

REAL ESTATE CONTRACT

THIS REAL ESTATE CONTRACT (this "**Contract**") is entered into as of September __, 2020 ("**Effective Date**"), by and between **City of Oregon City**, an Oregon municipal corporation ("**Seller**"), and **Clackamas County Vector Control District**, an Oregon Special District ("**Buyer**"). Collectively, Buyer and Seller shall be referred to herein as Parties ("**Parties**").

Now therefore, in consideration of the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto covenant and agree as follows:

1 Property. Seller hereby agrees to sell to Buyer and Buyer hereby agrees to purchase from Seller approximately 3.20 acres of real property generally located along Warner Milne Road, Oregon City, Oregon (Assessor's Parcels 00846847 and 00846981 totaling 1.86 and 1.34 acres, respectively) including all improvements located thereon, including but not limited to three trailers that are located on foundations and all appurtenances thereto (the "**Realty**"). The Realty is sometimes referred to herein as the "**Property**." The Realty is legally described in Exhibit A to the Title Report (as such term is defined below).

2 Purchase Price. The purchase price for the Property is Two Million Eight Hundred Thousand and 00/100 Dollars (\$2,800,000.00, "**Purchase Price**"). The Purchase Price shall be paid as follows:

a. A Non-Refundable Earnest Money Deposit in the amount of Five Thousand and 00/100 Dollars (\$5,000.00) (the "**Earnest Money Deposit**") shall be deposited by Buyer with Fidelity National Title Insurance Company located at 900 SW Fifth Avenue, Portland, Oregon 97204, Attention Shawnda Reszel, phone (503) 222-2424 and email shawnda.reszel@fnf.com (the "**Title Company**") contemporaneous with the mutual execution of this Contract. The Earnest Money Deposit is nonrefundable except as expressly set forth herein. At Closing (as hereinafter defined), the Earnest Money Deposit will be applied to the Purchase Price, and will be reflected as a closing statement credit to the Buyer. Seller and Buyer agree to execute an Earnest Money Escrow Agreement if requested by the Title Company which shall be in form and content reasonably acceptable to Buyer, Seller and the Title Company.

b. The balance of the Purchase Price, subject to closing proration and credits, shall be paid in cash in immediately available funds at Closing.

3 Seller's Representations, Warranties and Covenants. Seller hereby makes the following representations, warranties and covenants in connection with Buyer's purchase of the Property, and no others, express or implied:

a. Seller has the authority necessary to enter into this Contract and comply with Seller's obligations hereunder;

a. There are no pending or, to Seller's actual knowledge, threatened condemnation or eminent domain proceedings, which would affect the Property;

b. There are no other undisclosed agreements between Seller and any other party, that affect the use of the Property;

c. Until the Closing Date (as hereinafter defined), the Property will be maintained in substantially the same condition as it is in on the Effective Date of this Contract, subject to ordinary wear and tear and casualty damage;

d. Except for matters of record, there is no litigation pending or, to Seller's actual knowledge, threatened, which would affect the Property or the use thereof by Buyer;

e. Promptly after the Effective Date, Seller shall use reasonable efforts to review its files and shall provide Buyer with copies of any environmental assessments or other Property related reports, studies or investigations in Seller's possession ("**Seller's Documents**"). Seller shall provide the same to Buyer as an accommodation to Buyer and without any representation or warranty of any kind as to the accuracy or completeness of Seller's Documents;

f. Seller shall perform all acts reasonably necessary and requested by Buyer to ensure that any existing Property development rights, fees and credits Seller may possess are assigned to Buyer at the Closing;

g. Seller shall use reasonable efforts to either (i) clear title to the Property of any and all mechanics liens of record against the Property as of the Closing Date (the "**Mechanics Liens**") or (ii) procure title insurance over all such Mechanics Liens;

h. To Seller's actual knowledge, there is no well or septic system on the Property; and

i. To Seller's actual knowledge, the Property has not been used for methamphetamine production.

All representations, warranties, and covenants made by Seller in this paragraph 3 shall be true as of the Closing Date hereof and shall survive the Closing of this transaction for a

period of one (1) year. If any representations, warranties, or covenants made by Seller become untrue to Seller's knowledge after the Effective Date, Seller shall provide Buyer written notice of the same and Buyer's sole remedy shall be to: (a) terminate this Contract and receive a return of the Earnest Money Deposit, or (b) waive the inaccuracy for failure to perform such representation, warranty or covenant.

