

January 21, 2021

Housing Authority Board of Commissioners
Clackamas County

Members of the Board:

Approval to execute a Construction contract between the Housing Authority of Clackamas County and Grace Point Contracting, LLC for Modernization of 6606 Hemlock project

Purpose/Outcomes	Approval to execute a Construction contract between Housing Authority of Clackamas County and Grace Point Contracting, LLC for modernization project
Dollar Amount and Fiscal Impact	One-time expense not to exceed \$162,000.00
Funding Source(s)	HUD Federal Capital Grant Funds No County General Funds are involved
Duration	120 days from date of notice to proceed
Previous Board Action	none
Strategic Plan Alignment	1. Sustainable and affordable housing 2. Ensure safe, healthy and secure communities
Counsel Review	Andrew Naylor, September 23, 2020
Procurement Review	Per Resolution No. 1936, HACC adopted the Local Contract Review Board rules for HACC Procurements. HACC conducts its own procurements following its procurement handbook
Contact Person	Jill Smith, HACC Executive Director (503) 742-5336
Contract Number	Contract No. 10018

BACKGROUND:

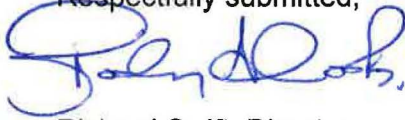
The Housing Authority of Clackamas County (HACC), a division of the Health, Housing and Human Services Department (H3S), requests approval to execute a construction contract between HACC and Grace Point Contracting, LLC for the modernization of a Public Housing unit that was partially destroyed by a fire. The project will bring the unit and site conditions up to current HUD standards. HACC publicly advertised for bids to repair and bring the unit back to its original condition with new materials. Bringing the unit back to original condition in a timely manner will allow HACC to maintain its High Performer status, prevent safety hazards and provide an energy efficient public housing unit.

Grace Point Contracting, LLC was selected through a competitive Invitation for Bids process. The scope of work includes concrete site work, fencing, doors, roof, windows, siding, heating systems, electrical upgrades, kitchens, bathrooms, plumbing, flooring, cabinets and painting.

RECOMMENDATION:

Staff recommends the Board approve the contract. Staff also recommends the Board authorize Richard Swift, H3S Director, to sign the contract on behalf of the Housing Authority Board of Commissioners.

Respectfully submitted,

 has deputy 1 for

Richard Swift, Director
Health, Housing and Human Services

FORM OF CONTRACT
PROJECT #20008
Contract #c019-20
H3S Contract # 10018

THIS AGREEMENT made this 29 day of December in the year 2020 by and between **GRACE POINT CONTRACTING, LLC. (Contractor)**, a business entity authorized to do business in the State of Oregon, hereinafter called the "Contractor," and **the Housing Authority of Clackamas County** hereinafter call the "PHA."

WITNESSETH, that the Contractor and the PHA for the consideration stated herein mutually agreed as follows:

ARTICLE 1. Statement of Work. The Contractor shall furnish all labor, material, equipment and services, and perform and complete all work required for **MODERNIZATION OF 6606 HEMLOCK PROJECT**, a prevailing wage project, #20008, in strict accordance with the Scope of Work referred to herein, which said Scope of Work and any Addenda are incorporated herein by reference and made a part hereof.

ARTICLE 2. The Contract Price. The PHA shall pay the Contractor for the performance of the Contract, in current funds, subject to additions and deductions as provided in the Scope of Work, a sum not to exceed one hundred sixty two thousand dollars and zero cents. (\$162,000.00).

ARTICLE 3. Contract Dates. The following critical dates are hereby set for the MODERNIZATION OF 6606 HEMLOCK. Time is of the essence.

- A. START DATE: February 1, 2021**
- B. SUBSTANTIAL COMPLETION DATE: N/A**
- C. FINAL COMPLETION DATE: June 3, 2021**

ARTICLE 4. Contract Documents. The Contract shall consist of the following component parts:

- a. This Agreement
- b. Bid Documents
- c. HUD General Conditions
- d. Addendum(s), if any
- e. Special Conditions
- f. Scope of Work

This instrument, together with the other documents enumerated in this Article 4, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, form the Contract. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this Article 4 shall govern, except as otherwise specifically stated. The various provisions in Addenda shall be construed in the order of preference of the component part of the Contract which each modifies.

ARTICLE 5. Responsibility for Damages/Indemnity. Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay that may be caused by, or result from, the carrying out of the Work to be done under the Contract, or from any act, omission or neglect of the Contractor, its subcontractors, employees, guests, visitors, invitees and agents.

To the fullest extent permitted by law, Contractor shall indemnify, defend (with counsel approved by PHA) and hold harmless the PHA and its elected officials, officers, directors, agents, and employees (collectively "Indemnitees") from and against all liabilities, damages, losses, claims, expenses, demands and actions of any nature whatsoever which arise out of, result from or are related to: (a) any damage, injury, loss, expense, inconvenience or delay described in this Article 5; (b) any accident or occurrence which happens or is alleged to have happened in or about the project site or any place where the Work is being performed, or in the vicinity of either, at any time prior to the time the Work is fully completed in all respects; (c) any failure of the Contractor to observe or perform any duty or obligation under the Contract Documents which is to be observed or performed by the Contractor, or any breach of any agreement, representation or warranty of the Contractor contained in the Contract Documents or in any subcontract; (d) the negligent acts or omissions of the Contractor, a subcontractor or anyone directly or indirectly employed by them or any one of them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder (except to the extent otherwise void under ORS 30.140); and (e) any lien filed upon the project or bond claim in connection with the Work. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Article 5.

In claims against any person or entity indemnified under this Article 5 by an employee of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Article 5 shall not be limited on amount or type of damages, compensation or benefits payable by or for the Contractor or a subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 6. No person shall be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services as described in ORS 279C.100, the employee shall be paid at least time and a half pay for (1) all overtime in excess of eight hours in any one day or 40 hours in any one week if the work week is five consecutive days, Monday through Friday or (2) all overtime in excess of 10 hours in any one day or 40 hours in any one week if the work week is four consecutive days, Monday through Friday; and all work the employee performs on Saturday and on any legal holiday specified in [ORS 279C.540](#). All subject employers working under this contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. Contractor shall comply with the prohibition set forth in ORS 652.220, compliance of which is a material element of the Contract and a failure to comply is a breach entitling PHA to terminate the Contract for cause.

ARTICLE 7. Under the provisions of ORS 279C.515, if the Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or

a subcontractor by any person in connection with this contract as the claim becomes due, the proper officer representing the PHA may pay such claim to the person furnishing the labor or services and charge the amount of the payment against the funds due or to become due the Contractor by reason of the contract.

If the Contractor or a first-tier subcontractor fails, neglects or refuses to pay a person that provides labor or materials in connection with the public improvement contract within 30 days after receiving payment from the contracting agency or a contractor, the Contractor or first-tier subcontractor owes the person the amount due plus interest charges that begin at the end of the 10-day period within which payment is due under ORS 279C.580 (4) and that end upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest on the amount due is nine percent per annum. The amount of interest may not be waived.

If the Contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

ARTICLE 8. The Contractor agrees to pay daily, weekly, weekend and holiday overtime as required by ORS 279C.520.

ARTICLE 9. The Contractor agrees that all employees/workers working on this project, whether employed by the Contractor or any subcontractor, shall be given written notice of the number of hours per day and days per week they may be required to work.

ARTICLE 10. The Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.

ARTICLE 11. The Contractors agrees to pay no less than the applicable state or federal prevailing wage rate, whichever is higher per ORS 279C.830(1)(b).

ARTICLE 12. The Contractor agrees to have a performance bond and payment bond in place before starting any work on the project per ORS 279C.380. The Contractor agrees to have filed a public works bond with the Construction Contractors Board before starting any work on the project.

ARTICLE 13. The Contractor agrees that every subcontract shall include a provision requiring all subcontractors to have a public works bond filed with the Construction Contractors Board before starting any work on the project per ORS 279C.830.

ARTICLE 14. Contractor certifies that both it and any of its subcontractors are (1) Registered to conduct business in the state of Oregon; (2) are actively licensed with the Oregon Construction

Contractors Board; (3) are bonded and insured in amounts that meet or exceed the county's minimal requirements.

ARTICLE 15. CONTRACTOR shall:

- (1) Make payment promptly, as due, to all persons supplying to such contractor labor or material for the prosecution of the work provided for in such contract.**
- (2) Pay all contributions or amounts due the State Industrial Accident Fund from such contractor or subcontractor incurred in the performance of the contract.**
- (3) Not permit any lien or claim to be filed or prosecuted against the state, county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.**
- (4) Pay to the Revenue Department all sums withheld from the employees pursuant to ORS 316.167.**

ARTICLE 16. The Contractor shall include in each subcontract those provisions required under ORS 279C.580.

ARTICLE 17. For demolition tasks, if any, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective.

ARTICLE 18. Tax Laws.

18.1 The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Agreement, has faithfully complied with:

- a. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- b. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
- c. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
- d. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

18.2 Contractor represents and warrants that, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Agreement. Further, any violation of Contractor's warranty in this Agreement that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Agreement. Any violation shall entitle PHA to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

- a. Termination of this agreement, in whole or in part;
- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to PHA's setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. PHA shall be entitled to recover any and all damages suffered as the result of PHA's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance.

These remedies are cumulative to the extent the remedies are not inconsistent, and PHA may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

ARTICLE 19 Liquidated damages

The Contractor acknowledges that PHA will sustain damages as a result of the Contractor's failure to substantially complete the work authorized under this Contract and in accordance with the Contract Documents. These damages may include, but are not limited to delays in completion, use of the project, and costs associated with Contract administration and use of temporary facilities.

- 10.1 Liquidated Damages shall be as follows if the actual Final Completion exceeds the required date of Final Completion:
 - 10.1.1. \$500.00 per each Calendar day after the set Final Completion date.

ARTICLE 20. Additional Terms

- (1) **Execution and Counterparts.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute one and the same instrument.
- (2) **Integration.** The Contract Documents constitute the entire agreement between the Parties. There are no other understandings, agreements or representations, oral or written, not specified herein regarding this Contract. Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.
- (3) **Governing Law.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- (4) **Debt Limitation.** This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- (5) **No attorney fees.** No attorney fees shall be paid for or awarded to either party in the course of any dispute, indemnification, or other recovery. It is the intent of the parties that each shall bear the costs of its own legal counsel.
- (6) **Severability.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- (7) **No Third Party Beneficiaries.** PHA and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- (8) **Waiver.** The failure of PHA to enforce any provision of this Contract shall not constitute a waiver by PHA of that or any other provision.
- (9) **Merger.** This Contract constitutes the entire agreement between the parties with respect to the subject matter referenced therein. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. No amendment, consent, or waiver of terms of this Contract shall bind either party unless in writing and signed by all parties. Any such amendment, consent, or waiver shall be effective only in the specific instance and for the specific purpose given. Contractor, by the signature hereto of its authorized representative, is an independent contractor, acknowledges having read and understood this contract, and contractor agrees to be bound by its terms and conditions.
- (10) **Responsibility for Taxes.** Contractor is solely responsible for payment of any federal, state, or local taxes required as a result of the Agreement or the Work including, but not limited, to payment of the corporate activity tax imposed under enrolled HB 3427 (2019 Oregon regular legislative session).

MODERNIZATION OF 6606 HEMLOCK – PROJECT #20008
HOUSING AUTHORITY OF CLACKAMAS COUNTY
P.O BOX 1510, 13900 S. GAIN STREET, OREGON CITY, OR 97045

IN WITNESS WHEREOF, the parties hereto have caused this Instrument to be executed in **three** original counterparts as of the day and year first above written.

Grace Point Contracting, LLC

(Contractor)


(Authorized Representative's Signature / Date)

Ulian Julian Erofeeff, Owner

(Authorized Representative's Name / Title - Print or Type)

47-2858317

(Federal I.D. Number)

375 N 1st Street, Woodburn, OR 97071

(Business Address - Street, City, State, Zip)

205401

(State of Oregon CCB License Number)

**HOUSING AUTHORITY OF
CLACKAMAS COUNTY BOARD**

Commissioner Tootie Smith, Chair

Commissioner Sonya Fischer


Commissioner Martha Schrader

Commissioner Paul Savas

Commissioner Mark Shull

Resident Commissioner Ann Leenstra

Signing on Behalf of the Housing Authority Board

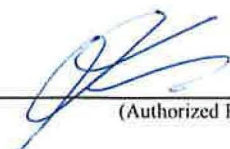

Richard Swift, Director

Health, Housing & Human Services Department

**HOUSING AUTHORITY OF CLACKAMAS
COUNTY**

CERTIFICATION

I Ulian Julian Erofeeff
certify that I am the Owner
at the corporation named as Contractor herein, that Ulian Julian Erofeeff
who signed this Contract on behalf of the Contractor, was then Owner
of said corporation; that said Contract was duly signed for and in behalf of said corporation by
authority of its governing body, and is within the scope of its corporate powers.


