

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF TUMWATER AND LOTT CLEAN WATER ALLIANCE REGARDING A PURCHASE AND
SALE AGREEMENT FOR PROPERTIES IN THE DESCHUTES VALLEY**

I. RECITALS

This Memorandum of Understanding (“MOU”) is made and entered into this 29th day of November, 2023 by and between the City of Tumwater (“City”) and the LOTT Clean Water Alliance (“LOTT”), referred to collectively as “Parties” or “the Parties.”

Whereas, LOTT owns property located at 4090, 4098, and 4114 Capitol Boulevard SE in Tumwater, parcels #09470021000, #09470045000, and #09470003000 (referred to herein as the Property), depicted in Exhibit A, that was originally purchased for the purpose of constructing a future reclaimed water satellite treatment facility; and

Whereas, LOTT has completed a master planning process and has determined that future treatment facilities at this location are not necessary; and

Whereas, the Property is located in the Deschutes Valley near historic and cultural landmarks, and is used for numerous annual public events of significant value to the community; and

Whereas, the City owns the adjacent public driving range and golf course and is developing a segment of the Deschutes Valley Trail along the Deschutes River which fronts the western boundary of this Property; and

Whereas, the City is exploring opportunities to enhance habitat and riparian areas along the Deschutes River, and has invested in such improvements immediately upstream and downstream from this Property; and

Whereas, the City has adopted the Tumwater Brewery District Plan with the goals to increase access, improve transportation options, expand economic opportunity, and improve the function and appearance of the built environment; and

Whereas, the Parties agree that City is in the best position to guide future use of the Property, and that City ownership of the Property provides the community the best opportunity to achieve the goals in the Tumwater Brewery District Plan; and

Whereas, the City is planning a major transportation improvement project referred to as the E Street Connection through and across this Property; and

Whereas, the City has expressed that acquisition of the Property would support these efforts and offer multiple community benefits; and

Whereas, the Parties wish to express their commitment to explore a sale of the Property provided certain conditions are met, which are generally described below; and

Whereas, said possible purchase and sale agreement will indicate in greater detail the conditions upon which the sale of the Property will take place;

Now, therefore, the Parties intend by this document to memorialize steps to be taken in preparation for entering into a possible purchase and sale agreement and their understanding concerning the general conditions necessary to enter into a purchase and sale agreement as further set forth below.

II. STEPS TO BE TAKEN IN PREPARATION FOR A POSSIBLE PURCHASE AND SALE

- A. The Parties will continue due diligence regarding the sale and purchase of the Property and the benefits provided therein.
- B. Following execution of this MOU, LOTT shall make available to the City copies of all existing studies, reports, surveys, soils tests, reviews, correspondence with all governmental entities, environmental checklists and reports, plans, and other printed or written material (all of which are collectively referred to as "Studies") prepared or received by, or on behalf of, LOTT with respect to the Property.
- C. The Parties will work together in good faith to identify a mutually approved third party property appraiser. LOTT will obtain and pay for the appraisal.
- D. The Parties agree to advance evaluation and discussion of a possible sale with staff and their respective governing bodies and determine the desire to move forward with a purchase and sale agreement by March 31, 2024.
- E. Should the City determine ownership of the Property is desirable, the City will provide LOTT a written Letter of Intent by March 31, 2024 stating its interest in acquiring the Property. Within 60 days of receipt of said Letter of Intent, the LOTT Board of Directors will consider action declaring the property surplus to LOTT's needs.
- F. The Parties will work together in good faith with the mutual goal of defining an acceptable sales price and financing plan acceptable to both Parties, as a basis for a possible purchase and sale agreement for the Property.
- G. The Parties will work together in good faith to develop a mutually acceptable agreement for access to the Property to facilitate the City's evaluation of the Property. This MOU does not grant access to the Property.

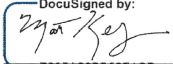
III. GENERAL CONDITIONS FOR PURCHASE AND SALE

- A. Term and Amendment. This MOU anticipates the Parties will determine feasibility and condition of sale and satisfactory use of the Property on or prior to June 30, 2024. If a purchase and sale agreement for the acquisition of the Property is not completed on or before that date (or an extension of that date agreed to by both Parties), this MOU will terminate. The Parties may mutually agree to extend this MOU beyond this date. Any amendment to this MOU must be in writing and mutually agreed to by both Parties.
- B. Legal and Regulatory Requirements. The Parties agree that any purchase and sale agreement arising from this MOU must be in accordance with all applicable laws and regulations, including those from the Washington State Auditor's Office. The purchase and sale agreement will account for the fair market value of the property, and ensure that LOTT is fully compensated for the value of property. The Parties further acknowledge there are several unique factors involving this Property which may detract from its fair market value, if not specifically considered in the appraisal under Section II C of this agreement, including potential environmental clean-up costs, status of railroad crossing authorization, environmental constraints, new easements and licenses which may encumber the Property, and access to the specific parcels.