4 Survey Contingency. Buyer, at its sole expense, may obtain a survey of the Realty prepared by a land surveying company registered in the same state as the Realty. Buyer shall have Sixty-five (65) days from the Effective Date to deliver to Seller in writing any objection to a matter shown on the survey, which materially affects the Property or Buyer's use of the Property. If Buyer fails to timely deliver notice to Seller of any survey objections (or elects not to obtain a survey), then Buyer is deemed to have waived all rights to object to any matters shown on the survey (or that would be shown on a current survey). Seller may elect in Seller's sole discretion whether or not to attempt a cure of such survey objections. Upon receipt of notice from Seller indicating that Seller elects not to pursue a cure of a survey objection, Buyer shall have five (5) business days to deliver notice to Seller terminating this Contract, in which event the Earnest Money Deposit shall be disbursed to Seller and the parties shall have no further obligations hereunder except those provisions that expressly survive. If Seller pursues a cure and is unable to cure the survey objections by the Closing Date, then Buyer shall have the option to either terminate this Contract (in which event the Earnest Money Deposit shall be disbursed to Seller and the parties shall have no further obligations hereunder except those provisions that expressly survive), or close on the purchase of the Property with no Purchase Price reduction, in which case Buyer is deemed to have accepted any uncured survey objections and waived any rights against Seller relating thereto.

5 Phase I Environmental Assessment. Buyer, at its sole expense, may obtain a Phase I Environmental Assessment of the Realty. Buyer shall have the right to conduct sampling of the water, soil, air or building improvements with Seller's approval, which approval Seller shall not unreasonably withhold or delay. Buyer shall have Sixty-five (65) days from the Effective Date to deliver to Seller in writing any objection to a matter shown on the survey, which materially affects the Property or Buyer's use of the Property. If Buyer fails to timely deliver notice to Seller of any survey objections (or elects not to obtain a survey), then Buyer is deemed to have waived all rights to object to any matters shown on the survey (or that would be shown on a current survey). Seller may elect in Seller's sole discretion whether or not to attempt a cure of such survey objections. Upon receipt of notice from Seller indicating that Seller elects not to pursue a cure of a survey objection, Buyer shall have five (5) business days to deliver notice to Seller terminating this Contract, in which event the Earnest Money Deposit shall be disbursed to Seller and the parties shall have no

further obligations hereunder except those provisions that expressly survive. If Seller pursues a cure and is unable to cure the survey objections by the Closing Date, then Buyer shall have the option to either terminate this Contract (in which event the Earnest Money Deposit shall be disbursed to Seller and the parties shall have no further obligations hereunder except those provisions that expressly survive), or close on the purchase of the Property with no Purchase Price reduction, in which case Buyer is deemed to have accepted any uncured environmental objections and waived any rights against Seller relating thereto.

6 Title Contingency. Within five (5) business days after the Effective Date, Seller shall deliver or cause to be delivered to Buyer preliminary title report (the "**Commitment**") for a standard owner's title insurance policy for the Property issued by the Title Company using a nationally recognized title insurance underwriter, together with copies of the instruments listed in the schedule of exceptions in such Commitment. Buyer shall have until the later of sixty (60) days from the Effective Date or fifteen (15) days after receipt of the Commitment to deliver to Seller in writing any objection to a matter shown on the Commitment which materially affects the Property or Buyer's use of the Property ("**Title Objections**"). If Buyer fails to deliver timely notice of Title Objections to Seller, Buyer shall be deemed to have fully accepted the Commitment and all matters disclosed therein. If Buyer timely delivers Title Objections, Seller shall have fifteen (15) days after receipt of Buyer's objection notice to notify Buyer in writing what, if anything, Seller shall do to cure the Title Objections. Failure of Seller to respond within said period shall indicate that Seller elects not to cure the Title Objections. Seller shall have no obligation to cure any Title Objection or incur any expense with respect thereto. If Seller elects not to cure one or more of the Title Objections, Buyer shall have five (5) business days to deliver notice to Seller terminating this Contract, in which event the Earnest Money Deposit money shall be disbursed to Seller and the parties shall have no further obligations hereunder except those provisions that expressly survive. If Seller pursues a cure and is unable to cure a Title Objection by the End of the Due Diligence Period, then Buyer shall have the option to either terminate this Contract (in which case the Earnest Money Deposit shall be disbursed to Seller and the parties shall have no further obligations hereunder except those provisions that expressly survive), or close on the purchase of the Property with no Purchase Price reduction, in which case Buyer is deemed to have accepted any uncured Title Objections and waived any rights against Seller relating thereto.

