



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

May 5, 2022

Board of County Commissioners
Clackamas County

Approval of a Disposition Agreement with One Monarch Center, LLC for the Sale of Development Agency Property for \$870,489.00. County General Funds are not involved

Purpose/Outcome	The Disposition Agreement outlines the terms and conditions for the sale of Agency property to One Monarch Center, LLC.
Dollar Amount and Fiscal Impact	Upon Closing, the Agency will receive \$870,489.00 minus agreed upon closing costs from the One Monarch Center, LLC
Funding Source	Not Applicable
Duration	Closing on the sale must occur within 30 days after a 180-day due diligence period.
Previous Board Action/Review	The Board directed staff to proceed with disposition of the property at an Executive Session on August 17, 2021.
Strategic Plan Alignment	1. How does this item align with your department's Strategic Business Plan goals? This aligns with DTD's mission to provide businesses an opportunity to invest in a healthy, safe and livable community. 2. How does this item align with the County's Performance Clackamas goals? This transaction will help grow a vibrant economy and builds public trust through good government.
Counsel Review	Date of Counsel review: April 13, 2022 Name of County Counsel performing review. Nathan Boderman
Procurement Review	(Please check yes or no for procurement review. If the answer is "no," please provide an explanation.) 1. Was the item processed through Procurement? yes <input type="checkbox"/> no <input checked="" type="checkbox"/> 2. If no, provide brief explanation: This item is a Disposition Agreement
Contact Person	David Queener, Development Agency Program Supervisor 503.742.4322

BACKGROUND:

The Development Agency owns a 1.18 acre parcel located on SE 93rd Avenue between Sunnyside Road and Sunnybrook Boulevard. One Monarch Center, LLC currently leases the property in order to provide needed parking for their hotel and conference center. They presented an offer to purchase the property, continue operating and maintaining it as parking, and to redevelop it in the future when the market allows.

Staff presented the offer to the Board at an Executive Session on August 17, 2021. The Board directed staff to proceed with the sale that is be based on an appraised value.

An appraisal determined a value of \$870,489.00. One Monarch Center, LLC made a full price offer. The Disposition Agreement outlines the terms and conditions that must be met by both parties prior to closing on the sale.

RECOMMENDATION:

Staff respectfully recommends that the Board approve and execute the Disposition Agreement between the Development Agency and One Monarch Center, LLC.

Sincerely,

David Queener

David Queener
Development Agency Program Supervisor

DISPOSITION AGREEMENT

THIS DISPOSITION AGREEMENT (this “**Agreement**”) is by and between the CLACKAMAS COUNTY DEVELOPMENT AGENCY, the Urban Renewal Agency of Clackamas County, a corporate body politic (the “**Agency**”), and One Monarch Center, LLC, an Oregon limited liability company (the “**Developer**”). The latest date on which this Agreement is signed by Agency and Developer (as indicated below their signatures herein) is referred to in this Agreement as the “**Effective Date.**”

RECITALS

A. The Developer has leased the Property, defined below, from the Agency since 1997 and has since that time developed and maintained the Property for parking to support the use and expansion of the hotel and conference center that is located on the adjacent parcel to the east. The parties acknowledge that the Property and adjacent parcel containing the hotel and conference center have been managed as a consolidated operation and that the additional parking area on the Property has allowed the adjacent hotel and conference center to expand its services beyond what would have been otherwise feasible or permitted.

B. This Agreement is therefore entered into by the Agency in furtherance of its objectives under the Clackamas Town Center Area Development Plan (“**Plan**”) by providing for the disposition of certain real property for the development of the "Property" (as hereinafter defined) as provided in this Agreement. The Agency has found that the disposition of the Property pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of the County of Clackamas, Oregon (the “**County**”) and the Plan and the health safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements.

C. The Plan was originally approved and adopted on December 30, 1980 by Order No. 80-2685 of the Clackamas County Commission, as amended from time to time, and the Plan, together with such amendments are incorporated herein by this reference. Agency represents and warrants that the Plan, as it presently exists, is in full force and effect. A copy of the Plan is on file in the Clackamas County Department of Transportation and Development.

D. Agency desires to sell the Property to Developer, and Developer desires to purchase the Property from Agency, on and subject to the terms and conditions set forth in this Agreement.

AGREEMENT

ARTICLE 1: SUBJECT OF AGREEMENT

Section 1.1: The Property.

The "**Property**" consists of 1.18 acres of land owned by the Agency located on SE 93rd Avenue between Sunnyside Road and Sunnybrook Boulevard, as more particularly shown on the map attached hereto as **Exhibit "A"** and more particularly described in the legal description attached hereto as **Exhibit "B."**

Section 1.2: The Agency.

The Agency is a corporate body politic of the State of Oregon, as the duly designated Urban Renewal Agency of Clackamas County, Oregon, exercising governmental functions and powers and organized and existing under Oregon Revised Statutes, Chapter 457. The term "**Agency**" as used in this Agreement includes the Urban Renewal Agency of Clackamas County, Oregon and any assignee of or successor to its rights, powers, duties and responsibilities. The principal offices and mailing address of the Agency for purposes of this Agreement is:

Clackamas County Development Agency
c/o Development Agency Program Supervisor
150 Beaver Creek Road
Oregon City, OR 97045
Attn: Dave Queener
Email: DavidQue@co.clackamas.or.us

Section 1.3: The Developer.

The term "**Developer**" as used in this Agreement is One Monarch Center, LLC or any permitted assignee of Developer, as provided in Section 1.6 below. The principal office and mailing address of the Developer for purposes of this Agreement is:

One Monarch Center, LLC
12566 SE 93rd Ave.
Clackamas, OR 97015
Attn: Samuel E. Allen
Email: kfessler@monarchhotel.cc

Section 1.4: Escrow Officer/Title Company.

