



August 12, 2020

Water Environment Services Board  
 Board of County Commissioners  
 Clackamas County

Members of the Board:

**Approval of a Purchase and Sale Agreement Between Clackamas Water Environment Services and Certain Individuals Pertaining to the Purchase of Vacant Parcel for Hoodland Sandy Lane Pump Station Relocation Project**

<b>Purpose/Outcome</b>	Authorizing entering into transaction described in Purchase and Sale Agreement and related documents to purchase
<b>Dollar Amount and Fiscal Impact</b>	\$95,000 + share of closing costs
<b>Funding Source</b>	WES Wastewater Capital Fund – no general fund dollars
<b>Duration</b>	In perpetuity
<b>Previous Board Action/Review</b>	Discussions in executive session regarding real property negotiations. Reviewed in Issues meeting on August 10, 2021
<b>Strategic Plan Alignment</b>	1. Build public trust through good government 2. Build a strong infrastructure 3. Ensure safe, healthy and secure communities
<b>Counsel Review</b>	This purchase was reviewed and approved by County Counsel on August 2, 2021
<b>Contact Person</b>	Chris Storey, Clackamas Water Environment Services – Assistant Director. Phone: 503-742-4543

**BACKGROUND:**

Clackamas Water Environment Services (“WES”) operates several pump stations in the Hoodland area that convey wastewater to the Hoodland wastewater treatment facility. Channel migration of the Sandy River is putting the Sandy River pump station at risk. WES conducted a study in 2017 to identify potential options, and the most cost effective approach was to relocate the pump stations further away from the river. The study also identified possible locations and the recommended relocation up into the subdivisions that the pump stations served onto vacant parcels. The BCC was briefed on the project in 2018 and authorized staff to move forward.

After extensive negotiations, the parties have reached tentative agreement on the terms of sale and purchase for the vacant lot to which the Sandy River Pump Station is proposed to relocate for the price of \$95,000 and associated closing costs. WES would like to move forward to acquire the parcel and begin further planning regarding the project with that variable fixed.

County Counsel has reviewed and approved this purchase and sale agreement and related documents.

**RECOMMENDATION**

Staff recommends the Board of County Commissioners, acting in their capacity as the governing body of Water Environment Services, approve the Purchase and Sale Agreement Between Clackamas Water Environment Services and Certain Individuals Pertaining to the Purchase of Vacant Parcel for Hoodland Sandy Lane Pump Station Relocation Project.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Geist", is written over a horizontal blue line.

[Greg Geist \(Aug 5, 2021 10:22 PDT\)](#)

Greg Geist  
Director

Attachments: Resolution  
Purchase and Sale Agreement (exhibit to Resolution)

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving a Purchase  
and Sale Agreement for Water  
Environment Services



Resolution No. \_\_\_\_\_  
*Page 1 of 1*

**WHEREAS**, Water Environment Services (“WES”) operates two pump stations in the Hoodland area that convey wastewater to the Hoodland wastewater treatment facility and are at risk within the channel migration zone of the Sandy River; and

**WHEREAS**, WES staff identified a parcel (“Property”), further described in the Purchase and Sale Agreement attached hereto as Exhibit A (“PSA”), further removed from the main path of the channel migration zone as a potential new site for one pump station; and

**WHEREAS**, WES staff negotiated terms of purchase with the Property owner in accordance with previous Board direction, and now seeks approval from the Board and authorization to proceed with the Property conveyance;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, ACTING AS THE GOVERNING BODY OF WATER ENVIRONMENT SERVICES, THAT:**

1. The sale of the Property as contemplated by the PSA, exhibits, certificates or other documents, the payment of costs relating to the transaction, and all other elements of the PSA are hereby authorized and approved; and
2. The Director and/or the Assistant Director of WES are authorized to execute the PSA and all related agreements, deeds, exhibits, certificates or other documents necessary to effectuate the foregoing, and are directed to take all actions necessary to complete the transaction as contemplated now and in the future.

**ADOPTED** this 12<sup>th</sup> day of August, 2021.

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary

## AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (this “Agreement”) is made and entered into as of the last date of signature indicated below (the “Effective Date”), by and between **Stephanie Makarounis, John Makarounis, and Christin Rouches**, all individuals (collectively the “Seller”), and **Water Environment Services**, an intergovernmental entity formed pursuant to ORS Chapter 190 (“Buyer”) whose address is 150 Beaver Creek Road, Suite 430, Oregon City, Oregon 97045.