Notwithstanding anything to the contrary herein, the following matters shall be deemed "**Permitted Exceptions**" and Buyer shall have no right to object to any of said matters on the Commitment:

- a. municipal and zoning ordinances and agreements entered under them, building

and use restrictions and covenants, and State and/or Federal statutes and regulations;

- b. recorded easements for the distribution of utility and municipal services;
- c. property taxes and special assessments levied in the year of Closing and subsequent years; and
- d. such other matters as disclosed by the Commitment and waived or deemed waived by Buyer pursuant to this paragraph 5.

At Closing, Seller shall cause the Title Company to issue a current owner's title insurance policy (standard form) in the amount of the Purchase Price insuring Buyer as the fee simple owner of the Realty as of the date of recording the deed, subject to the Permitted Exceptions ("**Title Policy**").

7 Buyer's Due Diligence Period. Buyer shall have until December 15, 2020, no more than ninety days, to satisfy itself concerning all aspects of the Property and prospective purchase as set forth in paragraphs 4, 5, and 6 ("**Buyer's Contingencies**") of this Contract (the "**Due Diligence Period**"). Buyer shall waive or deem satisfied the Buyer's Contingencies by providing written notice to Seller of Buyer's waiver or satisfaction of said contingencies (the "**Waiver Notice**"). If Buyer does not deliver a Waiver Notice for any reason during the Due Diligence Period, the Contract shall be deemed terminated and the Earnest Money Deposit shall be immediately released to Seller and Buyer shall promptly provide Seller with copies of all reports, investigations, or studies received by Buyer in connection with its investigation of the property and the parties shall have no further obligations hereunder except those provisions that expressly survive.

8 No Representations or Warranties; AS-IS Condition.

a Buyer is hereby purchasing the Property in "**AS-IS, WHERE-IS**" condition and "**with all faults**," unless state otherwise within this Contract and agrees that it relies upon no warranties, representations or statements by Seller, or any other persons for Seller, in entering into this Contract or in closing the transactions described herein, except for the express representations and warranties set forth in paragraph 3 hereof. Buyer's closing on the acquisition of the Property shall constitute conclusive evidence that Buyer is satisfied with the condition of and title to the Property and has waived or satisfied Buyer's survey, title, inspection and feasibility contingencies set forth in paragraphs 4 through 7 above. In closing and completing this transaction, Buyer will have relied exclusively upon its own inspections and reviews, and not upon any representation or warranty of Seller or its agents or employees

except those expressly set forth in paragraph 3 above.

b Except for the express representations and warranties set forth in paragraph 3 hereof, Seller makes no warranties, representations or statements whatsoever, express or implied, concerning or relating to the Property, including without limitation: the income or expenses of the Property; zoning and building codes and other similar restrictions; availability or cost of utilities; the environmental condition of the Property; the presence or absence of any hazardous substances, hazardous materials, petroleum, or any substances regulated by federal, state or local law in, on or under the Property; compliance of the Property with any law, regulation, ordinance or similar requirement, including without limitation the Americans with Disabilities Act; or the physical condition of the Property or any improvements thereon. Buyer acknowledges that no agents, employees, brokers or other persons are authorized to make any representations or warranties for Seller.

c Buyer (and any party claiming through or under Buyer) hereby agrees that following the Closing, Seller shall be fully and finally released from any and all claims or liabilities against the Seller relating to or arising on account of the condition of or title to the Property. This paragraph 9(a) through (c) shall survive the Closing of this Contract.

