

CITY OF SILVERTON
CITY COUNCIL SPECIAL MEETING AGENDA

Silverton Community Center – Council Chambers – 421 South Water St.

American with Disabilities Act – The City of Silverton intends to comply with the A.D.A. The meeting location is accessible to individuals needing special accommodations such as a sign language interpreter, headphones, or other special accommodations for the hearing impaired. To participate, please contact the City Clerk at 503-874-2216 at least 48 hours prior to the meeting.

A copy of the packet and materials, including Ordinances and Resolutions, are available for review Monday through Friday 8:00 am to 5:00 pm in the City Manager's Office at the Silverton City Hall, located at 306 South Water Street. All documents will be available on our website at www.silverton.or.us.

Monday, October 23, 2017, 7:00 PM

I. OPENING CEREMONIES – Call To Order, Pledge Of Allegiance & Roll Call

II. PUBLIC COMMENT – This is a business meeting of the City Council. The City values and welcomes public input. Please address the Council as a whole and not individual Council Members. Do not address Staff or members of the audience. Council action on items brought up in Public Comment is limited by the Open Meeting Law. The Council may direct Staff to study the matter and reschedule for further consideration at a later date. Items on the agenda will not be heard or discussed during Public Comment, but will be accepted at that place on the Agenda. Individuals are limited to three (3) minutes.

III. DISCUSSION/ACTION ITEMS

- 3.1 Discussion on the purchase of the Eugene Field property, comprising of approximately 3.46 acres [five tax lots] at 410 North Water Street, Silverton, OR**
- Receive public comments

IV. ADJOURNMENT

V. EXECUTIVE SESSION – If necessary, beginning immediately following the City Council Special Meeting


5.1 Executive session

The Silverton City Council will enter into Executive Session under the provisions of ORS 192.660(2)(f) to consider information or records that exempt by law from public inspection and ORS 192.660(2)(e) To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

Representatives of the news media and designated Staff shall be allowed to attend the Executive Session. All other members of the audience are asked to leave the room. News media representatives are specifically directed not to report on any of the deliberations during the Executive Session, except to state the general subject of the session as previously announced. In addition, news media representatives are specifically directed not to audio or video record any portion of the Executive Session.

VI. ADJOURNMENT

**SILVERTON CITY COUNCIL STAFF REPORT
TO THE HONORABLE MAYOR AND CITY COUNCILORS**

	Agenda Item No.: 3.1	Topic: Discussion on the purchase of the Eugene Field Property comprising approximately 3.46 acres at 410 North Water Street
	Report No.: 17-115	
	Agenda Type: DISCUSSION/ACTION	
	Meeting Date: October 23, 2017	Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Prepared By: Christian Saxe	Reviewed By: Christy S. Wurster	Approved By: Christy S. Wurster

RECOMMENDED MOTION:

None. The City is seeking public input on the purchase of the Eugene Field property.

BACKGROUND:

The City entered into a Purchase and Sale Agreement (PSA) with the Silver Falls School District for the purchase of the Eugene Field School property effective July 7, 2017. The City of Silverton has been performing research and environmental assessments as part of its due diligence. Paragraph 5.3 of the PSA for the Eugene Field property includes the provision that all Phase 1, 2 and 3 investigations, remediation and abatement shall not exceed \$400,000. The City of Silverton has expended \$19,000 in investigative costs to date as follows:

Terracon Consultants, Inc. Phase 1 Environmental	\$2,500
Terracon Consultants, Inc. Hazardous Materials Survey	\$7,700
Terracon Consultants, Inc. Phase 2 Environmental	\$8,800
SUB-TOTAL	\$19,000

In addition to the above costs incurred, staff has secured informal quotes for the following additional necessary environmental remediation work:

Asbestos Abatement	\$125,000
Underground Storage Tank Decommissioning	\$ 25,000
Lead Paint Removal Cost	\$280,000
SUB-TOTAL	\$430,000
TOTAL	\$449,000

In accordance with the terms of the PSA, the City has the option to (1) elect to pay the additional costs in Buyer's sole discretion; (2) terminate the Agreement in which event the Earnest Money shall be returned to Buyer; or (3) work with the Seller to amend the Agreement whereby both parties will

mutually agree on payment for additional costs.

We are seeking public input on the City's acquisition of the property based on the above information.

BUDGET IMPACT: FY(s): 2017-2018 **Funding Source:** Civic Building Project Fund

Attachments:

1. Purchase and Sale Agreement

PURCHASE AND SALE AGREEMENT

DATED: July 5, 2017

(the last date signed by both parties below)

BETWEEN: Silver Falls School District ("Seller")

AND: City of Silverton, an Oregon municipal corporation ("Buyer")

RECITALS

A. Seller is owner of approximately 3.46 acres of certain real property together with all the improvements thereon and all rights appurtenant thereto (including but not limited to access rights, timber rights, water rights, grazing rights, development rights and mineral rights) located at 410 North Water Street, Silverton, Marion County, Oregon 97381 commonly referred to as Marion County Assessor's Tax Numbers 061W35BC08100, 061W35BC08000, 061W34AD00500, 061W34AD00600, 061W34AD00700 (the "Property"), which property is more particularly described on the attached Exhibit A.

B. Buyer desires to purchase the Property from Seller, and Seller desires to sell the Property to Buyer, for the price and on the terms and conditions described in this Purchase and Sale Agreement (this "Agreement").

C. At Closing (hereinafter defined), upon payment of the full Purchase Price to Seller by Buyer, Seller will convey full legal title to the Property to Buyer.

TERMS

1. **Purchase and Sale.** Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase from Seller, the Property upon the terms and conditions set forth below in this Agreement.