### RECITALS

The Seller is the sole owner of real property located in the County of Clackamas, State of Oregon, more particularly described in Exhibit A attached hereto and incorporated herein by reference (the “Property”).

Buyer desires to purchase from the Seller, and the Seller desires to sell and convey to Buyer, all right, title and interest in the Property for the price and on the terms and conditions set forth below:

### TERMS

1. **Purchase and Sale.** The Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase from the Seller, the Property upon the terms and conditions set forth in this Agreement.
2. **Purchase Price.** The Buyer shall pay Seller the sum of **Ninety-Five Thousand and 00/100 Dollars (\$95,000.00)** as the total purchase price for the Property (“Purchase Price”).
3. **Payment of Purchase Price.** The Purchase Price shall be payable as follows:
  - a) **Deposit.** Within twenty (20) days after execution of this Agreement, Buyer shall deposit into escrow the sum of Nine Thousand Five Hundred and 00/100 Dollars (\$9,500.00) (the “Escrow Deposit”) with **Lawyers Title of Oregon, LLC** (“Escrow Holder” or “Title Company”). At Closing, the Escrow Deposit, together with interest on it, if any, shall be credited toward payment of the Purchase Price and all related closing expenses.
  - b) **Balance.** On or before Closing (defined below), Buyer shall deposit the balance of the Purchase Price into escrow. Any interest income in excess of that necessary for Closing shall be the property of Buyer.

4. **Closing Date.** This transaction must be closed by September 15<sup>th</sup>, 2021 (“Closing Date”). On the Closing Date, the deed conveying the Property will be recorded and the Escrow Holder will be prepared to disburse funds (“Closing”).
5. **Conditions Precedent to Closing.**
  - a) Conditions Precedent to Buyer's Obligations. In addition to any other conditions contained in this Agreement, the following conditions precedent must be satisfied before Buyer will become obligated to acquire the Property under this Agreement. These conditions are intended solely for Buyer’s benefit and Buyer shall have the sole right and discretion to waive or not waive, by written notice, any of the conditions. In the event any such condition precedent is not satisfied or waived on or before Closing, or other date as set forth herein, Buyer shall have the right to terminate this Agreement and be refunded its Escrow Deposit, including interest, and to exercise any other remedy available. The conditions precedent are:
    - i) Title Report. Within fifteen (15) days following the Effective Date of this Agreement, Buyer shall order at its own expense a preliminary Title Report covering the Property.
      - A. Within fifteen (15) days of receiving the Title Report and the Exceptions documents, Buyer shall reasonably determine and provide written notice to Seller of any special exceptions that Buyer shall require Seller to remove of record at or before the Closing Date (“Unacceptable Exceptions”). Special exceptions not objected to are referred to as “Permitted Exceptions.”
      - B. Within fifteen (15) days of receipt of the list Unacceptable Exceptions, Seller shall inform Buyer in writing that Seller shall remove such exceptions at or before the Closing Date or inform Buyer in writing that Seller is unable to remove any such exception.
      - C. In the event that there are any Unacceptable Exceptions that Seller does not agree to remove at or before the Closing Date, the Parties will work together in good faith to reach a resolution. If no resolution can be reached, then Buyer shall have the option to either accept title to the Property subject to such Unacceptable Exceptions, which would thereafter be considered a Permitted Exception, or Buyer may terminate this Agreement and the Escrow Deposit shall be refunded to Buyer.
    - ii) Title. At Closing, the Seller shall convey fee simple title to the Property by statutory warranty deed. Title shall be good and marketable and shall be insurable for the Purchase Price at ordinary rates pursuant to an ALTA standard owner’s title insurance policy issued at Closing by the Title Company insuring fee simple title vested in Buyer or its nominees and free

and clear of all liens and encumbrances except for the Permitted Exceptions as defined below (the "Title Policy").

- iii) Environmental Review. Before Closing, Buyer may, at its expense, engage consultants, surveyors or engineers of Buyer's choosing to conduct environmental studies, soil analyses, surveys, and appraisals of the Property as Buyer in its sole discretion deems necessary. Within (10) days after the Effective Date, Seller shall deliver to Buyer a copy of all environmental studies or analyses relating to the Property within its possession or control. Buyer or its agents shall have the right to enter the Property at reasonable times before Closing to make such tests, inspections, soil analyses, studies, surveys, appraisals and other investigations as Buyer may require, at Buyer's sole discretion. Seller shall cooperate with Buyer in making such tests and studies. Any area disturbed by such tests and studies shall be restored by Buyer, at Buyer's expense, to its pre-inspection condition.
  - A. It shall be a condition to Closing that the results of such environmental studies, surveys or analyses be acceptable to Buyer in its sole discretion. Within twenty (20) days of the Effective Date, Buyer shall notify the Seller if Buyer cannot accept the Property due to the results of its investigation under this section.
  - B. If Buyer and Seller have not reached an agreement regarding the items disclosed in the investigation within twenty-seven (27) days of the Effective Date, then Buyer may, at its option and upon written notice to Seller, terminate this Agreement, in which case the Escrow Deposit and accrued interest shall be refunded to Buyer.
  - C. Within the limits of the Oregon Tort Claims Act and the Oregon Constitution, the Buyer agrees to indemnify and hold harmless the Seller from any third party claims, costs, expenses, or actions arising from the actions of Buyer or its agents during the environmental review process authorized by this Section 5, except to the extent that the claims or actions arise from the Seller's negligence or willful misconduct.
- iv) Representations, Warranties, and Covenants of Seller. The Seller shall have duly performed every act to be performed by the Seller hereunder and the Seller's representations, warranties, and covenants set forth in this Agreement shall be true and correct as of the Closing Date.
- v) No Material Changes. At the Closing Date, there shall have been no material adverse changes related to or connected with the Property.

- vi) Seller's Deliveries. The Seller shall have timely delivered each item to be delivered by the Seller pursuant to this Agreement. In the event that Buyer does not object to the timeliness of delivery of any document(s) within five (5) days of their receipt by Buyer, this condition shall be deemed waived with regards to any such documents.
  - vii) Title Insurance. At or prior to Closing, the Escrow Holder shall have issued or committed to issue the Title Policy to Buyer.
  - viii) Taxes. Seller agrees that all taxes, assessments and encumbrances that will be a lien against the Property at the Closing Date, whether or not those charges would constitute a lien against the Property at settlement, shall be satisfied of record by Seller. If Seller shall fail to do so, Buyer may pay any such tax, assessment, encumbrance or other charge and deduct an amount equal to any such payment from the Purchase Price of the Property. Regular real property taxes payable during the year in which Closing occurs and any rents or income applicable to the Property shall be prorated as of the Closing Date.
- b) Conditions Precedent to Seller's Obligations. Closing and the Seller's obligations with respect to the transactions contemplated by this Agreement are subject to Buyer's delivery of the Purchase Price and the documents and materials described in Paragraph 6(b) to the Escrow Holder on or before the Closing Date, for disbursement as provided herein.
  - c) Failure of Conditions to Closing. In the event any of the conditions set forth in Section 5(a) or (b) are not timely satisfied or waived, for a reason other than the default of Buyer or the Seller under this Agreement:
    - i) This Agreement, the escrow, and the rights and obligations of Buyer and the Seller shall terminate, except as otherwise provided herein; and
    - ii) The Escrow Holder is hereby instructed to promptly return to the Seller and Buyer all funds and documents deposited by them, respectively, in escrow that are held by the Escrow Holder on the date of the termination.
  - d) Cancellation Fees and Expenses. In the event the escrow terminates because of the nonsatisfaction of any condition for a reason other than the default of the Seller under this Agreement, the cancellation charges required to be paid by and to the Escrow Holder shall be borne by Buyer. In the event this escrow terminates because of the Seller's default, the cancellation charges required to be paid by and to the Escrow Holder shall be borne by the Seller.

6. **Deliveries to Escrow Holder.**

- a) By Seller. On or before the Closing Date, the Seller shall deliver the following in escrow to the Escrow Holder:
- i) Deed. A statutory warranty deed, in a form substantially similar to the one contained in Exhibit B attached, duly executed and acknowledged in recordable form by the Seller, conveying the Property to Buyer, subject only to the Permitted Exceptions, to Buyer as established under Section 5 of this Agreement, and any other matters that may be approved in writing by Buyer prior to Closing.
  - ii) Nonforeign Certification. The Seller represents and warrants that it is not a "foreign person" as defined in IRC §1445. The Seller will give an affidavit to Buyer to this effect in the form required by that statute and related regulations, which form may be provided by the Escrow Holder.
  - iii) Proof of Authority. Such proof of the Seller's authority and authorization to enter into this Agreement, and such proof of the power and authority of the persons executing and/or delivering any instruments, documents, or certificates on behalf of the Seller to act for and bind the Seller, as may be reasonably required by the Escrow Holder and/or Buyer.
  - iv) Lien Affidavits. Any lien affidavits or mechanic's lien indemnifications as may be reasonably requested by the Escrow Holder in order to issue the Title Policy.
  - v) Other Documents. Such other fully executed documents and funds, including without limitation, escrow instructions, as are required of Seller to complete the sale in accordance with this Agreement or as may be required by Escrow Holder.
- b) By Buyer. On or before the Closing Date, Buyer shall deliver the following in escrow to the Escrow Holder.
- i) Cash Portion of Purchase Price. Any remaining portion of the Purchase Price to be paid in cash in accordance with Section 2 above, plus Buyer's share of any closing costs as set forth herein, if necessary.
  - ii) Proof of Authority. Such proof of Buyer's authority and authorization to enter into this Agreement, and such proof of the power and authority of the persons executing and/or delivering any instruments, documents, or certificates on behalf of Buyer to act for and bind Buyer, as may be reasonably required by the Escrow Holder and/or the Seller.



