CITY OF OREGON CITY
URBAN RENEWAL COMMISSION
AGENDA

Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Wednesday, October 20, 2021 at 6:00 PM

Ways to participate in this public meeting:

- *Attend in person, location listed above, and masks are required.*
- *Register to provide electronic testimony (email recorderteam@orcity.org or call 503-496-1505 by 3 p.m. on the day of the meeting to register).*
- *Email recorderteam@orcity.org (deadline to submit written testimony via email is 3 p.m. on the day of the meeting).*
- *Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045.*

CALL TO ORDER

ROLL CALL

CITIZEN COMMENTS

DISCUSSION ITEM

1. North End Wetlands Cleanup
2. Fourth Amendment to Purchase and Sale Agreement (922 Main Street)
3. RestorCap Letter of Interest to Secure Property for the Purposes of Mitigation Banking or a Restoration Project at Clackamette Cove

COMMUNICATIONS

ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments.

Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the Oregon City's website at www.orcity.org and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.

CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To: Urban Renewal Commission **Agenda Date:** 10/20/2021

From: Executive Director, Tony Konkol

SUBJECT:

North End Wetlands Cleanup

STAFF RECOMMENDATION:

Staff recommends that the Urban Renewal Commission review and accept Rivers of Life Center's Project Close-Out Report on the North End Wetlands Area Cleanup Project.

EXECUTIVE SUMMARY:

Approximately 13 acres of Urban Renewal property was being negatively impacted by illegal dumping of debris; existence of several broken fence lines, camping of homeless individuals and destruction of habitat. The Rivers of Life Center has received significant funding to perform work, for the "public benefit." On July 21, 2021, The Urban Renewal Commission entered into an Agreement with Rivers of Life Center to cleanup the North End Wetlands Area within the District.

BACKGROUND:

Rivers of Life Center and its Youth Environmental Services Crew have received significant funding from the Oregon Youth Corp to perform work for the "public benefit." The organization was asked to assist the Urban Renewal Commission with cleaning up its property (13 acres) situated in the North End of the District. The Rivers of Life Center agreed to conduct the work associated with this project at very little cost to the Urban Renewal Commission.

The project required approved access to the Urban Renewal-owned property impacted; a contractual agreement detailing the scope of work; and general liability insurance coverage naming the Urban Renewal Commission as an insured party. Rivers of Life Center stated that it trained and employed Oregon City youth residents to perform the work.

The proposed scope of work for this project included general cleanup, debris removal and re-securing the fence lines. The Rivers of Life Center finished the work on August 30th 2021.

OPTIONS:

1. Accept the Project Close-Out Report

BUDGET IMPACT:

Amount: 0

FY(s): 2021/2022

Funding Source(s): Rivers of Life Center

URBAN RENEWAL COMMISSION
PERSONAL SERVICES AGREEMENT

This PERSONAL SERVICES AGREEMENT ("Agreement") is entered into between the Urban Renewal Commission of Oregon City ("URC") and Rivers of Life Center ("Consultant").

RECITALS

A. URC requires services that Consultant is capable of providing under the terms and conditions hereinafter described.

B. Consultant is able and prepared to provide such services as URC requires under the terms and conditions hereinafter described.

The parties agree as follows:

AGREEMENT

1. Term. The term of this Agreement shall be from **August 1, 2021, until August 31, 2021**, unless sooner terminated pursuant to provisions set forth below. However, such expiration shall not extinguish or prejudice URC's right to enforce this Agreement with respect to (i) breach of any warranty; or (ii) any default or defect in Consultant's performance that has not been cured.

2. Compensation. Total compensation for services provided shall be $1.00.

3. Scope of Services. Consultant will conduct the work associated with this agreement within the area as depicted in Exhibit C. Consultant's services under this Agreement shall consist of the following services:
   a. General Cleanup
   b. Debris Removal
   c. Re-secure Fencing

4. Standard Conditions. This Agreement shall include all of the standard conditions as detailed in Exhibit B, attached hereto and by this reference incorporated herein.

5. Integration. This Agreement, along with the description of services to be performed herein and, where applicable, the Standard Conditions to URC's Personal Services Agreement attached as Exhibit B, contain the entire agreement between and among the parties, integrate all the terms and conditions mentioned herein or incidental hereto, and supersede all prior written or oral discussions or agreements between the parties or their predecessors-in-interest with respect to all or any part of the subject matter hereof.

6. Notices. Any notices, reports or other documents required by this Agreement shall be sent by the parties by United States mail, postage prepaid, or personally delivered to the addresses below. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing, unless sooner received. Bills and invoices may be sent by e-mail or United States mail.

To the Urban Renewal Commission:	Urban Renewal Commission PO Box 3040 625 Center Street Oregon City, OR 97045 Attention: Executive Director
To Consultant:	Rivers of Life Center P.O. Box 124 West Linn, OR 97068 Attention: President

Consultant shall be responsible for providing the URC with a current address. Either party may change the address set forth above for purposes of notices under this Agreement by providing notice to the other party in the manner set forth above.

7. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon without resort to any jurisdiction's conflicts of law, rules or doctrines.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers on this 21st day of July, 20____.

Urban Renewal Commission	Rivers of Life Centers
By: [signature] Anthony J. Konkol, III	By: ________ Jerry Herrmann
Title: Executive Director	Title: President
DATED: July 21, 2021	DATED: [signature], 20___.
By: [signature] James N. Graham	29AUG21
Title: Economic Development Manager	

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

1. Contractor Identification. Contractor shall furnish to City its taxpayer identification number, as designated by the Internal Revenue Service, or Contractor's social security number, as City deems applicable.

2. Payment.

(a) Invoices submitted in connection with this Agreement shall be properly documented and shall identify the pertinent agreement and/or purchase order numbers.

(b) City agrees to pay Contractor within thirty (30) days after receipt of Contractor's itemized statement. Amounts disputed by City may be withheld pending settlement.

(c) City certifies that sufficient funds are available and authorized for expenditure to finance the cost of the services to be provided pursuant to this Agreement.

(d) City shall not pay any amount in excess of the compensation amounts set forth in this Agreement, nor shall City pay Contractor any fees or costs that City reasonably disputes.

3. Independent Contractor Status.

(a) Contractor is an independent contractor and is free from direction and control over the means and manner of providing labor or services, subject only to the specifications of the desired results.

(b) Contractor represents that it is customarily engaged in an independently established business and is licensed under ORS chapter 671 or 701, if the services provided require such a license. Contractor maintains a business location that is separate from the offices of the City and bears the risk of loss related to the business as demonstrated by the fixed price nature of the contract, requirement to fix defective work, warranties provided and indemnification and insurance provisions of this Agreement. Contractor provides services for two or more persons within a 12 month period or routinely engages in advertising, solicitation or other marketing efforts. Contractor makes a significant investment in the business by purchasing tools or equipment, premises or licenses, certificates or specialized training and Contractor has the authority to hire or fire persons to provide or assist in providing the services required under this Agreement.

(c) Contractor is responsible for obtaining all assumed business registrations or professional occupation licenses required by state or local law (including applicable City or Metro business licenses as per Oregon City Municipal Code Chapter 5.04). Contractor shall furnish the tools or equipment necessary for the contracted labor or services. Contractor agrees and certifies that:

(d) Contractor is not eligible for any federal social security or unemployment insurance payments. Contractor is not eligible for any PERS or workers' compensation benefits from compensation or payments made to Contractor under this Agreement.

(e) Contractor agrees and certifies that it is licensed to do business in the State of Oregon and that, if Contractor is a corporation, it is in good standing within the State of Oregon.

4. Early Termination.

(a) This Agreement may be terminated without cause prior to the expiration of the agreed-upon term by mutual written consent of the parties or by the City upon ten (10) days written notice to the Contractor, delivered by certified mail, email, or in person.

(b) Upon receipt of notice of early termination, Contractor shall immediately cease work and submit a final statement of services for all services performed and expenses incurred since the date of the last statement of services.

(c) Any early termination of this Agreement shall be without prejudice to any obligation or liabilities of either party already accrued prior to such termination.

(d) The rights and remedies of the City provided in this Agreement and relating to defaults by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

5. No Third-Party Beneficiaries. City and

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

Contractor are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

6. Payment of Laborers; Payment of Taxes.

(a) Contractor shall:

(i) Make payment promptly, as due, to all persons supplying to Contractor labor and materials for the prosecution of the services to be provided pursuant to this Agreement.

(ii) Pay all contributions or amounts due to the State Accident Insurance Fund incurred in the performance of this Agreement.

(iii) Not permit any lien or claim to be filed or prosecuted against the City on account of any labor or materials furnished.

(iv) Be responsible for all federal, state, and local taxes applicable to any compensation or payments paid to the Contractor under this Agreement and, unless Contractor is subject to back-up withholding, the City will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligation.

(v) Pay all employees at least time and one-half for all overtime worked in excess of forty (40) hours in any one week, except for individuals excluded under ORS 653.100 to 653.261 or under 29 U.S.C. §§ 201 to 209 from receiving overtime.

(b) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished by any person in connection with this Agreement as such claim becomes due, the City may pay such claim to the person furnishing the labor or services and shall charge the amount of the payment against funds due or to become due to the Contractor by reason of this Agreement.

(c) The payment of a claim in this manner shall not relieve Contractor or Contractor's surety from obligation with respect to any unpaid claims.

(d) Contractor and subcontractors, if any, are subject employers under the Oregon workers' compensation law and shall comply with ORS 656.017, which requires provision of workers' compensation coverage for all workers.

7. SubContractors and Assignment. Contractor shall neither subcontract any of the work, nor assign any rights acquired hereunder, without obtaining prior written approval from the City. The City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to the Contractor.

8. Access to Records. City shall have access to all books, documents, papers and records of Contractor that are pertinent to this Agreement for the purpose of making audits, examinations, excerpts and transcripts.

9. Ownership of Work Product; License. All work products of Contractor that result from this Agreement (the "Work Products") are the exclusive property of City. In addition, if any of the Work Products contain intellectual property of Contractor that is or could be protected by federal copyright, patent, or trademark laws, or state trade secret laws, Contractor hereby grants City a perpetual, royalty-free, fully paid, nonexclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use and re-use, in whole or in part (and to authorize others to do so), all such Work Products and any other information, designs, plans, or works provided or delivered to City or produced by Contractor under this Agreement. The parties expressly agree that all works produced (including, but not limited to, any taped or recorded items) pursuant to this Agreement are works specially commissioned by City, and that any and all such works shall be works made for hire in which all rights and copyrights belong exclusively to City. Contractor shall not publish, republish, display or otherwise use any work or Work Products resulting from this Agreement without the prior written agreement of City.

10. Compliance With Applicable Law.

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

Contractor shall comply with all federal, state, and local laws and ordinances applicable to the services to be performed pursuant to this Agreement, including, without limitation, the provisions of ORS 279B.220, 279C.515, 279B.235, 279B.230 and 279B.270. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans With Disabilities Act of 1990 (Pub. L No. 101-336), ORS 659.425, and all regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal and state civil rights and rehabilitation and other applicable statutes, rules and regulations.

11. Professional Standards. Contractor shall be responsible, to the level of competency presently maintained by others practicing in the same type of services in City's community, for the professional and technical soundness, accuracy and adequacy of all services and materials furnished under this authorization.

12. Modification, Supplements or Amendments. No modification, change, supplement or amendment of the provisions of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

13. Indemnity and Insurance.

(a) Indemnity. Contractor acknowledges responsibility for liability arising out of Contractor's negligent performance of this Agreement and shall hold City, its officers, agents, Contractors, and employees harmless from, and indemnify them for, any and all liability, settlements, loss, costs, and expenses, including attorney fees, in connection with any action, suit, or claim caused or alleged to be caused by the negligent acts, omissions, activities or services by Contractor, or the agents, Contractors or employees of Contractor provided pursuant to this Agreement.

