

REAL ESTATE PURCHASE AND SALE AGREEMENT
WITH EARNEST MONEY PROVISION

1. **Effective Date:** March 9, 2020
2. **Parties:** Jo Rose and Jerry Rose, husband and wife, as to Parcel A and Jo Hagerud, a married woman dealing with her sole and separate property, as to Parcel B, hereinafter collectively referred to as "Seller";

and

The City of Camas, a Washington municipal corporation, hereinafter referred to as "Purchaser".
3. **Property Sold:** Subject to the terms, conditions and considerations set forth herein, the Seller agrees to sell to the Purchaser and the Purchaser agrees to purchase from the Seller certain real property located in Clark County, Washington, described as follows:

County of Clark, State of Washington

See Exhibit "A", attached hereto and by this reference incorporated herein as to Parcel A.

See Exhibit "B", attached hereto and by this reference incorporated herein as to Parcel "B".

Unless otherwise specifically referenced, both Parcels are collectively referred to herein as the "Premises".

Purchaser and Seller authorize the insertion of any correction to the legal description and the conveyance deed shall include a covenant to run with the land requiring the Premises to be utilized solely for parks and public recreation purposes and uses incidental thereto provided, such covenant will be subordinate to the Deed of Trust securing Parcel B as described herein.

4. **Purchase Price:** The total purchase price for the Premises shall be Twelve Million Five Hundred Thousand and NO/100 Dollars (\$12,500,000.00), allocated as to the sum of \$600,000 for Parcel A and as to Parcel B the sum of \$11,900,000, payable as follows:
 - A. Parcel A- payable in cash at closing.
 - B. Parcel B- the sum of Four Million Four Hundred Thousand and NO/100 Dollars (\$4,400,000) shall be payable in cash at closing. The balance of the purchase price for Parcel B of Seven Million Five Hundred Thousand and NO/100 Dollars (\$7,500,000) shall be paid pursuant to the terms of a Promissory Note in the form attached hereto as Exhibit "C" (the "Promissory Note"). Purchaser, at closing, shall execute and deliver the Promissory Note and a Deed of Trust in the form attached hereto as Exhibit "D" (the "Deed of Trust") to secure Parcel B in repayment of the Promissory Note.

5. **Earnest Money Deposit:** Purchaser herewith deposits and delivers to Seller, and Seller hereby acknowledges receipt of the sum of One Hundred Thousand and No/100 Dollars (\$100,000.00) as earnest money deposit. The earnest money shall be held in escrow by Chicago Title for the benefit of the parties.

6. **Escrow and Closing Agent:** Purchaser hereby authorizes Seller to establish an escrow with closing agent at for the closing of the transaction contemplated herein, and to deliver to said closing agent an original of this agreement, the earnest money deposit, escrow and closing instructions, and any and all other documentation necessary for closing. Notwithstanding the Conditions Precedent herein, this agreement shall be closed on or before April 10, 2020, which shall be the termination date.

7. **Title Insurance:** Purchaser, at Seller's expense, shall be furnished with a standard form owner's policy of title insurance at closing. Closing agent shall apply for a preliminary commitment for such insurance with a title insurance company. The policy shall insure title to the Premises in Purchaser to the full extent of the purchase price, subject to no encumbrances, defects or liens except those specified in the printed policy form, and those which are set forth in this agreement. If title cannot be made so insurable on or before the closing date called for herein, either party may terminate this agreement by written notice to the other party. In such event, unless Purchaser elects to waive such defects or encumbrances, the earnest money deposit and any down payment proceeds shall be refunded to Purchaser, less title insurance company charges.

8. **Title and Conveyance:** Title of Seller is to be free of encumbrances or defects except:

8.1. Rights reserved in federal patents or state deeds; building or use restrictions general to the district, including governmental platting and subdivision requirements; reserved hydrocarbon and mineral rights approved by Purchaser; existing utility and other easements of record approved by Purchaser and not inconsistent with Purchaser's intended use; existing covenants, conditions, restrictions, deed exceptions and reservations of record as approved by Purchaser and not inconsistent with Purchaser's intended use; all of which shall not be deemed encumbrances or defects.

8.2. Encumbrances to be discharged by Seller may be paid out of purchase price at the date of closing. Seller shall convey title to Parcel A at closing by warranty deed, subject only to those encumbrances, liens and defects noted and excepted in Paragraphs 7 and 8 of this agreement, and subject to encumbrances and defects assumed, and accepted or approved by Purchaser as provided in Paragraphs 7 and 8 of this agreement. Seller shall convey title to Parcel B by warranty deed, subject to those encumbrances, liens and defects noted and excepted in Paragraphs 7 and 8 of this agreement, and subject to encumbrances and defects assumed, and accepted or approved by Purchaser as provided in Paragraphs 7 and 8 of this agreement and in addition subject to the Deed of Trust noted in section 4B herein.

9. **Closing Costs:** Purchaser shall be responsible for paying one-half (1/2) the escrow/closing fee, the recording fee, title insurance premium for the lender's policy, and all attorney's fees incurred by Purchaser. Seller shall be responsible for payment of the title insurance premium for the owner's policy, one-half (1/2) of the escrow/closing fee, and all attorney's fees incurred by Seller. Purchaser is acquiring the Premises under threat of condemnation and it is not anticipated that any excise taxes will be paid by Seller.

10. **Taxes:** Seller acknowledges that upon sale to the City, the subject real property becomes tax exempt. Seller agrees to pay all real property taxes assessed up to the time of sale. The property at closing shall be withdrawn from any current use assessment pursuant to RCW 84.34.108. Purchaser is acquiring the Premises under threat of condemnation and it is not anticipated that any back taxes, interest or penalties for removal of the Premises from any current use classification will be assessed.

11. **Possession:** Seller shall be entitled to retain possession of Parcel A for up to six (6) months after closing. As to Parcel B the Seller shall have no right to possession but the right of use. The parties shall execute a form of License, to include indemnification provisions, prior to closing to allow possession of Parcel A, and limited access by Seller thereon to Parcel B. Seller shall maintain personal injury and property insurance on Parcel A after closing and shall indemnify and hold Purchaser harmless from any and all liability thereon pertaining only to Seller, Seller's agents, licensees, invitees and contractors use of such property. While Seller has possession of Parcel A, Seller shall secure it with use of gates and by locking up all structures in the normal course, for the benefit of Seller and Purchaser. Attached hereto as Exhibit "E" is a form of License agreed to by the parties. The parties hereto acknowledge and agree that Purchaser shall be entitled to host a celebration event solely on Parcel B and will not disturb Seller on Parcel A, as much as reasonably possible. It is understood that Seller will pursue eligible replacement property pursuant to Section 1031 and/or Section 1033 of the Internal Revenue Code and the Purchaser agrees, at no cost to Purchaser, to cooperate in effecting such exchange.