The principal office and mailing address of the Escrow Officer and Title Company for purposes of this Agreement is:

Chicago Title Company of Oregon
10151 SE Sunnyside Road, Suite 300
Clackamas, OR 97015
Attn:
Email:

Section 1.5: Prohibition Against Change in Ownership, Management and Control of Developer.

The qualifications and identity of Developer and its Manager are of particular concern to Agency and were essential to the selection of Developer by Agency for disposition of the Property. No voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement, except as expressly set forth herein. All assignments of this Agreement shall require written consent of Agency, which consent shall not be unreasonably withheld, conditioned or delayed. Subject to the notice and opportunity to cure provisions set forth in Section 7 below, this Agreement may be terminated by Agency at its option before Closing if there is any voluntary change in the ownership, management or control of Developer or any successor-in-interest of Developer inconsistent with this Agreement.

ARTICLE 2: DEVELOPER'S DUE DILIGENCE

Section 2.1: Title Commitment.

Within twenty (20) days after the Effective Date, Agency will cause the Title Company (defined in Section 3.3 below) to furnish to Developer its preliminary title report on the Property (the "**Preliminary Commitment**"), along with copies of all documents that give rise to exceptions listed in the Preliminary Commitment (the "**Underlying Documents**"). Within thirty (30) days of receiving the last of the Preliminary Commitment, the Underlying Documents and the Initial Survey (defined in Section 2.2 below), Developer will give Agency written notice setting forth the title exceptions that are not acceptable to Developer (the "**Unacceptable Exceptions**"). All exceptions other than those timely objected to will be deemed acceptable to Developer as "**Permitted Exceptions.**" Agency will have twenty (20) days after receiving Developer's notice within which to notify Developer in writing whether Agency is willing or able to eliminate the Unacceptable Exceptions. If Agency agrees to eliminate the Unacceptable Exceptions, Agency will be obligated to do so on or before Closing (defined in Section 3.3 below) at its cost. If Agency is unwilling or unable to eliminate the Unacceptable Exceptions, Developer may terminate this Agreement or elect to accept the Unacceptable Exceptions and proceed to close escrow by giving written notice to Agency within ten (10) days of receiving notice from Agency. If Developer does not provide timely written notice of its election to terminate this Agreement, it will be deemed to have waived its objections to the Unacceptable Exceptions and all of the Unacceptable Exceptions shall become Permitted Exceptions. Developer shall have the same rights as set forth above to approve (or disapprove and terminate this Agreement with respect to) any subsequent title matters or exceptions that are disclosed in any subsequent title reports that may be issued after the receipt of the initial Preliminary Commitment. Upon termination of this Agreement by Developer as provided in this Section 2.1, the Earnest Money shall be refunded to Developer and neither party shall have any further obligations or liability hereunder, except for those obligations herein that expressly survive such termination.

Section 2.2: Survey.

Within twenty (20) days after the Effective Date, Agency shall deliver the most recent survey, if any, in its possession to Developer (the “**Initial Survey**”). At its option and expense, Developer may order an update to the Survey (or a new survey) (the Initial Survey, as updated or a new survey, as applicable, is referred to herein as the “**Survey**”). If applicable, Developer shall deliver a copy of any new or updated survey to Agency promptly upon receipt. Within thirty (30) days after receipt of the Initial Survey, Developer may deliver to Agency, in writing, any objections to any matters shown on the Survey (the “**Objections**”). Developer’s failure to timely object to any such matters shall be deemed to constitute Developer’s approval thereof and such shall then become Permitted Exceptions, as defined in Article 2. If Developer timely objects to any matters shown on the Survey, then Agency shall have the right, but not the obligation, to agree in writing to cure before Closing such Objections, or to decline to cure such Objections. Agency will have twenty (20) days after receiving Developer’s Objections within which to notify Developer in writing whether Agency is willing or able to cure the Objections. If Agency agrees to cure the Objections, Agency will be obligated to do so by Closing at its cost. If Agency is unwilling or unable to cure the Objections, Developer may terminate this Agreement or elect to accept the Objections and proceed to close escrow by giving written notice to Agency within ten (10) days of receiving notice from Agency. If Developer does not provide timely written notice of its election to terminate this Agreement, it will be deemed to have waived its Objections and all of the Objections shall become Permitted Exceptions. Notwithstanding anything to the contrary above, although Developer may elect to update the Initial Survey or obtain a new survey, Developer is not obligated to do so. Developer shall have the same rights as set forth above to approve (or disapprove and terminate this Agreement with respect to) any matters shown on an update to the Initial Survey, or on a new survey, that may be ascertained after the receipt of the Initial Survey, so long as any Survey is completed, and objections delivered to Agency, no less than sixty (60) days prior to the expiration of the Due Diligence Period, as defined in Section 2.4 below. If, as a condition of issuing the owner’s title insurance policy, as described in Section 3.5 below, or any extended coverage or endorsement requested by Developer, the Title Company requires an ALTA Survey of the Property (the “**ALTA Survey**”), then Developer shall secure the ALTA Survey at Developer’s sole expense and shall provide a copy of the ALTA Survey to Agency. Upon termination of this Agreement by Developer as provided above, the Earnest Money shall be refunded to Developer and neither party shall have any further obligations or liability hereunder, except for those obligations herein that expressly survive such termination.

Section 2.3: Property Documents.