- C. Consideration. The Parties will work together to determine the form and timing of consideration to be received by LOTT for the Property. This consideration could involve both cash and non-cash consideration, and could be transferred to LOTT at any point from the property being transferred and up to five (5) years thereafter, subject to legal and regulatory requirements. Any consideration that is exchanged after the date of the purchase and sale agreement shall also include applicable interest at a rate sufficient to ensure full value is received by LOTT for the Property.
- D. Easement. LOTT wishes to maintain an underground easement on the property for a future wastewater pipeline. The Parties agree to work to establish one or more easements as necessary to meet LOTT's current and future needs.
- E. Limitations. During the term of this MOU, LOTT shall not dispose of the Property to any entity other than the City without the written consent of the City, except as otherwise provided herein.
- F. Authority. Each Party and each individual signing on behalf of each Party, hereby represents and warrants to the other that it has full power and authority to enter into this MOU and that its execution, delivery, and performance of this MOU has been fully authorized and approved, and that no further approvals or consents are required by either Party to enter into this MOU.
- G. Non-Binding Understanding. This MOU is intended only as a memorandum of understanding that will guide the acquisition of the Property by the Parties. Except for section III E, Limitations, it does not create a legally enforceable agreement. This MOU is not in itself an offer to sell or a commitment to purchase the Property. Rather, it is an expression of the Parties' intent to enter into negotiations for such a purchase.

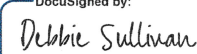
IV. SIGNATURES

LOTT CLEAN WATER ALLIANCE

DocuSigned by:

 By: _____
E269A338B6374CB...
 Matthew J. Kennelly, PE
 Executive Director

Date: 11/29/2023

CITY OF TUMWATER

DocuSigned by:

 By: _____
8450D815DF7D4C0...
 Debbie Sullivan, Mayor

Date: 11/29/2023

Attest:

DocuSigned by:

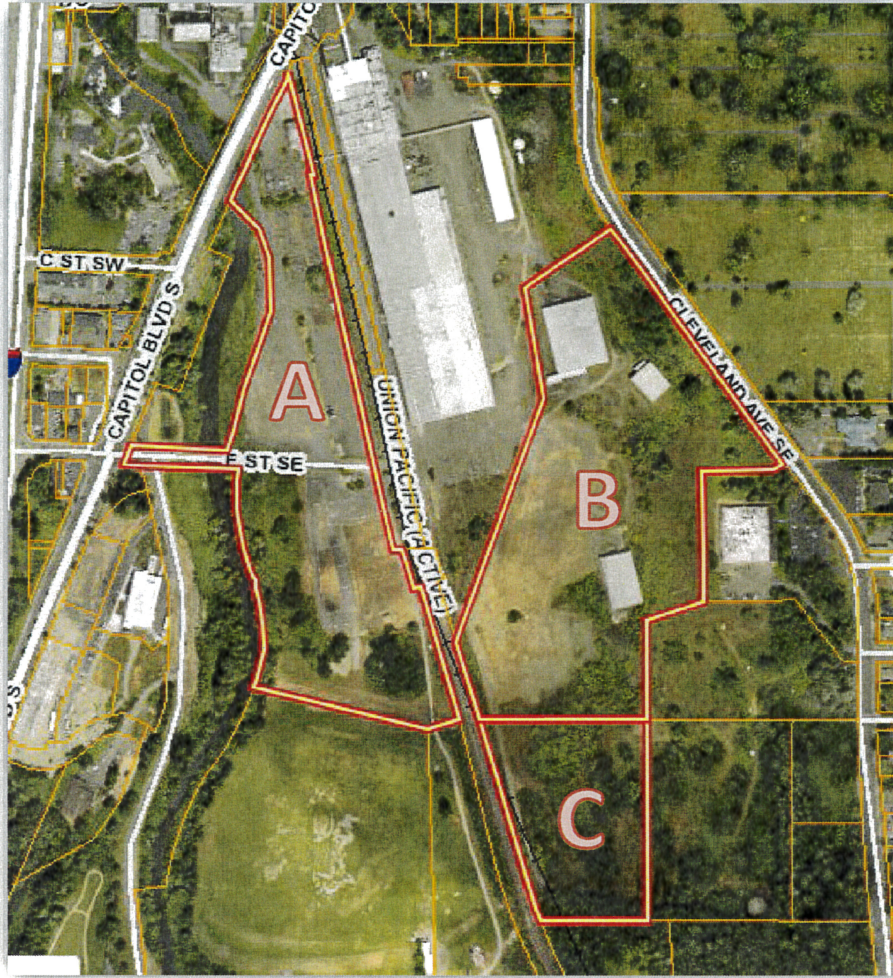
 By: _____
E67ECE38B8A4BB...
 Melody Valiant, City Clerk

Approved as to Form:

DocuSigned by:

 By: _____
30115A3D2FC343C...
 Karen Kirkpatrick, City Attorney

EXHIBIT A
General Property Boundaries



PARCEL A

- 09470003000
- 18.53 Acres

PARCEL B

- 09470045000
- 19.28

PARCEL C

- 09470021000
- 7.00 Acres