(Authorized Representative's Signature / Date)

12/29/20

Ulian Julian Erofeeff, Owner

(Authorized Representative's Name / Title - Print or Type)

(Print or type the names underneath all signatures)

January 28, 2021

Housing Authority Board of Commissioners
Clackamas County

Members of the Board:

In alignment with Board direction to seek Project Turnkey funding from the State of Oregon, our Phase I application has been submitted and approved. We have been directed by Oregon Community Foundation (“OCF”) consultants to expedite purchase of a qualifying property. We are seeking approval to enter into a Purchase & Sale Agreement between the Housing Authority of Clackamas County and Larch Investors, Inc. an Oregon Domestic Business Corporation (“Seller”) (owner) for the Red Fox property and approval to execute real estate documents pertaining to the acquisition.

Purpose/Outcomes	Approval to enter into a Purchase & Sale agreement between the Housing Authority of Clackamas County and Larch Investors Inc. (owner) for the Red Fox Motel, Little Fox Storage, and land located at 600 SW Beech Road in the City of Estacada, County of Clackamas, Oregon and approval to execute real estate documents pertaining to the acquisition of the Red Fox Motel, Little Fox Storage and the land.
Dollar Amount and Fiscal Impact	Not to exceed \$3.1M or appraised value whichever is lower
Funding Source(s)	All funds for the acquisition as well as rehabilitation for immediate shelter use will be provided by grant funding from the Oregon Community Foundation - Project Turnkey Funding. Operational funding will come from winter shelter funding effective immediately through June 30, 2021 and from the Affordable Housing and Services fund effective July 1 2021 for shelter operations.
Previous Board Action	Board directed H3S to apply for Project Turnkey funding for acquisition of a motel property for use as shelter for wildfire impacted residents and underserved populations.
Strategic Plan Alignment	<ol style="list-style-type: none"> 1. Sustainable and affordable housing 2. Individuals and families in need are healthy and safe 3. Ensure safe, healthy and secure communities
Counsel Review	01/21/21
Contact Person	Jill Smith, HACC Executive Director (503) 502-9278
Contract Number	N/A

BACKGROUND:

The HACC in partnership with Clackamas County Social Services submitted a Project Turnkey application for funding. The application outlined a partnership whereby the HACC would be the asset owner and Social Services would provide operational funding until July 1, 2021 when Affordable Housing and Services funding will be redirected to serve the rural areas of Clackamas County. Operations will be provided on a contract basis with a homeless services non-profit agency with a focus on moving people out of the transitional shelter and into permanent housing.

HACC has been approved by OCF to identify and initiate a purchase and sale agreement with a motel property, originally the Econo Lodge was identified but due to identified due diligence challenges and a strong desire to focus this funding outside the urban growth boundary, our focus was redirected to prioritize wildfire impacted communities.

The Red Fox Hotel location was identified with the assistance of Skip Rotticci, a contracted Broker as well as Tom Kemper, a consultant provided by OCF to assist applicants. The following criteria were used to evaluate properties: location, zoning, number of units, unit size, ADA compliance, cost of purchase, the amount of funding likely to be allocated for Clackamas County out of the \$30 million, property condition, necessary rehab to use immediately as a shelter and how quickly the purchase process could proceed. In order to qualify for the Project Turnkey funds, the identified property must be able to be used within 75 days of funding with due diligence preferred to be completed in 30 days.

Alignment with Project Turnkey Intention

The Red Fox Hotel better aligns with project Turnkey intentions to serve residents of wildfire impacted communities and provides a rare opportunity for investment in rural areas of Clackamas County. Additionally this funding source allows for the development of work force affordable housing on the site and this location would be ideal for housing development. The need is great for work force housing.

Alignment with City Goals and Local Need

The utilization of Project Turnkey funding will allow the Housing Authority to work with the City of Estacada to ensure future work force Housing projects align with their city plans and community needs while providing safe space and services for this wildfire impacted community.

Ongoing Community Engagement

Housing Authority staff intend to attend the Estacada Connect meeting scheduled for February 4th to introduce this topic to attendees. We will seek City leadership feedback and conduct ongoing outreach and community engagement support of this effort. In the event that we are successful in acquiring the property, planning for future development will involve deep and ongoing community engagement.

RED FOX PROPERTY:

The Red Fox Property at 600 SW Beech Road, Estacada OR sits on approximately 2.84 acres. The property includes the following buildings and land:

- Red Fox Motel: this includes a 24 unit traditional motel with one manager apartment; a separate building next to the hotel includes 6 one-bedroom extended stay apartments and 2 two-bedroom extended stay apartments.
- Potential development site of 1.6 acres
- 50 storage units in a self-storage building

Public transportation is available with TriMet running every 30 minutes from Estacada to Clackamas Town Center. The bus trip takes approximately 35 minutes total. Adjacent to the Red Fox Property includes to the north an urgent care facility and grocery store, to the east another grocery store and restaurant, to the west a restaurant and two single family homes, and to the south the Clackamas River.

ZONING:

Current zoning (See Figure 3) is Downtown (D) which encourages mix of office, service, retail, light manufacturing, and governmental uses. The D zone also allows residential uses in upper stories of commercial buildings, and high density residential and mixed-use (residential and

commercial) development oriented to the Clackamas River. Uses that are permitted outright include Multi-family dwellings not less than 16 dwelling units per acre, hotel or motel, and short term rentals. Adjacent to the Red Fox Property includes to the north an urgent care facility and grocery store, to the east another grocery store and restaurant, to the west a restaurant and two single family homes, and to the south the Clackamas River.

PURCHASE PRICE AND DUE DILIGENCE:

Asking purchase price is \$3,100,000. Once the property is under contract with a signed Purchase and Sale Agreement in place, the team will begin due diligence to include:

- Appraisal
- Environmental Site Assessment
- Physical Inspection
- ADA Compliance
- Pest Inspection
- Mold and Hazardous Materials Inspection
- ALTA Survey
- Zoning Compliance Determination
- Operating Expense Analysis

USE:

A Project Turnkey-funded acquisition of the Red Fox Property would help the County further its objective of meeting the housing and homeless services needs outside the urban growth boundary (UGB). Currently, the bulk of the County's available resources for housing development and homeless services funding – the Affordable Housing Bond and the Supportive Housing Services fund - are limited to within the UGB. The community engagement conducted for the Supportive Housing Services measure revealed an overwhelming priority within the community for expansion of shelter capacity in the County, and the resources of that measure will allow the County to expand shelter within the UGB. Acquisition of the Red Fox would ensure equitable distribution of shelter resources and future work force housing into the rural areas of the County as well.

A Purchase and Sale Agreement is attached and has been reviewed and approved by County Counsel.

Attached for your review

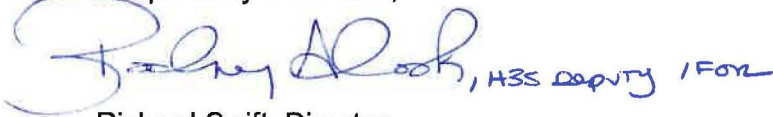
- Purchase and Sale Agreement
- Zoning, map and unit pictures

RECOMMENDATION:

Staff recommends the Board approve the Purchase and Sale Agreement between the Housing Authority of Clackamas County and Larch Investors Inc. (owner) for the Red Fox Motel, Little Fox Storage, and land located at 600 SW Beech Road in the City of Estacada, County of Clackamas, Oregon

Staff also recommends the Board authorize Jill Smith, HACC Executive Director, or Richard Swift, Director of H3S, to sign the PSA and all pertinent real estate documentation on behalf of the Housing Authority of Clackamas County Board.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Richard Swift", followed by the text "HHS Deputy / For" written in a smaller, less legible script.

Richard Swift, Director
Health, Housing and Human Services

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

AGENCY ACKNOWLEDGMENT

Buyer shall execute this Acknowledgment concurrent with the execution of the Agreement below and prior to delivery of that Agreement to Seller. Seller shall execute this Acknowledgment upon receipt of the Agreement by Seller, even if Seller intends to reject the Agreement or make a counter-offer. In no event shall Seller'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 Buyer and Seller 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) Seller Agent: **Skip Rotticci of Colliers International** firm (the "Selling Firm") is the agent of
(check one):
 Buyer exclusively; Seller exclusively; both Seller and Buyer ("Disclosed Limited Agency").

(b) Buyer Agent: **Skip Rotticci of Colliers International** firm (the "Buying Firm") is the agent of
(check one):
 Buyer exclusively; Seller exclusively; both Seller and Buyer ("Disclosed Limited Agency").

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

ACKNOWLEDGED

Buyer: **Housing Authority of Clackamas County**

(sign) _____ Date: _____

Seller: **Larch Investors, Inc.**

(sign) _____ Date: _____

OPTION OF PURCHASE AND SALE AGREEMENT AND RECEIPT FOR OPTION MONEY

This PURCHASE AND SALE AGREEMENT AND RECEIPT FOR OPTION DEPOSIT (this "Agreement") dated January 14, 2021, for reference purposes only, shall be effective on the date when this Agreement has been executed and delivered by Seller and Buyer (the "Execution Date"):

BETWEEN: Larch Investors, Inc. an Oregon Domestic Business Corporation ("Seller")
Address: P.O. Box 398 Estacada, Oregon 97023
Home Phone:
Office Phone:
Fax No.:
E-Mail: cadakid@aol.com

AND: Housing Authority of Clackamas County ("Buyer")
Address: 13930 Gain St. Oregon City, OR 97045
Home Phone:
Office Phone: (503) 655-8676
Fax No.:
E-Mail: vbrown@co.clackamas.or.us

1. Purchase and Sale.

1.1 Generally. In accordance with this Agreement, Buyer agrees to buy and acquire from Seller, and Seller agrees to sell to Buyer the following, all of which are collectively referred to in this Agreement as the "Property:" (a) the real property and all improvements thereon generally described as the Red Fox Motel, Little Fox Storage, and land located at 600 SW Beech Road in the City of Estacada, County of Clackamas, Oregon legally described on Exhibit A, attached hereto (the "Real Estate" or the "Property") (if no legal description is attached, the legal description shall be based on the legal description provided in the Preliminary Report (described in Section 5), subject to the review and approval of both parties hereto), including all of Seller's right, title and interest in and to all fixtures, appurtenances, and easements thereon or related thereto; and (b) any and all personal property located on and used in connection with the operation of the Real Estate and owned by Seller, with the exception of personal property in the manager's unit, (the "Personal Property") that Buyer has agreed, in writing, to accept upon closing. If there are any Leases, see Section 21.1, below. The occupancies of the Property pursuant to any Leases are referred to as the "Tenancies" and the occupants thereunder are referred to as "Tenants." If there is any Personal Property, see Section 21.2, below.

Commented [A1]: Do we know if there are active storage leases here? Will HACC have to honor these leases going forward and effectively act as a storage unit manager?

1.2 Purchase Price. The purchase price for the Property shall be Three Million One Hundred Thousand dollars (\$3,100,000.00) (the "Purchase Price"), or appraised value, whichever is less and subject to the terms and conditions of Section 2.1 below. The Purchase Price shall be adjusted, as applicable, by the net amount of credits and debits to Seller's account at Closing (defined below) made by Escrow Holder pursuant to the terms of this Agreement. The Purchase Price shall be payable as follows:

Commented [A2]: This is the language from the counter offer document. Not sure why we need that at all. Can't we just include this into the PSA?

1.2.1 Option Deposit.

(a) Within three (3) days of the Execution Date, Buyer shall deliver into Escrow (as defined herein), for the account of Buyer, \$25,000.00 as an Option deposit (the "Option Deposit") in the form of:

[] Promissory note (the "Note"); [X] Check; or [] Cash or other immediately available funds.

{00045955;1}

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

50
51 (b) The purchase and sale of the Property shall be accomplished through an escrow (the
52 "Escrow") that Seller has established or will establish with **First American Title Company Portland, Oregon** (the
53 "Escrow Holder") within **three (3) days** after the Execution Date. Except as otherwise provided in this Agreement: (i)
54 any interest earned on the Option Deposit shall be considered to be part of the Option Deposit; (ii) the Option
55 Deposit shall be non-refundable upon satisfaction or waiver of all Conditions as defined in Section 2.1; and (iii) the
56 Option Deposit shall be applied to the Purchase Price at Closing.

57
58 1.2.2 Balance of Purchase Price: Buyer shall pay the balance of the Purchase Price at Closing
59 by cash or other immediately available funds; or Other: **Cash and the proceeds of a grant from the**
60 **Oregon Community Foundation.**

Commented [A3]: Confirm this is correct.