9 Closing. Provided that Buyer timely issued a Waiver Notice or an Early Waiver Notice, the closing of this transaction (the "**Closing**" or "**Closing Date**") shall take place on December 15, 2020. The Closing shall be at the offices of the Title Company. At Closing, Buyer shall deliver to the Title Company wired funds or other immediately available funds in the amount of the Purchase Price, as adjusted by any proration and closing costs provided for herein, and such affidavits, resolutions and other documents agreed between the parties, required for a legal conveyance of real estate in the state where the Property is located or otherwise required by the Title Company to issue the Title Policy. At Closing, Seller shall deliver to the Title Company an Oregon statutory form of Special Warranty Deed conveying the Realty to Buyer, subject only to the exceptions permitted herein, an exception for matters that would be shown by a true and correct survey, and such affidavits, resolutions and other documents agreed between the parties, required for a legal conveyance of real estate in the state where the Property is located or otherwise required by the Title Company to issue the Title Policy. All proration required hereunder shall be computed as of the Closing Date. Possession of the Property shall be delivered to Buyer on the Closing Date. Seller shall pay for recording the deed. Seller shall pay the title insurance premium for the Title Policy to be issued to Buyer. Buyer shall pay for all other endorsement charges and the title insurance premium for any loan policy, including endorsement charges related thereto. All escrow fees and Title Company closing charges shall be shared equally by Seller

and Buyer.

10 Taxes. Seller shall pay in full all general taxes and all installments of special assessments, of whatever kind, due and payable with respect to the Property prior to the Closing Date. Seller shall pay all general real property taxes and all installments of special assessments payable with respect to the Property which shall be prorated as of the Closing Date.

11 Casualty. If the Property is damaged by fire or other casualty after the Effective Date of this Contract but prior to the Closing Date, such that the cost to restore the Property to its condition immediately prior to the casualty is in excess of one percent (1%) of the Purchase Price, Buyer shall have the option to:

a. proceed to close this transaction on the terms contained herein and receive an assignment of the insurance proceeds (or the right to receive the same, if they are not received before Closing) payable to Seller as a result of the casualty; or

b. terminate this Contract by written notice delivered to Seller within ten (10) days after Buyer receives notice of the casualty, in which event the Earnest Money Deposit shall be refunded to Buyer.

If the Property is damaged by fire or other casualty prior to the Closing Date and the cost of restoration does not exceed one percent (1%) of the Purchase Price, this Contract shall remain in full force and effect upon the terms stated herein and at Closing, Seller shall assign to Buyer the insurance proceeds (or the right to receive the same, if they are not received before Closing) payable to Seller as a result of the casualty.

12 Condemnation. If any of the Realty is condemned under the power of eminent domain, is the subject of a threatened condemnation, or is conveyed to a condemning authority in lieu of condemnation, Seller shall notify Buyer in writing of the threat, condemnation or conveyance within five (5) business days of its occurrence. Buyer shall within ten (10) days of the notice have the option of (a) proceeding with the Closing and receiving the award or condemnation payment (or an assignment thereof, if the same is not received by Closing), or (b) canceling this Contract and receiving back the Earnest Money Deposit.

13 Access to Property. From the Effective Date to the date of closing, Buyer and Buyer's authorized agents and contractors shall be permitted access to the Property during regular business hours and upon reasonable notice to Seller for the purpose of conducting any of the following at Buyer's election: a survey of the Property, a

Phase I environmental assessment of the Property and/or a physical inspection and related improvements located on the Property, including paragraph 6 above. Buyer acknowledges that Buyer must be accompanied by a representative of Seller during any inspections of the Property.

14 Indemnification and Insurance. Buyer shall indemnify, defend and hold Seller harmless from and against any and all losses, claims, actions, liabilities, damages, liens, costs and expenses, incurred by Seller (or its agents, consultants or affiliates) arising out of or related to (i) any activities upon the Property by Buyer, its agents, contractors and employees, or (ii) the failure by Buyer to observe or perform any of its covenants, representations or obligations under this Contract. Prior to entering the Property for any purposes under this Contract, Buyer shall provide Seller evidence that Buyer maintains a commercial general liability insurance policy of not less than \$2,000,000 combined single limit which insurance shall: (i) name Seller an additional insured, and (ii) be primary and noncontributing to any insurance maintained by Seller. This paragraph 15 shall survive the Closing or termination of this Contract.

15 Notices. All notices required or permitted to be given hereunder shall be given by certified mail, postage prepaid, or by overnight delivery service, or shall be personally served, to Buyer and Seller at the following addresses:

BUYER: Clackamas County Vector Control District
1102 Abernethy Road
Oregon City, OR 97045
503.655.8394
Attn: , Email:

SELLER: City of Oregon City
c/o Oregon City Police Department
320 Warner Milne Road
Oregon City, OR 97045
Attn: Jim Band, Police Chief
Email: jband@orcify.org

All notices shall be deemed received either when actually received or three (3) days after posting (if mailed), one business day after deposit with the delivery service (if sent by overnight delivery), or when delivered (if personally delivered). Either party may change the above addresses by written notice to the other. All notices shall be additionally and

contemporaneously sent by email and upon the request of either party, the other party shall promptly confirm receipt of any notice.