Within twenty (20) days after the Effective Date, Agency shall deliver all documents and materials which Agency has in its possession (or access to) which concern the Property or its development, including but not limited to: tax and assessment documents, existing surveys, environmental assessments; soils or geotechnical reports; wetland reports, analyses and permits; traffic studies; development feasibility studies; copies of use and development permits; and any easements, covenants, conditions, restrictions, maintenance agreements, development standards

applicable to the Property and not otherwise set forth herein (except those that appear in zoning codes, comprehensive plans or other readily available government planning documents).

Section 2.4: Due Diligence Period.

Subject to extension as provided herein, Developer shall have a period of one hundred eighty (180) days after the Effective Date (the “**Initial Due Diligence Period**”, which period, as may be extended by mutual agreement of the parties, is referred to herein as the “**Due Diligence Period**”) to conduct its due diligence investigation of the Property and to satisfy itself concerning all aspects of the Property and the suitability of the Property for Developer’s intended uses, including without limitation the physical condition of the Property, zoning, access, utilities, and all legal rights, titles, and interests. During the period from the Effective Date until the earlier of Closing or termination of this Agreement, Developer and its employees, agents, consultants, contractors, prospective tenants or purchasers, and lenders may enter the Property to perform such tests, inspections and studies as Developer may deem necessary, including without limitation environmental assessments. Developer hereby indemnifies and holds the Agency and the County, and their elected officials, officers, agents and employees harmless from any injury or damages arising out of any activity of Developer, its agents, employees and contractors performed and conducted on the Property for the purposes of completing its due diligence. Due diligence may include, without limitations, physical inspections of the Property; soils investigations and coring; Phase I and, as necessary, Phase II environmental assessments; and examination of survey and title exceptions. Developer shall restore the Property to its pre-examination state after conducting such due diligence at its own expense. Developer agrees to provide the Agency with copies of all third party reports concerning the condition of the Property obtained or produced as a result of its due diligence investigation. On or before expiration of the Due Diligence Period, Developer may provide Agency with a notice approving its due diligence investigation of the Property and electing to proceed with acquisition of the Property as provided herein (the “**Approval Notice**”). Alternatively, Developer at its option may provide notice to Agency of its election to terminate this Agreement prior to the expiration of the Due Diligence Period. If Developer fails to provide either the Approval Notice or a termination notice prior to expiration of the Due Diligence Period, Developer shall be deemed to have elected to proceed with this Agreement as if an Approval notice were given to Agency prior to expiration of the Due Diligence Period. In the event of termination (or deemed termination), except as otherwise expressly provided herein, neither party shall have any further rights, duties or obligations hereunder and the Earnest Money shall be fully and immediately refunded to Developer.

Section 2.5: Governmental Approvals.

Prior to the Closing Date, Agency agrees to join in executing any applications reasonably required by Developer in connection with its attempts to obtain governmental permits and approvals for its intended development or use of the Property. Developer shall reimburse Agency for its actual, reasonable out-of-pocket expenses (if any) incurred in cooperating with Developer’s attempts to obtain governmental permits or approvals; provided Agency gives Developer notice of the amount and purpose of all such expenses prior to their being incurred by

Agency. Agency's agreement to cooperate with Developer in connection with Developer's governmental approvals and any other provision of this Agreement shall not be construed as making either party an agent or partner of the other party.

Section 2.6: No Liens.

Prior to Closing, the Developer shall not place or allow to be placed on the Property or any part thereof any mortgage, trust deed, encumbrance or lien, unless specifically pre-approved in writing by the Agency. The Developer shall remove or have removed any levy, lien or attachment made on the Property, or any part thereof, or provide assurance of the satisfaction therein within a reasonable time, but in any case no later than thirty (30) days of such levy, lien or attachment coming into existence without permission prior to Closing. Developer may contest or challenge the validity or amount of any such lien or encumbrance provided such challenge or contest is taken in accordance with applicable law and within a reasonable time, so long as Developer provides security satisfactory to Agency protecting the Agency's interests, or (in the case of construction liens) bonds against the liens as permitted by statute.

ARTICLE 3: DISPOSITION OF PROPERTY

Section 3.1: Purchase and Sale of the Property; Total Purchase Price.

In accordance with, and subject to all the terms, covenants, and conditions of this Agreement, the Agency agrees to sell to Developer, or Developer's permitted assignee of this Agreement, and Developer agrees to purchase from Agency, the Property, for the amount of Eight Hundred Seventy Thousand Four Hundred Eighty Nine and no/100 Dollars (\$870,489.00) (the "**Purchase Price**").

Section 3.2: Earnest Money Deposit.

Developer shall, within ten (10) business days after the Effective Date, or three (3) business days of the opening of Escrow, whichever is sooner, deliver to the Title Company (defined below) the sum of Fifty Thousand and no/100 Dollars (\$50,000.00) as earnest money in cash or by wire transfer of immediately available funds (the "**Earnest Money**") to be held and applied in accordance with the terms of this Agreement. If Developer fails to timely deposit the Earnest Money as provided above, this Agreement shall terminate and neither Developer nor Agency shall have any further obligations to one another. The Earnest Money will be held in an interest bearing account approved by Developer, and all interest earned thereon shall be added to and become part of the Earnest Money. The Earnest Money will be applied to the Purchase Price due by Developer at Closing. If this Agreement terminates prior to expiration of the Due Diligence Period for any reason, except the default of Developer under the terms of this Agreement, the Earnest Money and any accrued interest shall be fully and immediately refunded to Developer. Upon expiration of Developer's Due Diligence Period, the Earnest Money, and any accrued interest, shall become nonrefundable, but shall be credited toward payment of the Purchase Price at Closing.