61
62 1.3 ~~Section 1031 Like Kind Exchange. Each party acknowledges that either party (as applicable, the~~
63 ~~"Exchanging Party") may elect to engage in and affect a like kind exchange under Section 1031 of the Internal~~
64 ~~Revenue Code of 1986, as amended, involving the Property (or any legal lot thereof) (a "1031 Exchange"). The non-~~
65 ~~exchanging party with respect to a 1031 Exchange is referred to herein as the "Cooperating Party." Buyer and Seller~~
66 ~~each hereby agrees to reasonably cooperate with the other in completing each such 1031 Exchange; provided,~~
67 ~~however, that such cooperation shall be at the Exchanging Party's sole expense and shall not delay the Closing for~~
68 ~~the Property. Accordingly, the Exchanging Party may assign the Exchanging Party's rights with respect to the~~
69 ~~Property (or any legal lot thereof) to a person or entity for the purpose of consummating a 1031 Exchange~~
70 ~~("Intermediary"), provided that such assignment does not delay the Closing for the Property (or applicable legal lot~~
71 ~~thereof), or otherwise reduce or diminish the Exchanging Party's liabilities or obligations hereunder. Such~~
72 ~~assignment by the Exchanging Party shall not release the Exchanging Party from the obligations of the Exchanging~~
73 ~~Party under this Agreement. The Cooperating Party shall not suffer any costs, expenses or liabilities for cooperating~~
74 ~~with the Exchanging Party and shall not be required to take title to the exchange property. The Exchanging Party~~
75 ~~agrees to indemnify, defend and hold the Cooperating Party harmless from any liability, damages and costs arising~~
76 ~~out of the 1031 Exchange.~~ Reserved.

Commented [A4]: I see this was deleted in the other document. I'm not sure what the purpose of two agreements are.

2. Conditions to Purchase.

80 2.1 Buyer's obligation to purchase the Property is conditioned on the following:

81
82 This Agreement is contingent upon Buyer obtaining, at Buyer's sole expense, a written
83 appraisal from a licensed appraiser within 45 days of the Execution Date stating that the appraised
84 value of the Property is at least the Purchase Price. If the appraisal states that the appraised value
85 of the Property is less than the above value, Buyer shall deliver a copy of such appraisal to Seller
86 within 10 days after the above date and deliver written notice to Seller, either: a) terminating this
87 Agreement in which event the Option Deposit shall be refunded to Buyer, thereby releasing Buyer
88 and Seller from all further obligations under this Agreement; or b) negotiate a new purchase price
89 on terms acceptable to both parties. If Buyer fails to timely obtain an appraisal, or having timely
90 obtained such appraisal fails to timely deliver notice, this Agreement shall terminate, and the
91 Option Deposit shall be refunded to Buyer;

92 Within **forty five (45) days** of the Execution Date, Buyer's approval of the
93 results of (collectively, the "Feasibility Contingency"): (a) the Property inspection
94 described in Section 3 below; (b) the document review described in Section 4 below; (c)
95 Environmental Assessment and review; and (d) the other conditions described below:

(00045955;1)

96 Within fifteen (15) days of the expiration of the Feasibility Contingency period, Buyer's
97 receipt of confirmation of satisfactory financing (the "Financing Condition") and approval of
98 Release of Funds by the State of Oregon; and/or

99 Other **Notwithstanding any other provision of this Agreement, the closing
100 of this transaction will be contingent on final written approval by the Board of
101 Commissioners (the "Board") for the Housing Authority of Clackamas County to
102 proceed with closing of the sale, as determined by the Board in its sole
103 administrative discretion. Buyer shall have no obligation to purchase the
104 Property, and no transfer of title to the Buyer may occur, unless and until the
105 Board, as the responsible entity, has provided Buyer and/or Seller with a written
106 determination that purchase of the Property may proceed, or that the purchase
107 may proceed subject to any other conditions in this Agreement or only if certain
108 conditions to address issues in the environmental or other reviews and
109 inspections shall be satisfied before or after the purchase of the Property. The
110 closing of this transaction and purchase of the Property will also be contingent
111 upon the following:**

- 112 1. **Buyer's acceptance of the Title Report and all Exceptions identified**
113 **thereon, as set forth in Section 5, below.**
- 114 2. **Appropriation by the Board of sufficient funds, as determined by Buyer in**
115 **its sole discretion, to permit Buyer to proceed with closing of the sale and**
116 **purchase of the Property.**
- 117 3. **Receipt by Buyer of any and all funding necessary to proceed with closing**
118 **of the sale and purchase of the Property, as determined by the Buyer in its**
119 **sole administrative discretion, from any and all State or Federal funding**
120 **sources.**
- 121 4. **Completion of all inspections, environmental reviews, or other**
122 **assessments of the Property that Buyer determines, in its sole discretion,**
123 **to be necessary. Buyer shall use its best efforts to conclude the**
124 **inspections, environmental reviews, or other assessments of the Property**
125 **expeditiously. Buyer's inspections, environmental reviews, or other**
126 **assessments are subject to an approved request for release of federal or**
127 **state funds.**
- 128 5. **Acceptance by Buyer, in its sole discretion, of the results of any**
129 **inspections, environmental reviews, or other assessments performed on**
130 **the Property.**
- 131 ~~6. **On or before Closing Buyer will use its best efforts to initiate and**~~
132 ~~**implement a mechanism to accommodate an IRC Section 1033 Exchange**~~
133 ~~**for the benefit of the Seller.**~~

Commented [A5]: Looks like this is coming out in the other document. Again, not entirely sure why we'd have two documents instead of just red-lining this.

137 The Feasibility Contingency, Financing Condition or any other conditions noted shall be defined as "Conditions."

138
139 2.2 If Buyer decides to proceed to Closing, Buyer will give written notice to Seller before the expiration
140 of the Feasibility Contingency indicating that Buyer waives the Conditions set forth in Section 2.1 or that the
141 Conditions set forth in Section 2.1 have been satisfied. If, for any reason Buyer fails to give written waiver of the
142 Conditions set forth in Section 2.1, or state in writing that such Conditions have been satisfied, by notice to Seller
143 before the expiration of the Feasibility Contingency, this Agreement shall be deemed automatically terminated, the
144 Option Deposit shall be promptly returned to Buyer, and thereafter, except as specifically provided to the contrary
145 herein, neither party shall have any further right or remedy hereunder. In addition, if Buyer is unable to receive a

{00045955;1}

146 release of funds from State or Federal funding sources necessary to purchase the Property, or if the Board does not
147 approve closing of the sale and purchase of the Property, this Agreement shall be deemed terminated and the
148 Option Deposit(s) shall be immediately returned to Buyer, and thereafter, except as specifically provided to the
149 contrary herein, neither party shall have any further right or remedy hereunder.
150

151 3. Property Inspection. Seller shall permit Buyer and its agents, at Buyer's sole expense and risk, to enter
152 the Property at reasonable times after reasonable prior notice to Seller and after prior notice by Seller to the Tenants
153 as required by the applicable Leases, if any, to conduct any and all inspections, tests, and surveys concerning the
154 structural condition of the improvements, all mechanical, electrical and plumbing systems, hazardous materials, pest
155 infestation, soils conditions, wetlands, Americans with Disabilities Act compliance, zoning, and all other matters
156 affecting the suitability of the Property for Buyer's intended use and/or otherwise reasonably related to the purchase
157 of the Property including the economic feasibility of such purchase. ~~Subject to the limits of applicable law, Buyer~~
158 ~~shall indemnify, hold harmless, and defend Seller from all liens, costs, and expenses, including reasonable~~
159 ~~attorneys' fees and experts' fees, arising from or relating to Buyer's negligent acts or omissions during the~~
160 ~~inspections, tests, and surveys authorized under this Section 3. This agreement to indemnify, hold harmless, and~~
161 ~~defend Seller shall survive closing or any termination of the Agreement.~~
162

Commented [A6]: This was negotiated with the last owner. I wouldn't make it a standard term unless the seller makes a similar demand.

163 4. Seller's Documents. Within ten (10) business days after the Execution Date, Seller shall deliver to
164 Buyer or Buyer's designee, legible and complete copies of the following documents, including without limitation, a list
165 of the Personal Property, and other items relating to the ownership, operation, and maintenance of the Property to
166 the extent now in existence and to the extent such items are or come within Seller's possession or control: **Including**
167 **but not limited to business records as the pertain to the facility, plans, permits, and approvals, reports,**
168 **studies, assessments related to the Property, environmental assessments, soils assessments and**
169 **Geotechnical reports, correspondence from or to any governmental agency or regulatory agency regarding**
170 **the Property within the last 5 years, any recorded or unrecorded easement related to the Property.**
171

172 5. Title Insurance. Within ten (10) business days after the Execution Date, Seller shall cause to be
173 delivered to Buyer a preliminary title report from the title company (the "Title Company") selected by Seller (the
174 "Preliminary Report"), showing the status of Seller's title to the Property, together with complete and legible copies of
175 all documents shown therein as exceptions to title ("Exceptions"). Buyer shall have thirty (30) days after receipt of a
176 copy of the Preliminary Report and Exceptions within which to give notice in writing to Seller of any objection to such
177 title or to any liens or encumbrances affecting the Property. Within five (5) business days after receipt of such notice
178 from Buyer, Seller shall give Buyer written notice of whether it is willing and able to remove the objected-to
179 Exceptions. Without the need for objection by Buyer, Seller shall, with respect to liens and encumbrances that can
180 be satisfied and released by the payment of money, eliminate such exceptions to title on or before Closing. Within
181 five (5) business days after receipt of such notice from Seller (the "Title Contingency Date"), Buyer shall elect
182 whether to: (i) purchase the Property subject to those objected-to Exceptions which Seller is not willing or able to
183 remove; or (ii) terminate this Agreement. On or before the Closing Date (defined below), Seller shall remove all
184 Exceptions to which Buyer objects and which Seller agrees Seller is willing and able to remove. All remaining
185 Exceptions set forth in the Preliminary Report and those Exceptions caused by or agreed to by Buyer shall be
186 deemed "Permitted Exceptions."
187

188 6. Default: Remedies. Notwithstanding anything to the contrary contained in this Agreement, in the event
189 Buyer fails to deposit the Option Deposit(s) in Escrow strictly as and when contemplated under Section 1.2.1 or
190 Section 1.2 above, Seller shall have the right at any time thereafter, but prior to Buyer's deposit of the Option
191 Deposit to Escrow, to terminate this Agreement and all further rights and obligations hereunder by giving written
192 notice thereof to Buyer. If the conditions, if any, to Buyer's obligation to consummate this transaction are satisfied or
193 waived by Buyer and Buyer fails, through no fault of Seller, to close on the purchase of the Property, Seller's sole
194 remedy shall be to retain the Option Deposit(s) paid by Buyer. In the event Seller fails, through no fault of Buyer, to
195 close the sale of the Property, Buyer shall be entitled to pursue any remedies available at law or in equity, including

(00045955;1)

196 without limitation, the return of the Option Deposit(s) paid by Buyer or the remedy of specific performance. In no
197 event shall either party be entitled to punitive or consequential damages, if any, resulting from the other party's
198 failure to close the sale of the Property.

199
200 7. Closing of Sale.

201
202 7.1 Buyer and Seller agree the sale of the Property shall be consummated, in Escrow, on or before
203 or thirty (30) days after the conditions set forth in Sections 2.1, 3, 4 and 5 have been satisfied or waived in
204 writing by Buyer (the "Closing" or the "Closing Date"). The sale of the Property shall be deemed closed when the
205 document(s) conveying title to the Property is/are delivered and recorded and the Purchase Price is disbursed to
206 Seller.

207
208 7.2 At Closing, Buyer and Seller shall deposit with the Escrow Holder all documents and funds
209 required to close the transaction in accordance with the terms of this Agreement. At Closing, Seller shall
210 deliver a certification in a form provided by the Escrow Holder confirming whether Seller is or is not a "foreign
211 person" as such term is defined by applicable law and regulations.

212
213 7.3 At Closing, Seller shall convey fee simple title to the Property to Buyer by statutory warranty
214 deed or ___ (the "Deed"). At Closing, Seller shall cause the Title Company to deliver to Buyer a standard ALTA
215 form owner's policy of title insurance (the "Title Policy") in the amount of the Purchase Price insuring fee simple title
216 to the Property in Buyer subject only to the Permitted Exceptions and the standard preprinted exceptions contained
217 in the Title Policy. Seller shall reasonably cooperate in the issuance to Buyer of an ALTA extended form policy of
218 title insurance. Buyer shall pay any additional expense resulting from the ALTA extended coverage and any
219 endorsements required by Buyer.