16 Default. If Buyer defaults in the performance of its obligations hereunder, Seller shall be entitled to terminate this Contract, and retain the Earnest Money Deposit as liquidated damages, as the Parties agree that in the event of a default hereunder actual damages would be difficult to determine with any reasonable certainty and that the Earnest Money Deposit, after review and consideration, is a reasonable estimate of the damages that Seller would suffer as a result of Buyer's default. If Closing does not occur due to a default by Seller in the full and timely performance of any of its obligations hereunder, Buyer, as its sole and exclusive remedy, may elect to terminate this Contract and receive a refund of the Earnest Money Deposit, provided that if (a) Closing does not occur solely as a result of Seller's failure to execute and deliver the Special Warranty Deed on the Closing Date in accordance with Section 10 of this Contract, and (b) Seller's failure to execute and deliver the Special Warranty Deed is not related to Mechanics Liens, and (c) Buyer has affirmatively waived in writing all of the contingencies under this Contract, and (d) Buyer has performed all of its obligations under this Contract, including without limitation, payment of the Purchase Price, then upon notice to Seller not more than ten (10) business days after Buyer becomes aware of such failure by Seller and provided such action is filed within thirty (30) days thereafter, Buyer may seek specific performance of Seller's obligation to execute and deliver a Special Warranty Deed (but not to resolve the Mechanics Liens or to perform any other obligation under this Contract). Buyer's failure to seek specific performance under this Section shall constitute Buyer's election to seek a return of the Earnest Money Deposit as its sole remedy upon Seller's default. In consideration of the foregoing right to seek specific performance, Buyer waives any right it may now or hereafter have to seek any damages from Seller.

17 Real Estate Commissions. Buyer hereby represents and warrants that it has not engaged the services of any real estate agent, broker or firm in connection with the Property or this real estate transaction. Seller hereby agrees to defend, indemnify and hold Buyer harmless from any and all loss, cost or expense from any claim for real estate commission made by any agent, broker or firm engaged by Seller in connection with the Property or this transaction. Seller hereby represents and warrants that it has not engaged the services of any real estate agent, broker or firm in connection with the Property or this real estate transaction.

18 Entire Agreement. This Contract contains the entire agreement between Seller and Buyer and there are no other terms, conditions, promises, understandings, statements or representations, express or implied, regarding the transaction contemplated

hereby. This Contract may be amended only by a further written document signed by each of the parties.

19 Successors and Assigns. The provisions of this Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, assigns, executors, administrators and legal representatives. Buyer shall have the right to assign its interest in this Contract to any entity owned or controlled by Buyer, provided that Buyer shall not be released from any liability under this Contract upon such assignment.

20 Captions. The captions of the paragraphs in this Contract have been inserted for convenience of reference only and shall in no way modify or restrict any provision hereof or be used to construe any of the provisions hereof.

21 Severability. If any provision of this Contract is held invalid or unenforceable, the invalidity or shall be limited to the particular provision(s) involved and shall not affect the validity or enforceability of the remaining provisions.

22 Time is of the Essence. Time is of the essence of each and every provision of this Contract.

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

24 Attorneys' Fees. In the event suit or action is instituted to interpret or enforce the terms of this Contract or to rescind this Contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial, on any appeal, and on any petition for review, in addition to all other sums provided by law.

25 Prior Agreements. This Contract supersedes and replaces all written and oral agreements previously made or existing between the parties, if any.

26 Applicable Law. This Contract shall be construed, applied and enforced in accordance with the laws of the State of Oregon.

27 Changes in Writing. This Contract and any of its terms may only be changed, waived, discharged or terminated by a written instrument signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

8 Counterparts. This Contract may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Contract.

Statutory Notice. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

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-Signature Page Follows-

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be executed as of the day and year first above written.

Date:

Buyer:
Clackamas County Vector Control District

By: _____

Name & Title:

Date:

SELLER:
City of Oregon City

By: _____

Name & Title: