER'S DISCLOSURE

30 **.1 Presence of lead-based paint and/or lead-based paint hazards (check one below):**

31  Owner has knowledge of lead-based paint and/or lead-based paint hazards in the housing (explain).  
32 \_\_\_\_\_  
33 \_\_\_\_\_  
34 \_\_\_\_\_  
35

36  Owner has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.  
37

38 **.2 Records and reports available to Owner (check one below):**

39  Owner has provided Optionee with all available records and reports relating to lead-based paint and/or lead-  
40 based paint hazards in the housing (list documents below):  
41 \_\_\_\_\_  
42 \_\_\_\_\_  
43 \_\_\_\_\_  
44

45  Owner has no reports or records relating to lead-based paint and/or lead-based paint hazards in the housing.  
46  
47

48 The following parties have reviewed the information above and certify, to the best of their knowledge, that the  
49 information they provided is true and accurate. A photocopy of this completed LEAD-BASED PAINT DISCLOSURE  
50 ADDENDUM, together with a copy of any documents listed in Section 2 of Owner's Disclosure above, may be  
51 treated as an original.

Owner Agent \_\_\_\_\_ Date \_\_\_\_\_ ← Owner \_\_\_\_\_ Date \_\_\_\_\_ ←  
Selling Firm \_\_\_\_\_ Owner \_\_\_\_\_ Date \_\_\_\_\_ ←

52  
53 BEFORE OPTIONEE IS OBLIGATED TO PURCHASE THIS PROPERTY UNDER ANY PURCHASE AND SALE  
54 AGREEMENT, OPTIONEE'S AND OWNER'S SIGNATURES ARE REQUIRED ON THE FORM BELOW.

55  
56 OPTIONEE'S ACKNOWLEDGMENT

57 .1 **Optionee has received copies of all information listed above in Section 2 of Owner's Disclosure**  
58 **of this form.**

59  
60 .2 **Optionee has received the pamphlet "Protect Your Family from Lead in Your Home."**

61  
62 .3 **Optionee has (check one below):**

63  Elected a ten (10) day opportunity (or mutually agreed upon period) to conduct a  risk assessment or   
64 inspection of the Property for the presence of lead-based paint and/or lead-based paint hazards, providing Optionee  
65 the right to rescind the Purchase Agreement by written notice to Owner no later than the end of such agreed upon  
66 10 day period if Optionee is not satisfied in Optionee's sole discretion with the results of such risk assessments or  
67 inspection, as applicable. Optionee and Owner hereby agree the ten (10) day period described in the preceding  
68 sentence shall begin \_\_\_ and end \_\_\_. Optionee's failure to provide written notice of Optionee's election to rescind  
69 the Purchase Agreement to Owner on or before \_\_\_\_\_, 20\_\_ shall be deemed a waiver of Optionee's right to  
70 rescind as provided in this addendum. If Optionee timely elects to rescind the Purchase Agreement as provided  
71 herein, the Option Deposit shall be returned to Optionee, together with any interest thereon.

72  Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or  
73 lead-based paint hazards.

Optionee \_\_\_\_\_ Date \_\_\_\_\_ ←

Optionee \_\_\_\_\_ Date \_\_\_\_\_ ←

74  
75 CERTIFICATION OF ACCURACY

76  
77 This section must be signed by Optionee before Owner signs lines below. The following parties have  
78 reviewed the information and certify, to the best of their knowledge, that the information they provided herein is true  
79 and accurate.

Optionee \_\_\_\_\_ Date \_\_\_\_\_ ← Owner \_\_\_\_\_ Date \_\_\_\_\_ ←

Optionee \_\_\_\_\_ Date \_\_\_\_\_ ← Owner \_\_\_\_\_ Date \_\_\_\_\_ ←

Optionee Agent \_\_\_\_\_ Date \_\_\_\_\_ ← Owner Agent \_\_\_\_\_ Date \_\_\_\_\_ ←

Buying Firm \_\_\_\_\_ Owner Firm \_\_\_\_\_

80  
LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE

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EXHIBIT E  
Lease Agreement

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**SINGLE-TENANT NET LEASE  
(OREGON)**

**SECTION 1. LEASE TERMS.**

- 1.1 Date of Lease October , 2018
- 1.2 Tenant: Steven A. and Brenda M. Morrow  
Beavercreek Enterprises, Inc. dba  
Steve's Market  
Trade Name: Steve's Market  
Premises Address: 13927 Holcomb Blvd.  
Oregon City, OR 97045  
Notice Address: Steve's Market  
13927 Holcomb Blvd.  
Oregon City, OR 97045
- 1.3 Landlord: Housing Authority of Clackamas County  
Notice Address: P.O. Box 1510  
Oregon City, OR 97045  
Address For Payment of Rent: Housing Authority of Clackamas County  
P.O. Box 1510  
Oregon City, OR 97045
- 1.4 Premises: That certain real property and the building thereon (the "Building") with a street address of 13927 Holcomb Blvd. in Oregon City, Oregon, as described on Exhibit A.
- 1.5 Building Area: Approximately 5744 square feet as described on Exhibit B, measured by Colliers Appraisal Report dated October 30, 2017..
- 1.6 Permitted Use of Premises:  
Gas Station  
Grocery Store
- 1.7 Term of Lease: Initial Term: Thirty Six (36) Months  
Lease Commencement Date: To Be Determined  
Lease Expiration Date: To Be Determined  
Rent Commencement Date: To Be Determined
- 1.8 Initial Base Rent: \$ One Dollar (\$1.00)/per Year
- 1.9 Reserved
- 1.10 Prepaid Rent: \$ \_\_\_\_\_

1 1.11 Security Deposit: \$ **One Dollar (\$1.00)**

2  
3 1.12 Broker(s): Landlord's Agent: **Skip Rotticci, Colliers International**  
4 Tenant's Agent: \_\_\_\_\_

5 1.13 Guarantors: **Steven A. and Brenda M. Morrow**

6  
7 If any Guarantor(s) is/are set forth above, concurrent with the execution of this Lease by Landlord and  
8 Tenant, Tenant shall arrange for all Guarantor(s) to execute and deliver to Landlord a Guaranty of this Lease, in the  
9 form attached as Exhibit D.

10  
11 1.14 Exhibits:

12  
13 The following Exhibits are attached hereto and incorporated as a part of this Lease:

14  
15 Exhibit "A" - Legal Description of the Premises

16 Exhibit "B" - Site Plan of the Premises

17 Exhibit "C" - Reserved

18 Exhibit "D" - Guaranty

19 Exhibit "E" - Addendum

20  
21 THIS SINGLE-TENANT COMMERCIAL LEASE is made and entered into between Landlord and Tenant on  
22 the Date of Lease set forth in Section 1.1. The defined terms used in this Lease ("Lease Terms") shall have the  
23 meanings and definitions given them in Section 1. The Lease Terms, the Exhibits, the Addendum or Addenda  
24 described in the Lease Terms, and this Lease agreement are and shall be construed as a single instrument and are  
25 hereinafter referred to as the "Lease."

26  
27 Now, therefore, for valuable consideration, Landlord and Tenant covenant and agree as follows:

28  
29 **SECTION 2. LEASE OF PREMISES.**

30  
31 2.1 Lease. Subject to the terms and conditions of this Lease, Landlord hereby leases to Tenant and  
32 Tenant hereby leases from Landlord the Premises.

33  
34 2.2 Term. The Initial Term of this Lease shall be for the period set forth in Section 1.7 above,  
35 commencing on the Lease Commencement Date and expiring on the Lease Expiration Date.

36  
37 2.3 Delivery of Possession and Commencement. Landlord shall deliver the Premises to Tenant in  
38 good condition and repair. If Landlord fails to deliver possession of the Premises to Tenant on the Lease  
39 Commencement Date, the Lease shall not commence and Tenant shall owe no rent until the later of (i) the date  
40 Landlord tenders possession of the Premises to Tenant or (ii) the Rent Commencement Date. If Landlord fails to  
41 deliver possession of the Premises to Tenant within ninety (90) days of the Lease Commencement Date, then  
42 Tenant, as its sole remedy, may, by delivering written notice to Landlord within ten (10) days of the expiration of said  
43 ninety (90)-day period, terminate this Lease. If there is any delay in delivering possession of the Premises to  
44 Tenant, the term of this Lease shall be extended by the number of days of such delay. If possession of the  
45 Premises is delivered prior to the Lease Commencement Date, Tenant shall have the right to occupy the Premises  
46 subject to all of the terms and provisions of this Lease other than the payment of Rent, which obligation shall not  
47 commence until the Rent Commencement Date. The existence of any "punch list" type items shall not postpone the  
48 Lease Commencement Date. By acceptance of possession of the Premises hereunder, Tenant acknowledges that  
49 Tenant accepts the Premises "AS-IS, WHERE IS" and as suitable for Tenant's intended use, in good and sanitary  
50 operating order, condition and repair, and without representation or warranty by Landlord as to the condition, use or  
51 occupancy which may be made thereof and that the area of the Premises is as set forth in Section 1.6 above.





1 Security Deposit to its original amount. Tenant shall not have the right to apply the Security Deposit or any part  
2 thereof to any Rent or other sums due under this Lease.  
3

4 If Tenant is not in default of this Lease at the expiration or termination hereof, Landlord shall return the  
5 unapplied portion of the Security Deposit to Tenant, except for any amount necessary to return the Premises to the  
6 condition set forth in Section 19. Landlord's obligations with respect to the Security Deposit are those of a debtor  
7 and not of a trustee, and Landlord may commingle the Security Deposit with Landlord's general funds. Landlord  
8 may immediately deposit the Security Deposit into Landlord's account, but such immediate deposit shall not bind  
9 Landlord to the terms of this Lease. Landlord shall not be obligated to pay interest on the Security Deposit. If  
10 Landlord sells its interest in the Premises during the term of this Lease, Landlord shall be discharged from any  
11 further liability or responsibility with respect to the Security Deposit so long as Landlord deposits with or credits to the  
12 buyer the unapplied portion of the Security Deposit.  
13

#### 14 **SECTION 4. USE OF PREMISES.**

15  
16 4.1 Permitted Use. Tenant may use the Premises for Tenant's Permitted Use and for no other  
17 purpose without Landlord's written consent. Tenant shall not use the Premises in a manner that obstructs, annoys  
18 or interferes with the rights of other occupants of the Building. Tenant shall not cause any nuisance nor permit any  
19 objectionable fumes, electromagnetic waves, vibration, noise, light, or radiation to be emitted from the Premises.  
20 Tenant shall, at Tenant's expense, install all necessary insulation as is required to muffle and render undetectable  
21 outside the Premises any sound or vibration from Tenant's activities in the Premises. Tenant shall not engage in  
22 any activities that will in any manner degrade or damage the reputation of the Premises or increase Landlord's  
23 insurance rates for any portion of the Premises.  
24

25 4.2 Equipment. Tenant shall only install such equipment in the Premises as is customary for the  
26 Permitted Use and shall not overload the floors or electrical circuits of the Premises or change the wiring or plumbing  
27 of the Premises. Tenant shall obtain Landlord's prior written consent to the location of and manner of installing any  
28 plumbing, wiring or electrical, heating, heat-generating or communication equipment or unusually heavy articles.  
29 Any equipment, cables, wiring, conduit, additional dedicated circuits and any additional air conditioning required  
30 because of any such equipment installed by Tenant shall be installed, maintained and operated at Tenant's sole  
31 expense and in accordance with Landlord's requirements. Tenant shall not install any equipment on or through the  
32 roof of the Building without first having obtained the prior written consent of Landlord, which consent Landlord shall  
33 not unreasonably withhold.  
34

35 4.3 Compliance with Laws. The Premises may comply with all applicable laws, statutes, ordinances,  
36 rules and regulations of any public authority (the "Laws"). Tenant shall at its expense promptly comply and cause  
37 the Premises to comply with all Laws applicable to Tenant's use of the Premises.  
38

#### 39 **SECTION 5. TAXES AND INSURANCE**

40  
41 5.1 Taxes. The term "Taxes" shall include (i) all real property taxes, charges, rates, duties and  
42 assessments (including local improvement district assessments) levied or imposed by any governmental authority  
43 with respect to the Premises and Building and any improvements; (ii) any tax in lieu of or in addition to, or  
44 substitution of a real property tax; and (iii) any tax or excise levied or assessed by any governmental authority on the  
45 Rent payable under this Lease or Rent accruing from the use of the Premises and Building, provided that this shall  
46 not include federal or state, corporate or personal income taxes. Landlord shall pay before delinquency all real  
47 property taxes, assessments, licenses, fees and charges assessed, imposed or levied. Tenant shall be responsible  
48 for any personal property taxes assessed, imposed, or levied on (a) Tenant's business operations, (b) all trade  
49 fixtures, (c) leasehold improvements, (d) merchandise and (e) other personal property in or about the Premises.  
50