12. **Conditions Precedent:** The enforceability of this agreement by the parties hereto and the obligations of the parties to close escrow are subject to the occurrence or waiver of each of the following conditions precedent on or before the date established for closing:

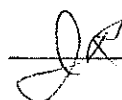
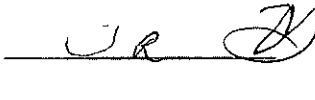
12.1 Approval of the condition of title to the Premises by Purchaser within 30 days of receiving a preliminary commitment for title insurance and all exception documents.

12.2 Approval of the condition of the Premises by Purchaser within 45 days following execution of this Agreement, including completion of any environmental studies and assessments deemed necessary by Purchaser at their sole cost. Seller has heretofore provided Purchaser copies of all previously completed studies or assessments known to Seller. Seller will allow

Purchaser and its agents, employees, and consultants access to the Property, for a period not to exceed 45 days following the mutual execution of this Agreement, for purposes of inspecting the Property, with reasonable prior notice to Seller. In respect to any home inspection the advance notice period to Seller shall be 7 days. Purchaser must promptly restore the Property to its condition prior to Purchaser's inspection of the Property. During the course of any inspection the Purchaser or their agents are specifically prohibited from motor vehicle access across any field. Further, all parking of vehicles shall be within the graveled area adjacent to the barn.

12.3 That all representations and warranties are true on the date of closing. If any of the conditions are not satisfied or waived by the party who benefits from such conditions at or prior to closing, such party, without prejudice to any other rights or remedies herein provided, may withdraw from this transaction and be released from all liability hereunder by giving written notice to the other party and the escrow/closing agent. The parties' agreement to close this transaction constitutes their approval or waiver of all such conditions.

13. **Default:** If Purchaser defaults in the performance of its obligations hereunder, Seller's sole remedy shall be to withdraw the earnest money deposit from escrow as liquidated damages for such default and to rescind this agreement, after which this agreement shall be terminated and Purchaser shall have no further rights or obligations.

 _____
Initials 

This Agreement is binding on the Seller- see section 23. If Seller defaults in the performance of Seller's obligations hereunder, Purchaser may seek specific performance to require performance by the Seller pursuant to the terms of this agreement, damages, rescission, or any other remedy allowed by law. Notwithstanding the foregoing, if Seller is unable to convey title to the subject Premises in the condition required pursuant to this agreement, the sole liability of Seller shall be to refund to Purchaser the earnest money deposit.

 _____
Initials 

14. **Attorney Fees and Costs:** In the event litigation arises out of this agreement, the losing party agrees to pay the prevailing party's attorney fees incidental to said litigation, together with all costs and expenses incurred in connection with such action, including costs of searching records to determine the condition of title, and whether or not incurred in trial court or on appeal, or in any proceedings under the federal Bankruptcy Code or state receivership statutes.

15. **Waiver:** No act or omission of either party hereto shall at any time be construed to deprive such party of a right or remedy hereunder or otherwise be construed so as to at any future time stop such party from exercising such right or remedy. Failure of a party at any time to require performance of any provision of this agreement shall not limit the right of that party to

enforce the provision, nor shall any waiver by a party of any breach of any provision constitute a waiver of any succeeding breach of that provision, or waiver of that provision itself, or any other provision.

16. **Escrow or Closing Instruction:** This agreement shall serve as and/or be incorporated into Seller's and Purchaser's escrow or closing instructions for the closing of this transaction. Any inconsistencies between this agreement and escrow or closing instructions provided by the parties shall be resolved in favor of this agreement.

17. **Non-Merger:** Provisions of this agreement shall not be deemed to have merged into the closing documents, but shall survive the closing and continue in full force and effect.

18. **Closing and Termination:** Purchaser shall have until the closing date to satisfy or waive all contingencies referenced in Section 12, above, unless terminated according to the provisions of this agreement. The parties may by mutual agreement extend the closing date. Each party will deposit with the closing agent all instruments and monies necessary to complete the purchase and sale.

19. **Notices:** Notices or demands hereunder shall be in writing and may be mailed or delivered personally. If mailed, such notices shall be sent with postage prepaid, by certified mail, return receipt requested, and the date marked on the return receipt by United States Postal Service shall be deemed to be the date on which the party received the notice. Notices shall be mailed or delivered to the last known addressee or the parties.

To Purchaser:

CITY OF CAMAS
Attn: City Administrator
616 NE Fourth Avenue
Camas, WA 98607

City of Camas
Attn: Finance Director
616 NE Fourth Avenue
Camas, WA 98607

With a Copy to:
Shawn R. MacPherson, Attorney at Law
430 NE Everett
Camas, WA 98607

To Seller:

Jo Hagerud Rose
PO Box 853
Camas, WA 98607

With a Copy to:
Brian Gerst, Attorney at Law
Gerst Law, PLLC
4001 Main Street, Suite 309
Vancouver, WA 98663

20. **Seller's Warranties:** Seller warrants the following:

20.1 That it has no notice of any liens to be assessed against the Premises.

20.2 That it has no notice from any governmental authority or agency of any violation of law or ordinance relating to the Premises.

20.3 That it has no notice or knowledge of any material defect in the Premises which has not been disclosed to Purchaser in writing.

20.4 To the best of Seller's knowledge, the Premises are free from all hazardous materials and that no hazardous materials have been used or placed on the Premises during the period of its ownership.

21. **As Is Condition, No obligation to Improve/Repair:** Except as otherwise expressly provided in this Agreement, Seller is selling and Purchaser is purchasing the Premises "AS IS, WHERE IS" and Seller shall not be required to make any repairs to the Premises or any improvements located thereon. Purchaser has made a personal inspection of the property and has reached Purchaser's own conclusion as to the adequacy and acceptability of the property based upon such personal inspection.

22. **Disclosure of Representation:** It is understood that this Real Estate Purchase and Sale Agreement has been prepared by Shawn R. MacPherson, attorney, for the benefit of The City of Camas, Purchaser. Seller has retained counsel for the purpose of reviewing the terms herein.

23. **Execution Under Threat of Condemnation.** Purchaser represents it has the power of eminent domain and has determined to acquire the Premises subject to satisfaction of the conditions precedent set forth above. Purchaser has determined that the best way to acquire the premises is by agreeing to and carrying out the terms of this Agreement. However, it is acknowledged and hereby represented by the parties to this agreement that, in the event this Agreement is not consummated, Purchaser is ready, willing, and able to exercise its power of eminent domain to make such acquisition. The terms of this Agreement have been negotiated in light of such power, and the acquisition, if this transaction is completed, will be made in lieu of and under the threat of condemnation.

24. **Miscellaneous:**

24.1 **Gender and Number:** As used in this agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall be deemed to include the others whenever the context so indicates.

24.2 **Interpretation/Construction:** Paragraph headings have been included for the convenience of the parties and shall not be considered a part of this agreement for any purpose relating to construction or interpretation of the terms of this agreement and shall in no way limit any of the provisions of this agreement. The term "knowledge" with respect to Seller means the actual present knowledge of Jo Rose or Jerry Rose.

24.3 **Entire Agreement and Amendment:** This agreement constitutes the entire agreement of the parties hereto, supersedes and replaces all prior or existing written and oral agreements between the parties, and may not be amended other than in writing, signed by all parties.