(b) Workers' Compensation Coverage. Contractor certifies that Contractor has qualified for workers' compensation as required by the State of Oregon. Contractor shall provide the Owner, within ten (10) days after execution of this Agreement, a certificate of insurance evidencing coverage of all subject workers under Oregon's workers' compensation statutes. The insurance certificate and policy shall indicate that the policy shall not be terminated by the insurance carrier without thirty (30) days' advance written notice to City. All agents or Contractors of Contractor shall maintain such insurance.

(c) Comprehensive, General, and Automobile Insurance. Contractor shall maintain comprehensive general and automobile liability insurance for protection of Contractor and City and for their directors, officers, agents, and employees, insuring against liability for damages because of personal injury, bodily injury, death, and broad-form property damage, including loss of use, and occurring as a result of, or in any way related to, Contractor's operation, each in an amount not less than $2,000,000 combined, single-limit, per-occurrence/annual aggregate. Such insurance shall name City as an additional insured, with the stipulation that this insurance, as to the interest of City, shall not be invalidated by any act or neglect or breach of this Agreement by Contractor.

14. Legal Expenses. In the event legal action is brought by City or Contractor against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorney fees, costs, and expenses as may be set by a court. "Legal action" shall include matters subject to arbitration and appeals.

15. Severability. The parties agree that, if any term or provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected.

16. Number and Gender. In this Agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall be deemed to include the others or other whenever the context so requires.

17. Captions and Headings. The captions and headings of this Agreement are for convenience only and shall not be construed or referred to in resolving questions of interpretation or construction.

STANDARD CONDITIONS TO OREGON CITY PERSONAL SERVICES AGREEMENT

18. Hierarchy. The conditions contained in this document are applicable to every Personal Services Agreement entered into by the City of Oregon City in the absence of contrary provisions. To the extent there is a conflict, the terms of the Personal Services Agreement will control over the terms of the standard conditions. To the extent there is a conflict between the terms of the standard conditions and any other document, including the scope of services, the terms of the standard conditions shall control those other terms.

19. Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays and legal holidays in the State of Oregon, except that, if the last day of any period falls on any Saturday, Sunday or legal holiday, the period shall be extended to include the next day that is not a Saturday, Sunday or legal holiday.

20. Notices. Any notices, bills, invoices, reports or other documents required by this Agreement shall be sent by the parties by United States mail, postage prepaid, or personally delivered to the addresses listed in the Agreement attached hereto. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing, unless sooner received.

21. Nonwaiver. The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights of any future occasion.

22. Information and Reports. Contractor shall, at such time and in such form as City may require, furnish such periodic reports concerning the status of the project, such statements, certificates, approvals, and copies of proposed and executed plans and claims, and other information relative to the project as may be requested by City. Contractor shall furnish City, upon request, with copies of all documents and other materials prepared or developed in relation with or as a part of the project. Working papers prepared in conjunction with the project are the property of City, but shall remain with Contractor. Copies as requested shall be provided free of cost to City.

23. City's Responsibilities. City shall furnish Contractor with all available necessary information, data, and materials pertinent to the execution of this Agreement. City shall cooperate with Contractor in carrying out the work herein and shall provide adequate staff for liaison with Contractor.

24. Arbitration.

All disputes arising out of or under this Agreement shall be timely submitted to nonbinding mediation prior to commencement of any other legal proceedings. The subsequent measures apply if disputes cannot be settled in this manner.

(a) Any dispute arising out of or under this Agreement shall be determined by binding arbitration.

(b) The party desiring such arbitration shall give written notice to that effect to the other party and shall in such notice appoint a disinterested person of recognized competence in the field as arbitrator on its behalf. Within fifteen (15) days thereafter, the other party may, by written notice to the original party, appoint a second disinterested person of recognized competence as arbitrator on its behalf. The arbitrators thus appointed shall appoint a third disinterested person of recognized competence, and the three arbitrators shall, as promptly as possible, determine such matter, provided, however, that:

(i) If the second arbitrator is not appointed as described above, then the first arbitrator shall proceed to determine such matter; and

(ii) If the two arbitrators appointed by the parties are unable to agree, within fifteen (15) days after the second arbitrator is appointed, on the appointment of a third arbitrator, they shall give written notice of such failure to agree to the parties and, if the parties fail to agree on the selection of the third arbitrator within fifteen (15) days after the arbitrators appointed by the parties give notice, then, within ten (10) days thereafter, either of the parties, on written notice to the other party, may request such appointment by the presiding judge of the Clackamas County Circuit Court.

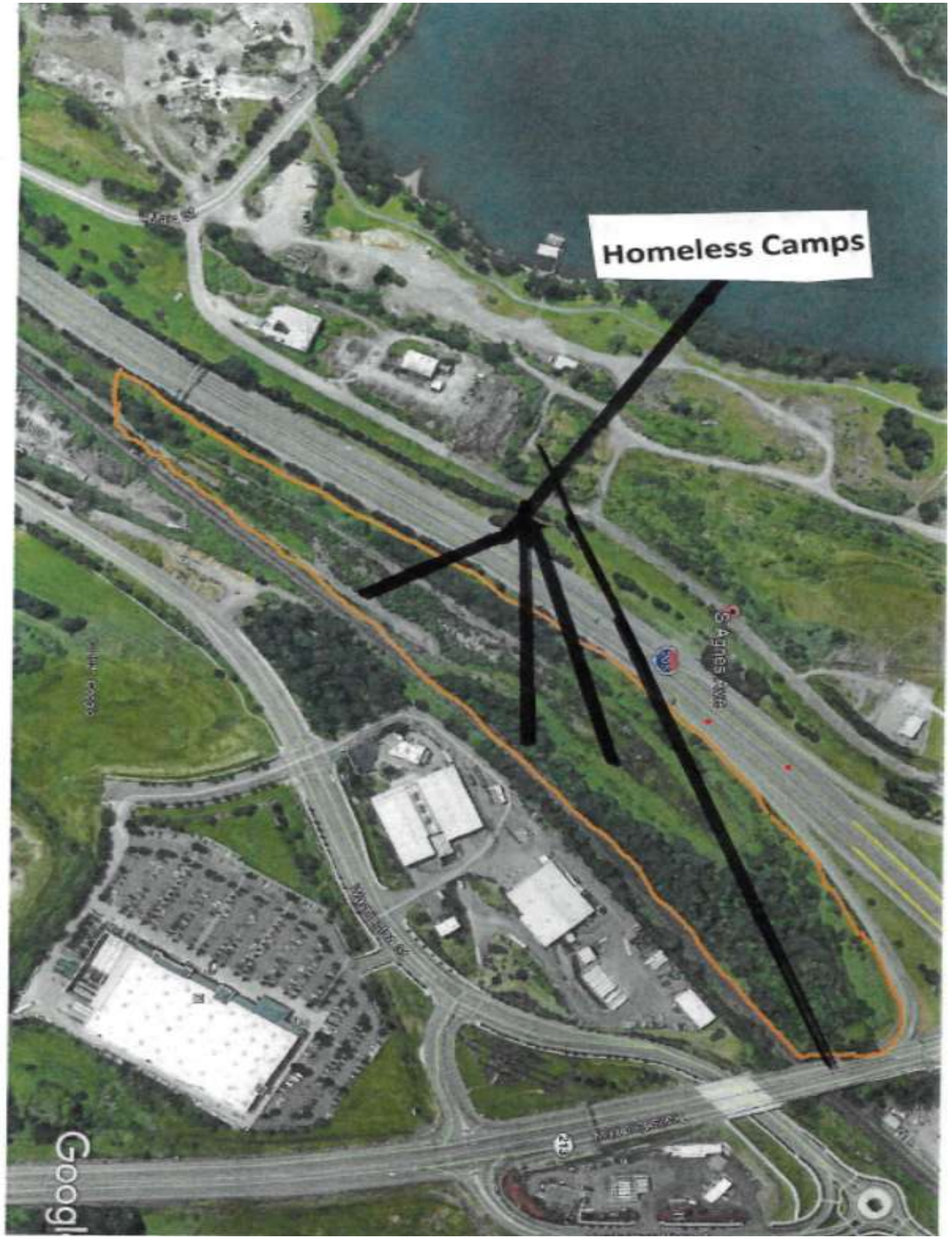
(c) Each party shall each be entitled to present evidence and argument to the arbitrators. The determination of the majority of the arbitrators or the sole arbitrator, as the case may be, shall be conclusive on the parties, and judgment on the same may be entered in any court having jurisdiction over the parties. The arbitrators or the sole arbitrator, as the case may be, shall give written notice to the parties, stating the arbitration determination, and shall furnish to each party a signed copy of such determination. Arbitration proceedings shall be conducted pursuant to ORS 33.210 et seq. and the rules of the American Arbitration Association, except as provided otherwise.

(d) Each party shall pay the fees and expenses of the arbitrator appointed by such party and one-half of the fees and expenses of the third arbitrator, if any.

25. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the state of Oregon without resort to any jurisdiction's conflicts of law, rules or doctrines.

EXHIBIT C: MAP AREA

North End District and Washington Street Gateway Cleanup



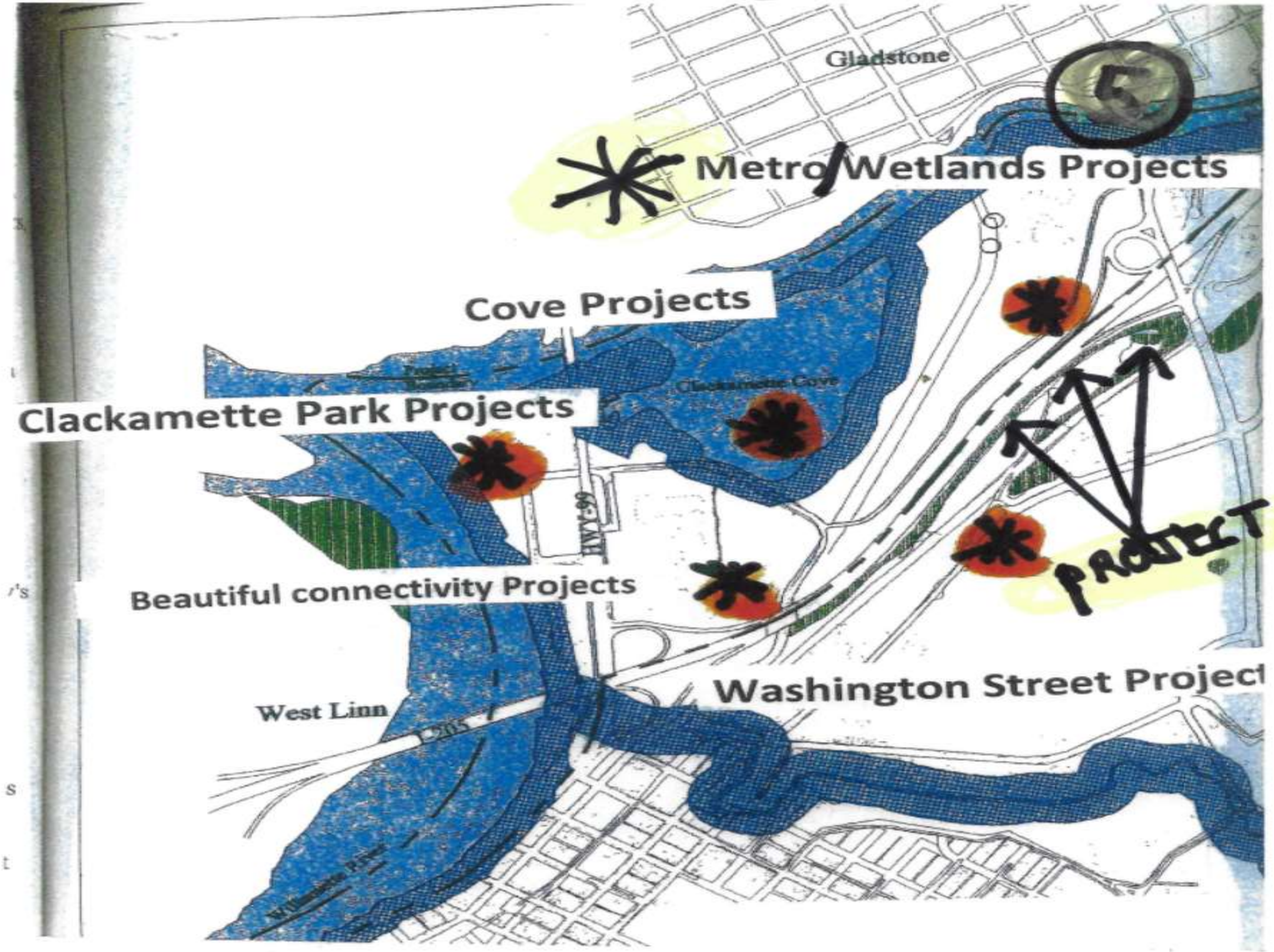
Messy, Messy, Messy

Summary of Challenges

- Mayor Rachel asked for help
- Homeless camps and garbage impacted area
- Union Pacific debris blocked access
- Drug Paraphernalia was everywhere
- Natural Resource areas affected