51 5.2 Tenant's Insurance. Tenant shall obtain comprehensive general liability insurance applying to the  
52 use and occupancy of the Premises with limits of not less than **Two** Million Dollars (**\$2,000,000**) combined single

1 limit bodily injury and property damage. Such liability insurance shall include an endorsement naming Landlord, any  
2 lender and Landlord's managing agent, if any, as additional insureds, shall insure the liability of Tenant under  
3 Section 10.1 of this Lease, and be in form and with companies reasonably approved by Landlord. Within **three (3)**  
4 days of the Lease Commencement Date, Tenant shall deliver to Landlord a copy of the policy evidencing such  
5 insurance that shall require no less than thirty (30) days' prior written notice to Landlord prior to any cancellation or  
6 material change. No later than thirty (30) days' prior to expiration of any policy, Tenant shall deliver a renewal  
7 certificate to Landlord for such insurance policy.  
8

9 Tenant shall, at Tenant's expense, obtain and keep in force during the Lease Term an "all risk" insurance  
10 policy with a sprinkler damage endorsement covering Tenant's personal property, inventory, alterations, fixtures,  
11 equipment, plate glass and leasehold improvements located on or in the Premises, in an amount not less than one  
12 hundred percent (100%) of their actual replacement value, providing coverage for risk of direct physical loss or  
13 damage including sprinkler leakage, vandalism and malicious mischief. During the Lease Term, the proceeds of  
14 such insurance coverage shall be used to repair or replace the personal property, inventory, alterations, fixtures,  
15 equipment and leasehold improvements so insured, if the Premises are rebuilt following the casualty, and Landlord  
16 shall have no claim to such proceeds.  
17

18 At all times during the Lease Term and any extensions or renewals, Tenant agrees to keep and maintain,  
19 and cause Tenant's agents, contractors, or subcontractors to keep and maintain, workmen's compensation  
20 insurance and other forms of insurance as may from time to time be required by law or may otherwise be necessary  
21 to protect Landlord and the Premises from claims of any person who may at any time work on the Premises, whether  
22 as a servant, agent, or employee of Tenant or otherwise. This insurance shall be maintained at the expense of  
23 Tenant or Tenant's agents, contractors, or subcontractors and not at the expense of Landlord.  
24

25 5.3 Landlord's Insurance; Types of Coverage. During the Lease term, Landlord shall maintain in  
26 full force and effect a policy or policies of insurance covering the Premises, which shall provide coverage  
27 against such risks as are commonly covered under a "special form/all-risk" policy (including earthquake  
28 and/or flood coverage, at Landlord's election), together with loss of rents and secondary liability insurance.  
29 Such insurance shall contain such policy limits and deductibles, shall be obtained through such insurance  
30 company or companies, and shall be in such form as Landlord deems appropriate, and shall provide  
31 coverage for one hundred percent (100%) of the replacement value of the Building. All insurance  
32 proceeds payable under Landlord's casualty insurance carried hereunder shall be payable solely to  
33 Landlord, and Tenant shall have no interest therein.  
34

35 5.4 Written Statement of Estimate. Landlord shall furnish Tenant with a written statement setting forth  
36 Landlord's estimate of the cost of Insurance for the Lease Year, prior to the commencement of each Lease Year  
37 after the first Lease Year or as soon thereafter as reasonably possible, Landlord shall furnish Tenant with a written  
38 statement setting forth the estimated cost of Insurance for the next Lease Year. Tenant shall pay to Landlord as  
39 Additional Rent commencing on the Lease Commencement Date, and thereafter on the first day of each calendar  
40 month, an amount equal to one-twelfth (1/12<sup>th</sup>) of the amount of the estimated cost of Insurance, as shown in  
41 Landlord's written statement for that Lease Year. In the event Landlord fails to deliver said written estimate, Tenant  
42 shall continue to pay to Landlord an amount equal to one-twelfth (1/12<sup>th</sup>) of the estimated cost of Insurance for the  
43 immediately preceding Lease Year until Landlord does furnish the written estimate. Upon receipt of such written  
44 estimate, Tenant shall pay an amount equal to the difference between the estimated cost of Insurance for the  
45 expired portion of the current Lease Year and the Tenant's actual payments during such time, and any payments by  
46 Tenant in excess of the estimated cost of Insurance shall be credited to the next due payment of Rent from Tenant.  
47 Landlord reserves the right, from time to time, to adjust the estimated cost of Insurance, and Tenant shall commence  
48 payment of one-twelfth (1/12<sup>th</sup>) of such revised estimate on the first day of the month following receipt of the revised  
49 estimate.  
50

1           5.5     Final Written Statement. Within one hundred twenty (120) days after the close of each Lease Year  
 2 during the Term, Landlord shall deliver to Tenant a written statement (the "Operating Statement") setting forth the  
 3 actual cost of Insurance for the Property for the preceding Lease Year for each such item. In the event the actual  
 4 cost of Insurance for the preceding Lease Year is greater than the amount paid by Tenant for such Insurance,  
 5 Tenant shall pay the amount due to Landlord as Additional Rent within thirty (30) days after receipt by Tenant of  
 6 such statement. In the event the actual cost of Insurance for the preceding Lease Year is less than the amount paid  
 7 by Tenant for Insurance, then Landlord shall, at Landlord's election, either (i) pay the amount of Tenant's  
 8 overpayment to Tenant within thirty (30) days following the date of such statement or (ii) apply such overpayment to  
 9 Tenant's next Rent payment, reimbursing only the excess over such next Rent payment, if any. If a Lease Year  
 10 ends after the expiration or termination of this Lease, any Additional Rent in respect thereof that is payable under  
 11 this Section shall be paid by Tenant within ten (10) days of its receipt of the Operating Statement for such Lease  
 12 Year, and any Additional Rent paid by Tenant in excess of the amount due under this Lease for the portion of the  
 13 Lease Year after expiration or termination of this Lease shall be refunded by Landlord to Tenant within ten (10) days  
 14 of the expiration of that Lease Year. The late delivery of any written statement by Landlord shall not constitute a  
 15 waiver of Tenant's obligation to pay Insurance, but Landlord shall use reasonable efforts to deliver such written  
 16 statements as soon as reasonably possible after the commencement of each Lease Year.