24.4 **Successors and Assigns:** The terms and provisions of this agreement shall be binding upon and shall inure to the benefit of the heirs, legal representatives and proper and permitted assigns and successors of the parties.

24.5 **Closing Agent:** For purposes of this agreement, "closing agent" shall be defined as a person authorized to perform escrow or closing services who is designated by the parties hereto to perform such services.

24.6 **Date of Closing:** For purposes of this agreement, "date of closing" shall be construed as the date upon which all appropriate documents are recorded and proceeds of this sale are available for disbursement to Seller. Funds held in reserve accounts pursuant to escrow or closing instructions shall be deemed, for purposes of this definition, as available for disbursement to Seller.

24.7 **Time of the Essence:** Time is of the essence of this agreement.

24.8 **Governing Law and Venue:** This agreement shall be governed by and interpreted in accordance with Washington law. Any action or litigation arising out of or in connection with this agreement shall be conducted in Clark County, Washington.

24.9 **Exchange:** Seller has the right to convey all or a portion of the Premises in exchange for real property or properties of like kind pursuant to Section 1031 and/or Section 1033 of the Internal Revenue Code, either in a simultaneous exchange or in a deferred exchange. Purchaser agrees, at no cost to Purchaser, to cooperate with Seller in effecting such an exchange.

and, if requested by Seller, Purchaser shall execute any exchange agreement reasonably requested by Seller and consistent with the above. In no event shall the Closing be delayed or extended due to any such exchange.

25. **Ratification:** This agreement shall not be binding upon the City of Camas until ratified by the City Council of the City of Camas at a regularly scheduled council meeting. The City agrees to submit this agreement for ratification at a regularly scheduled council meeting following acceptance.

DATED this 9 day of March, 2020

CITY OF CAMAS, a Washington municipal corporation

By: 

Title: Interim City Administrator

On the 6th day of March, 2020, the undersigned hereby approve and accept the sale set forth in the above agreement and agree to carry out all the terms thereof on the part of the Seller.


JO ROSE (A/K/A JO HAGERUD)

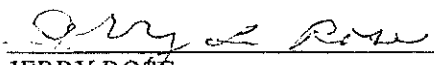

JERRY ROSE

EXHIBIT 'A'

DESCRIPTION:

A portion of Government Lots 1 and 2 (the South half of the Southwest quarter) of Section 27, Township 2 North, Range 3 East, Willamette Meridian, Clark County, Washington, described as follows:

BEGINNING at a 3/4" iron pipe at the Southeast corner of the Southwest quarter of Section 27; thence North 47°45'27" West 1106.25 feet to the true point of beginning; thence South 82°28'44" West, 210.00 feet; thence North 07°31'16" West, 210.00 feet; thence North 82°28'44" East, 210.00 feet; thence South 07°31'16" East, 210.00 feet to the true point of beginning.

TOGETHER WITH a 60 foot easement for ingress, egress and utilities the centerline of which is described as follows:

BEGINNING at the Northwest corner of the above described 1-acre tract; thence South 07°31'16" East, 32.96 feet to the true point of beginning of said easement centerline; thence South 58°17'34" West, 47.47 feet; thence along the arc of a 261.00 foot radius curve to the right for an arc distance of 108.32 feet; thence South 82°04'21" West, 126.67 feet; thence along the arc of a 180 foot radius curve to the left for an arc distance of 87.69 feet; thence South 54°09'31" West, 129.24 feet; thence along the arc of a 94.00 foot radius curve to the left for an arc distance of 144.44 feet; thence South 33°52'44" East, 161.03 feet; thence along the arc of a 74.00 foot radius curve to the right for an arc distance of 75.99 feet; thence South 24°57'33" West, 27.87 feet to the centerline of the County Road and the terminus of said 60 foot easement centerline at a point which bears North 76°33'52" West, 1482.83 feet from the Southeast corner of said Southwest quarter of Section 27.

341

FILED FOR RECORD
CL. CO. WASH.
SAFECO TITLE INSURANCE COMPANY

MAR 9 2 51 PM '87

DAY: J. CHENER

FILED

REC

Government Lots One (1) and Two (2) of
Section Twenty-seven (27), Township Two
(2) North, Range Three (3) East of the
Willamette Meridian;

EXCEPT therefrom the following described
tract:

BEGINNING at a point 1040.2 feet West of
the one quarter corner common to Sections
27 and 34, Township 2 North, Range 3 East
of the Willamette Meridian; thence East
162.7 feet; thence North 25°30' West a
distance of 283.2 feet; thence North 68°10'
West a distance of 173.6 feet; thence North
62°0' West a distance of 138.0 feet; thence
North 55°12' West a distance of 145.1 feet;
thence South 28°10' West a distance of 226.0
feet, said point being the shore line of
Lackamas Lake; thence in a Southeasterly
direction along the shore line of Lackamas
Lake a distance of 484.2 feet, more or less,
to the true point of beginning.

EXCEPT therefrom also the following tract:

BEGINNING at a point 681.3 feet West of the
one quarter corner common to Sections 27 and 34,
Township 2 North, Range 3 East of the Willamette
Meridian; thence North 60.0 feet; thence West
50.0 feet; thence South 60.0 feet; thence
East 50.0 feet to the true point of beginning.

EXHIBIT 13
PAGE 1 OF 1

PROMISSORY NOTE

\$7,500,000.00

_____, 2020

This Promissory Note ("Note") is made by THE CITY OF CAMAS, a Washington Municipal Corporation ("Maker") in favor of JO ROSE A/K/A JO HAGERUD, ("Holder").

1. **Payment.** Maker promises to pay to the order of Holder the principal amount of SEVEN MILLION, FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$7,500,000.00), together with interest on the unpaid principal amount from the date of this Note on or before April 1, 2025, at which time the entire amount due hereunder shall be paid in full. Annual payments of principal and interest in the amount of ONE MILLION SIX HUNDRED THIRTY-SEVEN THOUSAND, SIX HUNDRED FIFTY-NINE AND 29/100 DOLLARS (\$1,637,659.29) shall be made to Holder on the first day of April, for five (5) consecutive years beginning April 1, 2021.

2. **Interest Rates.**

(a) Unless and until an event of default under this Note occurs, Maker will pay interest on the unpaid principal amount at an annual rate of THREE PERCENT (3.00%).

(b) On and after an event of default under this Note:

(1) all accrued interest will become part of the unpaid principal amount; and

(2) Maker will pay interest on the unpaid principal amount at an annual rate of two percent (2%) above the rate specified in Section 2(a), or at the maximum interest rate permitted by applicable law, whichever is less.

(c) Interest will be computed on the basis of a 365-day year.

3. **Manner of Payments.** All payments under this Note will be made by wire transfer only to Holder as may be directed.

4. **Application of Payments.** All payments under this Note will apply first to any costs and expenses due to Holder, then to accrued interest to the date of payment, and then to the unpaid principal amount.

