

PROPERTY EXCHANGE AGREEMENT

THIS AGREEMENT IS MADE BETWEEN

Party One

City of Coburg
P.O. Box 8316
Coburg, Oregon 97408

Party Two

Shepard Investment Group LLC
P.O. Box 8516
Coburg, Oregon 97408

Contacts:

Anne Heath
City of Coburg
Anne.Heath@ci.coburg.or.us
541-682-7871

Chris Bevans
Umbrella Properties
cbevans@umbrellaproperties.com
541-484-6595

In consideration of the mutual promises as set out below, the parties agree to the following:

- 1. PROPERTY TO BE EXCHANGED.** The City of Coburg agrees to convey to Shepard Investment Group LLC a portion of the property owned at tax lot 16-03-32-11-02001, 91136 N. Willamette Street, Coburg, Oregon, as shown on map attached hereto as EXHIBIT A ("Parcel One"). Shepard Investment Group LLC agrees to convey to the City of Coburg the real property known as tax lot 16-03-33-23-02500 located in the township of Coburg adjacent to park known as Pavilion Park, and as shown on map attached hereto as EXHIBIT B ("Parcel Two").
- 2. VALUATION OF PARCEL ONE.** For the purpose of the exchange to be effected under this Agreement, the parties agree to a **value of Parcel One as \$230,000** which is less than the **value of Parcel Two which is valued at \$270,000.**
- 3. SETTLEMENT OF A DIFFERENCE IN VALUE.** Neither party shall pay the other any money to settle any difference in values of the parcels. Shepard Investment Group LLC agrees to donate the difference of \$40,000 to the City of Coburg. The City of Coburg agrees to accept a donation in the difference of value of the two parcels.
- 4. DEDICATION/NAMING OF PARK AREA.** The Shepard Family request for a dedication within the park for their daughter Laura will be honored. The City agrees to assign representatives from the Coburg Park and Tree Committee to work with the Shepard Family to finalize, design and implement this dedication.

5. **SURVEY AND APPRAISAL.** The City of Coburg (Party One) has paid for and provided to Shepard Investment Group LLC a copy of a survey and appraisal of both parcels. These documents are attached as EXHIBIT C.

The Survey and Appraisal report shall be certified to both the of the parties, and closing agents within 30 days before the date of closing unless this 30-day time period is waived by both parties and the title insurer. If the survey shows any matter materially affecting the title, encroachment or improvements on or intended to be located on either property, it shall be treated as a title defect.

Party Two may obtain in its discretion and at its sole cost and expense a boundary survey of Parcel one.

6. **LOT LINE ADJUSTMENT.** The City has prepared a lot-line adjustment proposal for the property located at 91136 N. Willamette Street, Coburg, Oregon which is attached as EXHIBIT D.
7. **TITLE INSURANCE AND ESCROW.** City of Coburg shall at the City's sole cost and expense, within 5 days of Shepard Investments Group LLC execution of this agreement, purchase a title insurance and make all arrangements for the agreement to be managed through escrow.
8. **DEFECTS IN TITLE.** The City of Coburg shall, within thirty days after Shepard Investment Group LLC receipt of the title insurance commitment for Parcel One, remove all defects in title to Parcel One. The City of Coburg agrees to use diligent effort to correct the defect in title within the time provided therefor. If the City is unsuccessful in removing the title defects within said time, Shepard Investment Group LLC shall have the option to either: (a) accept the title as it then is and close this transaction, (b) cut out the affected portion of the parcel, or (c) terminate this Agreement, thereupon releasing the parties hereto from all further obligations under this Agreement
9. **"AS IS" CONDITION.** The parties accept the parcels to be conveyed herein in their present physical condition, subject to: (a) any violation of any governmental building codes or ordinances for the City of Coburg, including environmental and safety codes, restrictions and requirements. Neither party extends any warranties or representations concerning the parcels.
10. **INTEREST CONVEYED.** At closing, City of Coburg shall execute and deliver to Shepard Investment Group LLC a Deed of Conveyance pursuant to ORS 271.340. Conveying all of the City of Coburg's interest in Parcel One subject to easements, reservations, restriction and other interests of record. At closing, Shepard Investment Group LLC will execute and deliver to the City of Coburg a quitclaim deed for Parcel Two conveying all of their interest in Parcel Two, subject to easements, reservations, restrictions and other interests of record.

Neither party extends and intends any representations or warranties of any kind regarding either parcel. The parties acknowledge that the above conveyance shall be in “as is” condition.

- 11. PREPARATION OF CLOSING DOCUMENTS.** City of Coburg shall prepare all closing documents and send the same to Shepard Investment Group LLC for review with sufficient time for closing. Such closing documents shall include without limitation, the deeds for both parcels, and both parties closing statements.
- 12. SHEPARD INVESTMENT GROUP LLC REVIEW FOR CLOSING.** Shepard Investment Group LLC shall approve or reject each item provided by the City of Coburg under this agreement. City of Coburg shall have 5 days thereafter to remove and resubmit any rejected items. If both parties cannot agree on the form of the closing documents prior to the Closing Date, then either party may terminate this Agreement, thereupon releasing the parties hereto from all further obligations under this Agreement.
- 13. EXPENSES.** The City of Coburg shall pay the cost of recording the deeds required in this agreement.
- 14. TAXES AND ASSESSMENTS.** At closing, the City of Coburg shall satisfy all real estate taxes prorated from the date of the closing to the end of the tax year. Parcel two is currently exempt from taxes. Shepard Investment Group LLC will be responsible for taxes on Parcel two at the time it is placed back into taxable property status.
- 15. CLOSING PLACE AND DATE.** The closing shall be within 60 days after the approval of this Agreement by both parties.
- 16. RISK OF LOSS AND CONDITION OF PARCELS.** Each party assumes all risk of loss or damage to that party’s parcel prior to the date of closing and agrees that each party’s parcel shall be transferred and conveyed to the other party in the same or essentially the same condition as of the date of execution of this Agreement, ordinary wear and tear excepted. If between the date this Agreement is executed by the parties and the date of closing the condition of either parcel as it existed on the date this agreement is altered by an act of God, or other natural force beyond the control of the parties, the party who is to receive the altered parcel may elect, at said recipient’s sole option, to terminate this Agreement and neither party shall have any further obligations under this Agreement. Both parties represent and warrant that there are no parties other than the owners of each property in occupancy or possession of any part of the parcels.
- 17. SEWER EASEMENT.** Parcel One contains a septic tank that serves City Hall. The septic tank will be retained on the property and will be maintained by the City of Coburg. An easement for said tank will be executed as part of this agreement and is included as **EXHIBIT E**.