17  
 18           5.6     Tenant Examination. The Operating Statement referred to herein need not be audited but shall  
 19 contain sufficient detail to enable Tenant to verify the calculation of Insurance for the Premises. In addition, Tenant,  
 20 upon at least five (5) days' advance written notice to Landlord and during business hours, may examine any records  
 21 used to support the figures shown on the Operating Statement, provided however, that Tenant shall only be entitled  
 22 to make such an examination once in each Lease Year, and the examination shall not be conducted by anyone who  
 23 is engaged on a contingent fee basis to represent Tenant. Tenant and any person conducting the examination on  
 24 behalf of Tenant shall enter into a confidentiality agreement reasonably satisfactory to Landlord and Tenant.

25  
 26                             **SECTION 6. MAINTENANCE AND REPAIR.**  
 27

28           6.1     Landlord Repairs. Landlord shall repair, maintain and/or replace, where necessary, the  
 29 foundations, exterior walls, roof structure and membrane, downspouts and gutters and the HVAC system serving the  
 30 Building (excluding therefrom the exterior and interior windows, doors, plate glass and storefronts and, except for  
 31 reasonable wear and tear, any damage thereto caused by any act, negligence or omission of Tenant or its  
 32 employees, agents, invitees, licensees, contractors, guests, customers, trespassers or subtenants, damage or  
 33 destruction caused by any casualty not required to be repaired under Section 12 and any condemnation or taking of  
 34 the Building or any portion of or interest therein governed by Section 11). Tenant shall reimburse Landlord for all  
 35 costs and expenses incurred by Landlord in connection with the maintenance and repair of the roof membrane and  
 36 the HVAC unit serving the Building, exterior walls, foundations, exterior windows, roof structure, roof membrane,  
 37 doors, plate glass and storefronts, and plumbing fixtures, together with a management and administration fee of  
 38 **fifteen** percent (**15%**) of the amount thereof, within thirty (30) days after submission by Landlord to Tenant of the  
 39 statement of the amount thereof, which statement shall be accompanied by reasonable supporting documentation.  
 40 Tenant expressly waives the benefits of any statute now or later in effect that would otherwise give Tenant the right  
 41 to make repairs at Landlord's expense and deduct that cost from Rent owing to Landlord.

42  
 43           6.2     Tenant's Repairs. Except for Landlord Repairs set forth in Section 5.1 above, Tenant shall:

- 44  
 45                 (a)     maintain all portions of the Premises and fixtures situated within the Premises in good  
 46 order and repair;  
 47  
 48                 (b)     maintain, repair and replace, if necessary, all special equipment, and decorative  
 49 treatments installed by or at Tenant's request and that serve the Premises;  
 50  
 51                 (c)     make all necessary repairs and replacements to all portions of the Premises; and  
 52

1 (d) not commit waste to the Premises or any part thereof. If Tenant fails to perform Tenant's  
2 obligations under this Section or under any other Section of this Lease, after ten (10) business days' prior written  
3 notice to Tenant, except in an emergency when no notice shall be required, Landlord may enter upon the Premises,  
4 perform the obligations on Tenant's behalf, and recover the cost of performance, together with interest at the rate of  
5 twelve percent (12%) per year, as Additional Rent payable by Tenant with the next installment of Rent, provided that  
6 such rate shall not exceed the maximum rate then allowed by law.  
7

8 6.3 Liability. Landlord shall not be liable for any failure to maintain and repair the Premises as  
9 required under Section 6.1 unless Tenant delivers written notice of such failure to Landlord and Landlord fails to  
10 perform such maintenance or repair in a reasonable time and manner. Landlord may erect scaffolding and other  
11 apparatus necessary to make repairs or alterations to the Premises. So long as Landlord uses commercially  
12 reasonable efforts to minimize interference with Tenant's business, Tenant shall have no claim against Landlord for  
13 any interruption or reduction of services or interference with Tenant's occupancy because of repairs or maintenance  
14 performed by Landlord to the Premises.  
15

16 6.4 Negligent Damage. Tenant shall reimburse Landlord upon demand for the cost of repair incurred  
17 by Landlord for damage caused by the negligent or intentional acts or any breach of this Lease by Tenant, its  
18 employees, contractors, agents or invitees.  
19

## 20 SECTION 7. ALTERATIONS.

21  
22 7.1 Alterations by Tenant. Tenant shall not make any alterations, additions, or improvements to the  
23 Premises (i) for which any governmental permit is required; or (ii) that modify any structural, mechanical, electrical or  
24 plumbing component of the Building or (iii) that cost more than \$ **5000.00**, without first having obtained Landlord's  
25 prior written consent, which consent Landlord may withhold in Landlord's sole discretion. If Landlord consents in  
26 writing to any proposed alteration of the Premises, Tenant shall (A) only contract with a Landlord-approved  
27 contractor for the performance of such alterations, (B) obtain all necessary governmental permits and approvals and  
28 deliver copies thereof to Landlord, and (C) cause all alterations to be completed promptly in compliance with  
29 Landlord-approved plans and specifications with all due diligence in a good and workmanlike manner. Except for  
30 removable machinery and unattached movable trade fixtures, all improvements, alterations, wiring, cables or conduit  
31 installed by Tenant shall immediately become part of the Premises, with title vested in Landlord. Landlord may  
32 require that Tenant remove any such improvements, alterations, wiring, cables or conduit installed by or for Tenant  
33 and restore the Premises to good condition and repair upon expiration or earlier termination of this Lease. Any  
34 contractor used by Tenant for any work in the Premises shall be subject to review and approval by Landlord and  
35 Landlord may post notices of non-responsibility in connection with any work being performed in the Premises by or  
36 at the request of Tenant. All work in the Premises by or at Tenant's request must comply with all applicable Laws.  
37 Tenant shall not permit any liens to attach to the Building or Tenant's interest in the Premises as a result of any work  
38 performed by or at Tenant's request.  
39

## 40 SECTION 8. UTILITIES AND SERVICES.

41  
42 8.1 General. Tenant shall pay all charges for electricity, water, sewer, garbage, gas, telephone and  
43 other utility services furnished to the Premises during the Lease term and for all inspections, governmental fees and  
44 other like charges associated therewith. Landlord makes no representation or warranty whatsoever as to the types,  
45 quantities, availability or costs of any and all utility services for the Building  
46

47 Tenant shall comply with all Laws concerning the use or reduction of use of utilities in the Premises.  
48 Unless caused by the sole, active negligence of Landlord, interruption of any service or utility shall not render  
49 Landlord liable to Tenant for damages, relieve Tenant from performance of Tenant's obligations under this Lease or  
50 be deemed an eviction or disturbance of Tenant's use and possession of the Premises. Tenant shall install surge  
51 protection systems for power provided to the Premises, and Tenant releases Landlord from all liability for any  
52 damage caused by any electrical surge.