5. **Prepayments.** Maker may prepay a part or all of the unpaid principal amount at any time.

6. **Security.** The obligations of Maker under this Note are secured by that certain Deed of Trust dated _____, 2020 (the "Deed of Trust"), made by Maker as Grantor, which encumbers the property located at Clark County Tax Parcel number 175721000.

7. **Tax Reporting.** Maker acknowledges that this Note may qualify as a State or local bond as contemplated by Internal Revenue Code ("IRC") Section 103 and the interest hereunder may be exempt from federal income tax. Maker agrees to take any actions reasonably necessary to

qualify this Note as a State or local bond and file any forms with the Internal Revenue Service ("IRS") required for tax-exempt governmental bonds including, without limitation, IRS Form 8038-G, at the time such forms are due. If the interest payable under this Note qualifies as tax-exempt interest under IRS Section 103, Maker will report interests paid to Holder hereunder as tax-exempt interest on any IRS Form 1099-INT issued to Holder or the IRS hereunder.

8. Events of Default. Each of the following is an event of default under this Note:

- (a) Maker ceases to exist or dissolves;
- (b) Maker fails to make any payment required by this Note within twenty (20) days after the payment is due;
- (c) Maker fails to pay, becomes insolvent or unable to pay, or admits in writing an inability to pay Maker's debts as they become due, or makes a general assignment for the benefit of creditors;
- (d) a proceeding with respect to Maker is commenced under any applicable law for the benefit of creditors, including, but not limited to, any bankruptcy or insolvency law, or an order for the appointment of a receiver, liquidator, trustee, custodian, or other officer having similar powers over Maker is entered; and
- (e) an event of default occurs under any agreement securing the performance of any of the obligations of Maker under this Note, specifically including, but not limited to, the Deed of Trust.

9. Remedies. On and after an event of default under this Note, Holder may exercise the following remedies, which are cumulative and which may be exercised singularly or concurrently:

- (a) any remedy available to Holder under any agreement guaranteeing or securing the performance of any of the obligations of Maker under this Note or any of the obligations of any guarantor of this Note, specifically including, but not limited to, the Deed of Trust; and
- (b) any other remedy available to Holder at law or in equity.

10. Time of Essence. Time is of the essence with respect to all dates and time periods in this Note.

11. Amendment. This Note may be amended only by a written document signed by the party against whom enforcement is sought.

12. Waiver.

- (a) Maker waives demand, presentment for payment, notice of dishonor or nonpayment, protest, notice of protest, and lack of diligence in collection, and agrees that Holder

may extend or postpone the due date of any payment required by this Note without affecting Maker's liability.

(b) No waiver will be binding on Holder unless it is in writing and signed by Holder. Holder's waiver of a breach of a provision of this Note will not be a waiver of any other provision or a waiver of a subsequent breach of the same provision.

13. Severability. If a provision of this Note is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Note will not be impaired.

14. Governing Law. This Note is governed by the laws of the State of Washington, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Note.

15. Venue. Any action, suit, or proceeding arising out of the subject matter of this Note will be litigated in courts located in Clark County, Washington. Maker consents and submits to the jurisdiction of any local, state, or federal court located in Clark County, Washington.

16. Attorneys' Fees. If any arbitration, action, suit, or proceeding is instituted to interpret, enforce, or rescind this Note, or otherwise in connection with the subject matter of this Note, including but not limited to any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorneys' fees and other fees, costs, and expenses of every kind, incurred in connection with the arbitration, action, suit, or proceeding, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.

17. Costs and Expenses. If an event of default under this Note occurs and Holder does not institute any arbitration, action, suit, or proceeding, Maker will pay to Holder, upon Holder's demand, all reasonable costs and expenses, including but not limited to attorney's fees and collection fees, incurred by Holder in attempting to collect the indebtedness evidenced by this Note.

MAKER:

The City of Camas, a Washington Municipal Corporation

By: _____
Barry McDonnell, Mayor

After Recording Return to:

JO ROSE
P.O. Box 853
Camas, WA 98607

DEED OF TRUST

1. **Effective Date:** _____, 2020
2. **Grantor:** **CITY OF CAMAS**
 616 NE Fourth Avenue
 Camas, WA 98607
3. **Beneficiary:** **JO ROSE**
 P.O. Box 853
 Camas, WA 98607
4. **Trustee:** **CHICAGO TITLE COMPANY**
 655 W Columbia Way, Suite 200
 Vancouver, WA 98660
5. **Property:** **215 SE Leadbetter Road, Camas, Washington 98607**
6. **Abbrev. Legal:** **#39 SEC 27 T2N R3 EWM 53.45A**
7. **Tax Id No:** **175721000**
8. **Loan Amount applied:** **\$7,500,000.00**
9. Grantor hereby bargains, sells and conveys to Trustee in Trust, with power of sale, the following described real property (hereinafter "**Property**") in Clark County, Washington:

See, Exhibit A

together with all the tenements, hereditaments, and appurtenances now or hereafter belonging or appertaining thereto, and the rents, issues and profits thereof (hereafter "**Income**").

DEED OF TRUST - I

EXHIBIT "D"

10. This Deed of Trust (hereinafter "**Deed of Trust**" or "**Deed**") is for the purpose of securing performance of each agreement of Grantor herein contained, and payment of the sum of: SEVEN MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$7,500,000.00), with interest in accordance with the terms of a Promissory Note of even date (hereinafter "**Note**" or "**Promissory Note**").
11. The term "**Indebtedness**" as used in this Deed of Trust shall mean (a) the principal and interest due and payable under the Note, (b) any and all other obligations due under the Note, (c) any advances made to Grantor by Beneficiary, its successors and assigns, under said Note or pursuant to the terms of this Deed of Trust or any other instruments and agreements executed in connection with or to secure said Note, (d) the debts evidenced by all renewals, extensions, modifications, substitutions and consolidations of said Note, (e) any future amounts that Beneficiary may in its discretion loan to Grantor, with interest thereon, and (f) any amounts expended or advanced by Beneficiary to discharge obligations of Grantor or expenses incurred by Beneficiary or Trustee to enforce obligations of Grantor, as permitted under this Deed of Trust, with interest as provided below.

This Trust Deed is given to secure payment of the Indebtedness, and performance of all obligations of Grantor under this Deed and other instruments between the parties, and is given and accepted on the following terms and conditions which Grantor will promptly and faithfully observe and perform.

12. **Payment and Performance:** Grantor shall pay to Beneficiary promptly when due all amounts payment of which is secured by this Deed of Trust and shall strictly perform all obligations imposed upon Grantor under the Note and this Deed of Trust.
13. **Commercial Transaction:** This transaction is not a personal, household or family loan.
14. **Possession and Maintenance of Property:**
- 14.1 Possession. Until in default, Grantor may remain in possession and control of and operate and manage the Property and collect the Income from the Property, if any.
- 14.2 Construction and Repairs. Grantor shall complete or restore promptly and in good workmanlike manner any building or improvements which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.