220
221 8. Closing Costs; Prorations. Seller shall pay the premium for the Title Policy. If Buyer elects to obtain an
222 ALTA extended form policy of title insurance and/or any endorsements, Buyer shall pay the difference in the
223 premium relating to such election. Seller and Buyer shall each pay one-half (1/2) of the escrow fees charged by the
224 Escrow Holder. Any excise tax and/or transfer tax shall be paid in accordance with the local custom determined by
225 the Title Company and applicable law. Real property taxes for the tax year of the Closing, assessments (if a
226 Permitted Exception), personal property taxes, rents and other charges arising from existing Tenancies paid for the
227 month of Closing, interest on assumed obligations, and utilities shall be prorated as of the Closing Date. If
228 applicable, prepaid rents, security deposits, and other unearned refundable deposits relating to Tenancies shall
229 be assigned and delivered to Buyer at Closing. Seller Buyer N/A shall be responsible for payment of all
230 taxes, interest, and penalties, if any, upon removal of the Property from any special assessment or program.

231
232 9. Possession. Seller shall deliver exclusive possession of the Property, subject to the Tenancies (if any)
233 existing as of the Closing Date, to Buyer on the Closing Date or ___.

234
235 10. Condition of Property. Seller represents and warrants it is the sole owner of the Property and has authority to
236 convey fee simple title to the Property by statutory warranty deed. Seller represents that Seller has received no
237 written notices of violation of any laws, codes, rules, or regulations applicable to the Property ("Laws"). Seller
238 represents there are no suits, actions, arbitrations, judgments, legal, administrative or other proceedings, claims,
239 liens, or inquiries pending or threatened against the Property, or any portion thereof, which could affect Seller's right
240 or title to the Property, or any portion thereof, affect the value of the Property, or any portion thereof, or subject an
241 owner of the Property, or any portion thereof, to liability. Seller represents no work on the Property has been done or
242 will be done, or materials provided, giving rise to actual or impending mechanic's liens, private liens, or any other
243 liens, against the Property or any portion thereof. Seller represents that it has not entered into, and will not enter into,
244 any other contracts for the sale of the Property, nor do there exist nor will there be any rights of first refusal, options
245 to purchase the Property, leases, mortgages, licenses, easements, prescriptive rights, permits, or other rights or

{00045955;1}

246 agreement, written or oral, express or implied, which in any way affect or encumber the Property or any portion
247 thereof. Seller represents that, to the best of Seller's knowledge without specific inquiry, Seller is not aware of any
248 such violations or any concealed material defects in the Property. Unless caused by Buyer, Seller shall bear all risk
249 of loss and damage to the Property until the Property is closed pursuant to Section 7 Closing, and Buyer shall bear
250 such risk at and after ~~Closing~~the Property is closed pursuant to Section 7. Except for Seller's representations set
251 forth in this Section 10 and the attached Exhibit E, Buyer shall acquire the Property "AS IS" with all faults and Buyer
252 shall rely on the results of its own inspection and investigation in Buyer's acquisition of the Property. It shall be a
253 condition of Buyer's Closing obligation that all of Seller's representations and warranties stated in this Agreement are
254 materially true and correct on the Closing Date. Subject to any limitation period under applicable law, Seller's
255 representations and warranties stated in this Agreement shall survive Closing of this Agreement.

Commented [A7]: This is just to bring this in line with paragraph 27, below. We could probably even juts delete this one sentence.

256
257 If Seller discovers any information or facts that would materially change the foregoing warranties and
258 representations or the transactions contemplated by this Agreement, Seller shall immediately give written notice to
259 Buyer of those facts and information. If any of the foregoing warranties and representations cease to be true before
260 the close of Escrow, Seller shall be obligated to use its best efforts to remedy the problem, at its sole expense,
261 before the close of Escrow. If the problem is not remedied before close of Escrow, Buyer may elect to either: (a)
262 terminate this Agreement in which case Buyer shall have no obligation to purchase the Property and all Escrow
263 payments, including the Option Deposit, shall be refunded to Buyer, or (b) defer the Closing Date for a period not to
264 exceed ninety (90) days or until such problem has been remedied, whichever occurs first. If the problem is not
265 remedied within that timeframe, Buyer may elect to terminate this Agreement and receive a refund of all Escrow
266 payments, including the Option Deposit. Buyer's election in this regard shall not constitute a waiver of Buyer's rights
267 in regard to any loss or liability suffered as a result of a representation or warranty not being true, nor shall it
268 constitute a waiver of any other remedies provided in this Agreement or by law or equity.

269
270
271 11. Operation of Property. Between the Execution Date and the Closing Date, Seller shall continue to
272 operate, maintain and insure the Property consistent with Seller's current operating practices. After Buyer has
273 satisfied or waived the conditions to Buyer's obligation to purchase the Property, and the Option Deposit is non-
274 refundable, Seller may not, enter into: (a) any new leases or occupancy agreements for the Property; (b) any
275 material amendments or modification agreements for any existing leases or occupancy agreements for the Property;
276 or (c) any service contracts or other agreements affecting the Property that are not terminable at the Closing.

277
278 12. Assignment. Assignment of this Agreement: is PROHIBITED; is PERMITTED, without consent
279 of Seller; is PERMITTED ONLY UPON Seller's written consent; is PERMITTED ONLY IF the assignee is an
280 entity owned and controlled by Buyer. Assignment is PROHIBITED, if no box is checked. If Seller's written
281 consent is required for assignment, such consent may be withheld in Seller's reasonable discretion. In the event of a
282 permitted assignment, Buyer shall remain liable for all Buyer's obligations under this Agreement.

283
284
285 13. Statutory Notice. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A
286 FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE
287 LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR
288 SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS
289 DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE
290 PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER
291 ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS
292 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8,
293 OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE
294 TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING

(00045955;1)

296 DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED
297 LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT
298 OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE
299 ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND
300 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND
301 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.
302

303 14. Cautionary Notice About Liens. UNDER CERTAIN CIRCUMSTANCES, A PERSON WHO
304 PERFORMS CONSTRUCTION-RELATED ACTIVITIES MAY CLAIM A LIEN UPON REAL PROPERTY AFTER A
305 SALE TO THE PURCHASER FOR A TRANSACTION OR ACTIVITY THAT OCCURRED BEFORE THE SALE. A
306 VALID CLAIM MAY BE ASSERTED AGAINST THE PROPERTY THAT YOU ARE PURCHASING EVEN IF THE
307 CIRCUMSTANCES THAT GIVE RISE TO THAT CLAIM HAPPENED BEFORE YOUR PURCHASE OF THE
308 PROPERTY. THIS INCLUDES, BUT IS NOT LIMITED TO, CIRCUMSTANCES WHERE THE OWNER OF THE
309 PROPERTY CONTRACTED WITH A PERSON OR BUSINESS TO PROVIDE LABOR, MATERIAL, EQUIPMENT
310 OR SERVICES TO THE PROPERTY AND HAS NOT PAID THE PERSONS OR BUSINESS IN FULL.
311

312 15. Brokerage Agreement. For purposes of Section 15 of this Agreement, the Agency Acknowledgement
313 on page 1 this Agreement is incorporated into this Agreement as if fully set forth herein. Seller agrees to pay a
314 commission to Selling Firm in the amount of either: **three and one half (3.5%)** of the Purchase Price or \$.
315 Such commission shall be divided between Selling Firm and Buying Firm such that Selling Firm receives one
316 **hundred percent (100%)** and Buying Firm receives zero percent (0%). Seller shall cause the Escrow Holder to
317 deliver to Selling Firm and Buying Firm the real estate commission on the Closing Date or upon Seller's breach of
318 this Agreement, whichever occurs first.
319

320 16. Notices. Unless otherwise specified, any notice required or permitted in, or related to this Agreement
321 must be in writing and signed by the party to be bound. Any notice will be deemed delivered: (a) when personally
322 delivered; (b) when delivered by facsimile or electronic mail transmission (in either case, with confirmation of
323 delivery); (c) on the day following delivery of the notice by reputable overnight courier; or (d) on the day following
324 delivery of the notice by mailing by certified or registered U.S. mail, postage prepaid, return receipt requested; and in
325 any case shall be sent by the applicable party to the address of the other party shown at the beginning of this
326 Agreement, unless that day is a Saturday, Sunday, or federal or Oregon State legal holiday, in which event such
327 notice will be deemed delivered on the next following business day.
328

329 17. Miscellaneous. Time is of the essence of this Agreement. If the deadline under this Agreement for
330 delivery of a notice or performance of any obligation is a Saturday, Sunday, or federal or Oregon State legal holiday,
331 such deadline will be deemed extended to the next following business day. The facsimile and/or electronic mail
332 transmission of any signed document including this Agreement in accordance with Section 16 shall be the same as
333 delivery of an original. At the request of either party, the party delivering a document by facsimile and/or electronic
334 mail will confirm such transmission by signing and delivering to the other party a duplicate original document. This
335 Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall
336 constitute one and the same Agreement. This Agreement contains the entire agreement and understanding of the
337 parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous
338 agreements between them. Without limiting the provisions of Section 12 of this Agreement, this Agreement shall be
339 binding upon and shall inure to the benefit of Buyer and Seller and their respective successors and assigns. Solely
340 with respect to Section 15, Selling Firm and Buying Firm are third party beneficiaries of this Agreement. The person
341 signing this Agreement on behalf of Buyer and the person signing this Agreement on behalf of Seller each
342 represents, covenants and warrants that such person has full right and authority to enter into this Agreement and to
343 bind the party for whom such person signs this Agreement to its terms and provisions. Neither this Agreement nor a
344 memorandum hereof shall be recorded unless the parties otherwise agree in writing.
345

{00045955;1}

346 18. Governing Law. This Agreement is made and executed under, and in all respects shall be governed and
347 construed by, the laws of the State of Oregon. Any claim, action, or suit that arises out of or relates to the
348 performance of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court for
349 Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be
350 brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District
351 Court for the District of Oregon. In no event shall this section be construed as a waiver by Buyer of any form of
352 defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh
353 Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.
354 All parties, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced
355 in this section.

356 19. Lease(s) and Personal Property.

357 19.1 Leases. Intentionally Omitted.

Commented [A8]: Are there storage leases?

358
359
360 19.2 Personal Property. If applicable, and upon written consent by Buyer, Seller shall convey
361 all Personal Property to Buyer by executing and delivering to Buyer at Closing through Escrow (as defined below), a
362 Bill of Sale substantially in the form of Exhibit C attached hereto (the "Bill of Sale"). A list of such Personal Property
363 shall be attached to the Bill of Sale.
364

365 20. Residential Lead-Based Paint Disclosure. IF THE PROPERTY CONSISTS OF RESIDENTIAL
366 HOUSING BUILT PRIOR TO 1978, BUYER AND SELLER MUST COMPLETE THE LEAD-BASED PAINT
367 DISCLOSURE ADDENDUM ATTACHED HERETO AS EXHIBIT D.
368

369 21. Addenda; Exhibits. The following named addenda and exhibits are attached to this Agreement and
370 incorporated within this Agreement:

- 371
372 Exhibit A – Legal Description of Property [REQUIRED]
373 Exhibit B – Assignment of Lessor's Interest under Lease (if applicable)
374 Exhibit C – Bill of Sale (if applicable)
375 Exhibit D – Lead Paint Disclosure Addendum (if applicable)
376 Exhibit E – AS IS Exceptions (if applicable)
377

378 22. Time for Acceptance. If Seller does not return to Buyer a signed and dated version of this Agreement
379 on or before 5:00 PM Pacific Time on January 20, 2021, then the Option Deposit shall be promptly refunded to
380 Buyer and thereafter, neither party shall have any further right or obligation hereunder.
381
382

Commented [A9]: Update.