Project Area

- 13 Acre Oregon City Wetlands
- Federal Permit Area
- 4 Acre Metro Gateway Ponds
- Old 82nd Street



North End District

What We Did

- Involved 30 total youth
- Added volunteers from Park Place and McLaughlin
- Picked up 15 tons of waste
- Disposed of 300+ needles
- Identified 12 breaches of fence
- Cleared 1000 ft. access areas for police
- 300 service hours worth $7000

Volunteers and Workers at work Pictures

Debris, illegal dumping and railroad track messes Picture

Natural Resource Values

- 13 Acres connect from metro wetland to Clackamette Cove
- Major die-off of Evergreens has occurred in federal project
- Opportunities now to restore losses and build for future
- North End District Yes but Washington Street Gateway now

625 Center Street
Oregon City, OR 97045
503-657-0891

CITY OF OREGON CITY

Staff Report

To: Urban Renewal Commission **Agenda Date:** 10/20/2021

From: Executive Director Tony Konkol

SUBJECT:

Fourth Amendment to Purchase and Sale Agreement (922 Main Street)

STAFF RECOMMENDATION:

Approve the Fourth Amendment to the Purchase and Sale Agreement extending the existing to November 30, 2021.

EXECUTIVE SUMMARY:

During its meeting on June 16, 2021, the Urban Renewal Commission unanimously voted to extend the existing PSA dated June 21, 2017. The expiration date was decided to be October 30, 2021, with no modifications to the existing PSA.

During its October 6, 2021, meeting, the Urban Renewal Commission decided to establish a new PSA that would include all contingencies/terms that would have been part the various amended versions. In addition, the Urban Renewal Commission wanted to ensure that language be included that states that the project being presented during the October 6, 2021, meeting would be developed regardless of whomever the tenant ends up being.

BACKGROUND:

On May 31, 2017, Willamette Stone, LLC proposed a Purchase and Sale Agreement ("PSA") with the Urban Renewal Commission. The Commission agreed to sell 922 Main Street for a purchase price of $110,000. The developer provided $5,000 in earnest money.

During the Urban Renewal Commission Meeting held on September 16, 2020, the developer proposed to remove the residential component in favor of constructing a building that only contained retail and office space due to the lack of a quiet zone.

After much deliberation regarding the changing market relative to commercial, retail and office space as well as the pending discussion about Urban Renewal and other market transitions, the Urban Renewal Commission voted unanimously to extend the existing PSA dated June 21, 2017. It was agreed that the First Amendment to the existing PSA would expire on July 30, 2021, with no modifications to the existing PSA.

In another proposal presented on June 16, 2021, the developer proposed having residential only on the third floor of the building. The rest of the building would be reserved for office and/or retail space.

On October 6, 2021, during the Urban Renewal Commission meeting, the developer advised that an interested tenant that approached them. The developer presented a Third Amendment to the existing PSA whereby it proposed to construct a build-to-suite project belonging to a single tenant. The first floor would be constructed to accommodate a brewery operation with a tasting room and retail sales area. The second floor would consist of a restaurant belonging to the same potential tenant. The third floor would consist of a roof top deck with a roof top garden belonging to the same proposed tenant.

The Urban Renewal Commission directed staff to have a new PSA created that includes all contingencies and terms including language that states that the project being presented during the October 6, 2021, meeting would be developed regardless of whomever the tenant ends up being.

To allow the developer's legal counsel sufficient time to review the new and clean PSA and to ensure that the existing PSA does not expire in the meantime, the developer is asking for a 30-day extension up to November 30, 2021.

OPTIONS:

1. Approve the Fourth Amendment to the existing Purchase and Sale Agreement.
2. Cancel the existing PSA

BUDGET IMPACT:

Amount: $15,000

FY(s): FY 2022

Funding Source(s): Willamette Stone, LLC

FOURTH AMENDMENT
TO
PURCHASE AND SALE AGREEMENT

THIS FOURTH AMENDMENT TO PURCHASE AND SALE AGREEMENT (the "**Fourth Amendment**"), dated as of October ___, 2021, is made by and OREGON CITY URBAN RENEWAL AGENCY, the duly designated Urban Renewal Agency of the City of Oregon City ("**Seller**"), and WILLAMETTE STONE, LLC ("**Purchaser**"), with reference to the following:

WHEREAS, Purchaser (as successor-in-interest to Willamette Stone Partners, LLC) and Seller are parties to that certain Purchase and Sale Agreement dated as of June 21, 2017, as amended prior to the date hereof (as amended the "**PSA**");

WHEREAS, Seller, and Seller's Urban Renewal Commission (URC) met October 6, 2021 to review and vote on a proposal presented by Purchaser to redesign and develop the Project as a mixed-use commercial building with restaurant/food and beverage space; and

WHEREAS, Seller and Purchaser have agreed to enter into this Fourth Amendment to allow sufficient time for the parties to negotiate and execute a revised and restated purchase and sale agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree to the following:

1. Terms. All initially capitalized terms which are used in this Fourth Amendment, but not otherwise defined herein, shall have the same meanings as ascribed thereto in the PSA.

2. Site Approval Period. The Site Approval Period is hereby extended to expire on November 30, 2021.

3. Purchase and Sale Agreement Ratified. In all other respects, except as otherwise provided by this Fourth Amendment, the undersigned hereby ratify and confirm the PSA which remains in full force and effect.

4. Counterparts. This Fourth Amendment may be executed in counterparts, each of which shall be deemed an original and all of said counterparts shall constitute but one and the same instrument. Signatures delivered via facsimile or other electronic means shall be accepted as if original.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned hereby execute this Third Amendment to be effective as of October ___, 2021.

SELLER:

OREGON CITY URBAN RENEWAL AGENCY,
the duly designated Urban Renewal Agency of the City of Oregon City

By:__________________________
Name: Anthony J. Konkol, III
Title: Executive Director

Date:__________________

PURCHASER:

WILLAMETTE STONE, LLC

By:__________________________
Name: Kerry Hughes
Title: Manager

Date:________________

COMMERCIAL ASSOCIATION OF REALTORS® OREGON/SW WASHINGTON
PURCHASE AND SALE AGREEMENT AND RECEIPT FOR EARNEST MONEY
(Oregon Commercial Form)

AGENCY ACKNOWLEDGMENT

Buyer shall execute this Acknowledgment concurrent with the execution of the Agreement below and prior to delivery of that Agreement to Seller. Seller shall execute this Acknowledgment upon receipt of the Agreement by Seller, even if Seller intends to reject the Agreement or make a counter-offer. In no event shall Seller's execution of this Acknowledgment constitute acceptance of the Agreement or any terms contained therein.

Pursuant to the requirements of Oregon Administrative Rules (OAR 863-015-0215), both Buyer and Seller acknowledge having received the Oregon Real Estate Agency Disclosure Pamphlet, and by execution below acknowledge and consent to the agency relationships in the following real estate purchase and sale transaction as follows:

(a) Seller Agent: Skip Rotticci of Colliers International firm (the "Selling Firm") is the agent of (check one):
☐ Buyer exclusively; ☐ Seller exclusively; ☒ both Seller and Buyer ("Disclosed Limited Agency").

(b) Buyer Agent: ______of ______ firm (the "Buying Firm") is the agent of (check one):
☐ Buyer exclusively; ☐ Seller exclusively; ☐ both Seller and Buyer ("Disclosed Limited Agency").

If the name of the same real estate firm appears in both Paragraphs (a) and (b) above, Buyer and Seller acknowledge that a principal broker of that real estate firm shall become the Disclosed Limited Agent for both Buyer and Seller, as more fully set forth in the Disclosed Limited Agency Agreements that have been reviewed and signed by Buyer, Seller and the named real estate agent(s).

ACKNOWLEDGED

Buyer: Willamette Stone Partners, LLC or assigns

(sign)______________________ Date: 5/31/2017

Seller: City of Oregon City

(sign) Anthony J. Klein III ______________ Date: 7/21/2017

[No further text appears on this page.]

PURCHASE AND SALE AGREEMENT AND RECEIPT FOR EARNEST MONEY

This PURCHASE AND SALE AGREEMENT AND RECEIPT FOR EARNEST MONEY (this "Agreement") is accepted, made and entered into on the later of the two dates shown beneath the parties' signatures on the signature page attached hereto (the "Execution Date"):

BETWEEN: City of Oregon City ("Seller")
Address: 625 Center Street, Oregon City, OR 97045
Home Phone: _____
Office Phone: 503.657.0891
Fax No.: _____
E-Mail: eunderwood@orcity.org

AND: Willamette Stone Partners, LLC or assigns ("Buyer")
Address: 0240 SW Seymour Court, Portland, OR 97205
Home Phone: _____
Office Phone: 503.756.1407
Fax No.:
E-Mail: adrian@willamettestone.com

1. Purchase and Sale.

1.1 Generally. In accordance with this Agreement, Buyer agrees to buy and acquire from Seller, and Seller agrees to sell to Buyer the following, all of which are collectively referred to in this Agreement as the "Property:" (a) the real property and all improvements thereon generally described or located at **922 Main Street** in the City of **Oregon City**, County of **Clackamas** Oregon legally described on Exhibit A, attached hereto (the "Real Estate") **(if no legal description is attached, the legal description shall be based on the legal description provided in the Preliminary Report (described in Section 5), subject to the review and approval of both parties hereto)**, including all of Seller's right, title and interest in and to all fixtures, appurtenances, and easements thereon or related thereto; (b) all of Seller's right, title and interest, if any, in and to any and all lease(s) to which the Real Estate is subject (each, a "Lease"); and (c) any and all personal property located on and used in connection with the operation of the Real Estate and owned by Seller (the "Personal Property"). If there are any Leases, see Section 21.1, below. The occupancies of the Property pursuant to any Leases are referred to as the "Tenancies" and the occupants thereunder are referred to as "Tenants." If there is any Personal Property, see Section 21.2, below.

1.2 Purchase Price. The purchase price for the Property shall be **One Hundred Ten Thousand dollars ($110,000)** (the "Purchase Price"). The Purchase Price shall be adjusted, as applicable, by the net amount of credits and debits to Seller's account at Closing (defined below) made by Escrow Holder pursuant to the terms of this Agreement. The Purchase Price shall be payable as follows:

1.2.1 Earnest Money Deposit.

(a) Within five (5) days of the Execution Date, Buyer shall deliver into Escrow (as defined herein), for the account of Buyer, $**5,000.00** as earnest money (the "Earnest Money") in the form of:
☐ Promissory note (the "Note"); ☒ Check; or ☐ Cash or other immediately available funds.

