

**AMENDMENT NO. 1  
TO  
PURCHASE AND SALE AGREEMENT**

THIS AMENDMENT NO. 1 TO PURCHASE AND SALE AGREEMENT (this “**Amendment**”) is entered into effective as of August 1, 2017 (the “**Effective Date**”), by and between The State of Oregon, acting by and through its Department of Administrative Services, and the Housing Authority of the City of Salem, Oregon, respectively Seller and Buyer under that certain Purchase and Sale Agreement dated December 7, 2016 (the “**Purchase Agreement**”).

Any capitalized term used in this Amendment shall have the same meaning as in the Purchase Agreement.

**RECITALS**

A. The Purchase Agreement concerns the Parties’ agreement for Seller’s sale and Buyer’s purchase of certain Property located in Marion County, Oregon.

B. Under Section 8 of the Purchase Agreement, the Closing Date is to be within thirty (30) days after the later of the following days:

- (1) the Review Deadline; or
- (2) the City’s approval of the Subdivision Application.

C. The Review Deadline has passed.

D. While the City has approved the Subdivision Application, the City’s approval of Buyer’s final subdivision plat for the Property (the “**Final Subdivision Plat**”) is pending, based on the design of and Seller’s agreements regarding certain street improvements on the Property.

E. When the Parties executed the Purchase Agreement, they did not anticipate the City’s street improvement requirements. Thus, Closing of the purchase and sale of the Property is taking longer than the Parties had planned.

F. Seller and Buyer, as Landlord and Tenant, respectively, are also the parties to that certain Short-Term Lease Agreement dated February 13, 2017 (the “**Lease Agreement**”), pursuant to which Buyer leases the Property (referred to in the Lease Agreement as the “Premises”) from Seller. The Parties entered into the Lease Agreement in anticipation of Buyer’s purchase of the Property under the Purchase Agreement. The Lease Agreement allowed Buyer to use the Property to perform certain demolition and renovation work on the Property.

G. So that Buyer may continue to use the Property prior to Closing, for certain planning and analysis work relating to Buyer’s intended development of the Property for affordable housing (the “**Planning Work**”), the Parties have entered into that certain Amendment No. 1 to the Lease

Agreement of the same Effective Date as this Amendment (the “**Lease Amendment**”).

H. Seller and Buyer, as Landlord and Tenant, respectively, are also the parties to that certain Permit of Entry (Temporary Parking – Non-Exclusive) dated February 13, 2017 (the “**Parking Permit**”). The Parking Permit allowed Buyer a limited right to use certain areas of the Master Parcel for parking as related to Buyer’s use of the Property for the demolition and renovation work under the Lease Agreement.

I. Pursuant to that certain Amendment No. 1 to the Parking Permit of the same Effective Date as this Amendment (the “**Amended Parking Permit**”), Seller is allowing Buyer to continue to use those same areas of the Master Parcel, for parking as relates to Buyer’s use of the Property for the Planning Work, pursuant to the Lease Amendment.

J. The Parties have agreed that the size of the Property that Buyer is purchasing hereunder is reduced by .594 acres, from approximately 2.374 to approximately 1.78 acres. As a result, the Purchase Price will be reduced accordingly, from \$522,280.00 to \$391,600.00.

## **AGREEMENTS**

In consideration of the terms and conditions set forth in this Amendment, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the Parties agree to amend the Purchase Agreement as follows:

1. **The Property.** The Parties understand, acknowledge and agree that the Property is 1.78 acres, as shown on the attached revised Exhibit A. The revised Exhibit A hereby replaces the original Exhibit A attached to the Purchase Agreement.

2. **Purchase Price.** Any reference to “Purchase Price” shall mean Three Hundred Ninety-One Thousand Six Hundred Dollars (\$391,600.00).

3. **Closing.** So long as all conditions precedent to closing set forth herein have then been satisfied or waived in accordance herewith, the Closing under the Purchase Agreement shall take place within thirty (30) business days after recordation of the Final Subdivision Plat.

4. **Property Use Fee.** As consideration for Seller’s agreement to allow Buyer to perform the Planning Work on the Property pursuant to the Lease Amendment, Buyer shall pay to Seller \$100,000 (One Hundred Thousand Dollars) (the “**Property Use Fee**”), in immediately available funds and concurrently with the execution of this Amendment. The Parties understand, acknowledge and agree that the amount of the Property Use Fee is a reasonable estimate of the actual damages to Seller if Buyer were to breach its obligation to close on its purchase of the Property, in light of Seller’s actual damages, the difficulties of proof of loss and the adequacy of other remedies. The Property Use Fee is nonrefundable. At Closing, the Property Use Fee shall be credited toward the Purchase Price of the Property.

5. **Term of Purchase Agreement.** The term of the Purchase Agreement shall continue through the earlier of the following: (a) the Closing of the purchase and sale of the Property; or

(b) the earlier termination of the Purchase Agreement. The Purchase Agreement may be terminated by one Party if the other Party fails to perform its Closing obligations under the Purchase Agreement.

6. **Parking Easement.** Prior to Buyer obtaining a certificate of occupancy for Buyer's planned affordable housing at the Property, the Parties shall execute a parking easement agreement (the "**Parking Easement**") in a form acceptable to both Parties and to be recorded in the records of Marion County, Oregon. The grant of the Parking Easement shall be in consideration for Buyer's payment of the Purchase Price, and for no additional consideration. Under the Parking Easement, Seller shall grant a nonexclusive parking easement in favor of the Property, over and across a certain portion of Lot 3 of the Master Parcel, which is adjacent to the Property, shown on Exhibit A as the "**Parking Area.**" The Parking Easement shall include terms sufficient for Buyer to comply with Salem Revised Code Chapter 806 – Off-Street Parking, Loading and Driveways, including the nonexclusive right for Buyer to use the number of parking spaces that are required by local ordinance for Buyer's use of the Property, and in an area within Lot 3 to be designated by Seller. Under the Parking Easement, Seller shall have the right to implement its own permit and monitoring system for the Parking Area. The Parties' obligation to execute the Parking Easement shall survive Closing.

7. **Remaining Provisions.** Except as amended hereunder, the provisions of the Purchase Agreement remain in full force and effect.

*[remainder of page intentionally left blank]*

Each person signing this Amendment on behalf of a Party represents and warrants that he or she is duly authorized by such Party and has legal capacity to do so.

**SELLER:**

The State of Oregon, by and through its Department of Administrative Services

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: Shannon Ryan

Its: Enterprise Asset Management Division Administrator

Address: 1225 Ferry Street SE  
City, State, ZIP: Salem, OR 97301  
ATTN: Darrin Brightman  
Phone Number: 503-373-7065  
Email Address: Darrin.W.Brightman@oregon.gov  
Fax Number: 503-373-7210

**BUYER:**

The Housing Authority of the City of Salem, Oregon

By: \_\_\_\_\_ Date: \_\_\_\_\_

Name: Steven D. Powers

Its: Executive Director

Address: 360 Church St. SE  
City, State, ZIP: Salem, OR 97301  
ATTN: Housing Authority Administrator, Andrew Wilch  
Phone Number: 503-588-6368  
Email Address: AWilch@cityofsalem.net  
Fax Number: 503-588-6465

#8475924v16

**EXHIBIT A (revised)**

**Property and Master Parcel**