1  
2 **SECTION 9. SIGNS AND OTHER INSTALLATIONS.**  
3

4 So long as Tenant first obtains all governmental permits required therefore, Tenant may install such signs  
5 as deemed appropriate by Tenant on or attached to the Premises. All signs installed by Tenant shall comply with  
6 Landlord's standards for signs, if any, and all applicable governmental requirements. All signs and sign hardware  
7 shall be removed by Tenant, at Tenant's sole cost and expense, upon termination of this Lease with the sign  
8 location restored to its former state unless Landlord elects to retain all or any portion thereof. Tenant may not install  
9 any alarm boxes, foil protection tape or other security equipment on the Premises without Landlord's prior written  
10 consent, which consent shall not be unreasonably withheld. Any material violating this provision may be removed  
11 and disposed of by Landlord without compensation to Tenant, and Tenant shall reimburse Landlord for the cost of  
12 the same upon request.  
13

14 **SECTION 10. TENANT INDEMNITY.**  
15

16 10.1 By Tenant. Tenant shall indemnify, defend, and hold harmless Landlord and its managing agents  
17 and employees from any claim, liability, damage, or loss, or any cost or expense in connection therewith (including  
18 reasonable attorney fees), arising out of (a) any damage to any person or property occurring in, on or about the  
19 Premises, as the result of the negligence or willful misconduct of Tenant, its employees, contractors, agents or  
20 invitees, (b) use by Tenant or its agents, invitees or contractors of the Premises, and/or (c) Tenant's breach or  
21 violation of any term of this Lease. The provisions of this Section 10 shall survive the termination or expiration of this  
22 Lease.  
23

24 **SECTION 11. EMINENT DOMAIN.**  
25

26 If any portion of the Building or a substantial portion of the Premises shall be permanently taken under any  
27 right of eminent domain, or any transfer in lieu thereof (the "Taking") and such taking renders the Premises in the  
28 reasonable opinion of Tenant and Landlord unsuitable for Tenant's use, then either party may terminate this Lease  
29 by giving thirty (30) days' prior written notice to the other party, and such termination shall be effective on the date  
30 possession of the Building, Premises or portion of either is delivered to the condemning authority. If this Lease is  
31 not so terminated, Landlord shall repair and restore the Premises as close as practicable to its condition prior to the  
32 Taking, and this Lease shall continue, but, commencing with the date on which Tenant is deprived of the use of any  
33 portion of the Premises or of any rights under this Lease, Base Rent shall be proportionately abated or reduced,  
34 based on the extent to which Tenant's use of the Premises is impaired. Any and all awards payable by the  
35 condemning authority in connection with a Taking shall be the sole property of Landlord; provided, however, that  
36 nothing contained herein shall prevent Tenant from prosecuting a separate claim for the value of its interest in the  
37 Premises, so long as that award does not diminish the award that Landlord would otherwise be entitled to as a result  
38 of the Taking.  
39

40 **SECTION 12. FIRE OR CASUALTY.**  
41

42 12.1 Major Damage. In case of Major Damage to the Building, Landlord or Tenant may elect to  
43 terminate this Lease by notice in writing to the other party within thirty (30) days after such date. "Major Damage"  
44 shall mean damage to the Building by fire or other casualty (i) which causes any substantial portion of the Building to  
45 be unusable, or (ii) the repair of which will cost more than twenty-five percent (25%) of the replacement value of the  
46 Building (iii) or which is not required under this Lease to be covered by insurance. If neither Landlord nor Tenant  
47 terminates this Lease after any Major Damage, or if damage occurs to the Building which is not Major Damage,  
48 Landlord shall promptly restore the Building to the condition existing immediately prior to such damage, and this  
49 Lease shall continue in full force and effect. In the event of any damage to the Building by fire or other casualty,  
50 Tenant shall promptly repair and restore all tenant improvements or alterations installed or paid for by Tenant or pay  
51 the cost of such restoration to Landlord if Landlord performs such restoration. In the event the Building is damaged

1 by any casualty, Rent shall be reduced in proportion to the unusable portion of the Building from the date of damage  
2 until the date restoration work to the Building is substantially complete.  
3

4 12.2 Waiver of Subrogation. Landlord and Tenant each hereby releases and waives any and all rights  
5 to recover from or proceed against the other party and its employees, agents and contractors, for loss or damage to  
6 any property of the releasing party or any person claiming through the releasing party arising from any cause  
7 required to be insured against by the releasing party under this Lease. Landlord and Tenant shall each cause their  
8 insurance policies to contain a waiver of subrogation provision consistent with the foregoing.  
9

### 10 **SECTION 13. ASSIGNMENT AND SUBLETTING.**

11  
12 Tenant shall not assign or encumber its interest under this Lease or sublet all or any portion of the  
13 Premises without having first provided thirty (30) days' written notice to Landlord and thereafter obtained Landlord's  
14 written consent. Tenant shall deliver written notice of Tenant's desire to assign or sublet all or any portion of the  
15 Premises and such notice shall include a recent audited financial statement and a statement of the intended use for  
16 such proposed assignee or subtenant. Landlord's consent to assignment or subletting is at Landlord's sole  
17 discretion. No assignment shall relieve Tenant of its obligation to pay rent or perform other obligations required by  
18 this Lease, and no consent to one assignment or subletting shall be consent to any further assignment or subletting.  
19

20 Landlord may terminate this Lease by written notice to Tenant within ten (10) days of receipt of Tenant's  
21 proposal, and thereafter, deal directly with the proposed subtenant or assignee, or any other third party. Tenant may  
22 render void any notice of termination from Landlord by written notice to Landlord, withdrawing its proposed assignee  
23 or subtenant within ten (10) days of receipt of Landlord's termination notice. If Landlord consents to a proposed  
24 assignment or subletting, Tenant shall promptly pay to Landlord any net profit and the net value of all other  
25 consideration resulting from that transaction received by Tenant. Tenant shall reimburse Landlord for any costs  
26 incurred in connection with a proposed assignment or subletting, including reasonable attorney fees in an amount  
27 not to exceed \$ **10,000.00**.  
28