1.1 **Second Position.** This Agreement is in second position to an offer from another party that is currently under contract. This Agreement will only become effective if the first position offer terminates at which time the Seller will provide written notice to the Buyer that Buyer has moved into first position (First Position Notice). The date the Buyer receives the First Position Notice is the Effective Date of this Agreement.

2. **Purchase Price.** Subject to Section 6.1.1 below, the Purchase Price for the Property is ONE MILLION DOLLARS (\$1,000,000.00), payable as follows:

2.1 **Earnest Money Deposit.** Within ten (10) days after the Effective Date, Buyer shall deposit into escrow with AmeriTitle, (the "Title Company") located at 215 E. Main Street, Silverton, Oregon 97381 the sum of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)

(the "Earnest Money") in cash. At Closing, the Earnest Money will be credited toward payment of the Purchase Price.

2.2 **Balance of Purchase Price.** Buyer shall deposit into escrow with the Title Company the balance of the Purchase Price on or before the Closing Date. At Closing, the Earnest Money and the balance of the Purchase Price shall be paid to Seller.

3. **Closing Date.** This transaction shall close approximately thirty (30) but no more than forty-five (45) days after the Due Diligence Period (defined below) ends unless otherwise extended as set forth herein (the "Closing Date" or "Closing"). Closing will occur at the office of Title Company..

4. **Buyer's Title Review.**

4.1 **Title Report; Unacceptable Exceptions.** Within ten (10) days after the Effective Date, Buyer shall order from the Title Company a preliminary title report on the Property, along with legible copies of all plats and exceptions documents referenced in such report (the "Title Report"). Buyer will have twenty (20) days following Buyer's receipt of the Title Report to review the Title Report and give Seller written notice of the exceptions listed in the Title Report that are unacceptable to Buyer (the "Unacceptable Exceptions"). Mortgages, delinquent taxes, or other financial obligations secured by the Property are automatically deemed Unacceptable Exceptions. If Buyer notifies Seller of its objection to any Unacceptable Exceptions, Seller will thereafter have fifteen (15) days to provide Buyer written notice stating whether Seller will (at Seller's sole cost and expense) cause such exceptions to be removed from the Title Policy issued to Buyer at Closing. If Seller refuses to remove any of the Unacceptable Exceptions and Buyer is not then satisfied with the condition of title, Buyer may elect to terminate this Agreement, in which event the Earnest Money shall be returned to Buyer.

4.2 **Failure to Deliver Clean Title at Closing.** If Seller fails to eliminate any Unacceptable Exception by the Closing Date, then Buyer may, without limiting any of its otherwise available remedies, elect to either (a) accept title to the Property subject to such exceptions, (b) refuse to accept the Property and terminate this Agreement, in which case the Earnest Money shall be refunded to Buyer, or (c) extend the Closing Date for a period of thirty (30) days to provide Seller with additional time to remove such exceptions. If Buyer elects option (c) and at the end of the 30-day period such exceptions have not been removed, Buyer may then elect to proceed in accordance with either option (a) or (b) described above. To the extent that an Unacceptable Exception is a monetary lien or financial obligation secured by the Property, the Title Company is hereby directed to pay off such lien or obligation to the extent that it can be satisfied by application of all or a portion of the Purchase Price delivered into escrow by Buyer at Closing.

4.3 **Permitted Exceptions.** All exceptions other than the Unacceptable Exceptions objected to by Buyer shall be deemed acceptable to Buyer (the "Permitted Exceptions"); provided, however, that in no event will mortgages, delinquent taxes, or other financial obligations secured by the Property be deemed Permitted Exceptions. Should the Title Company inform Buyer of any new title exceptions not appearing on the initial Title Report, such new

exceptions shall be deemed Unacceptable Exceptions, unless specifically accepted in writing by Buyer.

5. Buyer's Due Diligence and Inspections.

5.1 Due Diligence Period. The Buyer will have a period of sixty (60) days from the Effective Date (the "Due Diligence Period") during which period the Buyer may conduct investigations detailed in this Section 5 to determine if the Property is satisfactory to the Buyer. On or before the expiration of the Due Diligence Period, the Buyer will provide a Suitability Notice in writing to the Seller of its intent to proceed with its acquisition of the Property. If Buyer is not satisfied with the Property, the Buyer will have the ability to extend in writing the Due Diligence Period by two additional periods of thirty (30) days each or terminate the Agreement and receive a refund of the Earnest Money.

5.2 Seller's Delivery of Documents. Within twenty (20) days after the Effective Date, Seller shall deliver to Buyer all information and documentation excluding any appraisal, third party offer to purchase, third party contract or document otherwise protected from disclosure such as attorney-client or executive session material in Seller's possession or control pertaining to the Property. If Seller is aware of the existence of any material information and documentation pertaining to the Property that are not in Seller's possession or control, Seller shall notify Buyer of the existence of such information within fifteen (15) days after the Effective Date or two (2) business days after learning of the such information. Should Seller fail to timely provide Buyer with the Due Diligence Documents, Buyer may, at Buyer's sole discretion, extend the Closing Date for a period not to exceed twenty (20) days so that Buyer may have adequate time to review such additional documentation. Nothing in this paragraph shall require Seller to obtain data, studies, analyses, reports, surveys, or other documents mentioned herein that are not already in existence at the time of this Agreement or within Seller's reasonable ability to obtain at no expense to Seller.