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

387 23.1 It is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation
388 named by any Executive Order or the United States Treasury Department as a terrorist, specially designated
389 national and/or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is
390 enforced or administered by the Office of Foreign Assets Control; and
391

392 23.2 It has not executed this Agreement, directly or indirectly on behalf of, or instigating or
393 facilitating this Agreement, directly or indirectly on behalf of, any such person, group, entity, or nation.
394
395

{00045955;1}

396 Subject to the limits of applicable law, Buyer hereby agrees to defend, indemnify, and hold harmless Seller from and
397 against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney's fees and costs)
398 arising from or related to any breach of the foregoing certification. This certification by Buyer and agreement to
399 indemnify, hold harmless, and defend Seller shall survive Closing or any termination of this Agreement.
400

401
402 24. Debt Limitation. This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article
403 XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any
404 provisions herein which would conflict with law are deemed inoperative to that extent
405

406 25. Risk of Loss, Condemnation. Seller shall bear the risk of all loss or damage to the Property from all causes,
407 until the Property is ~~Closed~~~~closed~~ pursuant to Section 7. If, before the Property is ~~Closed~~~~closed~~ pursuant to
408 Section 7, all or part of the Property is damaged by fire or by any other cause of any nature or if all or any portion of
409 the Property is taken by condemnation, or if any such condemnation is threatened, Seller shall give Buyer written
410 notice of such event. Buyer may terminate this Agreement by giving written notice to Seller within fifteen (15) days
411 following receipt by Buyer of written notice from Seller of such casualty or condemnation and the Option Deposit will
412 be returned to Buyer.
413

414 CONSULT YOUR ATTORNEY. THIS DOCUMENT HAS BEEN PREPARED FOR SUBMISSION TO YOUR
415 ATTORNEY FOR REVIEW AND APPROVAL PRIOR TO SIGNING. NO REPRESENTATION OR
416 RECOMMENDATION IS MADE BY THE COMMERCIAL ASSOCIATION OF BROKERS OREGON/SW
417 WASHINGTON OR BY THE REAL ESTATE AGENTS INVOLVED WITH THIS DOCUMENT AS TO THE LEGAL
418 SUFFICIENCY OR TAX CONSEQUENCES OF THIS DOCUMENT.
419

420 THIS FORM SHOULD NOT BE MODIFIED WITHOUT SHOWING SUCH MODIFICATIONS BY REDLINING,
421 INSERTION MARKS, OR ADDENDA.
422

423 Buyer **HOUSING AUTHORITY OF CLACKAMAS COUNTY**

424 By: _____

425 Name: **Jill Smith**

426 Title: **Director**

427
428 Date: _____

429
430
431 Seller Acceptance. By execution of this Agreement, Seller agrees to sell the Property on the terms and conditions in
432 this Agreement.
433

434 Seller: **LARCH INVESTORS, Inc.**

435
436
437 By: _____

438 Name: **Samuel D. Dunlop**

439 Its: **President**

440 Date: _____
441
442
443
444
445

{00045955;1}

© 1997 Commercial Association of Brokers OREGON/SW WASHINGTON (Rev. 01/15)
PURCHASE AND SALE AGREEMENT AND RECEIPT FOR OPTION DEPOSIT (OREGON)
ALL RIGHTS RESERVED

Page of

446
447
448
449
450
451
452

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)):	<u>Within 3 days following execution of this Agreement</u>
• Seller shall open Escrow with the Escrow Holder (Section 1.2.1(a)):	Within 3 days following execution of this Agreement
• Seller shall deliver Seller's documents to Buyer (Section 4):	Within 10 days after the Execution Date
• Seller shall deliver Preliminary Report to Buyer (Section 5):	Within 10 days after the Execution Date
• Buyer's title objection notice due to Seller (Section 5):	Within 30 days after receipt of the Preliminary Report
• Seller's title response due to Buyer (Section 5):	Within 5 days after receipt of Buyer's title objection notice
• Title Contingency Date (Section 5):	Within 5 days after receipt of Seller'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 15 days of the expiration of Feasibility Contingency Period
• By this date, Buyer must deliver the notice to proceed contemplated in Section 2.2.	Within 60 days of the Execution Date
• Closing Date (Section 7.1):	<u>Within 30 days following expiration of the Financing Conditions Period</u>

453
454
455
456

Initials of Buyer: _____

Initials of Seller: _____

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

TO BE PROVIDED BY FIRST AMERICAN TITLE COMPANY

1
2
3
4
5

To include Assessor's Parcel Numbers:

34E29AA08701, 34E29AA09200, 34E29AA09300, 34E29AA08600, 34E29AA0900,
34E29AA08900, 34E29AA09100, 34E29AA08800, 34E29AA08700, and 34E29AA07500.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

EXHIBIT C
BILL OF SALE

Larch Investors, Inc., an Oregon Domestic Business Corporation ("Seller"), 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 ("Buyer"), its successors and/or assigns:

All of the personal property owned by Seller (collectively, "Personal Property") located in or on the real property located at 600 SW Beech Road in the City of Estacada, County of Clackamas, State of Oregon, which Personal Property is more particularly described on Schedule 1 attached hereto and incorporated herein by reference.

Commented [A10]: HACC needs to know what this is and whether it wants this at all.

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

IT IS UNDERSTOOD AND AGREED THAT BUYER HAS EXAMINED THE PERSONAL PROPERTY HEREIN SOLD AND THAT THIS SALE IS MADE "AS IS, WHERE IS" AND SELLER 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.

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

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

SELLER: LARCH INVESTORS, Inc.

BUYER: HOUSING AUTHORITY OF CLACKAMAS COUNTY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

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

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

LEAD WARNING STATEMENT

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

AGENT'S ACKNOWLEDGMENT

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

SELLER'S DISCLOSURE

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

Seller has knowledge of lead-based paint and/or lead-based paint hazards in the housing (explain).

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

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

Seller has provided Buyer with all available records and reports relating to lead-based paint and/or lead-based paint hazards in the housing (list documents below):

Seller has no reports or records relating to lead-based paint and/or lead-based paint hazards in the housing.

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 Seller's Disclosure above, may be treated
51 as an original.

Seller Agent _____ Date _____ ← Seller _____ Date _____ ←

Selling Firm _____ Seller _____ Date _____ ←

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

55
56 BUYER'S ACKNOWLEDGMENT

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

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

61
62 .3 Buyer 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 Buyer the
65 right to rescind the Purchase Agreement by written notice to Seller no later than the end of such agreed upon 10 day
66 period if Buyer is not satisfied in Buyer's sole discretion with the results of such risk assessments or inspection, as
67 applicable. Buyer and Seller hereby agree the ten (10) day period described in the preceding sentence shall begin
68 and end _____. Buyer's failure to provide written notice of Buyer's election to rescind the Purchase Agreement to
69 Seller on or before _____, 20__ shall be deemed a waiver of Buyer's right to rescind as provided in this addendum.
70 If Buyer timely elects to rescind the Purchase Agreement as provided herein, the Option Deposit shall be returned to
71 Buyer, 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.

Buyer _____ Date _____ ←

Buyer _____ Date _____ ←

74
75 CERTIFICATION OF ACCURACY

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

Buyer _____ Date _____ ← Seller _____ Date _____ ←

Buyer _____ Date _____ ← Seller _____ Date _____ ←

Buyer Agent _____ Date _____ ← Seller Agent _____ Date _____ ←

Buying Firm _____ Seller Firm _____

80
LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE

1
2
3
4
5
6
7
8

EXHIBIT E
AS IS EXCEPTIONS

None

FIGURE 1 – Red Fox Motel, Little Fox Storage, Adjacent Land (Property In Blue)

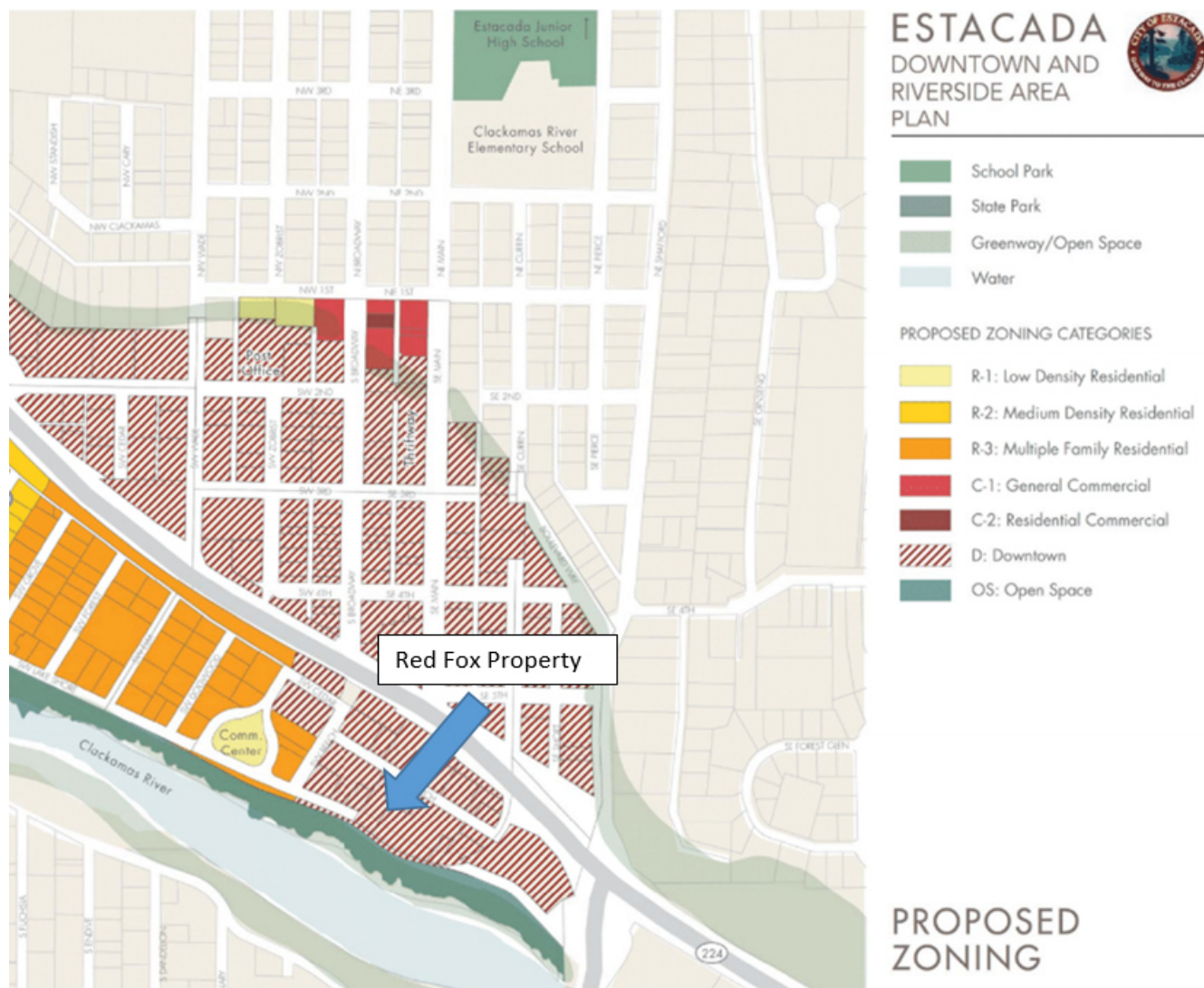


FIGURE 2 – Red Fox Motel

Red Fox Motel
600 Southwest Beech Road | Estacada, OR 97023



FIGURE 3 - Zoning





Sale Agreement # _____

BUYER'S COUNTER OFFER No. 1

1 This is a counter offer to Seller's Counter Offer.
 2 Buyer: **Housing Authority of Clackamas County**
 3 Seller: **Larch Investors, Inc.**
 4 The real property described as: _____

5 **AGREEMENT TO PURCHASE:**
 6 Buyer agrees to purchase the real and personal property upon the terms and conditions set forth in the Sale Agreement and subsequent counter offers where
 7 applicable **except** as modified as follows:
 8 **1. Purchase Price to be Three Million One Hundred Thousand dollars (\$3,100,000.00) or appraised value whichever**
 9 **is less.**
 10 **2. Clackamas County Board of Commissioners, and Oregon Community Foundation will not accommodate a**
 11 **Section 1033 Tax Exchange as stated in Paragraph 2.1, Item 6.**

12 _____
 13 _____
 14 For additional provisions, see Addendum _____
 15 **All remaining terms and conditions of the Sale Agreement (and other counter offer(s), where applicable), not otherwise modified, are approved and**
 16 **accepted by Buyer. Time is of the essence.** This Buyer's Counter Offer shall automatically expire on **January 27, 2021** at **5:00** a.m. p.m.
 17 ("the Counter Offer Deadline"), if not accepted within that time. If Seller accepts Buyer's Counter Offer after the Counter Offer Deadline, it shall not be binding upon
 18 Buyer unless agreed to by Buyer in writing within _____ business days (two [2] if not filled in) thereafter by so indicating at the Buyer's Acknowledgement Section below.
 19 This Buyer's Counter Offer may be accepted by Seller only in writing. However, Buyer may withdraw this Buyer's Counter Offer any time prior to Seller's written
 20 acceptance.

21 Buyer Signature _____ Date _____, _____ a.m. _____ p.m. ←
 22 Buyer Signature _____ Date _____, _____ a.m. _____ p.m. ←

23 **SELLER'S RESPONSE (select only one):**
 24 Seller **accepts** Buyer's Counter Offer;
 25 Seller **does not accept** Buyer's Counter Offer AND submits the attached Seller's Counter Offer
 26 Seller **rejects** Buyer's Counter Offer.

27 Seller acknowledges receipt of signed copies of the Sale Agreement and all subsequent counter offers, including this Buyer's Counter Offer, which Seller has
 28 read and fully understands. Seller instructs that all earnest money distributable to Seller pursuant to the Sale Agreement shall be disbursed as follows after
 29 deduction of any title insurance and Escrow cancellation charges: (check one) First to Listing Firm, to the extent of the agreed commission just as if the
 30 transaction had been consummated, with residue to Seller; or _____.