Section 3.3: Closing.

This transaction shall close (the “**Closing**”) on a date to be selected by Developer and reasonably acceptable to Agency that is on or before thirty (30) days after the expiration or Developer’s Approval Notice of the Due Diligence Period (whichever is sooner, and as may be extended as provided herein, the “**Closing Date**”). Closing shall occur in escrow on or before the Closing Date by and through a mutually acceptable escrow officer (the “**Escrow Officer**”) of Chicago Title Insurance Company of Oregon, 10151 SE Sunnyside Rd. #300, Clackamas, OR 97015 (the “**Title Company**”), in accordance with the terms and conditions of this Agreement. Developer agrees, subject to the terms and conditions hereunder for its benefit, to accept conveyance of the Property and pay to Agency through Escrow at Closing the Purchase Price for the Property by wire transfer of immediately available funds, subject to the credits, debits, prorations and adjustments provided for in this Agreement, including a credit for the Earnest Money. The Agency and the Developer agree to perform all acts necessary to close this transaction in accordance with the terms of this Agreement. Each party may submit escrow instructions to the Escrow Officer consistent with this Agreement. Once submitted, instructions may not be withdrawn or altered without the consent of both the Agency and the Developer.

Section 3.4: Deed Form.

At Closing, the Agency shall convey to Developer fee simple title to the Property by Bargain and Sale Deed, duly executed, acknowledged and delivered in the form of **Exhibit “D”** attached hereto (the “**Deed**”), free and clear of all liens, claims and encumbrances other than the Permitted Exceptions. Conveyance of title to the Property to Developer shall conclusively establish satisfaction or waiver of all closing conditions set forth in Article 4 herein.

Section 3.5: Title Insurance; Prorations; Adjustments; Commissions.

3.5.1 Agency shall pay for the standard owner’s title insurance policy. Developer shall be responsible for obtaining and paying for all other endorsements or extended coverage requested by Developer. At Developer’s request, Agency will execute and deliver at Closing an affidavit certifying that there are no unrecorded leases or agreements affecting the Property, there are no parties in possession of the Property, that there are no mechanic’s or statutory liens against the Property, and as to such other matters as may be reasonably requested by the Title Company or Developer for issuance of extended coverage title insurance in favor of Developer.

3.5.2 Real property taxes and assessments and other Property expenses for the current year (if any) shall be prorated and adjusted between the parties as of the Closing Date. Agency shall be responsible for any and all real property taxes for the period of time prior to the recording of the Deed and the Developer shall be responsible for such taxes for the period of time on and subsequent thereto. Each party shall pay one half of the Escrow fees. Fees for preparing the Deed and Recording fees shall be paid by the Agency. Developer shall be responsible for all professional fees incurred by Developer in connection with its investigation of the Property, and payment of its respective legal fees and expenses. Agency shall pay the costs of its own attorneys, consultants and advisors with respect to this transaction.

Section 3.6: Events of Closing.

Provided the Escrow Officer has received sums equal to the Purchase Price, as well as any costs, prorations and adjustments as provided herein, and is in a position to cause the title insurance policy to be issued as described herein, this transaction shall be closed on the Closing Date as follows:

3.6.1 The Escrow Officer shall perform the prorations and adjustments described in Section 3.5, and the parties shall be charged and credited accordingly.

3.6.2 Developer shall pay the entire Purchase Price to Agency through Escrow by wire transfer or cashier's check of immediately available funds, adjusted for the charges, prorations, adjustments and credits set forth in this Agreement, including a credit for the Earnest Money.

3.6.3 Any liens required to be paid by Agency at closing shall be paid and satisfied of record at Agency's expense.

3.6.4 Agency shall convey the real property to Developer by execution and delivery of the Deed, subject only to the Permitted Exceptions.

3.6.5 The Title Company shall be irrevocably committed to issue the policy described in Section 4.2.5, upon recordation of the Deed.

3.6.6 Agency shall deliver Agency's Certification of Nonforeign Status as provided in Section 8.14 herein.

3.6.7 The parties will take such further actions and execute and deliver such other instruments as may be reasonably necessary or desirable to consummate the transactions contemplated by this Agreement.

Section 3.7: Possession.

Possession of the Property shall be delivered to the Developer concurrently with the conveyance of title on the Closing Date. The Developer shall accept title and possession on the Closing Date, unless such date is extended as provided herein.

Section 3.8: Conditions of the Property.

The Developer acknowledges that it is purchasing the Property "As Is," except as otherwise provided herein.

ARTICLE 4: CLOSING CONDITIONS

Section 4.1: Agency's Closing Conditions.

Agency's obligations to convey the Property under this Agreement are expressly conditioned upon the satisfaction of the following conditions:

4.1.1 The fulfillment by Developer of all its obligations and covenants under this Agreement to be performed on or before the Closing Date, including but not limited to the deposit of the Purchase Price required for conveyance of the Property with the Title Company at or before Closing, and the attachment of all exhibits to the Post-Closing Agreement as of that time.

4.1.2 That all of Developer's representations and covenants set forth in this Agreement are true and correct in all material respects on the Closing Date.

The foregoing conditions may be waived only by Agency. If any one or more of such conditions are not satisfied as of the Closing Date, Agency at its option may terminate this Agreement, in which event the Earnest Money shall be refunded to Developer and neither party shall have any further obligation or liability hereunder (except for such obligations that expressly survive such termination), except to the extent such condition is not satisfied solely as a result of a breach of this Agreement by Developer, in which case the provisions of Section 7.1 below shall apply.

