

REAL ESTATE PURCHASE AND SALE AGREEMENT
WITH EARNEST MONEY PROVISION

1. **Effective Date:** MAY 10, 2021
2. **Parties:** Lacamas Heritage Properties, LLC, hereinafter 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, which is a portion of Tax Parcel No. 177891-000, legally described as follows:

County of Clark, State of Washington

See attached Exhibit "A" ("Premises").

Purchaser and Seller authorize the insertion of any correction to the legal description.

4. **Purchase Price:** The total purchase price for the Premises shall be Forty Five Thousand and NO/100 Dollars (\$45,000.00). The City will acquire by Deed of Dedication in the form and style as attached.

5. **Earnest Money Deposit:** Purchaser herewith deposits and delivers to Seller, and Seller hereby acknowledges receipt of the sum of Five Hundred and No/100 Dollars (\$500.00) as earnest money deposit. The earnest money shall be held in escrow by Clark County Title for the benefit of the parties.

6. **Escrow and Closing Agent:** Purchaser hereby authorizes Seller to establish an escrow with a title insurance company, or other mutually agreed closing agent, for the closing of the transaction contemplated herein, and to deliver to said escrow and closing agent an original of this Agreement, the earnest money deposit, escrow and closing instructions, and any and all other documentation necessary for closing. This Agreement shall be closed on or before June 9, 2021, which shall be the termination date.

7. **Title Insurance:** Purchaser, at Purchaser's expense, may elect to 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; 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 the Premises to Purchaser by Deed of Dedication, subject to those encumbrances, liens and defects noted and accepted 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.

9. **Closing Costs:** Purchaser shall be responsible for paying all closing costs. Seller shall pay all attorney fees incurred by Seller.

10. **Pro-rations and Adjustments at Closing:** Taxes and assessments for 2021 shall be prorated as of the date of closing.

11. **Possession:** Purchaser shall be entitled to possession of the Premises on the date of closing. From and after the effective date hereof until closing or earlier termination of this Agreement, Purchaser and its agents, employees and contractors shall be allowed access to the Premises prior to the closing for the purposes of conducting surveys, tests, inspections, studies and investigations on the Premises, and other investigations as Purchaser deems prudent. Seller shall cooperate fully and assist Purchaser in completing such surveys, tests, inspections, studies and investigations. Purchaser will, however, perform all surveys, tests, inspections, studies, and investigations at its own risk and expense. In addition, Purchaser will indemnify, defend and hold Seller harmless from any costs or claims for personal injury, property damage or materialman's/mechanic's liens resulting from Purchaser's entry onto the Premises to conduct such surveys, tests, inspections, studies and investigations. Should this transaction fail to close, Purchaser shall be responsible for leaving the Premises in a condition as close as reasonably possible to the condition in which Purchaser found it on the date of this Agreement.

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 as hereinabove set forth:

12.1 Approval of the condition of title to the Premises by Purchaser.

12.2 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 

If Seller defaults in the performance of his obligations hereunder, Purchaser may seek

specific performance 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.

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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. **Taxes and Assessments:** After closing, Purchaser shall assume all real estate and personal property taxes and assessments which thereafter become due on the Premises.
20. **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.
21. **Seller's Warranties:** Seller warrants the following:
- 21.1 That it has no notice of any liens to be assessed against the Premises.
- 21.2 That it has no notice from any governmental authority or agency of any violation of law or ordinance relating to the Premises.
- 21.3 That it has no notice or knowledge of any material defect in the Premises which has not been disclosed to Purchaser in writing.
- 21.4 To the best of Seller's actual 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.

For the purposes of this Section 21, knowledge means the knowledge of Lynn or Alison Johnston.

THIS IS AN AS-IS PURCHASE. PURCHASER REPRESENTS, WARRANTS AND COVENANTS TO SELLER THAT PURCHASER WILL, DURING THE INSPECTION PERIOD, INDEPENDENTLY AND PERSONALLY INSPECT THE PROPERTY AND IMPROVEMENTS, IF ANY, AND THAT PURCHASER HAS ENTERED INTO THIS AGREEMENT BASED UPON ITS RIGHTS AND INTENTIONS TO MAKE SUCH PERSONAL EXAMINATION AND INSPECTION. PURCHASER AGREES THAT PURCHASER WILL ACCEPT THE PROPERTY, IN ITS THEN CONDITION, AS-IS AND WITH ALL ITS FAULTS INCLUDING, WITHOUT LIMITATION, ANY FAULTS AND CONDITIONS SPECIFICALLY REFERENCED IN THIS AGREEMENT. NO PERSON ACTING ON BEHALF OF SELLER IS AUTHORIZED TO MAKE, AND BY EXECUTION HEREOF, PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO THE PROPERTY.

22. **Disclosure of Representation:** It is understood that this Real Estate Purchaser and Sale Agreement has been prepared by Shawn R. MacPherson, attorney, for the benefit of The City of Camas, Purchaser. Seller has been represented by LeAnne M. Bremer, attorney, on this transaction.

23. **Miscellaneous:**

23.1 **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.

23.2 **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.

23.3 **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.

23.4 **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.

23.5 **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.

23.6 **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.

23.7 **Time of the Essence:** Time is of the essence of this Agreement.

23.8 **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.

23.9. **Ratification by City Council:** This Agreement shall be ratified and approved by the Camas City Council. The City agrees to present the Agreement before the Council on or before June 7, 2021.

DATED this 10th day of May, 2021.

CITY OF CAMAS

By: [Signature]
Name: James P.
Title: City Administrator

On the 7 day of May, 2021, 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.

[Signature]
By: LYNN JOHNSTON, member
LACAMAS HERITAGE PROPERTIES, LLC

EXHIBIT A

A portion of that parcel of land conveyed to Lacamas Heritage Properties, L.L.C. by Bargain & Sale Deed recorded under Auditor's File No. 5023969, records of Clark County, Washington lying in the Northeast quarter of the Northeast quarter of Section 34, Township 2 North, Range 3 East of the Willamette Meridian in the City of Camas, Clark County, Washington described as follows:

The East 37 feet of said parcel.

SUBJECT TO Ingress, Egress and Utility Easement as recorded under Auditor's File No. 5521438, records of Clark County, Washington.

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