7. **Deliveries to Buyer at Closing.** Except as otherwise provided herein, the Seller shall deliver exclusive possession of the Property to Buyer at Closing.
8. **Title Insurance.** At Closing, Buyer shall provide, at its expense, the Title Policy.
9. **Costs.** The Buyer shall pay for the cost of recording the statutory warranty deed, and all other recording charges, if any. Buyer shall pay for all conveyance, excise, and/or transfer taxes payable by reason of the purchase and sale of the Property. Buyer shall pay all escrow fees and costs. Buyer and the Seller shall each pay its own legal and professional fees of other consultants incurred by Buyer, respectively. All other costs and expenses shall be allocated between Buyer and the Seller in accordance with the customary practice in Clackamas County, Oregon.
10. **Seller's Representations and Warranties.** Seller hereby warrants and represents to Buyer the following matters, and acknowledges that they are material inducements to Buyer to enter into this Agreement. Seller agrees to indemnify, defend, and hold Buyer harmless from all expense, loss, liability, damages and claims arising out of the breach or falsity of any of Seller's representations, warranties, and covenants. These representations, warranties, and covenants shall survive Closing. Seller warrants and represents to Buyer that the following matters are true and correct, and shall remain true and correct through and as of Closing:
  - a) Authority. Seller has full power and authority to enter into this Agreement (and the persons signing this Agreement for Seller, if Seller is not an individual, have full power and authority to sign for Seller and to bind it to this Agreement) and to sell, transfer and convey all right, title, and interest in and to the Property in accordance with this Agreement.
  - b) Hazardous Substances. For purposes of this Agreement, the phrase "Hazardous Substances" shall include, but not be limited to, the substances defined in ORS 465.200. Seller warrants, represents, and covenants as follows:
    - i) To the knowledge of Seller, there are no Hazardous Substances in, upon, or buried on or beneath the Property and no Hazardous Substances have been emitted or released from the Property in violation of any environmental laws of the federal or state government;
    - ii) To the knowledge of the Seller, no Hazardous Substances have been brought onto, stored on, buried, used on, emitted or released from, or allowed to be brought onto, stored on, buried, used on, emitted, released from, or produced or disposed of, from or on the Property, in violation of any environmental laws of the federal or state government;
    - iii) To the knowledge of Seller, no previously undisclosed underground storage tanks are located on the Property, including (without limitation)

any storage tanks that contain, or previously contained, any Hazardous Substances, and Seller agrees not to cause or permit any such tanks to be installed in the Property before Closing;

- iv) To the knowledge of Seller, the Property is materially in compliance with applicable state and federal environmental standards and requirements affecting it;
  - v) The Seller has not received any notices of violation or advisory action by regulatory agencies regarding environmental control matters or permit compliance with respect to the Property;
  - vi) The Seller has not transferred Hazardous Substances from the Property to another location that is not in compliance with applicable environmental laws, regulations, or permit requirements. To the best of the Seller's knowledge, no other person has transferred Hazardous Substances from the Property to another location that is not in compliance with applicable environmental laws, regulations, or permit requirements; and
  - vii) There are no proceedings, administrative actions, or judicial proceedings pending or, to the best of Seller's knowledge, contemplated under any federal, state, or local laws regulating the discharge of hazardous or toxic materials or substances into the environment.
- c) Contracts, Leases, Rights Affecting Property. Seller has not entered into, and will not enter into, any other contracts for the sale of the Property, nor do there exist nor will there be any rights of first refusal, options to purchase the Property, leases, mortgages, licenses, easements, prescriptive rights, permits, or other rights or agreement, written or oral, express or implied, which in any way affect or encumber the Property or any portion thereof. The Seller has not sold, transferred, conveyed, or entered into any agreement regarding timber rights, mineral rights, water rights, "air rights," or any other development or other rights or restrictions, relating to the Property, and to Seller's knowledge no such rights encumber the Property, and will not through the Closing Date.
- d) No Legal Proceedings. There is no suit, action, arbitration, judgment, legal, administrative, or other proceeding, claim, lien, or inquiry pending or threatened against the Property, or any portion thereof, or pending or threatened against Seller which could affect Seller's right or title to the Property, or any portion thereof, affect the value of the Property or any portion thereof, or subject an owner of the Property, or any portion thereof, to liability.
- e) Mechanics and Other Liens. No work on the Property has been done or will be done, or materials provided, giving rise to actual or impending mechanic's liens, private liens, or any other liens, against the Property or any portion thereof.