31 Seller Signature _____ Date _____, _____ a.m. _____ p.m. ←
 32 Seller Signature _____ Date _____, _____ a.m. _____ p.m. ←

33 **BUYER'S ACKNOWLEDGMENT:**
 34 Buyer acknowledges that Buyer has not relied on any oral or written statements of Seller or of any Licensee(s) which are not expressly contained in the Sale
 35 Agreement as amended. Buyer acknowledges receipt of copies of the Sale Agreement and all subsequent counter offers, including this Buyer's Counter Offer,
 36 which Buyer has fully read and understands. If Seller's response to Buyer's Counter Offer is an acceptance of Buyer's counter offer that has occurred after the
 37 Counter Offer Deadline identified in the Agreement to Purchase Section above, Buyer (select only one) agrees does not agree, to be bound thereby.
 38 **(The failure to check either box shall constitute a rejection by Buyer of Seller's acceptance of Buyer's counter offer after said deadline.)**

39 Buyer Signature _____ Date _____, _____ a.m. _____ p.m. ←
 40 Buyer Signature _____ Date _____, _____ a.m. _____ p.m. ←

41 **RECEIPT OF EARNEST MONEY**
 42 (Use only if amount of earnest money is modified.)
 43 Selling Firm acknowledges receipt of earnest money from Buyer **NOT** previously received for in the sum of **\$25,000.00** evidenced by cash,
 44 check, promissory note payable on or before _____, which Selling Firm agrees to handle as provided in the Sale Agreement.

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE OF BUYER AND/OR SELLER AND DATE

© Oregon Real Estate Forms, LLC Rev 01/10

This form has been licensed for use by **Robert Rotticci** solely in accordance with the Terms of Service per OREF Online Forms.

No portion may be reproduced without express permission of Oregon Real Estate Forms, LLC

OREF 004-1



Sale Agreement #

45 Selling Licensee's signature _____

46 Selling Licensee **Skip Rotticci** Listing Licensee **Skip Rotticci**

47 Selling Firm Broker's Initials/Date _____ / _____ Listing Firm Broker's Initials/Date _____ / _____

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE OF BUYER AND/OR SELLER AND DATE

© Oregon Real Estate Forms, LLC Rev 01/10

This form has been licensed for use by **Robert Rotticci** solely in accordance with the Terms of Service per OREF Online Forms.

No portion may be reproduced without express permission of Oregon Real Estate Forms, LLC

OREF 004-2

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

AGENCY ACKNOWLEDGMENT

Buyer shall execute this Acknowledgment concurrent with the execution of the Agreement below and prior to delivery of that Agreement to Seller. Seller shall execute this Acknowledgment upon receipt of the Agreement by Seller, even if Seller intends to reject the Agreement or make a counter-offer. In no event shall Seller'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 Buyer and Seller 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) Seller Agent: **Skip Rotticci** of **Colliers International** firm (the "Selling Firm") is the agent of (check one):
 Buyer exclusively; Seller exclusively; both Seller and Buyer ("Disclosed Limited Agency").

(b) Buyer Agent: **Skip Rotticci** of **Colliers International** firm (the "Buying Firm") is the agent of (check one):
 Buyer exclusively; Seller exclusively; both Seller and Buyer ("Disclosed Limited Agency").

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

ACKNOWLEDGED

Buyer: **Housing Authority of Clackamas County**

(sign) _____ Date: _____

Seller: **Larch Investors, Inc.**

(sign)  _____ Date: 1/14/2021

OPTION OF PURCHASE AND SALE AGREEMENT AND RECEIPT FOR OPTION MONEY

1 This PURCHASE AND SALE AGREEMENT AND RECEIPT FOR OPTION DEPOSIT (this "Agreement")
2 dated **January 14, 2021**, for reference purposes only, shall be effective on the date when this Agreement has been
3 executed and delivered by Seller and Buyer (the "Execution Date"):

4
5 **BETWEEN: Larch Investors, Inc. an Oregon Domestic Business Corporation ("Seller")**

6 Address: **P.O. Box 398 Estacada, Oregon 97023**

7 Home Phone:

8 Office Phone:

9 Fax No.:

10 E-Mail: **cadakid@aol.com**

11
12 **AND: Housing Authority of Clackamas County ("Buyer")**

13 Address: **13930 Gain St. Oregon City, OR 97045**

14 Home Phone:

15 Office Phone: (503) 655-8676

16 Fax No.:

17 E-Mail: **vbrown@co.clackamas.or.us**

18
19 **1. Purchase and Sale.**

20
21 1.1 Generally. In accordance with this Agreement, Buyer agrees to buy and acquire from Seller, and
22 Seller agrees to sell to Buyer the following, all of which are collectively referred to in this Agreement as the
23 "Property:" (a) the real property and all improvements thereon generally described as the **Red Fox Motel, Little Fox**
24 **Storage, and land** located at **600 SW Beech Road** in the City of **Estacada**, County of **Clackamas**, Oregon legally
25 described on Exhibit A, attached hereto (the "Real Estate") (**if no legal description is attached, the legal**
26 **description shall be based on the legal description provided in the Preliminary Report (described in Section**
27 **5), subject to the review and approval of both parties hereto**), including all of Seller's right, title and interest in
28 and to all fixtures, appurtenances, and easements thereon or related thereto; and (b) any and all personal property
29 located on and used in connection with the operation of the Real Estate and owned by Seller, with the exception of
30 personal property in the manager's unit, (the "Personal Property") that Buyer has agreed, in writing, to accept upon
31 closing. If there are any Leases, see Section 21.1, below. The occupancies of the Property pursuant to any Leases
32 are referred to as the "Tenancies" and the occupants thereunder are referred to as "Tenants." If there is any
33 Personal Property, see Section 21.2, below.

34
35 1.2 Purchase Price. The purchase price for the Property shall be **Three Million One Hundred**
36 **Thousand dollars (\$3,100,000.00)** (the "Purchase Price"), subject to the terms and conditions of Section 2.1 below.
37 The Purchase Price shall be adjusted, as applicable, by the net amount of credits and debits to Seller's account at
38 Closing (defined below) made by Escrow Holder pursuant to the terms of this Agreement. The Purchase Price shall
39 be payable as follows:

40
41 1.2.1 Option Deposit.

42 (a) Within **three (3)** days of the Execution Date, Buyer shall deliver into Escrow (as
43 defined herein), for the account of Buyer, **\$ 25,000.00** as an Option deposit (the "Option Deposit") in the form of:

44 Promissory note (the "Note"); Check; or Cash or other immediately available funds.

45 {00045955;1}

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

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

58 1.2.2 Balance of Purchase Price. Buyer shall pay the balance of the Purchase Price at Closing
 59 by cash or other immediately available funds; or Other: **Cash and the proceeds of a grant from the**
 60 **Oregon Community Foundation.**
 61

62 1.3 Section 1031 Like-Kind Exchange. Each party acknowledges that either party (as applicable, the
 63 "Exchanging Party") may elect to engage in and affect a like-kind exchange under Section 1031 of the Internal
 64 Revenue Code of 1986, as amended, involving the Property (or any legal lot thereof) (a "1031 Exchange"). The non-
 65 exchanging party with respect to a 1031 Exchange is referred to herein as the "Cooperating Party." Buyer and Seller
 66 each hereby agrees to reasonably cooperate with the other in completing each such 1031 Exchange; provided,
 67 however, that such cooperation shall be at the Exchanging Party's sole expense and shall not delay the Closing for
 68 the Property. Accordingly, the Exchanging Party may assign the Exchanging Party's rights with respect to the
 69 Property (or any legal lot thereof) to a person or entity for the purpose of consummating a 1031 Exchange
 70 ("Intermediary"), provided that such assignment does not delay the Closing for the Property (or applicable legal lot
 71 thereof), or otherwise reduce or diminish the Exchanging Party's liabilities or obligations hereunder. Such
 72 assignment by the Exchanging Party shall not release the Exchanging Party from the obligations of the Exchanging
 73 Party under this Agreement. The Cooperating Party shall not suffer any costs, expenses or liabilities for cooperating
 74 with the Exchanging Party and shall not be required to take title to the exchange property. The Exchanging Party
 75 agrees to indemnify, defend and hold the Cooperating Party harmless from any liability, damages and costs arising
 76 out of the 1031 Exchange.
 77

78 2. Conditions to Purchase.

79
 80 2.1 Buyer's obligation to purchase the Property is conditioned on the following:

81
 82 This Agreement is contingent upon Buyer obtaining, at Buyer's sole expense, a written
 83 appraisal from a licensed appraiser within 45 days of the Execution Date stating that the appraised
 84 value of the Property is at least the Purchase Price. If the appraisal states that the appraised value
 85 of the Property is less than the above value, Buyer shall deliver a copy of such appraisal to Seller
 86 within 10 days after the above date and deliver written notice to Seller, either: a) terminating this
 87 Agreement in which event the Option Deposit shall be refunded to Buyer, thereby releasing Buyer
 88 and Seller from all further obligations under this Agreement; or b) negotiate a new purchase price
 89 on terms acceptable to both parties. If Buyer fails to timely obtain an appraisal, or having timely
 90 obtained such appraisal fails to timely deliver notice, this Agreement shall terminate, and the
 91 Option Deposit shall be refunded to Buyer;

92 Within **forty five (45)** days of the Execution Date, Buyer's approval of the
 93 results of (collectively, the "Feasibility Contingency"): (a) the Property inspection
 94 described in Section 3 below; (b) the document review described in Section 4 below; (c)
 95 Environmental Assessment and review; and (d) the other conditions described below:

{00045955;1}

96 Within **fifteen (15) days of the expiration of the Feasibility Contingency period**, Buyer's
 97 receipt of confirmation of satisfactory financing (the "Financing Condition") and approval of
 98 Release of Funds by the State of Oregon; and/or

99 Other **Notwithstanding any other provision of this Agreement, the closing**
 100 **of this transaction will be contingent on final written approval by the Board of**
 101 **Commissioners (the "Board") for the Housing Authority of Clackamas County to**
 102 **proceed with closing of the sale, as determined by the Board in its sole**
 103 **administrative discretion. Buyer shall have no obligation to purchase the**
 104 **Property, and no transfer of title to the Buyer may occur, unless and until the**
 105 **Board, as the responsible entity, has provided Buyer and/or Seller with a written**
 106 **determination that purchase of the Property may proceed, or that the purchase**
 107 **may proceed subject to any other conditions in this Agreement or only if certain**
 108 **conditions to address issues in the environmental or other reviews and**
 109 **inspections shall be satisfied before or after the purchase of the Property. The**
 110 **closing of this transaction and purchase of the Property will also be contingent**
 111 **upon the following:**

- 112 1. **Buyer's acceptance of the Title Report and all Exceptions identified**
 113 **thereon, as set forth in Section 5, below.**
- 114 2. **Appropriation by the Board of sufficient funds, as determined by Buyer in**
 115 **its sole discretion, to permit Buyer to proceed with closing of the sale and**
 116 **purchase of the Property.**
- 117 3. **Receipt by Buyer of any and all funding necessary to proceed with closing**
 118 **of the sale and purchase of the Property, as determined by the Buyer in its**
 119 **sole administrative discretion, from any and all State or Federal funding**
 120 **sources.**
- 121 4. **Completion of all inspections, environmental reviews, or other**
 122 **assessments of the Property that Buyer determines, in its sole discretion,**
 123 **to be necessary. Buyer shall use its best efforts to conclude the**
 124 **inspections, environmental reviews, or other assessments of the Property**
 125 **expeditiously. Buyer's inspections, environmental reviews, or other**
 126 **assessments are subject to an approved request for release of federal or**
 127 **state funds.**
- 128 5. **Acceptance by Buyer, in its sole discretion, of the results of any**
 129 **inspections, environmental reviews, or other assessments performed on**
 130 **the Property.**
- 131 6. **On or before Closing Buyer will use its best efforts to initiate and**
 132 **implement a mechanism to accommodate an IRC Section 1033 Exchange**
 133 **for the benefit of the Seller.**

134
 135
 136
 137 The Feasibility Contingency, Financing Condition or any other conditions noted shall be defined as "Conditions."