Section 4.2: Developer's Closing Conditions.

Developer's obligations to close the purchase of the Property under this Agreement are expressly conditioned upon the satisfaction of the following conditions:

4.2.1 Developer giving the Approval Notice, or being deemed to have given its approval pursuant to Section 2.4.

4.2.2 The fulfillment by Agency of all its obligations and covenants under this Agreement to be performed on or before the Closing Date.

4.2.3 That all of Agency's representations and covenants set forth in this Agreement are true and correct in all material respects on the Closing Date.

4.2.4 There being no change in the condition or legal requirements of the Property, whether directly or indirectly, including any dumping of refuse or environmental contamination, after Effective Date, and that no legal action or proceeding (including condemnation) affecting the Property or Developer's intended use thereof shall have been threatened or commenced.

4.2.5 That the Title Company shall be irrevocably committed to issue an owner's title insurance policy, as described in Section 3.5 above, insuring that fee simple title is vested in Developer as of the Closing Date, in the amount of the Purchase Price, subject only to the Permitted Exceptions.

The foregoing conditions may be waived only by Developer. If any one or more of such conditions are not satisfied as of the Closing Date, Developer at its option may terminate this Agreement, in which event the Earnest Money shall be refunded to Developer and neither party shall have any further obligation or liability hereunder (except for such obligations that expressly survive such termination), except to the extent such condition is not satisfied solely as a result of a breach of this Agreement by Agency, in which case the provisions of Section 7.2 below shall apply.

ARTICLE 5: RESERVED

Reserved

ARTICLE 6: REPRESENTATIONS AND WARRANTIES

Section 6.1: Developer's Representations and Covenants.

Developer represents, warrants and covenants as follows:

6.1.1: Developer is an Oregon limited liability company, duly organized and validly existing, and is qualified to do business in the state in which the Property is located. Developer has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate the transactions contemplated hereby;

6.1.2: There is no agreement to which Developer is a party or which, to Developer's knowledge, is binding on Developer which is in conflict with this Agreement. There is no action or proceeding pending or, to Developer's knowledge, threatened against Developer which challenges or impairs Developer's ability to execute or perform its obligations under this Agreement;

6.1.3: Samuel E. Allen, as Trustee, in his capacity as the Member and Manager of Developer, is individually authorized to act on behalf of, and bind, the Developer;

6.1.4: To the best of Developer's knowledge, all information, documents and instruments delivered to Agency by Developer in connection with this Agreement are complete and true copies of such documents or original counterparts thereof;

6.1.5: Developer is not a "foreign person" for purposes of Section 1445 of the Internal Revenue Code; and

6.1.6: To the best of Developer's knowledge, Developer, for a period of no fewer than six calendar years preceding the effective date of this Agreement, has faithfully complied with (i) all applicable tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) any tax provisions imposed by a political subdivision of this state that applied to Developer, to Developer's property, operations, receipts, or income, or to Developer's performance of or compensation for any work performed by Developer; (iii) any tax provisions imposed by a political subdivision of this state that applied to Developer, or to goods, services, or property, whether tangible or intangible, provided by Developer; and (iv) any applicable rules,

regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

6.1.7 Developer has not engaged a real estate broker or agent for purposes of negotiating this transaction and no agreements have been executed by Developer which would obligate a third-party to be paid out of the proceeds of the sale of the Property.

Section 6.2: Agency's Representations and Covenants.

Agency represents, warrants and covenants as follows:

6.2.1 Agency has been duly organized and is validly existing as a corporate body politic, in good standing in the State of Oregon. Agency has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate the transactions contemplated hereby;

6.2.2 To the best of Agency's knowledge (without any requirement of further investigation), there are no actions, suits, claims, legal proceedings, condemnation or eminent domain proceedings, or any other proceedings affecting the Property, or any portion thereof, at law or in equity, before any court or governmental agency, domestic or foreign, nor is there any basis for any such proceeding which, if adversely determined, might affect the use or operation of the Property for Developer's intended purpose, the value of the Property, or adversely affect the ability of Agency to perform its obligations under this Agreement; provided, however, that Agency makes no representation or warranty regarding the use of the Property under current or future land use codes, building codes, or other generally applicable laws and regulations, and Developer acknowledges their obligation to investigate the same as part of their due diligence process;

6.2.3 To the best of Agency's knowledge (without any requirement of further investigation), there are no liens, bonds, encumbrances, covenants, conditions, reservations, restrictions, easements or other matters affecting the Property except as disclosed in the Preliminary Commitment, and Agency has not received notice and has no knowledge of any pending liens or special assessments to be made against the Property;

6.2.4 From the Effective Date until the Closing Date, Agency shall use commercially reasonable efforts to properly maintain the Property in its current condition as of the Effective Date less reasonable impact of natural conditions and Developer's due diligence efforts;

6.2.5 To the best of Agency's knowledge (without any requirement of further investigation), all Property information, documents and instruments delivered to Developer by Agency are complete and true copies of such documents or original counterparts thereof;

6.2.6 To the best of Agency's knowledge (without any requirement of further investigation), other than this Agreement, the documents to be executed and delivered hereunder at Closing and the Permitted Exceptions, there are no contracts or agreements of any kind relating to the Property to which Agency or its agents is a party and which would be binding on Developer after Closing;

6.2.7 Agency has not obligated itself in any manner to sell the Property to any party other than Developer and promises not to enter into an agreement with any other party for the sale or lease of any portion of the Property while this Agreement is in effect;

6.2.8 Agency is not a "foreign person" for purposes of Section 1445 of the Internal Revenue Code;

6.2.9 To the best of Agency's knowledge (without any requirement of further investigation), Agency is not (and is not engaged in this transaction on behalf of) a person or entity with which Developer is prohibited from doing business pursuant to any law, regulation or executive order pertaining to national security including, but not limited to, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001; Executive Order 13224; the Bank Secrecy Act; the Trading with the Enemy Act; the International Emergency Economic Powers Act; sanctions and regulations promulgated pursuant thereto by the Office of Foreign Assets Control, as well as laws related to the prevention and detection of money laundering in 18 U.S.C Sections 1956 and 1957;

6.2.10 To the best of Agency's knowledge (without any requirement of further investigation), Agency's sale of the Property is not subject to any federal, state or local withholding obligation of Developer under the tax laws applicable to Agency or the Property;

6.2.11 Agency has received no written notice of and has no knowledge of any material violations or investigations of violations of any applicable laws or ordinances affecting the Property that have not been corrected or resolved;

6.2.12 To the best of Agency's knowledge (without any requirement of further investigation), no hazardous substances exist at the Property in any material concentration or quantity;

6.2.13 Agency has not engaged a real estate broker or agent for purposes of negotiating this transaction and no agreements have been executed by Agency which would obligate a third-party to be paid out of the proceeds of the sale of the Property.

6.2.14 To the best of Agency's knowledge (without any requirement of further investigation), the Property is in compliance with all applicable environmental laws, there are no material concentrations of hazardous wastes or hazardous substances on, in or under the Property, and there are no underground storage tanks within the Property. As used in this Agreement, the term "environmental laws" includes any and all state, federal and local statutes, regulations, and ordinances to which the Property is subject and relating to the protection of human health and the environment, as well as any judgments, orders, injunctions, awards, decrees, covenants, conditions, or other restrictions or standards relating to same; and the term "hazardous substances" includes all hazardous and toxic substances, wastes, or materials, including without limitation all substances, wastes, and materials containing either petroleum, including crude oil or any fraction thereof, or any of the substances referenced in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601(14), and similar or comparable state or local laws.

For the purposes of this Agreement, "Agency's knowledge" is defined as the knowledge of Mr.

David Queener.

Section 6.3: Survival.

All representations and warranties contained in this Agreement shall be true on and as of the Closing Date with the same force and effect as though made on and as of the Closing Date, and shall survive Closing and not be merged into any documents delivered at Closing. The parties agree to disclose any material change in the representations and warranties contained in this Agreement.

ARTICLE 7: DEFAULTS AND REMEDIES

Section 7.1: Agency's Remedies.

In the event that this transaction fails to close solely on account of a default by Developer under this Agreement, this Agreement shall terminate and the Earnest Money, any accrued interest, and any extension fees paid by Developer pursuant to Section 2.4 shall be forfeited by Developer and retained by Agency as liquidated damages as Agency's sole remedy for such default. Such amount has been agreed by the parties to be reasonable compensation and the exclusive remedy for Developer's default, since the precise amount of such compensation would be difficult to determine. For any default by Developer that does not cause the transaction to fail, but which nevertheless causes damage to the Agency, the Agency shall be entitled to such remedies as may be available under applicable law.

In the event that any of the following occur prior to the conveyance of title to the Property, then this Agreement, and any rights of the Developer, or any assignee or transferee, in this Agreement, or the Property, or any portion thereof, shall, at the option of the Agency, be terminated by the Agency, in which event the Earnest Money (and any interest earned thereon) shall be retained by the Agency as liquidated damages and as its property without any deduction, offset or recoupment whatsoever, and neither the Developer nor the Agency shall have further rights against or liability to the other under this Agreement:

7.1.1 Developer (or any successor in interest thereto) assigns or attempts to assign this Agreement or any rights therein, or to the Property, in violation of this Agreement;

7.1.2 There is a change in the ownership of the Developer contrary to the provisions of Section 1.6 hereof; or

7.1.3 The Developer does not tender the Purchase Price or take title to the Property on tender of conveyance by the Agency pursuant to this Agreement after the satisfaction or waiver of all of Developer's Closing Conditions set forth in Section 4.2

Section 7.2: Developer's Remedies.

If this transaction fails to close because of Agency's default hereunder, the Earnest Money, and any accrued interest, shall be returned to Developer. Developer shall be entitled to

such remedies for breach of contract as may be available under applicable law, including (without limitation) the remedy of specific performance, injunctive relief and/or the right to recover its damages.

Section 7.3: Default.

Except for the parties' wrongful failure to close or satisfy a condition to Closing by the Closing Date, neither party shall be deemed in default under this Agreement unless such party is given written notice of its failure to comply with this Agreement and such failure continues for a period of five (5) days following the date such notice is given.

ARTICLE 8: GENERAL PROVISIONS

Section 8.1: Applicable Law.

The law of the State of Oregon shall govern the interpretation and enforcement of this Agreement without giving effect to the conflicts of law provision thereof.

Section 8.2: Attorney Fees.

The parties shall bear their own costs and attorney fees in the event an action is brought to enforce, modify or interpret the provisions of this Agreement.

Section 8.3: Acceptance of Service of Process.

In the event that any legal or equitable action is commenced by the Developer against the Agency, service of process on the Agency shall be made by personal service on the Program Supervisor of the Agency, as set forth in Section 1.2, or in such other manner as may be provided by law. In the event that any legal or equitable action is commenced by the Agency against the Developer, service of process on the Developer shall be made on the individual identified in Section 1.3, or in such other manner as may be provided by law.

Section 8.4: Notice, Demands and Communications Between the Parties.