If the Earnest Money is being held by the ☐ Selling Firm ☐ Buying Firm, then the firm holding such Earnest Money shall deposit the Earnest Money in the ☒ Escrow (as hereinafter defined) ☐ Selling Firm's Client Trust Account ☐ Buying Firm's Clients' Trust Account, no later than 5:00 PM Pacific Time three (3) business days after such firm's receipt, but in no event later than the date set forth in the first sentence of this Section 1.2.1(a).

(b) If the Earnest Money is in the form of a Note, it shall be due and payable ☐ no later than 5:00 PM Pacific Time three (3) days after the Execution Date; ☐ after satisfaction or waiver by Buyer of the conditions to Buyer's obligation to purchase the Property set forth in this Agreement; or ☐Other: _____. If the terms of the Note and this Agreement conflict, the terms of this Agreement shall govern. If the Note is not redeemed and paid in full when due, then: (i) the Note shall be delivered and endorsed to Seller (if not already in Seller's possession); (ii) Seller may collect the Earnest Money from Buyer, either pursuant to an action on the Note or an action on this Agreement; and (iii) Seller shall have no further obligations under this Agreement.

(c) The purchase and sale of the Property shall be accomplished through an escrow (the "Escrow") that Seller has established or will establish with Lawyers Title Company Portland, Oregon (the "Escrow Holder") within 3 days after the Execution Date. Except as otherwise provided in this Agreement: (i) any interest earned on the Earnest Money shall be considered to be part of the Earnest Money; (ii) the Earnest Money shall be non-refundable upon satisfaction or waiver of all Conditions as defined in Section 2.1; and (iii) the Earnest Money shall be applied to the Purchase Price at Closing.

1.2.2 Balance of Purchase Price. Buyer shall pay the balance of the Purchase Price at Closing by ☒ cash or other immediately available funds; or ☐ Other: ___________.

1.3 Section 1031 Like-Kind Exchange. Each party acknowledges that either party (as applicable, the "Exchanging Party") may elect to engage in and affect a like-kind exchange under Section 1031 of the Internal Revenue Code of 1986, as amended, involving the Property (or any legal lot thereof) (a "1031 Exchange"). The non-exchanging party with respect to a 1031 Exchange is referred to herein as the "Cooperating Party." Buyer and Seller each hereby agrees to reasonably cooperate with the other in completing each such 1031 Exchange; provided, however, that such cooperation shall be at the Exchanging Party's sole expense and shall not delay the Closing for the Property. Accordingly, the Exchanging Party may assign the Exchanging Party's rights with respect to the Property (or any legal lot thereof) to a person or entity for the purpose of consummating a 1031 Exchange ("Intermediary"), provided that such assignment does not delay the Closing for the Property (or applicable legal lot thereof), or otherwise reduce or diminish the Exchanging Party's liabilities or obligations hereunder. Such assignment by the Exchanging Party shall not release the Exchanging Party from the obligations of the Exchanging Party under this Agreement. The Cooperating Party shall not suffer any costs, expenses or liabilities for cooperating with the Exchanging Party and shall not be required to take title to the exchange property. The Exchanging Party agrees to indemnify, defend and hold the Cooperating Party harmless from any liability, damages and costs arising out of the 1031 Exchange.

2. Conditions to Purchase.

2.1 Buyer's obligation to purchase the Property is conditioned on the following:

☐ None;

☒ Within 120 days of the Execution Date, Buyer's approval of the results of (collectively, the "General Conditions"): (a) the Property inspection described in Section 3 below; (b) the document review described in Section 4 below; and (c) (describe any other condition) Feasibility Analysis;

☐ Within 0 days of the Execution Date, Buyer's receipt of confirmation of satisfactory financing (the "Financing Condition"); and/or

☐ Other:

The General Conditions, Financing Conditions or any other Conditions noted shall be defined as "Conditions."

2.2 If, for any reason in Buyer's sole discretion, Buyer has not timely given written waiver of the Conditions set forth in Section 2.1, or stated in writing that such Conditions have been satisfied, by notice given to Seller within the time periods for such conditions set forth above, this Agreement shall be deemed automatically terminated, the Earnest Money shall be promptly returned to Buyer, and thereafter, except as specifically provided to the contrary herein, neither party shall have any further right or remedy hereunder.

3. Property Inspection. Seller shall permit Buyer and its agents, at Buyer's sole expense and risk, to enter the Property at reasonable times after reasonable prior notice to Seller and after prior notice by Seller to the Tenants as required by the applicable Leases, if any, to conduct any and all inspections, tests, and surveys concerning the structural condition of the improvements, all mechanical, electrical and plumbing systems, hazardous materials, pest infestation, soils conditions, wetlands, Americans with Disabilities Act compliance, zoning, and all other matters affecting the suitability of the Property for Buyer's intended use and/or otherwise reasonably related to the purchase of the Property including the economic feasibility of such purchase. If the transaction contemplated in this Agreement fails to close for any reason (or no reason) as a result of the act or omission of Buyer or its agents, Buyer shall promptly restore the Property to substantially the condition the Property was in prior to Buyer's performance of any inspections or work. Buyer shall indemnify, hold harmless, and defend Seller from all liens, costs, and expenses, including reasonable attorneys' fees and experts' fees, arising from or relating to Buyer's entry on and inspection of the Property. This agreement to indemnify, hold harmless, and defend Seller shall survive Closing or any termination of this Agreement.

4. Seller's Documents. Within 7 days after the Execution Date, Seller shall deliver to Buyer or Buyer's designee, legible and complete copies of the following documents, including without limitation, a list of the Personal Property, and other items relating to the ownership, operation, and maintenance of the Property to the extent now in existence and to the extent such items are or come within Seller's possession or control: Environmental Reports, Surveys, Soils Reports, Plans, Permits, Approvals, Studies, Assessments, and Appraisals.

5. Title Insurance. Within 7 days after the Execution Date, Seller shall cause to be delivered to Buyer a preliminary title report from the title company (the "Title Company") selected by Seller (the "Preliminary Report"), showing the status of Seller's title to the Property, together with complete and legible copies of all documents shown therein as exceptions to title ("Exceptions"). Buyer shall have 5 days after receipt of a copy of the Preliminary Report and Exceptions within which to give notice in writing to Seller of any objection to such title or to any liens or encumbrances affecting the Property. Within 5 days after receipt of such notice from Buyer, Seller shall give Buyer written notice of whether it is willing and able to remove the objected-to Exceptions. Without the need for objection by Buyer, Seller shall, with respect to liens and encumbrances that can be satisfied and released by the payment of money, eliminate such exceptions to title on or before Closing. Within 5 days after receipt of such notice from Seller (the "Title Contingency Date"), Buyer shall elect whether to: (i) purchase the Property subject to those objected-to

Exceptions which Seller is not willing or able to remove; or (ii) terminate this Agreement. If Buyer fails to give Seller notice of Buyer's election, then such inaction shall be deemed to be Buyer's election to terminate this Agreement. On or before the Closing Date (defined below), Seller shall remove all Exceptions to which Buyer objects and which Seller agrees, or is deemed to have agreed, Seller is willing and able to remove. All remaining Exceptions set forth in the Preliminary Report and those Exceptions caused by or agreed to by Buyer shall be deemed "Permitted Exceptions."

6. Default; Remedies. Notwithstanding anything to the contrary contained in this Agreement, in the event Buyer fails to deposit the Earnest Money in Escrow strictly as and when contemplated under Section 1.2.1 above, Seller shall have the right at any time thereafter, but prior to Buyer's deposit of the Earnest Money to Escrow, to terminate this Agreement and all further rights and obligations hereunder by giving written notice thereof to Buyer. If the conditions, if any, to Buyer's obligation to consummate this transaction are satisfied or waived by Buyer and Buyer fails, through no fault of Seller, to close on the purchase of the Property, Seller's sole remedy shall be to retain the Earnest Money paid by Buyer. In the event Seller fails, through no fault of Buyer, to close the sale of the Property, Buyer shall be entitled to pursue any remedies available at law or in equity, including without limitation, the return of the Earnest Money paid by Buyer or the remedy of specific performance. In no event shall either party be entitled to punitive or consequential damages, if any, resulting from the other party's failure to close the sale of the Property.

7. Closing of Sale.

7.1 Buyer and Seller agree the sale of the Property shall be consummated, in Escrow, ☒ on or before **30 days following issuance of site development permits by the City of Oregon City, and issuance of construction loan whichever is sooner** or ☐) ___ days after the conditions set forth in Sections 2.1, 3, 4 and 5 have been satisfied or waived in writing by Buyer (the "Closing" or the "Closing Date"). The sale of the Property shall be deemed closed when the document(s) conveying title to the Property is/are delivered and recorded and the Purchase Price is disbursed to Seller.

7.2 At Closing, Buyer and Seller shall deposit with the Escrow Holder all documents and funds required to close the transaction in accordance with the terms of this Agreement. At Closing, Seller shall deliver a certification in a form provided by the Escrow Holder confirming whether Seller is or is not a "foreign person" as such term is defined by applicable law and regulations.

7.3 At Closing, Seller shall convey fee simple title to the Property to Buyer by ☐ statutory warranty deed or ☒ Special Warranty Deed (the "Deed"). At Closing, Seller shall cause the Title Company to deliver to Buyer a standard ALTA form owner's policy of title insurance (the "Title Policy") in the amount of the Purchase Price insuring fee simple title to the Property in Buyer subject only to the Permitted Exceptions and the standard preprinted exceptions contained in the Title Policy. Seller shall reasonably cooperate in the issuance to Buyer of an ALTA extended form policy of title insurance. Buyer shall pay any additional expense resulting from the ALTA extended coverage and any endorsements required by Buyer.

8. Closing Costs; Prorations. Seller shall pay the premium for the Title Policy, provided, however, if Buyer elects to obtain an ALTA extended form policy of title insurance and/or any endorsements, Buyer shall pay the difference in the premium relating to such election. Seller and Buyer shall each pay one-half (1/2) of the escrow fees charged by the Escrow Holder. Any excise tax and/or transfer tax shall be paid in accordance with the local custom determined by the Title Company and applicable law. Real property taxes for the tax year of the Closing,

assessments (if a Permitted Exception), personal property taxes, rents and other charges arising from existing Tenancies paid for the month of Closing, interest on assumed obligations, and utilities shall be prorated as of the Closing Date. If applicable, prepaid rents, security deposits, and other unearned refundable deposits relating to Tenancies shall be assigned and delivered to Buyer at Closing. ☒ Seller ☐ Buyer ☐ N/A shall be responsible for payment of all taxes, interest, and penalties, if any, upon removal of the Property from any special assessment or program.

9. Possession. Seller shall deliver exclusive possession of the Property, subject to the Tenancies (if any) existing as of the Closing Date, to Buyer ☒ on the Closing Date or ☐ _____.

10. Condition of Property. Seller represents that Seller has received no written notices of violation of any laws, codes, rules, or regulations applicable to the Property ("Laws"). Seller represents that, to the best of Seller's knowledge without specific inquiry, Seller is not aware of any such violations or any concealed material defects in the Property. Unless caused by Buyer, Seller shall bear all risk of loss and damage to the Property until Closing, and Buyer shall bear such risk at and after Closing. Except for Seller's representations set forth in this Section 10 and the attached Exhibit E, Buyer shall acquire the Property "AS IS" with all faults and Buyer shall rely on the results of its own inspection and investigation in Buyer's acquisition of the Property. It shall be a condition of Buyer's Closing obligation that all of Seller's representations and warranties stated in this Agreement are materially true and correct on the Closing Date. Seller's representations and warranties stated in this Agreement shall survive Closing for one (1) year.