5.3 Property and Environmental Inspections. During the Due Diligence Period, Buyer and its agents, including but not limited to consultants, surveyors, engineers, home inspectors, appraisers, and other professionals hired by Buyer, at Buyer's sole cost and expense, shall have the right to access the Property to conduct environmental studies (including but not limited to Phase I and Phase II Environmental Site Assessments), structural inspections, sewer and septic system sampling, hazardous building materials surveys (including but not limited to asbestos and lead testing), and any other due diligence Buyer deems necessary. Seller shall cooperate with Buyer in making such inspections. Buyer and its agents will have the right to enter the Property at reasonable times before Closing to perform such surveys, analyses, studies, appraisals, and other due diligence that Buyer deems necessary; provided, however, that Buyer shall give Seller forty-eight (48) hours' notice prior to entering the Property. Any area disturbed by Buyer's inspections shall be restored by Buyer, at Buyer's sole costs and expense, to its pre-inspection condition. Buyer through Buyer's selected provider shall pay for an Environmental Site Assessment "Phase 1" and hazardous building materials survey at Buyer's sole cost and expense. If the "Phase 1" report indicates the recommendation for further site investigation, the costs of a "Phase 2" report shall therefore be borne by the Buyer. If Seller shall not consent to Phase 2 investigations this Agreement shall terminate, in which case the Buyer will receive a refund of the Earnest Money. In the event that a hazardous building materials survey and "Phase

2" report indicates that "Phase 3" remediation and abatement are necessary, Buyer through Buyer's selected provider shall obtain preliminary estimates for the cost to perform the necessary work; however, the total costs for all "Phase 1, 2, and 3" investigations, remediation, and abatement shall not exceed \$400,000. In the event these total costs exceed \$400,000 based on preliminary estimates, Buyer may: (1) elect to pay the additional costs in Buyer's sole discretion; (2) terminate this Agreement in which event the Earnest Money shall be returned to Buyer; or (3) work with the Seller to amend this Agreement whereby both parties will mutually agree on payment for additional costs. Buyer shall be named as the intended recipient and beneficiary of the "Phase 2" report and "Phase 3" work along with the Seller.

6. Conditions Precedent to Closing.

6.1 Conditions Precedent to Buyer's Obligations. In addition to any other conditions contained in this Agreement, the conditions set forth in this Section 6.1 must be satisfied prior to Buyer's obligation to acquire the Property. Buyer may waive the conditions in this Section 6.1 by written notice since these conditions are intended solely for Buyer's benefit. In the event any condition is not satisfied or waived on or before the applicable deadline set forth below, and if no deadline is set forth below then on or before Closing, Buyer will have the right to terminate this Agreement, in which event the Earnest Money shall promptly be returned to Buyer.

6.1.1 City Approval. Purchase of the Property must be approved by the Silverton City Council at the next regular Silverton City Council meeting after the Effective Date.

6.1.2 Appraisal. The Buyer shall contract and pay for an independent MAI appraisal (subject to no extraordinary assumptions). The MAI appraisal will be completed in accordance with generally accepted appraisal standards.

6.1.3 Due Diligence and Inspection Results. Buyer must be satisfied, in its sole and absolute discretion, with its review of the Due Diligence Documents and the results of Buyer's inspections of the Property conducted under Section 5.2 above. Buyer shall have until sixty days after the Effective Date of this Agreement to complete its due diligence and inspections. If Buyer notifies Seller on or before sixty (60) days from the Effective Date of this Agreement that Buyer is not satisfied with the Property due to the results of its due diligence and inspections, the Closing Date may be extended by the Buyer for a period of thirty (30) days so that Seller and Buyer may address such results. If at the end of the 30-day period, Buyer and Seller have not reached an agreement regarding the issues disclosed as a result of such due diligence and inspections, Buyer may extend the Closing Date for an additional thirty (30) days to complete due diligence items.

6.1.4 Title. At Closing, the Title Company must be committed to issue to Buyer the Title Policy described below in Section 9. After the Purchase Price has been paid as set forth under Section 7.2.1 below, the Seller shall convey fee simple title to the Property as set forth in Section 7.1.1 below.

6.1.5 Representations, Warranties, and Covenants of Seller. Seller's representations, warranties, and covenants set forth in this Agreement shall be true and correct as of the Closing Date.

6.1.6 No Material Changes. At Closing, there shall have been no material adverse changes related to or connected with the Property.

6.1.7 Seller's Deliveries. Seller shall have timely delivered each item to be delivered by Seller pursuant to this Agreement, including (without limitation) the documents and materials described below in Section 7.1.

6.1.8 Removal of Personal Property and Debris. At Closing, Seller shall have removed or have caused to be removed from the Property, at Seller's sole cost and expense, any and all personal property and/or trash, rubbish, debris, illegally dumped materials or illegal fill materials. This provision shall survive Closing.

6.2 Conditions Precedent to Seller's Obligations. In addition to other conditions contained in this Agreement, the conditions set forth in this Section 6.2 must be satisfied prior to Seller's obligation to convey the Property. Closing and Seller's obligations with respect to the transactions contemplated by this Agreement are subject to Buyer's delivery to the Title Company on or before the Closing Date of (i) the balance of the Purchase Price and (ii) the documents and materials described below in Section 7.2.

6.3 Failure of Conditions. In the event any of the conditions set forth above in Sections 6.1 or 6.2 are not timely satisfied or waived for a reason other than the default of Buyer or Seller under this Agreement, then this Agreement, escrow, and the rights and obligations of Buyer and Seller hereunder shall terminate and the Earnest Money shall be returned to Buyer.

6.4 Cancellation Fees and Expenses. In the event the escrow terminates because of the nonsatisfaction of any condition for a reason other than the default of Seller under this Agreement, Buyer shall pay the cancellation charges required to be paid to the Title Company. In the event this escrow terminates because of Seller's default, Seller shall pay the cancellation charges required to be paid to the Title Company. This provision is activated only upon the Effective Date.

7. Deliveries to the Title Company.

7.1 By Seller. On or before the Closing Date, Seller shall deliver the following into escrow with the Title Company:

7.1.1 Deed. A Statutory Warranty Deed (the "Deed"), duly executed and acknowledged in recordable form by Seller, conveying the Property to Buyer free and clear of all liens and encumbrances except the Permitted Exceptions accepted by Buyer pursuant to Section 4.1 above. The Title Company's usual, preprinted exceptions (listed as General Exceptions 1-5 on the Title Report) shall not be listed as exceptions on the Deed.

7.1.2 Nonforeign Certificate. Seller represents and warrants that it is not a “foreign person” as defined in IRC §1445. Seller shall give Buyer a certification to this effect in the form required by that statute and related regulations.

7.1.3 Proof of Authority. Such proof of Seller’s authority to enter into this Agreement and consummate the transaction contemplated hereunder, as may be reasonably required by the Title Company and/or Buyer.

7.1.4 Lien Affidavits. Any lien affidavits or mechanic’s lien indemnifications as may be reasonably requested by the Title Company in order to issue the Title Policy.

7.1.5 Other Documents. Such other fully executed documents and funds as are required of Seller to close the sale in accordance with this Agreement, including (without limitation) escrow instructions.

7.2 By Buyer. On or before the Closing Date, Buyer shall deliver the following into escrow with the Title Company.

7.2.1 Balance of the Purchase Price. The balance of the Purchase Price, in accordance with Section 2.2 above.

7.2.2 Proof of Authority. Such proof of Buyer’s authority to enter into this Agreement and consummate the transaction contemplated hereunder, as may be reasonably required by the Title Company and/or Seller.

7.2.3 Other Documents. Such other fully executed documents and funds as are required of Buyer to close the sale in accordance with this Agreement, including (without limitation) escrow instructions.

7.2.4

8. Deliveries to Buyer at Closing.

8.1 Right to Possession. At Closing, Seller shall deliver to Buyer exclusive possession of the Property and keys to all improvements located on the Property.

9. Title Insurance. At Closing, Seller shall cause the Title Company to issue to Buyer a standard ALTA owner’s title insurance policy in the full amount of the Purchase Price, insuring fee simple title vested in Buyer or its nominees, subject only to the Permitted Exceptions as established under Section 4 of this Agreement and (b). The policy shall include an endorsement insuring unrestricted vehicular access from the Property to a public road (the “Title Policy”).

10. Closing Costs. Seller shall pay for the Title Policy, one-half of all escrow fees, any real property transfer or excise taxes, all recording charges other than those allocated to Buyer below, and Seller’s share of prorations pursuant to Section 11 below. Buyer shall pay the cost of recording the Deed, one-half of all escrow fees, and Buyer’s share of prorations pursuant to Section 11 below. Buyer and Seller each shall pay for its own legal and professional fees

incurred. All other costs and expenses are to be allocated between Buyer and Seller in accordance with the customary practice in the county where the Property is located.

11. Prorations and Taxes.

11.1 **Prorations.** Any and all state, county, and/or city taxes for the current year, rents, or other income or operating expenses pertaining to the Property will be prorated between Seller and Buyer as of the Closing Date.

11.2 **Taxes and Assessments.** All taxes, assessments, and encumbrances that will be a lien against the Property at Closing, whether or not those charges would constitute a lien against the Property at settlement, shall be satisfied by Seller at Closing. If Seller shall fail to do so, Buyer may pay any such tax, assessment, encumbrance or other charge and deduct an amount equal to any such payment from the Purchase Price. If the Property is subject to farm or forest deferred taxes, Seller will have no obligation or responsibility for said deferred taxes, unless the Property becomes disqualified for or loses its deferred tax status as a result of Seller's actions prior to Closing in which case such taxes shall be Seller's responsibility.

12. **Seller's Representations and Warranties.** Seller hereby warrants and represents to Buyer the following matters, and acknowledges that they are material inducements to Buyer to enter into this Agreement. To the extent allowed under state law. Seller agrees to indemnify, defend, and hold Buyer harmless from all expense, loss, liability, damages and claims, including (without limitation) attorneys' fees, arising out of the breach or falsity of any of Seller's representations, warranties, and covenants. These representations and warranties shall survive Closing. Seller warrants and represents to Buyer that the following matters are true and correct, and will remain true and correct through Closing:

12.1 **Authority.** Seller has full power and authority to enter into this Agreement (and the persons signing this Agreement for Seller, if Seller is not an individual, have full power and authority to sign for Seller and to bind it to this Agreement) and to sell, transfer and convey all right, title, and interest in and to the Property in accordance with this Agreement. No further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority, or other party is required.

12.2 **Unrestricted Access.** To Seller's knowledge, the Property has unrestricted, insurable vehicular access to a public road.

12.3 **Hazardous Substances.** For purposes of this Agreement, the term "Hazardous Substances" has the meaning defined in and includes those substances set forth in ORS 465.200. Seller warrants and represents as follows:

(a) Seller is aware that there is lead-based paint and asbestos that has been detected on the Property. Aside from the lead-based paint and asbestos, Seller has not brought onto, stored on, buried, used on, emitted or released from, or allowed to be brought onto, stored on, buried, used on, emitted, released from, or produced or disposed of, from, or on the Property, any Hazardous Substances in violation of any environmental laws of the federal or state government;

(b) To Seller's knowledge, there were underground storage tanks on the Property at one point in time but they have been removed or mitigated but Seller does not have documentation for this and cannot guarantee that an underground storage tank does not exist;

(c) To Seller's knowledge, the Property is materially in compliance with applicable state and federal environmental standards and requirements affecting it;

(d) Seller has not received any notices of violation or advisory action by regulatory agencies regarding environmental control matters or permit compliance with respect to the Property;

(e) Seller has not transferred, and to Seller's knowledge no other person has transferred, Hazardous Substances from the Property to another location that is not in compliance with applicable environmental laws, regulations, or permit requirements; and

(f) There are no proceedings, administrative actions, or judicial proceedings pending or, to Seller's knowledge, contemplated under any federal, state, or local laws regulating the discharge of hazardous or toxic materials or substances into the environment.

12.4 Encroachments. To Seller's knowledge (a) all structures and improvements, including any driveways and accessory structures, are wholly within the lot lines of the Property, (b) no existing building, structure, or improvement of any kind encroaches upon the Property from any adjacent property, and (c) there are no present or past discrepancies or disputes regarding the boundaries of the Property.

12.5 Rights and Contracts Affecting Property. Except for this Agreement, Seller has not entered into any other contracts for the sale of the Property, nor do there exist any rights of first refusal or options to purchase the Property. Except for those exceptions of record listed on the Title Report, Seller owns the Property in fee, free and clear of all liens, conditions, reservations, mortgages, leases, licenses, easements, prescriptive rights, permits, or other similar encumbrances. Seller has not sold, transferred, conveyed, or entered into any agreement regarding timber rights, mineral rights, water rights, "air rights," or any other development or other rights or restrictions relating to the Property, and to Seller's knowledge no such rights encumber the Property. There are no service contracts or other agreements pertaining to the Property that Seller will be required to assume at Closing. This provision is activated only upon the Effective Date.

12.6 Possession. Except as specifically set forth in this Agreement, there are no leases, licenses, or other agreements permitting, nor has Seller entered into any course of conduct that would permit, any person or entity to occupy or use any portion of the Property. Seller shall deliver immediate possession of the entire Property to Buyer at Closing.

12.7 Recitals. The statements and information set forth in the Recitals are true and correct.

12.8 No Legal Proceedings. There is no suit, action, arbitration, judgment, legal, administrative, or other proceeding, claim, lien, or inquiry pending or threatened against the

Property or against Seller that could (a) affect Seller's right or title to the Property, (b) affect the value of the Property, or (c) subject an owner of the Property to liability.

12.9 Mechanic's and Other Liens. No work on the Property has been done or materials provided that would give rise to actual or impending mechanic's liens, private liens, or any other liens, against the Property.

12.10 Public Improvements or Governmental Notices. To Seller's knowledge, there are no intended public improvements which will result in the creation of any liens upon the Property, nor have any notices or other information been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the Property.

12.11 Breach of Agreements. The execution of this Agreement will not constitute a breach or default under any agreement to which Seller is bound or to which the Property is subject.

12.12 Bankruptcy Proceedings. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or, to Seller's knowledge, threatened against Seller, nor are any such proceedings contemplated by Seller.

12.13 Changed Conditions. If Seller discovers any information or facts that would materially change the foregoing warranties and representations, Seller shall immediately give notice to Buyer of those facts and information. If any of the foregoing warranties and representations ceases to be true before Closing, Seller shall use its best efforts to remedy the problem, at its sole expense, before Closing. If the problem is not remedied before Closing, Buyer may elect to either: (a) terminate this Agreement, in which case Buyer will have no obligation to purchase the Property and the Earnest Money shall be refunded to Buyer, or (b) extend the Closing Date for a period not to exceed forty-five (45) days or until such problem has been remedied, whichever occurs first. Should Buyer extend the Closing Date and the problem is not remedied within the 45-day timeframe, Buyer may then elect to terminate this Agreement and receive a refund of its Earnest Money; provided, however, that such election will not constitute a waiver of Buyer's rights in regard to any loss or liability suffered as a result of a representation or warranty not being true, nor will it constitute a waiver of any other remedies provided in this Agreement or by law or equity.

13. Condition of the Property Through Closing. Seller further represents, warrants, and covenants that until this transaction is closed or escrow is terminated, whichever occurs first, Seller shall (a) maintain the Property in substantially the same condition as it was on the Effective Date, with no tree cutting, timber harvesting, or alteration of the Property in any way, (b) keep all existing insurance policies affecting the Property in full force and effect, (c) make all regular payments of interest and principal on any existing financing, (d) comply with all government regulations, and (e) keep Buyer timely advised of any repair or improvement required to keep the Property in substantially the same condition as it was on the Effective Date.

14. Buyer's Representations and Warranties. In addition to any express agreements of Buyer contained herein, the following constitute representations and warranties of Buyer to Seller:

(a) Subject to the conditions stated herein, Buyer has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transactions contemplated herein;

(b) Subject to the conditions stated herein, all requisite action has been taken by Buyer in connection with entering into this Agreement and the instruments referred to herein and the consummation of the transactions contemplated herein; and

(c) Subject to the conditions stated herein, the persons executing this Agreement and the instruments referred to herein on behalf of Buyer have the legal power, right, and actual authority to bind Buyer to the terms and conditions of this Agreement.

15. Legal and Equitable Enforcement of This Agreement.

15.1 Default by Seller. In the event Closing and the consummation of the transaction herein contemplated do not occur by reason of any default by Seller, Buyer shall be entitled to all its out-of-pocket expenses incurred in connection with the transaction, including the Earnest Money, and will have the right to pursue any other remedy available to it at law or equity, including the specific performance of this Agreement.

15.2 Default by Buyer. In the event Closing and the consummation of the transaction herein contemplated do not occur by reason of any default by Buyer, Buyer and Seller agree that it would be impractical and extremely difficult to estimate the damages that Seller may suffer. Therefore, Buyer and Seller agree that a reasonable estimate of the total net detriment that Seller would suffer in the event that Buyer defaults and fails to complete the purchase of the Property is and will be an amount equal to the Earnest Money. This amount shall be Seller's sole and exclusive remedy (whether at law or in equity), and the full, agreed, and liquidated damages for the breach of this Agreement by Buyer. The payment of said amount as liquidated damages is not intended as a forfeiture or penalty. All other claims to damage or other remedies are hereby expressly waived by Seller. Upon default by Buyer, this Agreement will terminate and except as set forth in this section, neither party will have any further rights or obligations hereunder or to one another.

16. Risk of Loss, Condemnation. Seller bears the risk of all loss or damage to the Property from all causes, through the Closing Date, except those that are caused directly by the Buyer or his agents, which shall be the responsibility of the Buyer to remedy in a mutually agreeable manner. If, before the Closing Date, all or any part of the Property is damaged, destroyed, condemned, or threatened with condemnation, Seller shall give Buyer written notice of such event. Buyer may terminate this Agreement by giving written notice to Seller within fifteen (15) days following receipt by Buyer of written notice from Seller of such casualty or condemnation and the Title Company shall return to Buyer the Earnest Money and any accrued interest thereon.

17. **Notices.** All notices required or permitted to be given must be in writing to the address set forth below and will be deemed given upon (a) personal service or (b) deposit in the United States Mail, postage prepaid. All such notices shall be deemed received (x) upon personal service, (y) five (5) days after deposit in the United States Mail, postage prepaid, or (z) one (1) day after deposit with a nationally recognized overnight courier service.

To Seller:

Phone:

Email:

To Buyer::

City of Silverton

Attn: City Manager

306 S. Water Street

Silverton, OR 97381

Phone: 503-874-2205

Email: CWurster@silverton.or.us

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manners set forth above will be effective when received by the party for whom it is intended. Telephone, email, and fax numbers are for information only.

18. **Broker or Commission.** Seller represents and warrants that it engaged the services of Tom Hendrie of SVN Commercial Advisors, LLC, a real estate broker in connection with this Agreement whose real estate commission will be paid for by the Seller. In the event any person or entity asserts a claim for a broker's commission or finder's fee against one of the parties to this Agreement, then Seller shall indemnify, hold harmless, and defend Buyer from and against any such claim if based on any action, agreement, or representations made by Seller.

19. **Further Actions of Buyer and Seller.** Buyer and Seller agree to execute all such instruments and documents and to take all actions pursuant to the provisions of this Agreement in order to consummate the purchase and sale contemplated and both parties shall use their best efforts to accomplish Closing in accordance with the provisions hereof.

20. **Miscellaneous.**

20.1 **Partial Invalidity.** If any term or provision of this Agreement or the application to any person or circumstance is, to any extent, found invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances, other than those to which it is held invalid or unenforceable, will not be affected thereby, and each such term and provision of this Agreement will be valid and be enforced to the fullest extent permitted by law.

20.2 **Waivers.** No waiver of any breach of any covenant or provision contained herein will be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act will be deemed an extension of the time for performance of any other obligation or act.

20.3 **Survival of Representations.** The covenants, agreements, representations, and warranties made herein shall survive Closing, specifically those obligations that explicitly state they will survive closing, will not merge into the Deed upon recordation in the official real property records.

20.4 **Representation.** This Agreement was prepared by Buyer and modifications were made at the request of Seller's legal counsel prior to execution of this Agreement by the parties. Accordingly, this Agreement shall be construed as if it had been prepared by both parties.

20.5 **Entire Agreement.** This Agreement (including any exhibits attached to it) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter of this Agreement and supersedes all prior understandings with respect to it. This Agreement may not be modified or terminated, nor may any obligations under it be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein.

20.6 **Time of Essence.** Seller and Buyer hereby acknowledge and agree that time is strictly of the essence with respect to every term, condition, obligation, and provision contained in this Agreement. Unless otherwise specified herein, in computing any period of time described in this Agreement, whenever a date for an action required to be performed falls on a Saturday, Sunday, or a state or federal holiday, then such date shall be extended to the following business day.

20.7 **Recitals.** The statements and information set forth in the Recitals are hereby incorporated as if fully set forth herein and shall be used for the purposes of interpreting this Agreement.

20.8 **Governing Law.** The parties acknowledge that this Agreement has been negotiated and entered into in the state of Oregon. The parties expressly agree that this Agreement is governed by and should be interpreted in accordance with the laws of the state of Oregon.

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, AND 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 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, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.


IN WHEREOF, the parties have executed this Agreement as of the last date of signature specified below.