138
 139 2.2 If Buyer decides to proceed to Closing, Buyer will give written notice to Seller before the expiration
 140 of the Feasibility Contingency indicating that Buyer waives the Conditions set forth in Section 2.1 or that the
 141 Conditions set forth in Section 2.1 have been satisfied. If, for any reason Buyer fails to give written waiver of the
 142 Conditions set forth in Section 2.1, or state in writing that such Conditions have been satisfied, by notice to Seller
 143 before the expiration of the Feasibility Contingency, this Agreement shall be deemed automatically terminated, the
 144 Option Deposit shall be promptly returned to Buyer, and thereafter, except as specifically provided to the contrary
 145 herein, neither party shall have any further right or remedy hereunder. In addition, if Buyer is unable to receive a

{00045955;1}

146 release of funds from State or Federal funding sources necessary to purchase the Property, or if the Board does not
147 approve closing of the sale and purchase of the Property, this Agreement shall be deemed terminated and the
148 Option Deposit(s) shall be immediately returned to Buyer, and thereafter, except as specifically provided to the
149 contrary herein, neither party shall have any further right or remedy hereunder.
150

151 3. Property Inspection. Seller shall permit Buyer and its agents, at Buyer's sole expense and risk, to enter
152 the Property at reasonable times after reasonable prior notice to Seller and after prior notice by Seller to the Tenants
153 as required by the applicable Leases, if any, to conduct any and all inspections, tests, and surveys concerning the
154 structural condition of the improvements, all mechanical, electrical and plumbing systems, hazardous materials, pest
155 infestation, soils conditions, wetlands, Americans with Disabilities Act compliance, zoning, and all other matters
156 affecting the suitability of the Property for Buyer's intended use and/or otherwise reasonably related to the purchase
157 of the Property including the economic feasibility of such purchase. Subject to the limits of applicable law, Buyer
158 shall indemnify, hold harmless, and defend Seller from all liens, costs, and expenses, including reasonable
159 attorneys' fees and experts' fees, arising from or relating to Buyer's negligent acts or omissions during the
160 inspections, tests, and surveys authorized under this Section 3. This agreement to indemnify, hold harmless, and
161 defend Seller shall survive closing or any termination of the Agreement.
162

163 4. Seller's Documents. Within **ten (10)** business days after the Execution Date, Seller shall deliver to
164 Buyer or Buyer's designee, legible and complete copies of the following documents, including without limitation, a list
165 of the Personal Property, and other items relating to the ownership, operation, and maintenance of the Property to
166 the extent now in existence and to the extent such items are or come within Seller's possession or control: **Including
167 but not limited to business records as the pertain to the facility, plans, permits, and approvals, reports,
168 studies, assessments related to the Property, environmental assessments, soils assessments and
169 Geotechnical reports, correspondence from or to any governmental agency or regulatory agency regarding
170 the Property within the last 5 years, any recorded or unrecorded easement related to the Property.**
171

172 5. Title Insurance. Within **ten (10)** business days after the Execution Date, Seller shall cause to be
173 delivered to Buyer a preliminary title report from the title company (the "Title Company") selected by Seller (the
174 "Preliminary Report"), showing the status of Seller's title to the Property, together with complete and legible copies of
175 all documents shown therein as exceptions to title ("Exceptions"). Buyer shall have thirty **(30)** days after receipt of a
176 copy of the Preliminary Report and Exceptions within which to give notice in writing to Seller of any objection to such
177 title or to any liens or encumbrances affecting the Property. Within **five (5)** business days after receipt of such notice
178 from Buyer, Seller shall give Buyer written notice of whether it is willing and able to remove the objected-to
179 Exceptions. Without the need for objection by Buyer, Seller shall, with respect to liens and encumbrances that can
180 be satisfied and released by the payment of money, eliminate such exceptions to title on or before Closing. Within
181 **five (5)** business days after receipt of such notice from Seller (the "Title Contingency Date"), Buyer shall elect
182 whether to: (i) purchase the Property subject to those objected-to Exceptions which Seller is not willing or able to
183 remove; or (ii) terminate this Agreement. On or before the Closing Date (defined below), Seller shall remove all
184 Exceptions to which Buyer objects and which Seller agrees Seller is willing and able to remove. All remaining
185 Exceptions set forth in the Preliminary Report and those Exceptions caused by or agreed to by Buyer shall be
186 deemed "Permitted Exceptions."
187

188 6. Default; Remedies. Notwithstanding anything to the contrary contained in this Agreement, in the event
189 Buyer fails to deposit the Option Deposit(s) in Escrow strictly as and when contemplated under Section 1.2.1 or
190 Section 1.2 above, Seller shall have the right at any time thereafter, but prior to Buyer's deposit of the Option
191 Deposit to Escrow, to terminate this Agreement and all further rights and obligations hereunder by giving written
192 notice thereof to Buyer. If the conditions, if any, to Buyer's obligation to consummate this transaction are satisfied or
193 waived by Buyer and Buyer fails, through no fault of Seller, to close on the purchase of the Property, Seller's sole
194 remedy shall be to retain the Option Deposit(s) paid by Buyer. In the event Seller fails, through no fault of Buyer, to
195 close the sale of the Property, Buyer shall be entitled to pursue any remedies available at law or in equity, including

{00045955;1}

196 without limitation, the return of the Option Deposit(s) paid by Buyer or the remedy of specific performance. In no
197 event shall either party be entitled to punitive or consequential damages, if any, resulting from the other party's
198 failure to close the sale of the Property.

199

200 7. Closing of Sale.

201

202 7.1 Buyer and Seller agree the sale of the Property shall be consummated, in Escrow, on or before
203 or thirty (30) days after the conditions set forth in Sections 2.1, 3, 4 and 5 have been satisfied or waived in
204 writing by Buyer (the "Closing" or the "Closing Date"). The sale of the Property shall be deemed closed when the
205 document(s) conveying title to the Property is/are delivered and recorded and the Purchase Price is disbursed to
206 Seller.

207

208 7.2 At Closing, Buyer and Seller shall deposit with the Escrow Holder all documents and funds
209 required to close the transaction in accordance with the terms of this Agreement. At Closing, Seller shall
210 deliver a certification in a form provided by the Escrow Holder confirming whether Seller is or is not a "foreign
211 person" as such term is defined by applicable law and regulations.

212

213 7.3 At Closing, Seller shall convey fee simple title to the Property to Buyer by statutory warranty
214 deed or ___ (the "Deed"). At Closing, Seller shall cause the Title Company to deliver to Buyer a standard ALTA
215 form owner's policy of title insurance (the "Title Policy") in the amount of the Purchase Price insuring fee simple title
216 to the Property in Buyer subject only to the Permitted Exceptions and the standard preprinted exceptions contained
217 in the Title Policy. Seller shall reasonably cooperate in the issuance to Buyer of an ALTA extended form policy of
218 title insurance. Buyer shall pay any additional expense resulting from the ALTA extended coverage and any
219 endorsements required by Buyer.

220

221 8. Closing Costs; Prorations. Seller shall pay the premium for the Title Policy. If Buyer elects to obtain an
222 ALTA extended form policy of title insurance and/or any endorsements, Buyer shall pay the difference in the
223 premium relating to such election. Seller and Buyer shall each pay one-half (1/2) of the escrow fees charged by the
224 Escrow Holder. Any excise tax and/or transfer tax shall be paid in accordance with the local custom determined by
225 the Title Company and applicable law. Real property taxes for the tax year of the Closing, assessments (if a
226 Permitted Exception), personal property taxes, rents and other charges arising from existing Tenancies paid for the
227 month of Closing, interest on assumed obligations, and utilities shall be prorated as of the Closing Date. If
228 applicable, prepaid rents, security deposits, and other unearned refundable deposits relating to Tenancies shall
229 be assigned and delivered to Buyer at Closing. Seller Buyer N/A shall be responsible for payment of all
230 taxes, interest, and penalties, if any, upon removal of the Property from any special assessment or program.

231

232 9. Possession. Seller shall deliver exclusive possession of the Property, subject to the Tenancies (if any)
233 existing as of the Closing Date, to Buyer on the Closing Date or ___.

234

235 10. Condition of Property. Seller represents and warrants it is the sole owner of the Property and has authority to
236 convey fee simple title to the Property by statutory warranty deed. Seller represents that Seller has received no
237 written notices of violation of any laws, codes, rules, or regulations applicable to the Property ("Laws"). Seller
238 represents there are no suits, actions, arbitrations, judgments, legal, administrative or other proceedings, claims,
239 liens, or inquiries pending or threatened against the Property, or any portion thereof, which could affect Seller's right
240 or title to the Property, or any portion thereof, affect the value of the Property, or any portion thereof, or subject an
241 owner of the Property, or any portion thereof, to liability. Seller represents no work on the Property has been done or
242 will be done, or materials provided, giving rise to actual or impending mechanic's liens, private liens, or any other
243 liens, against the Property or any portion thereof. Seller represents that it has not entered into, and will not enter into,
244 any other contracts for the sale of the Property, nor do there exist nor will there be any rights of first refusal, options
245 to purchase the Property, leases, mortgages, licenses, easements, prescriptive rights, permits, or other rights or

{00045955;1}

246 agreement, written or oral, express or implied, which in any way affect or encumber the Property or any portion
 247 thereof. Seller represents that, to the best of Seller's knowledge without specific inquiry, Seller is not aware of any
 248 such violations or any concealed material defects in the Property. Unless caused by Buyer, Seller shall bear all risk
 249 of loss and damage to the Property until Closing, and Buyer shall bear such risk at and after Closing. Except for
 250 Seller's representations set forth in this Section 10 and the attached Exhibit E, Buyer shall acquire the Property "AS
 251 IS" with all faults and Buyer shall rely on the results of its own inspection and investigation in Buyer's acquisition of
 252 the Property. It shall be a condition of Buyer's Closing obligation that all of Seller's representations and warranties
 253 stated in this Agreement are materially true and correct on the Closing Date. Subject to any limitation period under
 254 applicable law, Seller's representations and warranties stated in this Agreement shall survive Closing of this
 255 Agreement.

256
 257 If Seller discovers any information or facts that would materially change the foregoing warranties and
 258 representations or the transactions contemplated by this Agreement, Seller shall immediately give written notice to
 259 Buyer of those facts and information. If any of the foregoing warranties and representations cease to be true before
 260 the close of Escrow, Seller shall be obligated to use its best efforts to remedy the problem, at its sole expense,
 261 before the close of Escrow. If the problem is not remedied before close of Escrow, Buyer may elect to either: (a)
 262 terminate this Agreement in which case Buyer shall have no obligation to purchase the Property and all Escrow
 263 payments, including the Option Deposit, shall be refunded to Buyer, or (b) defer the Closing Date for a period not to
 264 exceed ninety (90) days or until such problem has been remedied, whichever occurs first. If the problem is not
 265 remedied within that timeframe, Buyer may elect to terminate this Agreement and receive a refund of all Escrow
 266 payments, including the Option Deposit. Buyer's election in this regard shall not constitute a waiver of Buyer's rights
 267 in regard to any loss or liability suffered as a result of a representation or warranty not being true, nor shall it
 268 constitute a waiver of any other remedies provided in this Agreement or by law or equity.

269
 270
 271 11. Operation of Property. Between the Execution Date and the Closing Date, Seller shall continue to
 272 operate, maintain and insure the Property consistent with Seller's current operating practices. After Buyer has
 273 satisfied or waived the conditions to Buyer's obligation to purchase the Property, and the Option Deposit is non-
 274 refundable, Seller may not, enter into: (a) any new leases or occupancy agreements for the Property; (b) any
 275 material amendments or modification agreements for any existing leases or occupancy agreements for the Property;
 276 or (c) any service contracts or other agreements affecting the Property that are not terminable at the Closing.

277
 278 12. Assignment. Assignment of this Agreement: is PROHIBITED; is PERMITTED, without consent
 279 of Seller; is PERMITTED ONLY UPON Seller's written consent; is PERMITTED ONLY IF the assignee is an
 280 entity owned and controlled by Buyer. **Assignment is PROHIBITED, if no box is checked.** If Seller's written
 281 consent is required for assignment, such consent may be withheld in Seller's reasonable discretion. In the event of a
 282 permitted assignment, Buyer shall remain liable for all Buyer's obligations under this Agreement.

283
 284
 285
 286 13. Statutory Notice. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A
 287 FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE
 288 LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR
 289 SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS
 290 DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE
 291 PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER
 292 ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS
 293 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8,
 294 OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE
 295 TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING

{00045955;1}

296 DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED
297 LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT
298 OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE
299 ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND
300 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND
301 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

302
303 14. Cautionary Notice About Liens. UNDER CERTAIN CIRCUMSTANCES, A PERSON WHO
304 PERFORMS CONSTRUCTION-RELATED ACTIVITIES MAY CLAIM A LIEN UPON REAL PROPERTY AFTER A
305 SALE TO THE PURCHASER FOR A TRANSACTION OR ACTIVITY THAT OCCURRED BEFORE THE SALE. A
306 VALID CLAIM MAY BE ASSERTED AGAINST THE PROPERTY THAT YOU ARE PURCHASING EVEN IF THE
307 CIRCUMSTANCES THAT GIVE RISE TO THAT CLAIM HAPPENED BEFORE YOUR PURCHASE OF THE
308 PROPERTY. THIS INCLUDES, BUT IS NOT LIMITED TO, CIRCUMSTANCES WHERE THE OWNER OF THE
309 PROPERTY CONTRACTED WITH A PERSON OR BUSINESS TO PROVIDE LABOR, MATERIAL, EQUIPMENT
310 OR SERVICES TO THE PROPERTY AND HAS NOT PAID THE PERSONS OR BUSINESS IN FULL.