14.3 Grantor agrees:

14.3.1 To allow Beneficiary to inspect said Property at all reasonable times; and

14.3.2 Grantor may complete any construction including any utility construction started on the property within a reasonable amount of time; and

14.3.3 Grantor shall not permit, commit or suffer any waste, impairment or deterioration of the Property or of any part thereof. Any work or construction by Grantor in fulfillment of the covenant to utilize the Property solely for parks and public recreation purposes and uses incidental thereto, shall not constitute waste, impairment or deterioration.

14.4 Beneficiary's Right to Enter. Beneficiary and its agents and representatives may enter upon the Property at all reasonable times to attend to Beneficiary's interest and to inspect the Property, subject to any tenant's rights.

14.5 Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances and regulations of all governmental authorities applicable to the improvement, use or occupancy of the Property including without limitation fire, occupational, health, safety, occupancy and similar statutes. Without limitation, Grantor shall comply with all laws, ordinances and regulations relating to the environment and hazardous substances including without limitation petroleum oil and its fractions. Grantor may contest in good faith any such law, ordinance or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Beneficiary's interest in the Property is not jeopardized. Grantor shall immediately deliver to Beneficiary any notices received from governmental agencies or municipalities relating to the Property.

14.6 Duty to Protect. Grantor shall do all other acts, in addition to those set forth in this Deed, that from the character and use of the Property are reasonably necessary to protect and preserve the security, except as otherwise set forth herein.

14.7 Representation and Warranties. Grantor represents and warrants to Beneficiary that Grantor has no notice of alleged or actual violations of any zoning laws, statutes, ordinances, or other laws, rules or regulations applicable to the Property or its operation or of any administrative or judicial investigations, proceedings or actions with respect to such matters. The Property will receive all required inspections and permits. There are no actual or potential construction liens pending against the Property that could take priority to this Deed of Trust.

- 14.8 Indemnification. To the fullest extent allowed by law, Borrower shall indemnify, defend and hold harmless Beneficiary, its agents, and any successors to Beneficiary's interest in the Property (collectively "**Indemnitee**") against any and all claims, demands, fines, losses, liabilities, costs and expenses (including attorney's fees at trial and on any appeal or petition for review)(collectively "**Claims**") arising out of, in connection with or in any way relating to (a) death, or injury and damage to persons or property occurring on or about the Property, (b) the breach of any of the representations, warranties or covenants contained in this agreement, (c) any facts or circumstances that cause any of the representations or warranties set forth herein to cease to be true for any period before the loan is paid in full, (d) the use, treatment, storage, generation, manufacture, transport, release, spill, disposal or other handling of hazardous substances on the Property before the Loan is paid in full.
- 14.9 Claims. Claims shall include without limitation (a) the cost of all investigatory, removal, remedial and other response action required by any environmental law, by judicial order or by order of or agreement with any governmental authority having jurisdiction under any environmental law, (b) claims for injury or death of any person, including an Indemnitee and (c) claims for damages to property of an Indemnitee or any other person, including claims for diminution in value or loss of use. Any Indemnitee may waive its right to defense under this section without prejudice to any other right or remedy it may have under this section or otherwise. The representations, warranties and covenants contained in this agreement shall survive the delivery of a deed in lieu of foreclosure to Beneficiary or any successor of Beneficiary and shall survive any foreclosure, whether judicial or nonjudicial, of the Property by Beneficiary or any successor of Beneficiary, and shall be for the benefit of Beneficiary and any successor to Beneficiary as holder of any security interest in the Property or as owner of the Property following foreclosure of the delivery of a deed in lieu of a foreclosure.
- 14.10 Impairment of Security. Grantor shall not, without first obtaining the Beneficiary's written consent, assign any of the rents or profits of the Property to any third party. The parties acknowledge that the Property referenced herein will be utilized solely for parks and public recreation purposes and the uses incidental thereto and that zoning changes are also likely.

15. Taxes and Liens.

- 15.1 Payment. If applicable, Grantor shall pay when due all taxes and assessments levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any additional mortgages, deeds of trust, encumbrances, other liens and security interests and whether or not prior to the lien or security interest of this Deed, except for the lien of taxes and assessments not due. Grantor may pay taxes and assessments promptly in accordance with any available installment method as they become due.

- 15.2 Grantor's Right to Contest Statutory Liens. The filing of a construction lien against the Property shall not constitute a default hereunder if and so long as (a) no defaults exist under the Note or this Deed of Trust; (b) Grantor obtains and maintains in effect a bond issued by a surety acceptable to Beneficiary in an amount not less than the entire sum alleged to be owed to the lien claimant or such other amount as is required to obtain a court order to release said lien of record; (c) Grantor provides to Beneficiary and pays for the endorsement to Beneficiary's title insurance policy which insures the priority of this Deed of Trust over the lien being contested; (d) Grantor immediately commences its contest of such lien and continuously pursues the same in good faith and with due diligence; (e) such bond or contest stays the foreclosure of the lien; and (f) Grantor pays any judgment rendered for the lien claimant within ten (10) days thereafter.
- 15.3 Evidence of Payment. If applicable, Grantor shall promptly furnish evidence of payment of taxes and assessments in accordance with Paragraph 15.1 to Beneficiary after each payment and shall authorize the appropriate county official to deliver to Beneficiary at any time a written statement of the taxes and assessments against the Property.
- 15.4 Assessment Districts. Grantor agrees not to consent to its inclusion in any local improvement or special assessment district or to the imposition of any special or local improvement assessment against the Property without Beneficiary's prior written consent.

16. Property Damage Insurance and Other Insurance

- 16.1 Policies. Grantor is a Washington Municipal Corporation and is self insured through Washington Cities Insurance Authority (hereafter "WCIA"). Grantor represents and agrees that the Property shall be adequately insured through WCIA and that Grantor shall remain a member in good standing during the term of this Deed of Trust.
- 16.2 Certificates. Upon request, Grantor shall produce evidence of good standing with WCIA along with evidence showing that the Property is covered under the Policy.
- 16.3 Assignment of Insurance and Condemnation Proceeds. Should the Property or any part or appurtenance thereof or right or interest therein be taken or damaged by reason of any public or private improvement, condemnation proceeding (including change of grade), fire, earthquake or other casualty, or in any other manner, Beneficiary or Trustee may, at its option, commence, appear in, and prosecute, in its own name, any action or proceeding, or make any reasonable compromise or settlement in connection with such taking or damage, and obtain all compensation, awards or other relief therefor. All compensation, awards, damages, rights of action and proceeds, including the policies and the proceeds of any policies of insurance affecting the Property, are hereby assigned to

Beneficiary, but no such assignments shall be effective to invalidate or impair any insurance policy. Grantor further assigns to Beneficiary any return premiums or other repayments upon any insurance at any time provided for the benefit of the Beneficiary and all refunds or rebates made of taxes or assessments on said Property, and Beneficiary may at any time collect said return premiums, repayments, refunds, and rebates in the event of any default by Grantor under the Note or this Deed of Trust. No insurance proceeds or condemnation awards at any time assigned to or held by Beneficiary shall be deemed to be held in trust, and Beneficiary may commingle such proceeds with its general assets and shall not be liable for the payment of any interest thereon. Grantor also agrees to execute such further assignments of any such policies, compensation, award, damages, rebates, return of premiums, repayments, rights of action and proceeds as Beneficiary or Trustee may require.