11. Operation of Property. Between the Execution Date and the Closing Date, Seller shall continue to operate, maintain and insure the Property consistent with Seller's current operating practices. After Buyer has satisfied or waived the conditions to Buyer's obligation to purchase the Property, and the Earnest Money is non-refundable, Seller may not, without Buyer's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed, enter into: (a) any new leases or occupancy agreements for the Property; (b) any material amendments or modification agreements for any existing leases or occupancy agreements for the Property; or (c) any service contracts or other agreements affecting the Property that are not terminable at the Closing.

12. Assignment. Assignment of this Agreement: ☐ is PROHIBITED; ☒ is PERMITTED, without consent of Seller; ☐ is PERMITTED ONLY UPON Seller's written consent; ☐ is PERMITTED ONLY IF the assignee is an entity owned and controlled by Buyer. **Assignment is PROHIBITED, if no box is checked**. If Seller's written consent is required for assignment, such consent may be withheld in Seller's reasonable discretion. In the event of a permitted assignment, Buyer shall remain liable for all Buyer's obligations under this Agreement.

13. Arbitration. **IF AND ONLY IF THIS SECTION IS INITIALED BY EACH OF BUYER AND SELLER, THE FOLLOWING SHALL APPLY TO THIS AGREEMENT**:

ANY DISPUTE BETWEEN BUYER AND SELLER RELATED TO THIS AGREEMENT, THE PROPERTY, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT WILL BE RESOLVED BY ARBITRATION GOVERNED BY THE OREGON UNIFORM ARBITRATION ACT (ORS 36.600 et seq.) AND, TO THE EXTENT NOT INCONSISTENT WITH THAT STATUTE, CONDUCTED IN ACCORDANCE WITH THE RULES OF PRACTICE AND PROCEDURE FOR THE ARBITRATION OF COMMERCIAL DISPUTES OF ARBITRATION SERVICES OF PORTLAND ("**ASP**"). THE ARBITRATION SHALL BE CONDUCTED IN PORTLAND, OREGON AND ADMINISTERED BY ASP, WHICH WILL APPOINT A SINGLE ARBITRATOR HAVING AT LEAST FIVE (5) YEARS EXPERIENCE IN THE COMMERCIAL REAL ESTATE FIELD IN THE Portland MSA GEOGRAPHIC AREA **(IF**

BLANK IS NOT COMPLETED, PORTLAND METROPOLITAN AREA). ALL ARBITRATION HEARINGS WILL BE COMMENCED WITHIN THIRTY (30) DAYS OF THE DEMAND FOR ARBITRATION UNLESS THE ARBITRATOR, FOR SHOWING OF GOOD CAUSE, EXTENDS THE COMMENCEMENT OF SUCH HEARING. THE DECISION OF THE ARBITRATOR WILL BE BINDING ON BUYER AND SELLER, AND JUDGMENT UPON ANY ARBITRATION AWARD MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. THE PARTIES ACKNOWLEDGE THAT, BY AGREEING TO ARBITRATE DISPUTES, EACH OF THEM IS WAIVING CERTAIN RIGHTS, INCLUDING ITS RIGHTS TO SEEK REMEDIES IN COURT (INCLUDING A RIGHT TO A TRIAL BY JURY), TO DISCOVERY PROCESSES THAT WOULD BE ATTENDANT TO A COURT PROCEEDING, AND TO PARTICIPATE IN A CLASS ACTION.

AB	ASK
Initials of Buyer	Initials of Seller

14. <u>Attorneys' Fees</u>. In the event a suit, action, arbitration, or other proceeding of any nature whatsoever, including without limitation any proceeding under the U.S. Bankruptcy Code, is instituted, or the services of an attorney are retained, to interpret or enforce any provision of this Agreement or with respect to any dispute relating to this Agreement, the prevailing or non-defaulting party shall be entitled to recover from the losing or defaulting party its attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred in connection therewith (the "<u>Fees</u>"). In the event of suit, action, arbitration, or other proceeding, the amount of Fees shall be determined by the judge or arbitrator, shall include all costs and expenses incurred on any appeal or review, and shall be in addition to all other amounts provided by law.

15. <u>Statutory Notice</u>. 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.

16. <u>Cautionary Notice About Liens</u>. UNDER CERTAIN CIRCUMSTANCES, A PERSON WHO PERFORMS CONSTRUCTION-RELATED ACTIVITIES MAY CLAIM A LIEN UPON REAL PROPERTY AFTER A SALE TO THE PURCHASER FOR A TRANSACTION OR ACTIVITY THAT OCCURRED BEFORE THE SALE. A VALID CLAIM MAY BE ASSERTED AGAINST THE PROPERTY THAT YOU ARE PURCHASING EVEN IF THE CIRCUMSTANCES THAT GIVE RISE TO THAT CLAIM HAPPENED BEFORE YOUR PURCHASE OF THE PROPERTY. THIS INCLUDES, BUT IS NOT LIMITED TO, CIRCUMSTANCES WHERE THE OWNER OF THE PROPERTY CONTRACTED WITH A PERSON OR BUSINESS TO PROVIDE LABOR, MATERIAL, EQUIPMENT OR SERVICES TO THE PROPERTY AND HAS NOT PAID THE PERSONS OR BUSINESS IN FULL.

17. Brokerage Agreement. For purposes of Sections 14 and 17 of this Agreement, the Agency Acknowledgement on page 1 this Agreement is incorporated into this Agreement as if fully set forth herein. Seller agrees to pay a commission to Selling Firm in the amount of either: ☒ Five percent (5%) of the Purchase Price or ☐ $_____. Such commission shall be divided between Selling Firm and Buying Firm such that Selling Firm receives five percent (5%) and Buying Firm receives 0 percent (0%). Seller shall cause the Escrow Holder to deliver to Selling Firm and Buying Firm the real estate commission on the Closing Date or upon Seller's breach of this Agreement, whichever occurs first. If the Earnest Money is forfeited by Buyer and retained by Seller in accordance with this Agreement, in addition to any other rights the Selling Firm and Buying Firm may have, the Selling Firm and the Buying Firm, together, shall be entitled to the lesser of: (i) fifty percent (50%) of the Earnest Money; or (ii) the commission agreed to above, and Seller hereby assigns such amount to the Selling Firm and the Buying Firm.

18. Notices. Unless otherwise specified, any notice required or permitted in, or related to this Agreement must be in writing and signed by the party to be bound. Any notice will be deemed delivered: (a) when personally delivered; (b) when delivered by facsimile or electronic mail transmission (in either case, with confirmation of delivery); (c) on the day following delivery of the notice by reputable overnight courier; or (d) on the day following delivery of the notice by mailing by certified or registered U.S. mail, postage prepaid, return receipt requested; and in any case shall be sent by the applicable party to the address of the other party shown at the beginning of this Agreement, unless that day is a Saturday, Sunday, or federal or Oregon State legal holiday, in which event such notice will be deemed delivered on the next following business day.

19. Miscellaneous. Time is of the essence of this Agreement. If the deadline under this Agreement for delivery of a notice or performance of any obligation is a Saturday, Sunday, or federal or Oregon State legal holiday, such deadline will be deemed extended to the next following business day. The facsimile and/or electronic mail transmission of any signed document including this Agreement in accordance with Section 18 shall be the same as delivery of an original. At the request of either party, the party delivering a document by facsimile and/or electronic mail will confirm such transmission by signing and delivering to the other party a duplicate original document. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same Agreement. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements between them. Without limiting the provisions of Section 12 of this Agreement, this Agreement shall be binding upon and shall inure to the benefit of Buyer and Seller and their respective successors and assigns. Solely with respect to Sections 14 and 17, Selling Firm and Buying Firm are third party beneficiaries of this Agreement. The person signing this Agreement on behalf of Buyer and the person signing this Agreement on behalf of Seller each represents, covenants and warrants that such person has full right and authority to enter into this Agreement and to bind the party for whom such person signs this Agreement to its terms and provisions. Neither this Agreement nor a memorandum hereof shall be recorded unless the parties otherwise agree in writing.

20. Governing Law. This Agreement is made and executed under, and in all respects shall be governed and construed by, the laws of the State of Oregon.

21. Lease(s) and Personal Property.

21.1 Leases.

21.1.1 If required by Buyer or Buyer's lender and provided for in such Tenant's Lease, Seller shall use commercially reasonable efforts to deliver to Buyer, at least 5 days **(three (3) if not filled in)** before the Closing Date, a Tenant estoppel certificate, reasonably acceptable to Buyer, pertaining to each Lease at the Property in effect as of the Closing Date (each, a "Tenant Estoppel"). Such Tenant Estoppels shall be dated no more than 15 days **(fifteen (15) if not filled in)** prior to the Closing Date and shall certify, among other things: (a) that the Lease is unmodified and in full force and effect, or is in full force and effect as modified, and stating the modifications; (b) the amount of the rent and the date to which rent has been paid; (c) the amount of any security deposit held by Seller; and (d) that neither party is in default under the Lease or if a default by either party is claimed, stating the nature of any such claimed default. If Seller has not obtained Tenant Estoppels from all Tenants of the Property, then Seller shall execute and deliver to Buyer a Tenant Estoppel with respect to any such Lease setting forth the information required by this Section 21.1 and confirming the accuracy thereof.

21.1.2 If applicable, the assignment of the Lease(s) by Seller, and assumption of the Lease(s) by Buyer shall be accomplished by executing and delivering to each other through Escrow an Assignment of Lessor's Interest under Lease substantially in the form of Exhibit B attached hereto (the "Assignment").

21.2 Personal Property. If applicable, Seller shall convey all Personal Property to Buyer by executing and delivering to Buyer at Closing through Escrow (as defined below), a Bill of Sale substantially in the form of Exhibit C attached hereto (the "Bill of Sale"). A list of such Personal Property shall be attached to the Bill of Sale.

22. Residential Lead-Based Paint Disclosure. IF THE PROPERTY CONSISTS OF RESIDENTIAL HOUSING BUILT PRIOR TO 1978, BUYER AND SELLER MUST COMPLETE THE LEAD-BASED PAINT DISCLOSURE ADDENDUM ATTACHED HERETO AS EXHIBIT D.

23. Addenda; Exhibits. The following named addenda and exhibits are attached to this Agreement and incorporated within this Agreement:

- ☒ Exhibit A – Legal Description of Property **[REQUIRED]**
- ☒ Exhibit B – Additional Terms to Purchase and Sale Agreement
- ☒ Exhibit C – Form of Quit Claim Deed and Escrow Instructions
- ☐ Exhibit D – Lead Paint Disclosure Addendum (if applicable)
- ☐ Exhibit E – AS IS Exceptions (if applicable)

24. Time for Acceptance. If Seller does not return to Buyer a signed and dated version of this Agreement on or before 5:00 PM Pacific Time on June 30, 2017, then the Earnest Money shall be promptly refunded to Buyer and thereafter, neither party shall have any further right or obligation hereunder.

25. OFAC Certification. The Federal Government, Executive Order 13224, requires that business persons of the United States not do business with any individual or entity on a list of "Specially Designated nationals and Blocked Persons" - that is, individuals and entities identified as terrorists or other types of criminals. Buyer hereinafter certifies that:

25.1 It is not acting, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, specially designated national and/or blocked person, entity, nation, or transaction pursuant to any law, order, rule, or regulation that is enforced or administered by the Office of Foreign Assets Control; and

25.2 It has not executed this Agreement, directly or indirectly on behalf of, or instigating or facilitating this Agreement, directly or indirectly on behalf of, any such person, group, entity, or nation.

Buyer hereby agrees to defend, indemnify, and hold harmless Seller from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification. This certification by Buyer and agreement to indemnify, hold harmless, and defend Seller shall survive Closing or any termination of this Agreement.