311
312 15. Brokerage Agreement. For purposes of Section 15 of this Agreement, the Agency Acknowledgement
313 on page 1 this Agreement is incorporated into this Agreement as if fully set forth herein. Seller agrees to pay a
314 commission to Selling Firm in the amount of either: **three and one half (3.5%)** of the Purchase Price or \$.
315 Such commission shall be divided between Selling Firm and Buying Firm such that Selling Firm receives one
316 **hundred percent (100%)** and Buying Firm receives zero percent (0 %). Seller shall cause the Escrow Holder to
317 deliver to Selling Firm and Buying Firm the real estate commission on the Closing Date or upon Seller's breach of
318 this Agreement, whichever occurs first.

319
320 16. Notices. Unless otherwise specified, any notice required or permitted in, or related to this Agreement
321 must be in writing and signed by the party to be bound. Any notice will be deemed delivered: (a) when personally
322 delivered; (b) when delivered by facsimile or electronic mail transmission (in either case, with confirmation of
323 delivery); (c) on the day following delivery of the notice by reputable overnight courier; or (d) on the day following
324 delivery of the notice by mailing by certified or registered U.S. mail, postage prepaid, return receipt requested; and in
325 any case shall be sent by the applicable party to the address of the other party shown at the beginning of this
326 Agreement, unless that day is a Saturday, Sunday, or federal or Oregon State legal holiday, in which event such
327 notice will be deemed delivered on the next following business day.

328
329 17. Miscellaneous. Time is of the essence of this Agreement. If the deadline under this Agreement for
330 delivery of a notice or performance of any obligation is a Saturday, Sunday, or federal or Oregon State legal holiday,
331 such deadline will be deemed extended to the next following business day. The facsimile and/or electronic mail
332 transmission of any signed document including this Agreement in accordance with Section 16 shall be the same as
333 delivery of an original. At the request of either party, the party delivering a document by facsimile and/or electronic
334 mail will confirm such transmission by signing and delivering to the other party a duplicate original document. This
335 Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall
336 constitute one and the same Agreement. This Agreement contains the entire agreement and understanding of the
337 parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous
338 agreements between them. Without limiting the provisions of Section 12 of this Agreement, this Agreement shall be
339 binding upon and shall inure to the benefit of Buyer and Seller and their respective successors and assigns. Solely
340 with respect to Section 15, Selling Firm and Buying Firm are third party beneficiaries of this Agreement. The person
341 signing this Agreement on behalf of Buyer and the person signing this Agreement on behalf of Seller each
342 represents, covenants and warrants that such person has full right and authority to enter into this Agreement and to
343 bind the party for whom such person signs this Agreement to its terms and provisions. Neither this Agreement nor a
344 memorandum hereof shall be recorded unless the parties otherwise agree in writing.

345 {00045955;1}

346 18. Governing Law. This Agreement is made and executed under, and in all respects shall be governed and
347 construed by, the laws of the State of Oregon. Any claim, action, or suit that arises out of or relates to the
348 performance of this Agreement shall be brought and conducted solely and exclusively within the Circuit Court for
349 Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be
350 brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District
351 Court for the District of Oregon. In no event shall this section be construed as a waiver by Buyer of any form of
352 defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh
353 Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.
354 All parties, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced
355 in this section.

356
357 19. Lease(s) and Personal Property.

358
359 19.1 Leases. Intentionally Omitted.

360
361 19.2 Personal Property. If applicable, and upon written consent by Buyer, Seller shall convey
362 all Personal Property to Buyer by executing and delivering to Buyer at Closing through Escrow (as defined below), a
363 Bill of Sale substantially in the form of Exhibit C attached hereto (the "Bill of Sale"). A list of such Personal Property
364 shall be attached to the Bill of Sale.

365
366 20. Residential Lead-Based Paint Disclosure. IF THE PROPERTY CONSISTS OF RESIDENTIAL
367 HOUSING BUILT PRIOR TO 1978, BUYER AND SELLER MUST COMPLETE THE LEAD-BASED PAINT
368 DISCLOSURE ADDENDUM ATTACHED HERETO AS EXHIBIT D.

369
370 21. Addenda; Exhibits. The following named addenda and exhibits are attached to this Agreement and
371 incorporated within this Agreement:

- 372 Exhibit A – Legal Description of Property **[REQUIRED]**
- 373 Exhibit B – Assignment of Lessor's Interest under Lease (if applicable)
- 374 Exhibit C – Bill of Sale (if applicable)
- 375 Exhibit D – Lead Paint Disclosure Addendum (if applicable)
- 376 Exhibit E – AS IS Exceptions (if applicable)

377
378
379 22. Time for Acceptance. If Seller does not return to Buyer a signed and dated version of this Agreement
380 on or before 5:00 PM Pacific Time on **January 20, 2021**, then the Option Deposit shall be promptly refunded to
381 Buyer and thereafter, neither party shall have any further right or obligation hereunder.

382
383 23. OFAC Certification. The Federal Government, Executive Order 13224, requires that business persons
384 of the United States not do business with any individual or entity on a list of "Specially Designated nationals and
385 Blocked Persons" - that is, individuals and entities identified as terrorists or other types of criminals. Buyer
386 hereinafter certifies that:

387
388 23.1 It is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation
389 named by any Executive Order or the United States Treasury Department as a terrorist, specially designated
390 national and/or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is
391 enforced or administered by the Office of Foreign Assets Control; and

392
393 23.2 It has not executed this Agreement, directly or indirectly on behalf of, or instigating or
394 facilitating this Agreement, directly or indirectly on behalf of, any such person, group, entity, or nation.

395
{00045955;1}

396 Subject to the limits of applicable law, Buyer hereby agrees to defend, indemnify, and hold harmless Seller from and
397 against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney's fees and costs)
398 arising from or related to any breach of the foregoing certification. This certification by Buyer and agreement to
399 indemnify, hold harmless, and defend Seller shall survive Closing or any termination of this Agreement.
400
401

402 24. Debt Limitation. This Agreement is expressly subject to the debt limitation of Oregon counties set forth in Article
403 XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any
404 provisions herein which would conflict with law are deemed inoperative to that extent
405

406 25. Risk of Loss, Condemnation. Seller shall bear the risk of all loss or damage to the Property from all causes,
407 until the Property is Closed pursuant to Section 7. If, before the Property is Closed pursuant to Section 7, all or part
408 of the Property is damaged by fire or by any other cause of any nature or if all or any portion of the Property is taken
409 by condemnation, or if any such condemnation is threatened, Seller shall give Buyer written notice of such event.
410 Buyer may terminate this Agreement by giving written notice to Seller within fifteen (15) days following receipt by
411 Buyer of written notice from Seller of such casualty or condemnation and the Option Deposit will be returned to
412 Buyer.
413

414 CONSULT YOUR ATTORNEY. THIS DOCUMENT HAS BEEN PREPARED FOR SUBMISSION TO YOUR
415 ATTORNEY FOR REVIEW AND APPROVAL PRIOR TO SIGNING. NO REPRESENTATION OR
416 RECOMMENDATION IS MADE BY THE COMMERCIAL ASSOCIATION OF BROKERS OREGON/SW
417 WASHINGTON OR BY THE REAL ESTATE AGENTS INVOLVED WITH THIS DOCUMENT AS TO THE LEGAL
418 SUFFICIENCY OR TAX CONSEQUENCES OF THIS DOCUMENT.
419

420 THIS FORM SHOULD NOT BE MODIFIED WITHOUT SHOWING SUCH MODIFICATIONS BY REDLINING,
421 INSERTION MARKS, OR ADDENDA.
422

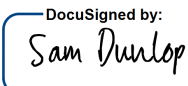
423 Buyer **HOUSING AUTHORITY OF CLACKAMAS COUNTY**
424

425 By: _____
426 Name: **Jill Smith**
427 Title: **Director**
428

429 Date: _____
430

431 Seller Acceptance. By execution of this Agreement, Seller agrees to sell the Property on the terms and conditions in
432 this Agreement.
433

434 Seller: **LARCH INVESTORS, Inc.**
435

436 DocuSigned by:

437 By: _____
438 Name: **Samuel D. Dunlop**
439 Its: **President**

440 **1/14/2021**
441 Date: _____
442
443
444
445

{00045955;1}

446
447
448
449
450
451
452

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: 1/14/2021
• Execution Date (Introductory paragraph):	
• Option Deposit due date (Section 1.2.1(a)):	<u>Within 3 days following execution of this Agreement</u>
• Seller shall open Escrow with the Escrow Holder (Section 1.2.1(a)):	Within 3 days following execution of this Agreement
• Seller shall deliver Seller's documents to Buyer (Section 4):	Within 10 days after the Execution Date
• Seller shall deliver Preliminary Report to Buyer (Section 5):	Within <u>10</u> days after the Execution Date
• Buyer's title objection notice due to Seller (Section 5):	Within 30 days after receipt of the Preliminary Report
• Seller's title response due to Buyer (Section 5):	Within 5 days after receipt of Buyer's title objection notice
• Title Contingency Date (Section 5):	Within 5 days after receipt of Seller'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 15 days of the expiration of Feasibility Contingency Period
• By this date, Buyer must deliver the notice to proceed contemplated in Section 2.2.	Within 60 days of the Execution Date
• Closing Date (Section 7.1):	<u>Within 30 days following expiration of the Financing Conditions Period</u>

453
454
455
456

Initials of Buyer: _____


Initials of Seller: 

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

TO BE PROVIDED BY FIRST AMERICAN TITLE COMPANY

1
2
3
4
5

To include Assessor's Parcel Numbers:

34E29AA08701, 34E29AA09200, 34E29AA09300, 34E29AA08600, 34E29AA0900,
34E29AA08900, 34E29AA09100, 34E29AA08800, 34E29AA08700, and 34E29AA07500.

EXHIBIT C
BILL OF SALE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

Larch Investors, Inc., an **Oregon Domestic Business Corporation** ("Seller"), 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** ("Buyer"), its successors and/or assigns:

All of the personal property owned by Seller (collectively, "Personal Property") located in or on the real property located at **600 SW Beech Road** in the **City of Estacada**, County of **Clackamas**, State of **Oregon**, which Personal Property is more particularly described on Schedule 1 attached hereto and incorporated herein by reference.

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

IT IS UNDERSTOOD AND AGREED THAT BUYER HAS EXAMINED THE PERSONAL PROPERTY HEREIN SOLD AND THAT THIS SALE IS MADE "AS IS, WHERE IS" AND SELLER 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.

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

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

SELLER: **LARCH INVESTORS, Inc.**

BUYER: **HOUSING AUTHORITY OF CLACKAMAS COUNTY**

EXHIBIT D

LEAD-BASED PAINT DISCLOSURE ADDENDUM

(TO BE COMPLETED IF THE PROPERTY CONSISTS OF RESIDENTIAL HOUSING BUILT PRIOR TO 1978)

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

LEAD WARNING STATEMENT

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

AGENT'S ACKNOWLEDGMENT

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

SELLER'S DISCLOSURE

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

Seller has knowledge of lead-based paint and/or lead-based paint hazards in the housing (explain).

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

.2 Records and reports available to Seller (check one below):

Seller has provided Buyer with all available records and reports relating to lead-based paint and/or lead-based paint hazards in the housing (list documents below):

Seller has no reports or records relating to lead-based paint and/or lead-based paint hazards in the housing.

{00045955;1}

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 Seller's Disclosure above, may be treated
51 as an original.

Seller Agent _____ Date _____ ← Seller _____ Date _____ ←
Selling Firm _____ Seller _____ Date _____ ←

52

53

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

55

56

BUYER'S ACKNOWLEDGMENT

57

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

59

60

.2 **Buyer has received the pamphlet "Protect Your Family from Lead in Your Home."**

61

62

.3 **Buyer has (check one below):**

63

64

65

66

67

68

69

70

71

72

73

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

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

Buyer _____ Date _____ ←

Buyer _____ Date _____ ←

74

75

76

CERTIFICATION OF ACCURACY

77

78

79

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

Buyer _____ Date _____ ← Seller _____ Date _____ ←

Buyer _____ Date _____ ← Seller _____ Date _____ ←

Buyer Agent _____ Date _____ ← Seller Agent _____ Date _____ ←

Buying Firm _____ Seller Firm _____

80

LINES WITH THIS SYMBOL ← REQUIRE A SIGNATURE

EXHIBIT E
AS IS EXCEPTIONS

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

None