16.4 Use of Insurance Proceeds. After any damage by casualty to the Property, whether or not required to be insured against under the policies to be provided by Grantor, Grantor shall give prompt written notice thereof to Beneficiary generally describing the nature and cause of such casualty and the extent of the damage to or destruction of the Property. Grantor shall promptly restore the damage, and any insurance proceeds payable therefor shall be made available through Beneficiary as the work progresses to pay for the costs of labor and material in doing so.

17. **Warranties of Grantor.** Grantor shall defend its title against the lawful claims of all persons arising on account of Grantor's action or failure to act following the date hereof including without limitation claims of adverse possession.

18. **Condemnation**

18.1 Application of Net Proceeds. If all or any part of the Property is condemned, Beneficiary may elect to require that all or any portion of the net proceeds of the condemnation be applied on the Indebtedness. The "Net Proceeds" shall mean the total amount available after payment of all reasonable costs, expenses, and attorneys' fees necessarily paid or incurred by Grantor, Beneficiary, and Trustee in connection with the taking by condemnation. Sale of all or any part of the Property to purchaser with the power of eminent domain in the face of a threat or the probability of the exercise of this power shall be treated as a taking by condemnation to which this Section shall apply.

18.2 Proceedings. If any proceedings in condemnation are filed, Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award.

19. Powers and Obligations of Trustee

19.1 Powers of Trustee. In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Property upon the request of Beneficiary and Grantor.

19.1.1 Join in granting any easement or creating any restriction on the Property.

19.1.2 Reconvey, without warranty, all or any part of the Property.

19.2 Obligations to Notify. Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Grantor, Beneficiary, or Trustee shall be a party, unless the action or proceeding is brought by Trustee.

20. Transfer by Grantor

20.1 Prohibition of Transfer Without Consent. Grantor shall not sell, convey, contract to sell, or otherwise transfer any interest in the Property or any part of the Property nor further encumber, mortgage, or create liens in the Property without the consent of Beneficiary. Transfer shall include, without limitation, transfer into an entity, a Trust, or transfer to a tenant in common in the Property. Any such purported transfer without Beneficiary's prior written consent, which consent shall not be unreasonably withheld, shall be void and of no effect, and shall be deemed to be an event of default without notice.

20.2 Effect of Consent. Consent by the Beneficiary to one transfer shall not constitute a consent to other transfers or a waiver of this section. No transfer by Grantor shall relieve Grantor of liability for payment of the Indebtedness. Following a transfer, Beneficiary, in Beneficiary's sole discretion, may agree to any extension of the Note or waive any right or remedy under this Deed or the Note or waive any right or remedy under this Deed or the notice, presentment, and protest with respect to the Indebtedness.

20.3 Further Encumbrances. Except as expressly permitted herein, Grantor acknowledges that Beneficiary has relied upon the Property not being subject to additional financial liens or encumbrances for reasons which include, but are not limited to, the possibility of competing claims or the promotion of plans disadvantageous to Beneficiary in bankruptcy; the risks to Beneficiary in a junior lienholder's bankruptcy; questions which involve the priority of future advances, the priority of future leases of the Property, the marshaling of Grantor's assets, and the Beneficiary's rights to determine the application of condemnation awards and insurance proceeds and impairment thereof; the impairment of the Beneficiary's option to accept a deed in lieu of foreclosure; the increased difficulty of reaching agreements for loan workouts or to the actions to be taken by trustees, receiver, liquidators and fiduciaries; and Beneficiary's requirements of

Grantor's preservation of its equity in the Property and the absence of debt which could increase the likelihood of Grantor's inability to perform its obligations when due. Therefore, as a principal inducement to Beneficiary to make this loan and with the knowledge that Beneficiary will materially rely upon this paragraph in so doing, Grantor covenants not to encumber the Property. A breach of this covenant shall constitute a default under the Note, and the outstanding balance of the Note and all other sums then due to Beneficiary under any documents executed in connection therewith may, at Beneficiary's option, be declared immediately due and payable if any interest in the Property or the improvements thereto, or any part thereof, are voluntarily or involuntarily encumbered. Without limiting the generality of the foregoing, no mortgages, deeds of trust or other forms of security interest prior or subordinate to the security interest of Beneficiary shall encumber any real or personal property which is the subject of any lien or security interest granted to Beneficiary. Encumbrances and hypothecation of stock or partnership interest in Grantor or any successor of Grantor, sale lease-back, transfers by leases with purchase options, and conveyances by real estate contract shall each be deemed an encumbrance for the purposes of this paragraph. The Grantor and Beneficiary acknowledge that Grantor may obtain certain conservation grant funding which would require the recording of a deed of right or like encumbrance to secure the receipt thereof which recording shall not constitute a breach of this subsection. If Grantor records a deed of right or like encumbrance, it shall be subordinate to this Deed of Trust

21. Assignment of the Income

- 21.1 Upon default as defined in Paragraph 23, and subject to existing state law, Beneficiary, in person or by agent, shall be entitled to enter upon, take possession of and manage the Property and to collect any rents of the Property including those past due. All rents collected by Beneficiary shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to fees and costs of collection and attorney fees, and then to the sums secured by this Deed of Trust. Beneficiary shall be liable to account only for those rents actually received.
- 21.2 No Assignee Duties. Beneficiary shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Grantor under any other agreement assigned under this Deed of Trust. Grantor hereby agrees to indemnify Beneficiary for, and to save it harmless from, any and all liability arising from any such agreements or from such assignment. Such assignment shall not place responsibility for the control, care, management or repair of the Property upon Beneficiary, or make Beneficiary responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, employee or stranger.

22. **Reconveyance on Full Performance.** If Grantor pays all of the Indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Deed, Beneficiary shall execute and deliver to Trustee a request for full reconveyance. The reconveyance and filing fees for this Deed shall be paid by Grantor.
23. **Default.** The following shall constitute events of default:
- 23.1 Failure of Grantor to pay any portion of the Indebtedness within twenty (20) days after it is due.
 - 23.2 Failure of Grantor to make any payment for taxes, insurance, or any other payment necessary to prevent filing of or discharge of any lien.
 - 23.3 Any transfer or encumbrance as described in Paragraph 20 without Beneficiary's prior written consent.
 - 23.4 Violation of any warranty or representation made by Grantor under this Deed of Trust.
 - 23.5 Dissolution, termination of existence, insolvency, or business failure of Grantor; the commencement by Grantor of a voluntary case under the federal bankruptcy laws or under any other federal or state law relating to insolvency or debtor's relief; the entry of a decree or order for relief against Grantor in an involuntary case under the federal bankruptcy laws or under any other applicable federal or state law relating to insolvency or debtor's relief; the appointment or the consent by Grantor to the appointment of a receiver, trustee, or custodian of Grantor or of any of Grantor's property; an assignment for the benefit of creditors by Grantor; the making or suffering by Grantor of a fraudulent transfer under applicable federal or state law; concealment by Grantor of any of its property in fraud of creditors; the making or suffering by Grantor of a preference within the meaning of the federal bankruptcy law; the imposition of a lien through legal proceedings or distraint upon any of the property of Grantor which is not discharged or bonded in the manner permitted by Paragraph 15.2 herein; or Grantor's failure generally to pay its debts as such debts become due.
 - 23.6 An event of default occurs under the Note between Grantor and Beneficiary of even date herewith.
 - 23.7 Failure of Grantor to make any payment or perform any obligation under any junior, permitted lien within the time required thereunder, or commencement of any suit or other actions, including nonjudicial foreclosure to foreclose the junior permitted lien.