Buyer Signature: ____________ Date: 5/31/2017

CONSULT YOUR ATTORNEY. THIS DOCUMENT HAS BEEN PREPARED FOR SUBMISSION TO YOUR ATTORNEY FOR REVIEW AND APPROVAL PRIOR TO SIGNING. NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE COMMERCIAL ASSOCIATION OF REALTORS® OREGON/SW WASHINGTON OR BY THE REAL ESTATE AGENTS INVOLVED WITH THIS DOCUMENT AS TO THE LEGAL SUFFICIENCY OR TAX CONSEQUENCES OF THIS DOCUMENT.

THIS FORM SHOULD NOT BE MODIFIED WITHOUT SHOWING SUCH MODIFICATIONS BY REDLINING, INSERTION MARKS, OR ADDENDA.

Buyer Willamette Stone Partners, LLC or assigns
By ____________
Title Adrian Boly
Date 5/31/2017

Seller Acceptance. By execution of this Agreement, Seller agrees to sell the Property on the terms and conditions in this Agreement.

Seller City of Oregon City
By ____________
Title City Manager
Date 6-21-17

CRITICAL DATE LIST:

The last party to execute this Agreement shall complete the information below (the "Critical Date List"), initial where indicated, and return a copy of the same to the other party for such party's review. This Critical Date List is for reference purposes only and, in the event of a conflict between this Critical Date List and the Agreement, the terms of the Agreement shall prevail.

	DATE:
• Execution Date (Introductory paragraph):	7/21/2017
• Earnest Money due date (Section 1.2.1(a)):	Five days after execution
• Seller shall open Escrow with the Escrow Holder (Section 1.2.1(a)):	Before 5 days after the Execution Date
• Seller shall deliver Seller's documents to Buyer (Section 4):	Within 7 days after the Execution Date
• Seller shall deliver Preliminary Report to Buyer (Section 5):	Within 7 days after the Execution Date
• Buyer's title objection notice due to Seller (Section 5):	Within 5 days after receipt of the Preliminary Report
• Seller's title response due to Buyer (Section 5):	Within 5 days after receipt of Buyer's title objection notice
• Title Contingency Date (Section 5):	Within 5 days after receipt of Seller's title response
• Expiration date for satisfaction of General Conditions (Section 2.1):	Within 120 days of the Execution Date
• Expiration date for satisfaction of Financing Condition (Section 2.1):	Within 0 days of the Execution Date
• By this date, Buyer must deliver the notice to proceed contemplated in Section 2.2.	Within 120 days of the Execution Date
• Closing Date (Section 7.1):	Within 30 days of issuance of building permits or issuance of construction loan whichever is sooner.

Initials of Buyer: AR Initials of Seller: AJK
Initials of Buyer: _____ Initials of Seller: _____

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

As provided by Lawyers Title Company

EXHIBIT B TO PURCHASE AND SALE AGREEMENT

This Exhibit is dated June 21, 2017 and modifies the terms and provisions of that certain Purchase and Sale Agreement and Receipt for Earnest Money between the Oregon City Urban Renewal Agency, the duly designated Urban Renewal Agency of the City of Oregon City ("Seller") and Willamette Stone Partners, LLC ("Buyer") dated June 21, 2017 (the "Purchase Agreement"), and, to the extent there is any inconsistency between the terms of this Addendum and the Purchase Agreement, the terms of this Addendum shall govern in the interpretation of the Purchase Agreement. Notwithstanding anything to the contrary contained in the Purchase Agreement, Buyer and Seller agree as follows:

1. Conditions to Purchase. Buyer's obligation to purchase the Property under this Purchase and Sale Agreement shall be expressly subject to the following conditions precedent.

A. Due Diligence. Buyer shall have one hundred twenty (120) days from the date of execution of this Sale Agreement to complete all inspections of the Property, including without limitation physical inspections, review of title, surveys, building plans, appraisals, a level one and/or level two environmental assessment and any other matters deemed appropriate for Buyer to determine whether or not the Property is suitable for Buyer's intended development ("Due Diligence Period"). Prior to expiration of the Due Diligence Period, Buyer shall provide Seller with written notice of the results of its due diligence. In the event that Buyer's due diligence reveals any matters which are not acceptable to Buyer, in Buyer's sole discretion, Buyer may elect to, by written notice to Seller, on or before 5:00 p.m. on the expiration of the Due Diligence Period, to terminate this Purchase and Sale Agreement, in which case this Purchase and Sale Agreement shall be null and void without recourse to either Party and the Earnest Money shall be refunded to Buyer.

B. Site Approvals. Buyer shall have one thousand eighty (1080) days from the expiration of the Due Diligence Period to receive all land use and building permit approvals from the City of Oregon City or other regulatory agency ("Site Approvals"), needed to construct the Project ("Site Approval Period"). Buyer shall, in a professional and workmanlike manner, proceed to obtain the Site Approvals in a timely manner and at Buyer's sole cost, energy, and efforts. In the event that Buyer fails to obtain the Site Approvals prior to expiration of the Site Approval Period, this Purchase and Sale Agreement shall be null and void without recourse to either Party and the Earnest Money shall be retained by Seller.

2. Conditions to Sale. Seller's obligation to sell the Property under this Purchase and Sale Agreement shall be expressly subject to the following conditions precedent.

A. Financing. Financing. Prior to the Closing Date, Buyer shall deliver to Seller, (i) evidence of all sources and terms of Project purchase financing and construction financing for the Project, both debt and equity, and (ii) Evidence of a completed construction guarantee that includes Seller as a beneficiary authorized to enforce the guarantee and executed by financial guarantor approved in writing by Seller, which approval shall not be unreasonably withheld. Also prior to the Closing Date, Seller must have determined that such Project purchase financing, construction financing and completion of construction guarantee are commercially reasonable and subordinate to the Seller's interest in the Deed Restriction.

B. Deed Restriction. The conveyance of the Property to Buyer shall be made upon, and the Deed or, at the request of Buyer, other document recorded contemporaneous to the Deed, shall provide for a continuing restrictive covenant ("Deed Restriction") that the Property will be used for the development and construction of the Project, substantially consistent with the following terms and subject to the Seller's Post-Closing Remedies at

Section 4. The form of the Deed Restriction shall be negotiated and finalized by Buyer and Seller during the Due Diligence Period. Upon final completion of the Project, the Deed Restriction shall automatically terminate and be of no further force or effect. Following the written request of Buyer after such termination of the Deed Restriction, Seller agrees to execute and record a document or instrument confirming the termination of the Deed Restriction

(1) Project. The Project will consist of one mixed-use building (the "Building"), comprised by the Retail Component and the Residential Component, and served by the Parking Component. The Building will be consistent with the historic character of Downtown Oregon City from Highway 99E to 10th Street. The developer will conduct at least one design charrette for the purpose of refining design elements of the structure.

(2) Retail Component. The Retail Component will consist of the following elements

(a) Ground floor retail uses along the entire length of the building frontage on Main Street and partially along 10th Street.

(3) Residential Component. The Residential Component will consist of the following elements.

(a) At least three levels of apartments above the Retail Component.

(b) The Residential Component will be served by a main entrance and interior access to the apartment units.

(c) State of the art green features to an Earth Advantage Commercial standard.

(4) Parking Component. The Parking Component will consist of the following elements.

(a) The design charrette and the Oregon City Municipal Code will direct parking requirements for the development

(5) Timeline. The Project shall proceed consistent with the following terms.

(a) Commencement of Construction. Within ninety (90) days following the Closing Date, Buyer shall have achieved commencement of construction as demonstrated by Buyer's contractor commencing the pouring of foundation concreted.

(b) Completion of Construction. Construction of the Project shall be complete within two (2) years following the Closing Date.

3. Closing.

A. The Closing Date shall be within thirty (30) days from the earlier to occur of the following events: (1) The last day of the Site Approval Period or after Buyer has given Seller written notice that Buyer has waived the Site Approval Period contingency, or (2) Buyer's receipt of final approval of all Site Approvals

EXHIBIT C

FORM OF QUITCLAIM DEED AND ESCROW INSTRUCTIONS

After recording return to and,
until a changes is requested,
all tax statements shall be sent to:

Oregon City Urban Renewal Agency
625 Center Street
Oregon City, OR 97045
Attn: Economic Development Director

QUITCLAIM DEED

_______________________________, a __________________ ("Grantor"), releases and quitclaims to the OREGON CITY URBAN RENEWAL AGENCY, the duly designated Urban Renewal Agency of the City of Oregon City (together with any successor public agency designated by or pursuant to law,"Grantee"), all right, title and interest in and to the following described real property:

____

Other property or value was either part or the whole consideration.

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. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. 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 DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, 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.

[*Signature page to follow*]

Dated this ___ day of _______________, 20__.
__________________________________, a ________________

By:_______________________________
Name:_____________________________
Title:______________________________

Accepted this ___ day of _______________, 20__.

OREGON CITY URBAN RENEWAL AGENCY, the duly designated Urban Renewal Agency of the City of Oregon City.

By: _____________________
Name: _____________________
Title: _____________________

STATE OF OREGON)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _______________, 20__, by _____________, as ______________ of __________________________________, a _________________________, on its behalf.

____
Notary Public for
My commission expires: ________

STATE OF OREGON)
) ss.
County of Clackamas)

This instrument was acknowledged before me on _______________, 20__, by _______________, _______________ of the OREGON CITY URBAN RENEWAL AGENCY, the duly designated urban renewal agency of the City of Oregon City, on its behalf.

____
Notary Public for
My commission expires: ________

<u>EXHIBIT C</u> (Continued)

ESCROW INSTRUCTIONS FOR QUITCLAIM DEED

_________ Title Insurance Company
____
____
Attention: [INSERT TITLE OFFICER]

Re: Escrow No.__________________

The Oregon City Urban Renewal Agency ("Seller") conveyed certain real property ("Property") to ___________________________ ("Buyer"), pursuant to that Special Warranty Deed dated as of ___________, 20__ ("Deed"), recorded _______________, 20__ as Document No._________, Records of Clackamas County, Oregon; and subject to that Restrictive Covenant dated as of ___________, 20__ ("Deed Restriction") recorded _______________, 20__ as Document No._________, Records of Clackamas County, Oregon. The Property is the subject of this escrow and is described in the accompanying quitclaim deed ("Quitclaim Deed").

The Deed Restriction provides that, under certain circumstances, Seller is entitled to reconveyance of the Property pursuant to a Quitclaim Deed and Escrow Instructions. This document constitutes those escrow instructions and is for the purpose of irrevocably instructing you as to the disposition of the accompanying Quitclaim Deed.

In the event that you receive from Seller the Repurchase Price as specified in the Deed Restriction, and a notice signed by Seller's Economic Development Director or City Manager certifying that a copy of said notice has been delivered concurrently to Buyer and certifying that a termination of all rights, title and interest of Buyer in the Property has occurred, and that rights to the Property described in the Quitclaim Deed have revested in Seller pursuant to the Deed Restriction ("Notice of Termination"), you shall at the end of thirty (30) days after receipt of said Notice of Termination and Repurchase Price, record the subject Quitclaim Deed unless within said thirty (30) day period, you are notified by Seller that Seller has withdrawn the Notice of Termination.

In the event that there still remains in your possession an undisposed Quitclaim Deed by **[insert date two (2) years after the Closing Date]** you shall contact PDC and Developer as to its disposition.

These instructions may not be withdrawn or in any way amended, modified or waived without the prior written consent of both of the parties hereto.

Please indicate your acceptance of and agreement to carry out these instructions as indicated below.

Very truly yours,

___________________________, a ______________________

{SSBLS Main Documents/8809/001/00647569-2 }

By:________________________________
Name:______________________________
Title:_______________________________

Very truly yours,

OREGON CITY URBAN RENEWAL AGENCY, the duly designated Urban Renewal Agency of the City of Oregon City.