- 18.** City of Coburg agrees to clean up and remove all personal property, City owned vehicles and storage building located on Parcel One to the satisfaction of Shepard Investment Group LLC prior to closing.
- 19. RIGHT TO ENTER AND POSSESSION.** Each party agrees that from the date this Agreement is executed by the parties, officers, attorneys and duly authorized agents of each party, upon reasonable notice, shall have at all times the right and privilege to enter the other party's parcel for all lawful purposes in connection of this Agreement. Each party shall deliver possession of that party's parcel to the other party at closing.
- 20. ACCESS.** Both parties have determined that there is legal and practical ingress and egress for both parcels.
- 21. DEFAULT.** If the City of Coburg defaults under this Agreement, Shepard Investment Group LLC may waive the default and proceed to closing, seek specific performance, or refuse to close and cancel this Agreement with both parties being relieved of all further obligations hereunder. In Shepard Investment Group LLC defaults under this Agreement, City of Coburg may waive the default and proceed to closing, seek specific performance, or refuse to close and cancel this Agreement with both parties being relieved of all further obligations hereunder. The remedies set out in this paragraph are the sole and exclusive remedies of either party's default under this agreement.
- 22. BROKERS.** Both parties warrant that no person, firms, corporations or other entities are entitled to a real estate commission or other fees as a result of this Agreement or the subsequent closing. City of Coburg agrees that if professional help is needed for the design of this agreement that all fees to such professional shall be at the expense of the City of Coburg.
- 23. RECORDING.** This agreement, or notice of it, may be recorded by either party will be recorded in Lane County, Oregon.
- 24. ASSIGNMENT.** This agreement may not be assigned without the prior written consent of the other party.
- 25. TIME.** Time is of the essence with regard to all dates or times set forth in this Agreement.
- 26. SEVERABILITY.** If any of the provisions of this Agreement are deemed to be unenforceable and the unenforceability of said provisions does not adversely affect the purpose and intent of this Agreement, the enforceability of the remaining provisions of this Agreement shall not be affected

27. SUCCESSORS IN INTEREST. This Agreement shall bind and inure to the benefit of the parties and their respective heirs, legal representatives and successors. Whenever use, the singular shall include the plural and one gender shall include all genders.

28. ENTIRE AGREEMENT. This Agreement contains the entire agreement between the parties pertaining to the subject matter continued in it and supersedes all prior and contemporaneous agreements, representation and understandings of the parties. No supplement, modification or amendment to this Agreement shall be binding unless executed in writing by the parties.

The City of Coburg acknowledges that The City Council have approved the power for the purpose of this Property Exchange Agreement through a vote of the body. Shepard Investment Group LLC acknowledges that the Board of Directors have approved the power for the purpose of this Property Exchange Agreement through a vote of the body. Such approvals of both bodies in the form of minutes or resolutions shall be attached as **EXHIBIT F**.

This Agreement may be terminated by the Trustees or Assigned pursuant to any provision therefor contained in this Agreement only in writing and signed by the person or persons who signed this agreement on behalf of the perspective bodies.

29. WAIVER. Failure of either party to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right but the same shall remain in full force and effect.

30. AGREEMENT EFFECTIVE. This Agreement or any modification, amendment or alteration thereto, shall not be effective or binding upon any of the parties hereto until it has been executed by both parties hereto and approved by or on behalf of the governing bodies of both parties.

31. NOTICE. Whenever a party desires or is required to give notice unto the other, it must be given by written notice, and either delivered personally, transmitted via email or fax transmission, or by mailed posted, or sent by overnight courier to the appropriate address indicated on the first page of this Agreement, or such other address as is designated in writing by a party to this Agreement.

32. SURVIVAL. The covenants, warranties, representations, indemnities and undertakings of the parties set forth in this Agreement shall survive the closing, the delivery and recording of the deed described in this Agreement.

THIS IS INTENDED TO BE A LEGALLY BINDING AGREEMENT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

EXECUTED AND AGREED UPON BY:

PARCEL ONE REPRESENTATIVE

PARCEL TWO REPRESENTATIVE

City of Coburg

Shepard Investment Group LLC

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Date: _____

Date: _____

ATTACHMENTS

ADDENDUM A

EXHIBITS:

- A. PARCEL ONE MAP**
- B. PARCEL TWO MAP**
- C. SURVEY AND APPRAISAL DOCUMENTS**
- D. LOT LINE ADJUSTMENT FOR RECORDING – PARCEL ONE**
- E. SEWER EASEMENT**
- F. APPROVALS OF GOVERNING BODIES**