- f) Public Improvements or Governmental Notices. To the best of Seller's knowledge, there are no intended public improvements which will result in the creation of any liens upon the Property or any portion thereof, nor have any notices or other information been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the Property or any portion thereof.
- g) Breach of Agreements. The execution of this Agreement will not constitute a breach or default under any agreement to which Seller is bound or to which the Property is subject.
- h) Possession. Except as specifically provided for herein, Seller will be able to deliver immediate and exclusive possession of the entire Property to Buyer at Closing, and no one other than Seller will be in possession of any portion of the Property immediately prior to Closing.
- i) Bankruptcy Proceedings. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or, to the best of Seller's knowledge, threatened against the Seller, nor are any such proceedings contemplated by Seller.
- j) Recitals. The statements and information set forth in the Recitals are true and correct.
- k) Changed Conditions. If Seller discovers any information or facts that would materially change the foregoing warranties and representations or the transactions contemplated by this Agreement, Seller shall immediately give written notice to Buyer of those facts and information. If any of the foregoing warranties and representations cease to be true before Closing, Seller shall be obligated to use its best efforts to remedy the problem, at its sole expense, before Closing. If the problem is not remedied before Closing, Buyer may elect to either: (a) terminate this Agreement in which case Buyer shall have no obligation to purchase the Property and all escrow payments shall be refunded to Buyer, or (b) defer the Closing Date for a period not to exceed ninety (90) days or until such problem has been remedied, whichever occurs first. If the problem is not remedied within that time frame, Buyer may elect to terminate this Agreement and receive a refund of the Escrow Deposit and accrued interest. Buyer's election in this regard shall not constitute a waiver of Buyer's rights in regard to any loss or liability suffered as a result of a representation or warranty not being true, nor shall it constitute a waiver of any other remedies provided in this Agreement or by law or equity.

11. **Seller's Representations, Warranties and Covenants Regarding the Property Through the Closing.** The Seller further represents, warrants, and covenants that, until this transaction is completed through Closing or escrow is terminated, whichever occurs first, it shall:

- a) Maintain the Property in its present state, with no tree cutting or alteration of the Property in any way;
  - b) Keep all existing insurance policies affecting the Property in full force and effect;
  - c) Make all regular payments of interest and principal on any existing financing, if applicable; and
  - d) Comply with all government regulations.
12. **Deferred Taxes.** If the Property is subject to farm or forest deferred taxes, Seller shall have no obligation or responsibility for said deferred taxes, unless the Property becomes disqualified for or loses its deferred tax status as a result of Seller's actions prior to Closing in which case such taxes shall be Seller's responsibility. Buyer is an exempt public entity and is not obligated to pay such taxes. Seller shall not be responsible for any taxes arising from Buyer's acquisition of the Property.
13. **Buyer's Representations and Warranties.** In addition to any express agreements of Buyer contained here, the following constitute representations and warranties of Buyer to the Seller:
- a) Subject to the approval of the Buyer's governing body and the conditions stated herein, Buyer has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transactions contemplated here;
  - b) Subject to the approval of the Buyer's governing body and the conditions stated herein, all requisite action has been taken by Buyer in connection with entering into this Agreement and the instruments referred to herein and the consummation of the transactions contemplated here; and
  - c) Subject to the approval of the Buyer's governing body and the conditions stated herein, the persons executing this Agreement and the instruments referred to herein on behalf of Buyer have the legal power, right, and actual authority to bind Buyer to the terms and conditions of this Agreement.
14. **Seller's Promise to Remove Personal Property and Debris.** Prior to vacating the Property, Seller covenants and promises to remove or cause to be removed from the Property, at Seller's expense, any and all personal property and/or trash, rubbish, debris, or any other unsightly or offensive materials unless otherwise previously agreed to in writing by Buyer. Satisfaction of the promises contained herein shall be subject to Buyer's inspection and approval of the physical condition of the Property by Buyer prior to vacating the Property.

15. **Risk of Loss, Condemnation.** Seller shall bear the risk of all loss or damage to the Property from all causes, through the Closing Date. If, before the Closing Date 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 the Property is taken by condemnation, or if any such condemnation is threatened, Seller shall give Buyer written notice of such event. Buyer may terminate this Agreement by giving written notice to Seller within fifteen (15) days following receipt by Buyer of written notice from Seller of such casualty or condemnation and Escrow Holder will return to Buyer the Escrow Deposit and accrued interest.
16. **Notices.** All notices required or permitted to be given shall be in writing and shall be deemed given and received upon personal service or deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

To Seller: Stephanie Makarounis  
John Makarounis  
Christin Rouches  
3645 NE 142nd  
Portland, OR 97230  
Phone: (503) 998-5307

To Buyer: Water Environment Services  
Attn: Chris Storey  
150 Beaver Creek Rd., Suite 430  
Oregon City, Oregon 97045  
Phone: 503-742-4543  
Email: chrissto@clackamas.us

With a copy to:  
Amanda Keller  
Assistant County Counsel  
2051 Kaen Rd.  
Oregon City, Oregon 97045  
Phone: (503) 742-4589  
Email: akeller@clackamas.us

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manner set forth above shall be effective when received by the party for whom it is intended. Telephone numbers are for information only.

17. **No Broker or Commission.** Each party represents and warrants to the other that it has not used or engaged a real estate broker in connection with this Agreement or the transaction contemplated by this Agreement.

18. **Further Actions of Buyer and Seller.** Buyer and the Seller agree to execute all such instruments and documents and to take all actions pursuant to the provisions of this Agreement necessary to complete the purchase and sale of the Property and shall use their best efforts to accomplish the close of the transaction in accordance with the provisions of this Agreement.
19. **Legal and Equitable Enforcement of This Agreement.**
- a) Default by the Seller. In the event Closing and the completion of the transaction herein contemplated do not occur by reason of any default by the Seller, Buyer shall be entitled to all its out-of-pocket expenses incurred in connection with the transaction, including the Escrow Deposit and all accrued interest, and shall have the right to pursue any other remedy available to it at law or equity, including the specific performance of this Agreement.
- b) Default by the Buyer. In the event Closing and the completion of the transaction herein contemplated do not occur by reason of any default by Buyer, Buyer and the Seller agree that it would be impractical and extremely difficult to estimate the damages that the Seller may suffer. Therefore, Buyer and the Seller agree that a reasonable estimate of the total net detriment that the Seller would suffer in the event that Buyer defaults and fails to complete the purchase of the Property is and shall be, and the Seller's sole and exclusive remedy (whether at law or in equity) is and shall be, an amount equal to the Escrow Deposit plus any accrued interest. This amount shall be the full, agreed, and liquidated damages for the breach of this Agreement by Buyer, and all other claims to damage or other remedies are and shall be expressly waived by the Seller. The payment of this amount as liquidated damages is not intended as a forfeiture or penalty, but is intended to constitute liquidated damages to the Seller. Upon default by Buyer, this Agreement shall be terminated and neither party shall have any further rights or obligations under it, each to the other, except for the right of the Seller to collect such liquidated damages from Buyer and the Escrow Holder.
20. **Miscellaneous.**
- a) Partial Invalidity. If any term or provision of this Agreement or the application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- b) Waivers. No waiver of any breach of any covenant or provision contained herein shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for

performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

- c) Survival of Representations. The covenants, agreements, representations, and warranties made herein shall survive Closing and shall not merge into the deed and the recordation of it in the official records.
- d) Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the successors and assigns of the parties to it.
- e) Entire Agreement. This Agreement (including any exhibits attached to it) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter hereof and supersedes all prior understandings with respect to it. This Agreement may not be modified or terminated, nor may any obligations under it be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein.
- f) Time of Essence. The Seller and Buyer hereby acknowledge and agree that time is strictly of the essence with respect to every term, condition, obligation, and provision of this Agreement.
- g) Governing Law. The parties expressly agree that this Agreement shall be governed by, and interpreted in accordance with, the laws of the State of Oregon, without giving effect to the conflict of law provisions thereof.
- h) No Attorney Fees. In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.
- i) Counterparts. This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.

21. **Statutory Disclaimers:**

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 197.352. 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 APPROVED USES, THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, ORS 195.301 AND ORS 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 ORS 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, ORS 195.301 AND ORS 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 Attached]*



IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date of signature specified below.