All notices given pursuant to this Agreement shall be in writing sent to the addresses shown in Section 1.2 and Section 1.3 of this Agreement and to the attention of the person indicated, and shall be either: (i) mailed by first class mail, postage prepaid, certified or registered with return receipt requested, or (ii) delivered in person or by local or national courier.

Any notice (i) sent by mail in the manner specified in this section shall be deemed served or given three (3) business days after deposit in the United States Postal Service, and (ii) delivered in person or by local or national courier shall be deemed served or given upon receipt or refusal of delivery. Notice given to a party in any manner not specified above shall be effective only if and when received by the addressee as demonstrated by objective evidence in

the possession of the sender. Each party may change its address for notice by giving not less than ten (10) days' prior notice of such change to the other party in the manner set forth above.

Section 8.5: Nonliability of Officials and Employees.

No member, manager, shareholder, director, officer, elected official, employee, affiliate, agent, or representative of any of the parties shall be personally liable to the other party or any successor-in-interest thereto, in the event of any default or breach by either party or for any amount that may become due to either party or its successor, or any obligations under the terms of this Agreement.

Section 8.6: Merger.

None of the provisions of this Agreement are intended to or shall be merged by reason of any deed referred to herein and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement, but shall be deemed made pursuant to this Agreement.

Section 8.7: Headings.

Any title of the several parts and sections of this Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 8.8: Time of Essence.

Time is of the essence of this Agreement. All obligations of the Agency and the Developer to each other shall be due at the time specified by the Agreement, or as the same may be extended by mutual agreement of the parties in writing.

Section 8.9: Severability.

If any clause, sentence or any other portion of the terms and conditions of this Agreement become illegal, null or void for any reason, or held by any court of competent jurisdiction to be so, the remaining portion will remain in full force and effect.

Section 8.10: No Partnership.

Neither anything in this Agreement or the documents delivered in connection herewith nor any acts of the parties hereto shall be deemed or construed by the parties hereto, or any of them, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between any of the parties to this Agreement.

Section 8.11: Nonwaiver of Government Rights.

Subject to the terms and conditions of this Agreement, by making this Agreement, the Agency is specifically not obligating itself, the County, or any other agency with respect to any discretionary governmental action relating to the acquisition of the Property or development, operation and use of the improvements to be constructed on the Property, including, but not limited to, condemnation, comprehensive planning, rezoning, variances, environmental clearances or any other governmental agency approvals that are or may be required.

Section 8.12: Entire Agreement; Waivers.

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all prior negotiations or previous agreements between the parties or the predecessors in interest with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement must be in a writing signed by the appropriate authorities of the Agency and the Developer, and all amendments thereto must be in a writing signed by the appropriate authorities by the Agency and the Developer.

Section 8.13: Counterparts.

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

Section 8.14: Non-Foreign Persons.

The parties agree to comply with the terms of Internal Revenue Code Section 1445 and at Closing, Agency shall execute and deliver to Developer and Title Company a non-foreign person affidavit in a form mutually acceptable to the parties. Agency represents and warrants that it is not a "foreign person" as that term is used in Internal Revenue Code Section 1445 and Agency agrees to furnish Developer with any necessary documentation to that effect.

Section 8.15: Waiver.

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

Section 8.16: Weekends and Holidays.

If the time for performance of any of the terms, conditions and provisions of this Agreement shall fall on a Friday, Saturday, Sunday or legal holiday, then the time of such performance shall be extended to the next business day thereafter.

Section 8.17: Neutral Construction.

This Agreement has been negotiated with each party having the opportunity to consult with legal counsel and shall not be construed against either party by virtue of which party drafted all or any part of this Agreement.

Section 8.18: Exhibits.

All exhibits listed on the signature page below and attached hereto are incorporated into and constitute a part of this Agreement.

Section 8.19: Dispute Resolution.

Each party waives its rights to trial by jury in any claim, action, suit, or proceeding arising out of this Agreement or the transactions relating to its subject matter.

ARTICLE 9: SUCCESSOR INTEREST

This Agreement shall be binding upon and inure to the benefit of the parties, and their permitted successors and assigns.

ARTICLE 10: STATUTORY DISCLAIMER

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

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

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Effective Date.

“AGENCY”

CLACKAMAS COUNTY DEVELOPMENT
AGENCY, a corporate body politic

By: _____
Chair

Date: _____, 2022

“DEVELOPER”

One Monarch Center, LLC, an Oregon limited liability company and/or assigns

By: Samuel E. Allen
Samuel E. Allen, as Trustee of the Samuel E. Allen Trust, Manager

Date: 4-14, 2022

LIST OF EXHIBITS

- EXHIBIT A Property Map
- EXHIBIT B Legal Description - Property
- EXHIBIT D Form of Bargain and Sale Deed