By: _________________________________
Name: _________________________________
Title: _________________________________

Accepted and agreed to this
___ day of _____________, 20__

______________, Title Insurance Company

By: _________________________________
Name: _________________________________
Title: _________________________________

THIRD AMENDMENT
TO
PURCHASE AND SALE AGREEMENT

THIS THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT (the "**Third Amendment**"), dated as of October ___, 2021, is made by and OREGON CITY URBAN RENEWAL AGENCY, the duly designated Urban Renewal Agency of the City of Oregon City ("**Seller**"), and WILLAMETTE STONE, LLC ("**Purchaser**"), with reference to the following:

WHEREAS, Purchaser (as successor-in-interest to Willamette Stone Partners, LLC) and Seller are parties to that certain Purchase and Sale Agreement dated as of June 21, 2017, as amended prior to the date hereof (as amended the "**PSA**");

WHEREAS, Seller, and Seller's Urban Renewal Commission (URC) met October 6, 2021 to review and vote on a proposal presented by Purchaser to redesign and develop the Project as a mixed-use commercial building with restaurant/food and beverage space. Subsequently the URC voted to extend the existing PSA until May 31, 2023; and

WHEREAS, Seller and Purchaser have agreed to enter into this Third Amendment to set forth their agreement regarding the matters set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree to the following:

1. Terms. All initially capitalized terms which are used in this Third Amendment, but not otherwise defined herein, shall have the same meanings as ascribed thereto in the PSA.

2. Site Approval Period. The Site Approval Period is hereby extended to expire on April 30, 2023.

3. Earnest Money Deposit. Paragraph 1.2.1 of the original PSA required Purchaser to deposit $5,000 in earnest money to an escrow account. In consideration of the extension contained in this Third Amendment to the PSA, Purchaser shall, within 5 days of execution of this Third Amendment, deposit an additional $10,000 in earnest money, for a total of $15,000, into the same escrow account as the initial earnest money deposit.

4. Purchase and Sale Agreement Ratified. In all other respects, except as otherwise provided by this Third Amendment, the undersigned hereby ratify and confirm the PSA which remains in full force and effect.

5. Counterparts. This Third Amendment may be executed in counterparts, each of which shall be deemed an original and all of said counterparts shall constitute but one and the same instrument. Signatures delivered via facsimile or other electronic means shall be accepted as if original.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned hereby execute this Third Amendment to be effective as of October ___, 2021.

SELLER:

OREGON CITY URBAN RENEWAL AGENCY,
the duly designated Urban Renewal Agency of the City of Oregon City

By:___________________________
Name:
Title:

Date:___________________

PURCHASER:

WILLAMETTE STONE, LLC

By:___________________________
Name:
Title:

Date:_________________

SECOND AMENDMENT
TO
PURCHASE AND SALE AGREEMENT

THIS SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT (the "**Second Amendment**"), dated as of July 22, 2021, is made by OREGON CITY URBAN RENEWAL AGENCY, the duly designated Urban Renewal Agency of the City of Oregon City ("**Seller**"), and WILLAMETTE STONE, LLC ("**Purchaser**"), with reference to the following:

WHEREAS, Purchaser (as successor-in-interest to Willamette Stone Partners, LLC) and Seller are parties to that certain Purchase and Sale Agreement dated as of June 21, 2017, as amended prior to the date hereof (as amended the "**PSA**");

WHEREAS, Seller, and Seller's Urban Renewal Commission (URC) met on June 16, 2021, to review and vote on a proposal presented by Purchaser to redesign and develop the Project. The Urban Renewal Commission voted unanimously to further extend the existing PSA for three months until October 30, 2021; and

WHEREAS, Seller and Purchaser have agreed to enter into this Second Amendment to set forth their agreement regarding the matters set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree to the following:

1. Terms. All initially capitalized terms which are used in this Second Amendment, but not otherwise defined herein, shall have the same meanings as ascribed thereto in the PSA.

2. Site Approval Period. The Site Approval Period is hereby extended to expire on October 30, 2021. The term Site Approval Period refers to the period required to accomplish land use and permitting timelines.

3. Purchase and Sale Agreement Ratified. In all other respects, except as otherwise provided by this Second Amendment, the undersigned hereby ratify and confirm the PSA which remains in full force and effect.

4. Counterparts. This Second Amendment may be executed in counterparts, each of which shall be deemed an original and all of said counterparts shall constitute but one and the same instrument. Signatures delivered via facsimile or other electronic means shall be accepted as if original.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned hereby execute this SECOND AMENDMENT to be effective as of June 16, 2021.

SELLER:

OREGON CITY URBAN RENEWAL AGENCY,
the duly designated Urban Renewal Agency of the City of Oregon City

By:______________________
Name:
Title:

Date: 7/22/21

PURCHASER:

WILLAMETTE STONE, LLC

By:______________________
Name: Kerry Hughes
Title: Manager

Date: 7/22/2021

FIRST AMENDMENT
TO
PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO PURCHASE AND SALE AGREEMENT (the "**First Amendment**"), dated as of September 18, 2020, is made by and OREGON CITY URBAN RENEWAL AGENCY, the duly designated Urban Renewal Agency of the City of Oregon City ("**Seller**"), and WILLAMETTE STONE, LLC ("**Purchaser**"), with reference to the following:

WHEREAS, Purchaser (as successor-in-interest to Willamette Stone Partners, LLC) and Seller are parties to that certain Purchase and Sale Agreement dated as of June 21, 2017 (the "**PSA**");

WHEREAS, Seller, and Seller's Urban Renewal Commission (URC) met September 16, 2020 to review and vote on a proposal presented by Purchaser to redesign and develop the Project as an office/commercial building. Some members of the URC were opposed to change. Subsequently the URC voted unanimously to extend the existing PSA until July 30, 2021; and

WHEREAS, Seller and Purchaser have agreed to enter into this First Amendment to set forth their agreement regarding the matters set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree to the following:

1. <u>Terms</u>. All initially capitalized terms which are used in this First Amendment, but not otherwise defined herein, shall have the same meanings as ascribed thereto in the PSA.

2. <u>Site Approval Period</u>. The Site Approval Period is hereby extended to expire on July 30, 2021.

3. <u>Purchase and Sale Agreement Ratified</u>. In all other respects, except as otherwise provided by this First Amendment, the undersigned hereby ratify and confirm the PSA which remains in full force and effect.

4. <u>Counterparts</u>. This First Amendment may be executed in counterparts, each of which shall be deemed an original and all of said counterparts shall constitute but one and the same instrument. Signatures delivered via facsimile or other electronic means shall be accepted as if original.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned hereby execute this FIRST AMENDMENT to be effective as of September 18, 2020.

SELLER:

OREGON CITY URBAN RENEWAL AGENCY,
the duly designated Urban Renewal Agency of the City of Oregon City

By: Anthony J. Konkol III
Name:
Title:

Date: 10-29-2020

PURCHASER:

WILLAMETTE STONE, LLC

By: ______________________
Name: KERRY HUGHES
Title: MANAGER

Date: 10/28/2020

625 Center Street
Oregon City, OR 97045
503-657-0891

CITY OF OREGON CITY

Staff Report

To: Urban Renewal Commission **Agenda Date:** 10/13/2021

From: Urban Renewal Executive Director Tony Konkol

SUBJECT:

RestorCap Letter of Interest to Secure Property for the Purposes of Mitigation Banking or a Restoration Project at Clackamette Cove

STAFF RECOMMENDATION:

Staff recommends that the Urban Renewal Commission approved the proposed agreement with RestorCap.

EXECUTIVE SUMMARY:

The proposed letter of interest (LOI) with RestorCap will allow for the continued due diligence to determine the feasibility of mitigation banking or a habitat restoration project that will improve the water quality of the Cove.

BACKGROUND:

RestorCap has been in ongoing discussions with staff to develop restoration projects for the Cove that will improve water quality and habitat through improved water circulation, reduced stagnation, mobilizing sand deposits at the mouth of the Cove and assessing the nutrient load that may be contributing to algae blooms. RestorCap is also assessing the possibility of creating mitigation credits or a specific restoration project that is incorporated into future development of the property or as a stand-alone mitigation project. Providing public access and recreational opportunities within and around the Cove raises challenges to the viability of creating a project that will qualify as mitigation credits, therefore a stand-alone mitigation project is being explored as part of this proposal.

If the LOI is approved, RestorCap will by creating comprehensive restoration plan options, meeting with state and federal regulatory agencies and commercial real estate developers to assure best practices for the future upland development is maintained and will develop financial pro formas to support mitigation banking and stand-alone projects.

Acceptance of the LOI will allow RestorCap to enter the property and prohibit the URC from selling or leasing the properties lots 1-11 to any other party or to accept any offers related to the properties without prior consent of RestorCap for 6-months. This term may be extended an additional 6-months by mutual agreement of both parties. There is no monetary investment required for the URA other than the staff time from multiple departments necessary to support, inform and review the work of RestorCap.

The Urban Renewal Commission approved a similar LOI in conjunction with the Cove DDA on December 19, 2018 which initiated RestorCap's due diligence work in the area.

OPTIONS:

1. Approve the agreement with RestorCap.
2. Propose amendments to the agreement.
3. Deny the agreement with RestorCap.

RestorCap LLC/Clackamette Cove
Proposal

Background

RestorCap, LLC ("RestorCap") is pleased to present this Letter of Interest (LOI) to secure through lease or purchase Oregon City (City) owned land adjacent to Clackamette Cove (Cove) for the purposes of creating a federal, state, and/or locally approved mitigation bank or turnkey restoration project. RestorCap intends to consider the restoration of parcels 1-10 (Attachment A) comprehensively.

RestorCap is in the business of developing properties to create, enhance, and/or preserve habitat, and to incorporate resulting ecological enhancements into urban infill development projects. RestorCap obtains approvals from appropriate governing bodies to develop these habitat and species mitigation projects, which may generate mitigation credits that can be sold to third parties. RestorCap also finances these and the related projects and works directly with developers on "turnkey" projects.

RestorCap has been in ongoing discussions with the City to develop restoration projects for the Cove. Our understanding is that the Redevelopment Agency considers a mixed-use development that incorporates a revived Cove and other recreational amenities to be the highest and best use of this property. However, an ongoing challenge to enhancing this public benefit are the periodic algae blooms caused by the Cove's poor water circulation, the persistence of a sand bar at the mouth of the Cove, and possible introduction of excess water nutrients into the Cove's waters through runoff and stormwater outfalls. These ongoing water quality issues negatively affect the value of the Cove as a natural resource and recreational amenity.

RestorCap has been exploring alternatives to improve Cove water circulation, reduce stagnation, mobilize sand deposits at the mouth of the Cove, and assess and the nutrient load that may also be contributing to the algae blooms. RestorCap is also assessing the possibility of creating mitigation credits, either as a stand-alone mitigation bank, or a turn-key project customized to accommodate a mixed-use development.

Due Diligence

RestorCap's ongoing due diligence efforts include

- Review of existing environmental reports
- 3 site visits
- Review of proposed development plans
- Review of existing geotechnical reports
- Review of exiting US Army Corps of Engineers ("USACE") permits
- Preliminary hydraulic modeling to assess Cove surface flow patterns, and management of sand bar
- Soil suitability review
- Review of mitigation market

Before moving forward to definitive documentation for the transaction, RestorCap needs additional time to complete due diligence on the Property which will include, but not be limited to:

- Meet with the City to report comprehensive restoration plan options
- Meet with the USACE and other permitting/oversight agencies
- Meet with commercial real estate developers to assure highest and best use standards are met
- Review zoning and entitlement policies
- Develop financial pro formas to support mitigation banking and turnkey alternatives
- Continued review physical, engineering, environmental, geological, financial and other audits, studies, reports, permits, physical inspections and investigations of the Property

Exclusivity

From and after acceptance of this letter, and until six (6) months following the date of this letter, City will not offer to sell or lease the Property, which consists of lots 1-11 as shown on Exhibit A, to any other party or accept any offers related to the Property without the prior written consent of RestorCap. This term may be extended for six (6) additional months by mutual agreement between the parties.