**Water Environment Services**

**Stephanie Makarounis**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

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

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

Approved as to Form for Buyer:

**John Makarounis**

\_\_\_\_\_  
Amanda Keller  
Assistant County Counsel

\_\_\_\_\_  
Signature

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

**Christin Rouches**

\_\_\_\_\_  
Signature

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

Attachments:  
Exhibit A – Legal Description  
Exhibit B – Form of Statutory Warranty Deed

Exhibit A

**Property Legal Description**

The Property is more specifically described as that real property identified in the warranty deed recorded as document no. 2010-079901 in the Clackamas County Real Property Records.

Exhibit B

**Form of Statutory Warranty Deed**

**STATUTORY WARRANTY DEED**

**GRANTOR:**

Stephanie Makarounis, John Makarounis, Christin Rouches  
3645 NE 142nd  
Portland, OR 97230

**GRANTEE:**

Water Environment Services  
Development Services Building  
150 Beaver Creek Road, Suite 430  
Oregon City, OR 97045

**After Recording Return To:**

Water Environment Services  
150 Beaver Creek Road  
Oregon City, OR 97045

Until a change is requested, tax statements shall be sent to the following address:

Water Environment Services  
150 Beaver Creek Road, Suite 430  
Oregon City, OR 97045

**STATUTORY WARRANTY DEED**

**Stephanie Makarounis, John Makarounis, and Christin Rouches**, all individuals (collectively the “Grantor”), convey and warrant to **Water Environment Services**, an intergovernmental entity formed pursuant to ORS Chapter 190 (“Grantee”), and to its successors and assigns, the following described real property free of any encumbrances except as specifically set forth in herein (the “Property”) situated in the County of Clackamas, State of Oregon:

*See Exhibits A and B, attached hereto and incorporated herein.*

Exhibit A: Legal description of the Property.

Exhibit B: Map illustrating the Property.

Subject to the following:

See the “Exhibit C” for a list of exceptions, attached hereto and incorporated by reference.

It is intended that the delivery of this Deed shall not effect a merger of the provisions of a Purchase and Sale Agreement, dated \_\_\_\_\_, 2021 between the Grantor and Grantee, which terms are intended to continue after the delivery of this Deed.

The true and actual consideration for this conveyance is \$95,000.00.

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

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

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed on this \_\_\_\_ day of \_\_\_\_\_, 2021.

**GRANTOR: Stephanie Makarounis**

Signature: \_\_\_\_\_

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

STATE OF OREGON            )  
  ) ss.  
County of Clackamas        )

On this \_\_\_\_ day of \_\_\_\_\_, 2021 before me the undersigned, a notary public in and for such state, the foregoing instrument was acknowledged before me by \_\_\_\_\_.

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

My Commission Expires: \_\_\_\_\_

**GRANTOR: John Makarounis**

Signature: \_\_\_\_\_

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

STATE OF OREGON            )  
  ) ss.  
County of Clackamas        )

On this \_\_\_\_ day of \_\_\_\_\_, 2021 before me the undersigned, a notary public in and for such state, the foregoing instrument was acknowledged before me by \_\_\_\_\_.

Notary Public for Oregon

My Commission Expires: \_\_\_\_\_

**GRANTOR: Christin Rouches**

Signature: \_\_\_\_\_

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

STATE OF OREGON            )  
  ) ss.  
County of Clackamas        )

On this \_\_\_\_ day of \_\_\_\_\_, 2021 before me the undersigned, a notary public in and for such state, the foregoing instrument was acknowledged before me by \_\_\_\_\_.

Notary Public for Oregon

My Commission Expires: \_\_\_\_\_

Exhibit A

**Property Legal Description**

The Property is more specifically described as that real property identified in the warranty deed recorded as document no. 2010-079901 in the Clackamas County Real Property Records.

Exhibit B

**Property Map**



Exhibit C

**Exceptions**

**AS OF THE DATE OF THIS REPORT, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN THE POLICY FORM WOULD BE AS FOLLOWS:**

**GENERAL EXCEPTIONS:**

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests or claims, which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, which are not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the Land onto adjoining land or of existing improvements located on adjoining land onto the subject Land), encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the subject Land.
5. Any lien or right to a lien for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

**SPECIFIC ITEMS AND EXCEPTIONS:**

6. [Intentionally Deleted]
7. The Land is within Clackamas County Service District No. 1 and is subject to its levies and assessments.

NOTE: We find no liens of record as of January 19, 2021.