BUYER:
City of Silverton


By: Christy S. Wurster, City Manager

Date: 07/05/2017

SELLER:
Silver Falls School District


By: Amy Belmont, Superintendent

Date: 7/5/17

Exhibit A

Property Descriptions (Attached)

Parcel #	Map/TaxLot	Marion Co. Deed Ref	
R101904	061W35BC08000	14-0083	Also 224-95
R17678	061W35BC08100	14-0083	Also 224-95
R101868	061W34AD00500	471-611	
R101869	061W34AD00600	614-821	
R101865	061W34AD00700	223-376	

AMERITITLE: FARM REPORT / Marion (OH)

1

Owner	: Silver Falls School Dist 4J	Parcel #	: R101665
Site	: *no Site Address*	Ref Parcel #	: 061W34AD00700
Mail	: 612 Schlador St Silverton Or 97381	16-17Taxes	:
Use	: R10 Exempt,School,Residential	MktTotal	: \$60,100
MapGrid	:	Deed Type	: Misc
Sale Date	:	Doc #	: 223-0376
Prior Sale Date	: Sales Price :	Prior Doc#	:
Legal	: BROWNS ADDITION, BLOCK 1, LOT 1 & : 2, ACRES 0.37		
Bedrooms:	Bath:	YearBuilt:	BldgSqft: Acres: .37

2

Owner	: Silver Falls School Dist 4J	Parcel #	: R101868
Site	: *no Site Address*	Ref Parcel #	: 061W34AD00500
Mail	: 612 Schlador St Silverton Or 97381	16-17Taxes	:
Use	: R10 Exempt,School,Residential	MktTotal	: \$45,000
MapGrid	:	Deed Type	: Misc
Sale Date	:	Doc #	:
Prior Sale Date	: Sales Price :	Prior Doc#	:
Legal	: BROWNS ADDITION, BLOCK 1, LOT 5, : ACRES 0.18		
Bedrooms:	Bath:	YearBuilt:	BldgSqft: Acres: .18

3

Owner	: Silver Falls School Dist 4J	Parcel #	: R101869
Site	: *no Site Address*	Ref Parcel #	: 061W34AD00600
Mail	: 612 Schlador St Silverton Or 97381	18-17Taxes	:
Use	: R10 Exempt,School,Residential	MktTotal	: \$45,000
MapGrid	:	Deed Type	:
Sale Date	:	Doc #	:
Prior Sale Date	: Sales Price :	Prior Doc#	:
Legal	: BROWNS ADDITION, BLOCK 1, LOT 6, : ACRES 0.18		
Bedrooms:	Bath:	YearBuilt:	BldgSqft: Acres: .18

4

Owner	: Silver Falls School Dist 4J	Parcel #	: R101804
Site	: 410 N Water St Silverton 97381	Ref Parcel #	: 061W35BC08000
Mail	: 612 Schlador St Silverton Or 97381	16-17Taxes	:
Use	: Q20 Ins,Other School	MktTotal	: \$268,820
MapGrid	:	Deed Type	: Misc
Sale Date	:	Doc #	: 14-0083
Prior Sale Date	: Sales Price :	Prior Doc#	:
Legal	: BROWNS ADDITION, LOT FR 9 & ADJ AC, : ACRES 0.93		
Bedrooms:	Bath:	YearBuilt:	BldgSqft: Acres: .93

5

Owner	: Silver Falls School Dist 4J	Parcel #	: R17678
Site	: 410 N Water St Silverton 97381	Ref Parcel #	: 061W35BC08100
Mail	: 612 Schlador St Silverton Or 97381	16-17Taxes	:
Use	: Q20 Ins,Other School	MktTotal	: \$1,621,540
MapGrid	:	Deed Type	: Misc
Sale Date	:	Doc #	: 14-0083
Prior Sale Date	: Sales Price :	Prior Doc#	:
Legal	: ACRES 1.80		
Bedrooms:	Bath:	YearBuilt:	BldgSqft: Acres: 1.80

James Brown with Susan an. his lawful wife, and F.M. Blair for the purchase of three hundred and fifty Dollars to their said the receipt whereof by agreement have to organize and to be retained and by the said James du bargain with and with it one into Robert D. Strat No 4, in Marion County Oregon, the following described premises to wit: Beginning at the North 27° 27' 30" from the E. N. corner of Sect. 16 etc. to the corner of Section 16 Marion County Oregon thence N 27° 27' 30" E 63 chains along the E. side of water street thence S 33° 47' 30" E 468 chains to the street thence S 63° 38' 30" E with the N. side of block 745 etc to the place of beginning and containing 386 acres be the same or less. To have & to hold the above premises with accoutments, appurtenances together with the immovabilities and appurtenances thereto belonging by or in conveyance of the said James with the said Robert D. Strat of Marion County Oregon, forever.

In witness whereof we have here unto set our hands and seals this 10 day of November A.D. 1891.

J. S. Goodridge,
Frank S. Goodridge,
James Brown,
Susan Brown,
F. M. Blair,
(Notary Public)

Witness:
Chas. H. Brown
J. H. Brown

State of Oregon, County of Marion

of November the 10th personally appeared before me the undersigned J. S. Goodridge and F. M. Blair his wife, and James Brown and Susan Brown his wife, and F. M. Blair, who are known to me to be the individuals named in and who executed the foregoing conveyance, and that they executed the same for the purposes therein set forth, and that J. S. Goodridge and Susan Brown, in testimony whereof, I have put from them said husband, acknowledged that they executed the same freely and without fear or compulsion from any one.

W. O. H. Smith
Justice of the Peace

Recorded November 22nd 1891
A. C. Craytor Recorder
By C. J. H. H. H. H. H.

successors and assigns forever. And the first parties above named do covenant to and with the said second party, its successors and assigns, that they are lawfully seized in fee simple of the above granted premises, that the above granted premises are free from all incumbrances except the mortgage above mentioned, city liens and taxes; and that they will and their heirs, executors and administrators shall warrant and forever defend the above granted premises, and every part and parcel thereof against the legal claims and demands of all persons whatsoever, except as above stated.

IN WITNESS WHEREOF, the Grantors above named have hereunto set their hands and seals this 1st day of November 1935.

O. E. Scott ✓
Jessie E. Scott ✓

STATE OF OREGON }
County of Marion } ss.