- 23.8 Failure of Grantor to perform any other obligation under this Deed within fifteen (15) days after receipt of written notice from Beneficiary specifying the nature of the default or, if the default cannot be cured within fifteen (15) days, failure within such time to commence and pursue curative action with reasonable diligence.

24. Rights and Remedies on Default

- 24.1 Remedies. Upon the occurrence of any event of default and at any time thereafter, subject to the limitations stipulated in this Deed of Trust, Trustee or Beneficiary may exercise any one or more of the following rights and remedies:
- 24.1.1 The Trustee shall have the right to foreclose by notice and sale, and Beneficiary shall have the right to foreclose by judicial foreclosure, in either case in accordance with applicable law, and to obtain a deficiency judgment to the extent permitted by law.
- 24.1.3 Beneficiary shall have the right, without notice to Grantor, and subject to existing state law, to take possession of the Property and collect the Income, including amounts past due and unpaid, and apply the net proceeds, over and above Beneficiary's costs, against the Indebtedness. In furtherance of this right, Beneficiary may require any tenant or other user to make payments of rent or use fees directly to Beneficiary. If the Income is collected by Beneficiary, then Grantor irrevocably designates Beneficiary as Grantor's attorney in fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Beneficiary in response to Beneficiary's demand shall satisfy the obligation for which the payments are made, whether or not any proper grounds for the demand existed. Beneficiary may exercise its rights under this paragraph either in person, by agent or through a receiver.
- 24.1.4 Beneficiary shall have the right to have a receiver appointed to take possession of any or all of the Property with the power to complete construction of, protect and preserve the Property, to operate the Property preceding foreclosure or sale, to collect Income from the Property and apply the proceeds, over and above cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Beneficiary's right to the appointment of a receiver shall exist whether or not apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Beneficiary shall not disqualify a person from serving as a receiver.

24.1.5 Trustee and Beneficiary shall have any other right or remedy provided in this Deed, the Note or any other instrument given to secure payment of the Note delivered by Grantor in connection therewith, or available at law, in equity or otherwise.

24.2 Rights of Receiver or Mortgagee-in Possession. Upon taking possession of all or any part of the Property, the receiver or Beneficiary may: (i) Use, operate, manage, control and conduct business on the Property and make expenditures for all maintenance and improvements as in its judgment are necessary and proper; (ii) Collect the Income from the Property and apply such sums to the expenses of use, operation, and management; and (iii) At Beneficiary's option, complete any construction in progress on the Property, and in that connection pay bills, borrow funds, employ contractors and make any changes in plans or specifications as Beneficiary deems reasonable, necessary or appropriate. If the revenues produced by the Property are insufficient to pay expenses, the receiver may borrow, from Beneficiary or otherwise, or Beneficiary may borrow or advance, such sums as the receiver or Beneficiary may deem reasonably necessary for the purposes stated in this paragraph. The amounts borrowed or advanced shall be payable on demand and bear interest from the date of expenditure until repaid at the Default Rate as set forth in the Note. Such sums shall become a part of the Indebtedness secured by this Deed.

24.3 Remedial Advances. Should Grantor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, without obligation to do so and without demand upon Grantor and without releasing Grantor from any obligation hereof, may: (i) make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; (ii) commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; (iii) pay, purchase, contest, or compromise any amounts due under any lease, contract, encumbrance, charge, lien, tax or assessment, or the premium for any policy of insurance required herein; and in exercising any such power, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title, employ counsel and pay such counsel's fees. Beneficiary shall be subrogated to the rights and lien interests of any person who is paid by Beneficiary pursuant to the terms of this paragraph. Grantor shall repay immediately on written notice to Grantor all sums expended or advanced hereunder by or on behalf of Beneficiary, with interest from the date of such advance or expenditure at the Default Rate provided for in the Note, and the repayment thereof shall be secured hereby.

- 24.5 Sale of the Property. In exercising its rights and remedies, the Trustee or Beneficiary may cause all or any part of the Property to be sold as a whole or in parcels, and certain portions of the Property may be sold without selling other portions. Beneficiary may bid at any public sale on all or any portion of the Property.
- 24.6 Waiver; Election of Remedies. A waiver by either party of a breach of a provision of this Deed shall not constitute a waiver of or prejudice the party's right to demand strict compliance with that provision or any other provision. Election by Beneficiary to pursue any remedy shall not exclude pursuit of any other remedy, and all remedies of Beneficiary under this Deed are cumulative and not exclusive. An election to make expenditures or take action to perform an obligation of Grantor shall not affect Beneficiary's right to declare a default and exercise its remedies under this Deed.
- 24.7 Attorney's Fees; Expenses. In the event suit or action is instituted to enforce any of the terms of this Deed, the prevailing party shall be entitled to recover its reasonable attorneys' fees at trial, on any appeal, and by law. Whether or not any court action is involved, all reasonable expenses incurred by Beneficiary that are reasonably necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the same Default Rate as set forth in the Note. Beneficiary's right to collect fees, costs and expenses shall also apply to Beneficiary's representation in Bankruptcy court. Expenses covered by this paragraph include (without limitation) the reasonable costs of searching records, obtaining title reports, surveyors' reports, attorneys' fees, title insurance, and fees for the Trustee.

25. Miscellaneous General Provisions

- 25.1 Time of Essence. Time is of the essence of this Deed of Trust.
- 25.2 Binding Upon Successors and Assigns. Subject to the provisions of applicable law with respect to successor trustees and restriction on sale or transfer, or further encumbrance as set forth herein, this Deed shall be binding upon and inure to the benefit of the parties, their successors and assigns.
- 25.3 Expenditure by Beneficiary. If Grantor fails to comply with any provision of this Deed, Beneficiary may elect to take the required action on Grantor's behalf, and any amount that Beneficiary expends in so doing shall be added to the Indebtedness. Amounts so added shall be payable on demand with interest from the date of expenditure at the Default Rate as set forth in the Note and may be collected in addition to all other remedies allowed under this Deed of Trust for Default. Such action by Beneficiary shall not constitute a cure or waiver of the default or any other right or remedy which Beneficiary may have on account of Grantor's default.