8. Restrictions, but omitting restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said restriction is permitted by applicable law, as shown on that certain plat

Name of Plat: Timberline Rim Div. 3

9. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat;

Purpose: Utility  
Affects: 5 feet in width and parallel with and adjacent to all lot lines

10. [Intentionally Deleted]
11. Liens and assessments, if any, by the Timberline Rim Recreation Club Homeowner's Association.

12. Restated By-laws of Timberline Rim Recreation Club, Inc.

Recording Date: December 7, 1978  
Recording No.: 78-052525

Amendment(s)/Modification(s) of said covenants, conditions and restrictions

Recording Date: February 22, 1971  
Recording No.: 71-003332

Amendment(s)/Modification(s) of said covenants, conditions and restrictions

Recording Date: November 22, 2000  
Recording No.: 2000-075685

13. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Hoodland Service District  
Purpose: Sewage Collection and disposal system  
Recording Date: July 9, 1982  
Recording No: 82-018954  
Affects: Exact location not disclosed

14. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Hoodland Service District  
Purpose: Sewage Collection and disposal system  
Recording Date: July 9, 1982  
Recording No: 82-018957  
Affects: Exact location not disclosed

15. [Intentionally Deleted]

16. The search did not disclose any open mortgages or deeds of trust of record, therefore the Company reserves the right to require further evidence to confirm that the property is unencumbered, and further reserves the right to make additional requirements or add additional items or exceptions upon receipt of the requested evidence.

17. [Intentionally Deleted]

18. [Intentionally Deleted]

19. [Intentionally Deleted]

20. Due probate and administration of the Estate of James Makarounis, deceased, and any interests disclosed thereby. We are unable to find any evidence of a probate in the records of this county.

21. Note: We find no Notice of Completion recorded on said Land.

22. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.

To remove this item, the Company will require an affidavit and indemnity on a form supplied by the Company.

23. Any lien or right to a lien for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

To remove this item, the Company will require an affidavit and indemnity on a form supplied by the Company.

24. Any encroachment (of existing improvements located on the subject Land onto adjoining land or of existing improvements located on adjoining land onto the subject Land), encumbrance, violation, variation or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject Land.

The Company will require a survey of the Land by a professional surveyor, and this exception may be eliminated or limited as a result thereof.

25. Property taxes in an undetermined amount, which are a lien but not yet payable, including any assessments collected with taxes to be levied for the fiscal year 2021-2022.

**ADDITIONAL REQUIREMENTS/NOTES:**

- A. In addition to the standard policy exceptions, the exceptions enumerated above shall appear on the final 2006 ALTA Policy unless removed prior to issuance.
- B. Note: The name(s) of the proposed insured(s) furnished with this application for title insurance is/are:  
  
No names were furnished with the application. Please provide the name(s) of the buyers as soon as possible.
- C. Notice: Please be aware that due to the conflict between federal and state laws concerning the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or insure any transaction involving Land that is associated with these activities.
- D. Note: There are NO conveyances affecting said Land recorded within 24 months of the date of this report.
- E. Note: Effective January 1, 2008, Oregon law (ORS 314.258) mandates withholding of Oregon income taxes from sellers who do not continue to be Oregon residents or qualify for an exemption. Please contact your Escrow Closer for further information.
- F. Note: No utility search has been made or will be made for water, sewer or storm drainage charges unless the City/Service District claims them as liens (i.e. foreclosable) and reflects them on its lien docket as of the date of closing. Buyers should check with the appropriate city bureau or water service district and obtain a billing cutoff. Such charges must be adjusted outside of escrow.






# Makarounis PSA\_20210810\_12

Final Audit Report

2021-08-05

Created:	2021-08-05
By:	Lauren Haney (LHaney@clackamas.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAIfNEYxLQ94vFs7Eoh-2Wot8UfCFA2zDd

## "Makarounis PSA\_20210810\_12" History

-  Document created by Lauren Haney (LHaney@clackamas.us)  
2021-08-05 - 5:19:20 PM GMT- IP address: 174.204.214.40
-  Document emailed to Greg Geist (ggeist@clackamas.us) for signature  
2021-08-05 - 5:20:22 PM GMT
-  Email viewed by Greg Geist (ggeist@clackamas.us)  
2021-08-05 - 5:21:29 PM GMT- IP address: 45.41.142.126
-  Document e-signed by Greg Geist (ggeist@clackamas.us)  
Signature Date: 2021-08-05 - 5:22:00 PM GMT - Time Source: server- IP address: 198.245.132.3
-  Agreement completed.  
2021-08-05 - 5:22:00 PM GMT