### 29 **SECTION 14. DEFAULT.**

30  
31 14.1 Events of Default. Each of the following shall be an Event of Default by Tenant under this Lease:  
32

33 14.1.1 Failure by Tenant to pay Rent or any other charge due under this Lease within ten (10)  
34 days after receipt of written notice from Landlord that the same is then due.  
35

36 14.1.2 Failure by Tenant to comply with any other obligation of this Lease within twenty (20)  
37 days following written notice from Landlord specifying the failure (except in the case of emergency, in which event  
38 Landlord shall only be required to give such notice as is reasonable under the circumstances); provided, however,  
39 that if the nature of Tenant's default requires more than twenty (20) days to correct, Tenant shall not be deemed in  
40 default of this Lease so long as Tenant commences the cure of such failure within such twenty (20)-day period and  
41 thereafter, proceeds in good faith and with all diligence to complete such cure as soon as possible but in no event  
42 later than ninety (90) days after the date of Landlord's notice of default.  
43

44 14.1.3 Tenant's abandonment of the Premises or failure by Tenant to occupy the Premises  
45 within twenty (20) days after notice from Landlord.  
46

47 14.1.4 Assignment or subletting by Tenant in violation of Section 13.  
48

49 14.1.5 Tenant's failure to execute and deliver to Landlord the documents described in Section  
50 18 or 22 within ten (10) days of written notice from Landlord.  
51

1 14.1.6 Tenant's insolvency, business failure or assignment for the benefit of its creditors.  
2 Tenant's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain  
3 dismissal of any petition filed against it under such laws within the time required to answer; or the appointment of a  
4 receiver for all or any portion of Tenant's properties or financial records.  
5

6 14.2 Remedies for Default. Upon the occurrence of an Event of Default described in Section 14.1,  
7 Landlord may exercise the following remedies as well as any other remedies at law or in equity, by statute or as set  
8 forth in this Lease:  
9

10 14.2.1 Landlord may terminate this Lease, reserving all rights to damages resulting from  
11 Tenant's breach. Whether or not Landlord terminates this Lease, Landlord may retake possession of the Premises  
12 and any relet or use of the Premises by Landlord shall not be deemed a surrender or waiver of Landlord's right to  
13 damages. If Landlord retakes possession of the Premises, Landlord's mitigation efforts shall be deemed sufficient if  
14 Landlord follows commercially reasonable procedures and otherwise complies with Law.  
15

16 14.2.2 Tenant shall be liable to Landlord for all damages caused by Tenant's default, including,  
17 but not limited to, an amount equal to all unpaid and future Rent, Lease commissions incurred for this Lease, and the  
18 unamortized cost of all improvements to the Premises installed or paid for by Landlord. Landlord may periodically  
19 sue Tenant to recover damages as they accrue, and no action therefore shall bar a later action for damages  
20 accruing thereafter. Landlord may elect in any one action to recover both accrued damages as well as damages  
21 attributable to the remaining term of the Lease. Any damages attributable to the remaining term of the Lease shall  
22 be equal to the difference between the Rent under this Lease and reasonable rental value of the Premises (including  
23 Additional Rent) for the remainder of the term, discounted at the prevailing interest rate on judgments to the date of  
24 the judgment.  
25

26 14.3 Landlord's Right To Cure Default. Landlord may, but shall not be obligated to, make any payment  
27 or perform any obligation under this Lease that Tenant has failed to perform, as and when required hereunder.  
28 Tenant shall pay Landlord for all expenditures and costs incurred by Landlord in performing any obligation of Tenant,  
29 upon demand, with interest thereon at the rate of one percent per month (1%), but in no event at a rate in excess of  
30 that allowed by Law. Landlord's right to cure any Tenant default is for the sole protection of Landlord and in no event  
31 shall Tenant be released from any obligation to perform all of Tenant's obligations and covenants under this Lease.  
32 The contents of this Section shall not be deemed a waiver by Landlord of any other right that Landlord may have  
33 arising from any default of this Lease by Tenant, whether or not Landlord exercises its rights under this Section.  
34

35 14.4 Landlord's Default. Landlord shall not be deemed to be in default of the performance of any  
36 obligation required to be performed by it hereunder unless and until Landlord fails to perform such obligation within  
37 thirty (30) days after written notice by Tenant to Landlord specifying the nature of Landlord's alleged default;  
38 provided, however, that if the nature of Landlord's alleged default is such that more than thirty (30) days are required  
39 for its cure, then Landlord shall not be deemed to be in default if Landlord shall commence such performance within  
40 such thirty (30)-day period and thereafter diligently prosecute the same to completion.  
41

## 42 **SECTION 15. NOTICES.**

43  
44 All notices, demands, consents, approvals and other communications provided for herein shall be invalid  
45 unless set forth in a writing and delivered by facsimile transmission, overnight air courier, personal delivery or  
46 registered or certified U.S. mail with return receipt requested to the appropriate party at its address as set forth in  
47 Section 1.2 for Tenant and Section 1.3 for Landlord.  
48

49 Addresses for notices may be changed from time to time by written notice to all other parties. Any  
50 communication given by facsimile transmission must be confirmed within forty-eight (48) hours by overnight air  
51 courier. If any communication is given by mail, it will be effective upon the earlier of (a) forty-eight (48) hours after

1 deposit in the U.S. mail, with postage prepaid, or (b) actual receipt, as indicated by the return receipt; if given by  
2 facsimile, when sent; and if given by personal delivery or by overnight air courier, when delivered.  
3  
4

#### 5 **SECTION 16. LANDLORD ACCESS.**

6  
7 After reasonable notice to Tenant, Landlord may enter upon the Premises with its passkey or other  
8 reasonable means to assess compliance with this Lease, perform required or necessary services, maintenance,  
9 repairs, alterations or services to the Building or the Premises, show the Premises to potential buyers of the Building  
10 and post appropriate notices, and during the last three months of the Lease Term, show the Premises to any  
11 potential future tenant. Except in case of emergency, all entry to the Premises shall be at times and in a manner so  
12 as to minimize interference with Tenant's use of the Premises.  
13

#### 14 **SECTION 17. CONVEYANCE BY LANDLORD**

15  
16 If the Premises is sold or otherwise conveyed by Landlord or any successor, so long as Tenant is not in  
17 default beyond any applicable cure period, Landlord shall cause such successor to recognize Tenant's rights  
18 hereunder, and Tenant shall attorn to the buyer or transferee and recognize that party as the landlord under this  
19 Lease. If the buyer or transferee assumes all obligations of Landlord under this Lease accruing thereafter, Landlord  
20 shall be deemed released of all further liability to Tenant under this Lease.  
21

#### 22 **SECTION 18. SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE.**

23  
24 Without further documentation, this Lease shall be subject and subordinate to any deeds of trust,  
25 mortgages, ground lease, master lease or land sale contracts and any amendment or modification thereof, now  
26 existing or hereafter recorded against the Premises (collectively, the "Encumbrances"). Tenant shall execute all  
27 documents reasonably requested by Landlord or the holder of an Encumbrance to confirm such subordination;  
28 provided, however, that this Lease shall only be subordinate to any future Encumbrance, or modification thereof, if  
29 the holder of that Encumbrance executes a non-disturbance agreement reasonably satisfactory to Tenant by which  
30 the holder of such Encumbrance recognizes Tenant's rights under this Lease unless Tenant is in default beyond any  
31 applicable cure period. If any Encumbrance is foreclosed, so long as the buyer at the foreclosure sale delivers to  
32 Tenant a written agreement recognizing Tenant's interest in this Lease, Tenant shall attorn to such buyer, and this  
33 Lease shall continue in full force and effect.  
34

#### 35 **SECTION 19. SURRENDER; HOLDOVER.**

36  
37 Upon expiration or earlier termination of this Lease, Tenant shall surrender the Premises and the Building  
38 swept and free of debris, with carpeted areas vacuumed and in good and serviceable condition, subject to ordinary  
39 wear and tear. Tenant shall remove all of its personal property and any conduits, wiring, cables or alterations  
40 installed by Tenant and shall repair all damage to the Premises and the Building resulting from that removal. If  
41 Tenant fails to remove any such personal property or alterations, those items shall be deemed abandoned, and  
42 Landlord may remove or dispose of such items without liability to Tenant or others, and Tenant shall reimburse  
43 Landlord for the cost of such removal upon demand.  
44

45 If Tenant fails to surrender the Premises and remove all its personal property as set forth herein, Landlord  
46 may either: (i) recognize Tenant as a month-to-month tenant at sufferance and such tenancy shall be subject to all  
47 terms of this Lease, except that Rent shall be one hundred fifty percent (150%) of the total Rent for the last month  
48 being charged and all options or other rights regarding extension of the term or expansion of the Premises shall  
49 automatically terminate; or (ii) evict Tenant from the Premises and recover all damages resulting from Tenant's  
50 wrongful holdover.  
51

#### 52 **SECTION 20. HAZARDOUS MATERIALS.**



1  
2 Neither Tenant nor Tenant's agents or employees shall cause or permit any Hazardous Material, as  
3 hereinafter defined, to be brought upon, stored, used, generated, released into the environment, or disposed of on,  
4 in, under, or about the Premises and Building, except reasonable quantities of cleaning supplies and office supplies  
5 necessary to or required as part of Tenant's business that are generated, used, kept, stored, or disposed of in a  
6 manner that complies with all laws regulating any such Hazardous Materials and with good business practices.  
7 Tenant covenants to remove from the Premises and the Building, upon the expiration or sooner termination of this  
8 Lease and at Tenant's sole cost and expense, any and all Hazardous Materials brought upon, stored, used,  
9 generated, or released into the environment by Tenant, its agents, employees or invitees during the term of this  
10 Lease. To the fullest extent permitted by law, Tenant hereby agrees to indemnify, defend, protect, and hold  
11 harmless Landlord, Landlord's managing agent and their respective agents and employees, and their respective  
12 successors and assigns, from any and all claims, judgments, damages, penalties, fines, costs, liabilities, and losses  
13 that arise during or after the term directly or indirectly from the use, storage, disposal, release or presence of  
14 Hazardous Materials by Tenant, its agents, employees or invitees on, in, or about the Premises and the Building  
15 which occurs during the term of this Lease. To the fullest extent permitted by law, Landlord hereby agrees to  
16 indemnify, defend, protect and hold harmless Tenant, and its agents and employees and its respective successors  
17 and assigns, from any and all claims, judgments, damages, penalties, fines, costs, liabilities and losses that arise  
18 during or after the term directly or indirectly from the use, storage, disposal, release or presence of Hazardous  
19 Materials by Landlord, its agents, employees, or contractors on, in or about the Premises and the Building. Tenant  
20 shall promptly notify Landlord of any release of Hazardous Materials in, on, or about the Premises or the Building  
21 that Tenant, or Tenant's agents or employees, becomes aware of during the Term of this Lease, whether caused by  
22 Tenant, Tenant's agents or employees, or any other persons or entities.  
23

24 As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material, or waste  
25 which is or becomes regulated by any local governmental authority, the state of Oregon or the United States  
26 government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined  
27 as a "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," "hazardous substance,"  
28 "hazardous material," or "waste" under any federal, state or local law, (ii) petroleum, and (iii) asbestos. The  
29 provisions of this Section 20, including, without limitation, the indemnification provisions set forth herein, shall  
30 survive any termination of this Lease.  
31

### 32 **SECTION 21. ATTORNEY FEES; WAIVER OF JURY TRIAL.**

33  
34 If suit or action is instituted in connection with any controversy arising out of this Lease, including any  
35 bankruptcy proceeding, the prevailing party shall be entitled to recover, in addition to costs, such sums as the court  
36 may adjudge reasonable as attorney fees at trial and on all appeals or petition for review arising out of such suit or  
37 action. If Landlord engages a collection agency to pursue any delinquent amounts owed by Tenant, Tenant shall  
38 pay all collection agency fees charged to Landlord, in addition to all other amounts payable under this Lease.  
39 Disputes between the parties which are to be litigated shall be tried before a judge without a jury and by initialing  
40 below, Landlord and Tenant hereby expressly waive any right to require that any dispute under this Lease be heard  
41 before a jury.  
42

43 \_\_\_\_\_  
44 Tenant Initials

45 \_\_\_\_\_  
46 Landlord Initials

### 47 **SECTION 22. ESTOPPEL.**

48 At any time and from time to time upon not less than ten (10) day' prior notice from either party, the other  
49 party will execute, acknowledge and deliver to the requesting party a certificate certifying whether or not this Lease  
50 is in full force and effect and unmodified, if there are any modifications, that the Lease is in full force and effect as  
51 modified; that Tenant is in possession of the Premises; the dates to which Rent has been paid in advance and the  
52 amount of any Security Deposit or prepaid Rent; and such other matters as may be reasonably requested. If either

1 party fails to deliver a requested certificate within the specified time, such failure shall conclusively establish that the  
2 party from whom the certificate was requested confirms that the Lease is in full force and effect, without modification  
3 except as may be represented by the requesting party. The parties agree that any such certificate may be relied  
4 upon by any existing or prospective holder of an Encumbrance or any prospective transferee of this Lease or the  
5 Premises.

#### 6 7 **SECTION 23. QUIET ENJOYMENT.**

8  
9 Landlord warrants that so long as Tenant complies with all terms of this Lease, that Tenant shall have quiet  
10 and peaceful possession of the Premises free of disturbance by Landlord or others claiming by or through Landlord.

#### 11 12 13 **SECTION 24. FORCE MAJEURE.**

14  
15 If the performance by either party of any provision of this Lease is prevented or delayed by any strikes,  
16 lockouts, labor disputes, acts of God, government actions, civil commotions, fire or other casualty, or other causes  
17 beyond the reasonable control of the party from whom performance is required, such party shall be excused from  
18 such performance for the period of time equal to the time of that prevention or delay.

#### 19 20 **SECTION 25. BROKERS.**

21  
22 Each party represents that except for the broker(s) identified in the Lease Terms, neither party has had any  
23 dealings with any real estate broker, finder or other person with respect to this Lease. Landlord shall pay a leasing  
24 commission to the party(s) identified in Section 1.18 in accordance with a separate agreement by and between  
25 Landlord and the specified broker(s). Landlord and Tenant each agrees to indemnify and hold the other party  
26 harmless from and against any and all costs, expenses or liability for commissions or other compensation or charges  
27 claimed by or awarded to any broker or agent resulting from a breach of the representation set forth above in this  
28 Section 25.

#### 29 30 31 **SECTION 26. GOVERNING LAW.**

32  
33 This Lease shall be construed and interpreted and the rights of the parties determined in  
34 accordance with the laws of the state of Oregon (without reference to the choice-of-law provisions of Oregon law);  
35 provided further, that respect to matters of law concerning the internal corporate affairs of any corporate entity which  
36 is a party to or the subject of this Lease, and as to those matters, the law of jurisdiction under which such entity  
37 derives its powers shall govern.

#### 38 39 **SECTION 27. NONWAIVER.**

40  
41 No delay by either party in promptly enforcing any right or remedy set forth in this Lease shall be deemed a  
42 waiver thereof, and that right or remedy may be asserted at any time after the delaying party becomes entitled to the  
43 benefit of such right or remedy notwithstanding such delay.

#### 44 45 **SECTION 28. CAPTIONS.**

46  
47 The Section headings of this Lease are for descriptive purposes only and in no way define, limit or describe  
48 the scope, intent or meaning of this Lease.

#### 49 50 **SECTION 29. CONSENT.**

1 Except where otherwise specifically provided in this Lease to the contrary, whenever a party's consent is  
2 required under this Lease, such party shall not unreasonably withhold its consent.  
3

4 **SECTION 30. LIMITATION ON LIABILITY.**  
5

6 Notwithstanding anything to the contrary in this Lease, except for the sole active negligence of Landlord  
7 and its agents and employees, Tenant hereby releases Landlord, its agents and employees from (i) damage to  
8 Tenant's property, (ii) damage arising out of the acts, including criminal acts, of third parties, (iii) consequential  
9 damages, and (iv) any damage, cause or matter that exceeds the value of Landlord's interest in the Premises.  
10

11 **SECTION 31. TIME OF THE ESSENCE AND HOLIDAYS.**  
12

13 Time is of the essence of each and every provision hereof. If the final date of any period of time set forth  
14 herein occurs on a Saturday, Sunday or legal holiday, then in such event, the expiration of such period of time shall  
15 be postponed to the next day which is not a Saturday, Sunday or legal holiday.  
16

17 **SECTION 32. COMPLETE AGREEMENT; NO IMPLIED COVENANTS.**  
18

19 This Lease and the attached Exhibits and schedules, if any, contain the entire agreement of the Landlord  
20 and Tenant concerning the Premises, Building and Common Areas, and all prior written and oral agreements and  
21 representations between the parties are void. Landlord and Tenant agree that there are no implied covenants or  
22 other agreements between the parties except as expressly set forth in this Lease. Neither Landlord nor Tenant is  
23 relying on any representations of the other party except those expressly set forth herein.  
24

25 **SECTION 33. SUCCESSORS.**  
26

27 This Lease shall bind and inure to the benefit of the parties, their respective heirs, successors, and  
28 permitted assigns. IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this  
29 Lease:  
30

31 LANDLORD: Housing Authority of Clackamas County

TENANT: Beaver Creek Enterprises, Inc.

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

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

33 Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

35  
36  
37 All of Tenant's obligations under this Lease are personally guaranteed by Steven A. and Brenda M. Morrow.  
38  
39  
40

41 \_\_\_\_\_

\_\_\_\_\_

42 Steven A. Morrow

Brenda M. Morrow

THIS DOCUMENT AND ANY ATTACHMENTS HERETO HAVE BEEN PREPARED FOR SUBMISSION TO YOUR ATTORNEY FOR REVIEW AND APPROVAL PRIOR TO SIGNING. NO REPRESENTATION OR RECOMMENDATION IS MADE BY COMMERCIAL ASSOCIATION OF BROKERS OR BY THE REAL ESTATE LICENSEES INVOLVED WITH THIS DOCUMENT AND ANY ATTACHMENTS HERETO AS TO LEGAL SUFFICIENCY OR TAX CONSEQUENCES. THIS FORM SHOULD NOT BE MODIFIED WITHOUT SHOWING SUCH MODIFICATIONS BY REDLINING, INSERTION MARKS, EXHIBITS OR ADDENDA.

DRAFT