On this, the 1st day of November, 1935, personally came before me, a Notary Public in and for said County and State, the within named O. E. Scott and Jessie E. Scott, his wife, to me personally known to be the identical persons described in, and who executed the within instrument and who each personally acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein named.

WITNESS my hand and official seal the day and year last above written.

Olga Engberg,
Notary Public for Oregon.
My commission expires Jan 10, 1938.

Seal

Recorded January 16, 1936 at 10:10 o'clock A.M.
Mildred R. Brooks, Recorder, by ES, Deputy.

THIS INSTRUMENT WITNESSETH, That Arthur Dickman and Maude Dickman, his wife, for the consideration of the sum of Ten and No/100 Dollars, to them paid, have bargained and sold and by these presents do bargain, sell and convey unto School District No. 4, Marion County, Oregon the following described premises, to-wit:

Commencing on the South line of "A" Street at a point north 80° East 137.4 feet from the Northwest corner of Lot numbered Ten (10) in Brown's Addition to the City of Silverton, Marion County, State of Oregon; thence South 18° East 58 feet to the southerly side of said Lot 10; thence North 62° 33' East 53 feet to the southeast corner of said Lot 10; thence North 27° 27' West 44.2 feet to the Northeast corner of said Lot; thence south 80° West 46 feet to the place of beginning.

It is hereby understood that this conveyance is made subject to the right retained by Michael J. Dolan and Cora A. Dolan, their heirs and assigns, to attach and use the sewer running across the said premises.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said School District No. 4, Marion County, Oregon, its Heirs and Assigns forever.

And the said grantors do hereby covenant to and with the said grantee its Heirs and Assigns that they are the owner in fee simple of said premises; that said premises are free from all incumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, We have hereunto set our hands and seals this 15th day of March, A. D. 1935.

Done in Presence of:

Leo H. Childs
Mildred Martin

Arthur Dickman Seal
Maude Dickman Seal

STATE OF OREGON }
County of Marion } ss.

On this 15th day of March, 1935, personally came before me, a Notary Public in and for said County and State, the within named Arthur Dickman and Maude Dickman, his wife, to me personally known to be the identical persons described in, and who executed the within instrument, and who each personally acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein named.

WITNESS my hand and official seal the day and year last above written.

Leo H. Childs,
Notary Public for Oregon.
My commission expires May 10, 1935.

Seal

Recorded January 10, 1936 at 2:15 o'clock P.M.
Mildred R. Brooks, Recorder, by ES, Deputy.

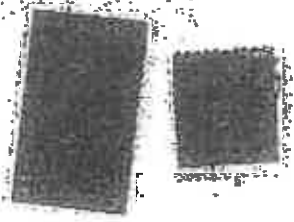
TO HAVE AND TO HOLD the above described and granted premises unto the said grantees, heirs and assigns forever.

And the grantees do covenant that they are lawfully seized in fee simple of the above granted premises free from all encumbrances whatsoever.

and that they will and their heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part and parcel thereof, against the lawful claims and demands of all persons whomsoever.

Witness my hand and seal this 22nd day of January, 1955.

Lot Five (5), Block One, (1), Brown's Addition to Silverton, in Marion County, Oregon.



STATE OF OREGON,
County of Marion } as
before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Celia L. McCamman and Willard McCamman, her husband

Willard McCamman (SEAL)
Willard McCamman (SEAL)



known to me to be the identical individuals described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

C. B. Anderson
Notary Public for Oregon.
My Commission expires May 17, 1958.

WARRANTY DEED

Celia L. McCamman
of, Vir.
School District No. 2-C
Marion County
AFTER RECORDING RETURN TO

C. B. ANDERSON
107 MASONIC BLDG.
SILVERTON, ORE.

DO NOT USE THIS SPACE UNLESS YOU REQUIRE SAME IN YOUR INSTRUMENT.

STATE OF OREGON,
County of MARION } as

I certify that the within instrument was received for record on the day of JAN 25 1955, 1955, at 9:21 o'clock a.m., and recorded in Book 451 on page 611 Record of Deeds of said County.

Witness my hand and seal of Office this 25th day of January, 1955.
William M. Spivey
County Clerk - Recorder

INDEXED 490972

490972

Lot Six (3), Block 22, ...
the City of Silverton, Jackson County, Oregon. (See
Volume 2, Page 15, Second District Court of said County
and Stats.)

To Have and to Hold, the above described and granted premises unto the said grantee
heirs and assigns forever.

Witness my hand and seal this 5th day of March, 1936.

Boyd M. Adams
(SEAL)

STATE OF OREGON,

County of Douglas }
before me, the undersigned, a Notary Public in and for said County and State, personally appeared the
within named BOYD M. ADAMS, Single, who is

known to me to be the identical individual described in and who executed the within
instrument, and acknowledged to me that he executed the same freely and voluntarily.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year last above written.

John H. Pugh
Notary Public for Oregon.
My commission expires _____

Bargain and Sale DEED	
BOYD M. ADAMS, Single.	
TO	
SILVERTON SCHOOL DISTRICT No. 46	
After Recording return to	
<u>Silverton School District</u> <u>P.O. Box 97</u> <u>Silverton, Ore.</u>	

1897-1924
COPY
1924-1936
COPY
1936-1948
COPY
1948-1954
COPY

STATE OF OREGON,

County of MARION

I certify that the within instru-
ment was received for record on the
day of March, 1936,
at Silverton, Ore., and recorded
in Book 1218 on page 21.
Notary of said County.

Witness my hand and seal of
County of said
County of Marion

By _____
Deputy.

787462

Decker No.

723

787462

51