EXHIBIT A

Property Map

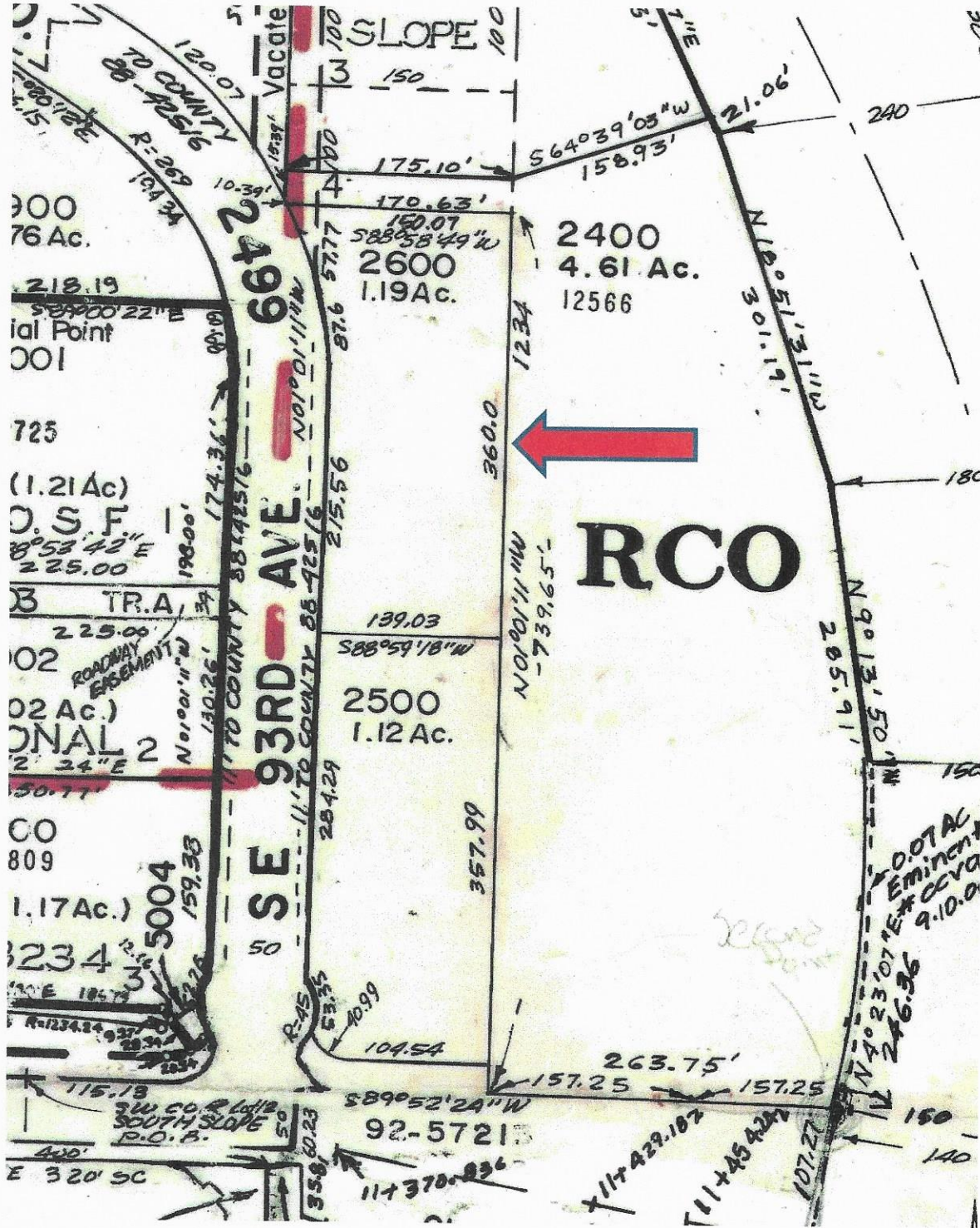


EXHIBIT B

Legal Description - Property

A parcel of land located in the Northeast one-quarter of Section 4, Township 2 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, and being more particularly described as follows:

Beginning at a point that bears North 01° 01' 11" West, 374.92 feet and North 88° 58' 49" East, 352.53 feet from the Southwest corner of Lot 12, of the recorded plat of SOUTHSLOPE; said point being on the Easterly line of said SOUTHSLOPE; thence from the point of beginning South 88° 59' 18" West, 139.03 feet; thence North 01° 01' 11" West, 215.56 feet to a point of curvature; thence 87.60 feet along the arc of a 347.00 foot radius curve to the left through a central angle of 14° 27' 53" (the long chord of which bears North 08° 15' 07" West, 87.37 feet) to a point; thence along a non-radial line North 01° 01' 11" West, 57.77 feet to a point; thence North 88° 59' 18" East, 150.07 feet to the Easterly line of said SOUTHSLOPE; thence along the said Easterly line South 01° 01' 42" East, 360.00 feet to the point of beginning.

EXHIBIT D

Form of Bargain and Sale Deed

AFTER RECORDING SEND TO:

One Monarch Center, LLC
Attn: Samuel E. Allen, Trustee
12566 SE 93rd Ave.
Clackamas, OR 97015

**UNTIL A CHANGE IS REQUESTED
ALL TAX STATEMENTS SHALL
BE SENT TO:**

One Monarch Center, LLC
Attn: Samuel E. Allen, Trustee
12566 SE 93rd Ave.
Clackamas, OR 97015

STATUTORY BARGAIN AND SALE DEED

CLACKAMAS COUNTY DEVELOPMENT AGENCY, the Urban Renewal Agency of Clackamas County, a corporate body politic (“Grantor”) conveys to One Monarch Center, LLC, an Oregon limited liability company (“Grantee”) all of Grantor’s interest in that certain real property located in Clackamas County, Oregon, as more particularly described on Exhibit A attached hereto.

The true consideration for this conveyance is Eight Hundred Seventy Thousand Four Hundred Eighty-Nine and no/100 Dollars (\$870,489.00).

There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, ancestry or disability in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property subject to this conveyance.

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

REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED as of _____, 20__.

CLACKAMAS COUNTY DEVELOPMENT AGENCY, a corporate body politic

By: _____
Name:
Its:

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument was acknowledged before me on _____, 20__, by _____, as _____ of Clackamas County Development Agency, a corporate body politic.

Notary Public for Oregon
My commission expires:

EXHIBIT A to Bargain and Sale Deed

Legal Description