- 25.4 Notices. Any notice under this Deed of Trust shall be in writing and shall be effective when either delivered in person or, if mailed, shall be deemed effective when deposited as registered or certified mail, postage prepaid, addressed to the party at the address stated in this Deed of Trust. Any party may change its address for notices by written notice to the other in accordance with this Paragraph.
- 25.5 Additional Reports. At the request of Beneficiary, its agent, or attorneys, Grantor shall furnish additional reports and shall give specific answers to questions upon which information is desired from time to time relative to the condition of Grantor and the Property.
- 25.6 Invalid Provisions to Affect No Others. If any of the provisions contained in the Note or this Deed of Trust shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions in this Deed and the Note shall not be affected.
- 25.7 Changes in Writing. This Deed and any of its terms may only be changed, waived, discharged or terminated by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. Any agreement subsequently made by Grantor or Beneficiary relating to this Deed of Trust shall be superior to the rights of the holder of any intervening lien or encumbrance.
- 25.8 Applicable Law. The Property encumbered by this Deed of Trust is located in Washington. This Deed will be governed and construed in accordance with the laws of the State of Washington.
- 25.9 Negation of Agency, Joint Ventures and Partnership. Beneficiary is not a partner or joint venturer with Grantor in any respect or for any purpose, and Grantor is not the agent, representative, partner of, or joint venturer with Beneficiary and will act accordingly. Beneficiary shall not be liable to any person for any goods or services furnished to the Property, for any debts or claims against Grantor, and Grantor will defend, indemnify and hold Beneficiary harmless from any claim, liability, damage and expense in connection therewith.

Exhibit A

Government Lots One (1) and Two (2) of Section Twenty-seven (27), Township Two (2) North, Range Three (3) East of the Willamette Meridian;

EXCEPT therefrom the following described tract:

BEGINNING at a point 1040.2 feet West of the one quarter corner common to Sections 27 and 34, Township 2 North, Range 3 East of the Willamette Meridian; thence East 162.7 feet; thence North 25°30' West a distance of 283.2 feet; thence North 68°10' West a distance of 173.6 feet; thence North 62°0' West a distance of 138.0 feet; thence North 55°12' West a distance of 145.1 feet; thence South 28°10' West a distance of 226.0 feet, said point being the shore line of Lackamas Lake; thence in a southeasterly direction along the shore line of Lackamas Lake a distance of 484.2 feet, more or less, to the true point of beginning.

EXCEPT therefrom also the following tract:

BEGINNING at a point 681.3 feet West of the one quarter corner common to Sections 27 and 34, Township 2 North, Range 3 East of the Willamette Meridian; thence North 60.0 feet; thence West 50.0 feet; thence South 60.0 feet; thence East 50.0 feet to the true point of beginning.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is made as of this _____ day of _____, 2020, between CITY OF CAMAS, a municipal corporation ("CITY") and JO ROSE and JERRY ROSE (collectively "ROSE").

RECITALS

a. CITY is purchasing the real property identified on the attached Exhibits "A" and "B" from ROSE. As part of the Purchase and Sale Agreement between the parties, ROSE will retain the right to possession of the portion of the real property identified on the attached Exhibit "A", which is her existing residence and one acre of surrounding land; and wishes to have access to the property identified in Exhibit "B", which is the remainder of the property. CITY is willing to grant a license provided for in this Agreement upon the terms and conditions set forth herein. That portion of the property identified on Exhibit "A" is hereinafter referred to as "Licensed Area A." That portion of the property identified on Exhibit "B" is hereinafter referred to as "Licensed Area B." Collectively they are the "Licensed Areas".

b. This Agreement grants a license for ROSE's with respect to the Licensed Areas.

AGREEMENTS

1. **Grant of License.** CITY hereby grants to ROSE an exclusive license for possession of Licensed Area A for a period not to exceed six (6) months from the date of this Agreement at no cost to ROSE. The license to use Licensed Area B will also be for a period not to exceed six (6) months, but will be a non-exclusive use. By occupancy pursuant to this Agreement, ROSE retains no right, title or interest in the Licensed Areas other than as described herein. Upon the termination date of this Agreement, ROSE shall remove all personal property from and vacate Licensed Area A.

a. During the continuation of this license, ROSE shall not cause or permit waste or damage to the Licensed Areas (ordinary wear and tear excepted). They will secure Licensed Area A with the use of gates and by locking up all structures in the normal course.

b. All activities by ROSE on the Licensed Areas shall comply with all applicable codes, ordinances, regulations, statutes and laws of each and every governmental authority having jurisdiction thereof.

c. ROSE shall indemnify, defend and hold CITY harmless from any damage, loss, injury, claim or liability arising out of ROSE's actions on the Licensed Areas, and those of their agents, licensees, invitees or contractors; provided that any claims are not the result of negligence by the CITY.

d. ROSE shall maintain liability insurance for ROSE's actions on Licensed Area A, and shall sufficiently insure their personal property against all hazards.

2. **Maintenance Agreement.** ROSE shall maintain Licensed Area A in good condition and repair (ordinary wear and tear excepted), at the sole expense of ROSE. Provided, however, ROSE shall not be responsible for damage or waste caused by CITY, its invitees or permittees, or any third-parties who are not invitees or agents of ROSE.

3. **Prior Agreements.** This Agreement constitutes the entire, final and complete agreement of the parties pertaining to the subject matter of this Agreement, and supersedes and replaces all other written and oral agreements heretofore made or existing by and between the parties or their representatives concerning the subject matter of this Agreement. No party hereto shall be bound by any promises, representations or agreements except as are expressly set forth herein.

4. **Time is of the Essence.** Time is expressly made of the essence of each provision of this Agreement.

5. **Notices.** Any notice required or permitted under this Agreement shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States mail as certified or registered mail, return receipt requested, postage prepaid, and addressed as follows:

CITY:	Attn: City Administrator 616 NE Fourth Avenue Camas, WA 98607
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ROSE:	PO Box 853 Camas, WA 98607
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Any party may change its address for notice by written notice to the other party given in the manner set forth in this paragraph.

6. **Nonwaiver.** Failure by any party at any time to require performance by any other party of any of the provisions hereof shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by any party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

7. **Amendments.** This Agreement may be amended or modified without new consideration but only by written instrument executed by both parties.

8. **Governing Law.** This Agreement shall be construed in accordance with and

governed by the laws of the state of Washington.

9. **Severability.** If any portion of this Agreement shall be invalid or unenforceable to any extent, the validity of the remaining provisions shall not be affected thereby.

10. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all taken together shall constitute one and the same instrument.

11. **Binding Effect.** This Agreement shall run with the land, and shall be binding upon the CITY, ROSE, and their respective successors, heirs and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY OF CAMAS

By:
Its:

Date

JO ROSE

Date

JERRY ROSE

Date

STATE OF WASHINGTON)

) ss.

County of Clark)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of CITY OF CAMAS, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____, 2020

LICENSE AGREEMENT - 3

License Agreement - Rose[159906]