Non-Binding Proposal; Preparation of Transaction Documents

This proposal is contingent upon, among other things, an opportunity to perform significant due diligence of the proposed project and the negotiation and execution of satisfactory definitive documentation.

Except for the Exclusivity and Access paragraphs herein, these terms do not constitute any form of binding contract but rather are solely for the purpose of developing terms pursuant to which a definitive agreement may ultimately be entered into. Notwithstanding the foregoing, the parties agree to negotiate the definitive transaction documents in good faith and use their commercially reasonable efforts to enter into agreements as soon as reasonably possible. The definitive transaction documents will incorporate all terms set forth in this proposal and such additional terms as RestorCap or the City may reasonably require.

Access

The City hereby provides permission to RestorCap to: (a) enter the Property to conduct due diligence, subject to 24-hour prior notice provided by RestorCap; (b) discuss the potential use of the Property as a turn-key project with governmental agencies.

ACKNOWLEDGED AND AGREED:

Dated: 10/13/21

RESTORCAP LLC

By: ______________

Name: ROBERT MARINAI

Title: PRESIDENT

City of Oregon City Urban Renewal Agency

By: ______________

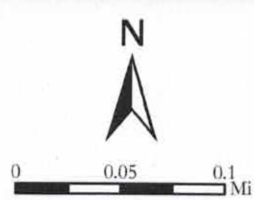
Name:

Title:

Clackamette Cove Oregon City, OR

Esri, NASA, NGA, USGS, Esri, NASA, NGA, USGS, FEMA, Esri Community Maps Contributors, Oregon Metro, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA, Maxar, Oregon Metro, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, USDA

2021



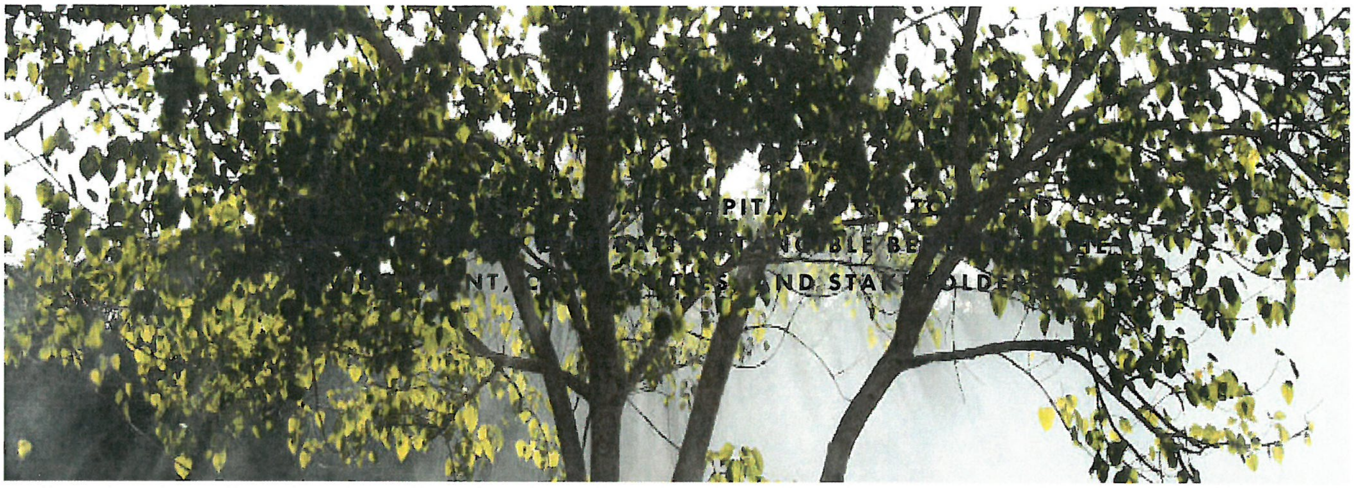
RESTORCAP

RestorCap is an investment and advisory firm that creates value by redeveloping and transforming marginal, or abandoned real estate. We believe that private capital plays an important role in rejuvenating the environment.

CURRENT PROJECT -- PORTLAND HARBOR OREGON

RestorCap is implementing an urban restoration project within the Portland Harbor Superfund Study Area advancing ecological restoration goals. The project will create natural resource and mitigation credits that may be purchased by industry or other responsible parties to offset past environmental liability. RestorCap will dismantle a former plywood plant and transform the 25-acre site into riparian, channel, tidal marsh, and mud flat habitats, and daylight a section of freshwater stream which is now currently piped. The project, conducted under the oversight of the Portland Harbor Trustee Council, will create vital habitat to native anadromous fish and other critical species.

learn more (/portland-harbor)→ (/portland-harbor)



Understanding the economics of restoration allows us to **identify** and **uncover** value. Our experience serving end-users helps us **realize** that value.

Interested in working together? Contact us here (/contact-us).

Our Management Team

ROBERT MARINAI - PARTNER, PRESIDENT

Robert has over 25 years' experience in environmental restoration and engineering, finance, and mitigation banking. Before joining RestorCap, he was integrally involved in the development of an NRD bank on the Duwamish River in Seattle, Washington. Robert has also helped finance and manage the risk of a variety of brownfield and related real estate and restoration projects. He has helped with the transition of thousands of acres of impacted properties to beneficial use and has managed over $100 million in restoration projects. Robert has a BS in Geology from UC Santa Cruz, an MBA in Geotechnical Engineering from UC Santa Barbara, and an MBA from St. Mary's College.

ANDREW GREGG – PARTNER, LEGAL COUNSEL

Andrew has over 25 years' experience in environmental law, corporate and real estate law, and ecological restoration. He drafts and negotiates legal instruments associated with the creation and transaction of environmental credits. Andrew has a BS in Geological Engineering from the University of Nevada, as well as a law degree from Lewis and Clark Law School, with a Certificate in Environmental Law.

SCOTT LOCKERT - PARTNER

Scott directs program strategy and provides oversight to generate and market eco-credits. He leads the development of ecological credit protocols working closely with federal and local trustees, municipalities, and non-governmental organizations. He interfaces closely with industrial customers and works on initiatives for ecological financing, and market development nationally. He has corporate expertise in management of Natural Resource Damage liabilities and more than 20 years of environmental experience including financial risk modeling, administration and cost control of complex environmental liabilities for Fortune 500 corporations in the mining, micro-chip, paper, and petroleum industries. Scott is a Washington State Licensed Geologist and Hydrogeologist and a graduate of University of Illinois, Urbana-Champaign.

MARY STALLARD - ENVIRONMENTAL ENGINEER

Mary has more than 21 years of environmental consulting experience focused on investigation, remediation, and restoration of numerous sites under various states and federal Environmental Protection Agency (EPA) regulations and oversight. Her areas of expertise include hydrogeology and geochemistry, environmental project management, environmental risk management, CERCLA/RCRA regulations, and brownfield redevelopment. She has extensive experience with all aspects of site management, including due diligence, Phase I Assessments, site characterization and risk assessment, litigation support, responsible party negotiations, remediation, ecological restoration, and regulatory compliance. Mary has a BS in Geology from Stanford and an MS in Geology from UC Santa Barbara.

Interested in working together? Contact us here (/contact-us).

PORTLAND HARBOR NRD MITIGATION BANK, OREGON

Portland Harbor

RestorCap is implementing an urban restoration project within Portland Harbor, Oregon. The project will create Natural Resource Damage credits (DSAYs) for purchase by industry or other Responsible Parties to settle Natural Resource Damage claims from the Portland Harbor Superfund site. The project is in the approval process (http://www.restorcap.net/new-blog/) to qualify for stream and wetland habitat mitigation credits associated with unavoidable impacts from EPA or DEQ led cleanup efforts. Dual purpose credits will allow purchasers of these credits from this project to apply them interchangeably toward either NRD liability or dredging/capping mitigation offsets.

RestorCap will dismantle former Linnton Plywood Mill and transform the 25-acre site into riparian, channel, tidal marsh, and mud flat habitats, and daylight a section of freshwater stream which is now currently piped. The project, conducted under the oversight of the Portland Harbor Trustee Council and the US Army Corps of Engineers and will create vital habitat to native anadromous fish and other critical species.

Former Linnton Plywood Mill

Photo - Paul Joseph Brown

Interested in working together? Contact us here (/contact-us).

EPA Releases Portland Harbor Record of Decision (/new-blog/2017/1/19/epa-releases-portland-harbor-record-of-decision)

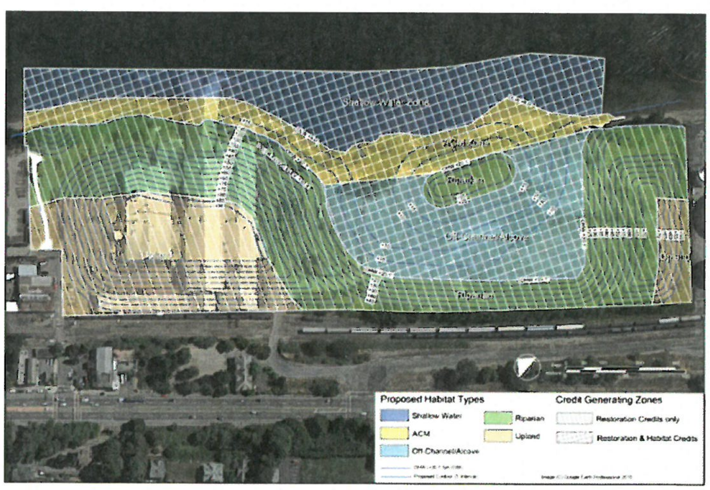
Scott Lockert (/new-blog/?author=572916647c65e4c932433fd3) · January 19, 2017 (/new-blog/2017/1/19/epa-releases-portland-harbor-record-of-decision)

On Friday January 6, 2017 EPA Region 10 released the Record of Decision (ROD) for the Portland Harbor Superfund Site in Portland, Oregon. They selected "Alternative F Modified" as the final remedy proposing 394 acres of contaminated sediment dredging, capping and natural recovery. The cleanup cost is estimated by EPA at $1.05 billion and will take about 13 years to complete.

The EPA Fact Sheet (https://semspub.epa.gov/work/10/100036700.pdf) outlines the basic elements of the ROD and the EPA's website (https://yosemite.epa.gov/r10/cleanup.nsf/sites/ptldharbor) has the most up-to-date information about information sessions as well as the ROD text and figures.

Mitigation Credit Bank Proposed for Linnton Mill (/new-blog/2017/1/9/mitigation-credit-bank-proposed-for-linnton-mill)

Scott Lockert (/new-blog/?author=572916647c65e4c932433fd3) · January 9, 2017 (/new-blog/2017/1/9/mitigation-credit-bank-proposed-for-linnton-mill)



The Linnton Mill site is being considered by the U.S. Army Corps of Engineers and the Oregon Department of State Lands as a Mitigation Bank. The proposal seeks "dual credit" status for the project allowing credits to satisfy either restoration credits for Natural Resource Damages as well as "habitat credits" for stream and wetland credits available to clients seeking to offset unavoidable impacts from EPA or DEQ led cleanups in Portland Harbor. Our customers requested more freedom to use their credits for both cleanup and NRD and we are happy to have made this one step closer to reality.

The proposed credit service area includes the entirety of Portland Harbor and the urban Portland waterfront.

The U.S. Army Corps notice can be found here; http://www.nwp.usace.army.mil/Missions/Regulatory/Notices/Article/1039171/nwp-2014-477/

Interested in working together? Contact us here (/contact-us).