

**RESOLUTION NO. 14-29**

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**AUTHORIZING THE CITY MANAGER TO COMPLETE THE SALE OF  
MAPLELANE ROAD AREA PROPERTY**

**WHEREAS**, The City of Oregon City purchased from the Oregon Department of Transportation (ODOT) certain property located in the vicinity of Maplelane Road and Beaver Creek Road (the "Maplelane Road Property"); and

**WHEREAS**, A legal description of the Maplelane Road Property is attached to this resolution as Exhibit A; and

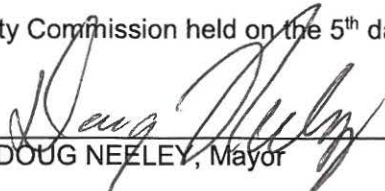
**WHEREAS**, On November 5, 2014, the Oregon City Commission held a public hearing on the potential sale of the Maplelane Road Property and that public hearing was properly noticed as required by ORS 221.725; and

**WHEREAS**, The City Commission reviewed the material provided by the potential purchaser, the proposed purchase and sale agreement, which is attached to this resolution as Exhibit B, as well as any and all comments from the public, and decided to sell the Maplelane Road Property to Historic Properties, LLC; and

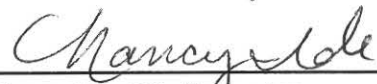
**NOW, THEREFORE, OREGON CITY RESOLVES AS FOLLOWS:**

The City Manager is hereby authorized to take all steps necessary to close the sale of the Maplelane Road Property to Historic Properties, LLC, consistent with the instructions provided by the Oregon City Commission at the public hearing held on November 5, 2014.

Approved and adopted at a regular meeting of the City Commission held on the 5<sup>th</sup> day of November 2014.

  
\_\_\_\_\_  
DOUG NEELEY, Mayor

Attested to this 5<sup>th</sup> day of November 2014,

  
\_\_\_\_\_  
Nancy Ide, City Recorder

Approved as to legal sufficiency:

  
\_\_\_\_\_  
City Attorney

**EXHIBIT A**  
**Maplelane Road Property Description**

Parcel 1 - A parcel of land lying in Section 4, Township 3 South, Range 2 East, W.M., Clackamas County, Oregon and being those properties designated as Parcel 2 and described in those Warranty Deeds to the State of Oregon, by and through its Department of Transportation, Highway Division, recorded December 30, 1981 as Recorder's Fee No. 81-44150 and recorded February 8, 1982 as Recorder's Fee No. 82-3617, Film Records of Clackamas County.

This parcel of land contains 1.85 acres, more or less.

Parcel 2 - A parcel of land lying in Section 4, Township 3 South, Range 2 East, W.M., Clackamas County, Oregon and being that property designated as Parcel 2 and described in that Warranty Deed to the State of Oregon, by and through its Department of Transportation, Highway Division, recorded December 17, 1982 as Recorder's Fee No. 82-34364, Film Records of Clackamas County.

This parcel of land contains 0.03 acre, more or less.

EXHIBIT B  
**PURCHASE AND SALE AGREEMENT**

This Purchase and Sale Agreement (“**Agreement**”) is made as of this \_\_\_ day of November, 2014, by and between the CITY OF OREGON CITY, an Oregon Municipal Corporation (“**Seller**”) and HISTORIC PROPERTIES, LLC, an Oregon limited liability corporation (“**Purchaser**”).

RECITALS

A. Seller is the owner of that certain real property, together with all rights, easements, right-of-way and appurtenances thereto and all improvements thereon, legally described as follows (the “**Property**”):

Parcel 1 - A parcel of land lying in Section 4, Township 3 South, Range 2 East, W.M., Clackamas County, Oregon and being those properties designated as Parcel 2 and described in those Warranty Deeds to the State of Oregon, by and through its Department of Transportation, Highway Division, recorded December 30, 1981 as Recorder's Fee No. 81-44150 and recorded February 8, 1982 as Recorder's Fee No. 82-3617, Film Records of Clackamas County.

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Parcel 2 - A parcel of land lying in Section 4, Township 3 South, Range 2 East, W.M., Clackamas County, Oregon and being that property designated as Parcel 2 and described in that Warranty Deed to the State of Oregon, by and through its Department of Transportation, Highway Division, recorded December 17, 1982 as Recorder's Fee No. 82-34364, Film Records of Clackamas County.

This parcel of land contains 0.03 acre, more or less.

B. Seller desires to sell the Property to Purchaser and Purchaser desires to purchase the Property from Seller all on the terms, covenants and conditions hereinafter set forth.

AGREEMENT

NOW THEREFORE, in consideration of the following mutual covenants and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. **Agreement to Purchase and Sell.** Seller agrees to sell the Property to Purchaser, and Purchaser agrees to purchase the Property from the Seller, on the terms and conditions set forth in this Agreement.

2. **Purchase Price.** The purchase price for the Property shall be Three Hundred Two Thousand Five Hundred and 00/100 dollars (\$302,500.00) (the “**Purchase Price**”). The Purchase Price shall be paid as follows:

2.1 Within two (2) business days after both parties have signed this Agreement (the “**Execution Date**”), Purchaser shall deliver to First American Title Company in Clackamas, Oregon (the “**Title Company**”) in cash or by wire transfer funds or by cashier’s check the sum of Five Thousand Dollars (\$5,000.00) (the “**Deposit**”). The Title Company shall place the Deposit in an interest-bearing account and all interest earned on the Deposit shall be included within the meaning of “Deposit” in this Agreement. If Purchaser elects to terminate this Agreement in accordance with Purchaser’s termination rights under Section 3 of this Agreement, then the Deposit shall be refunded to Purchaser. If Purchaser has not so terminated this Agreement, then the entire Deposit shall be deemed nonrefundable.

2.2 At Closing, Purchaser shall deliver to the Title Company the remainder of the Purchase Price, in cash or by wire transfer of funds or cashier’s check, in the amount of Two Hundred Ninety-Seven thousand Five Hundred and 00/100 dollars (\$297,500.00), subject to adjustment for pro-rations as provided herein.

3. **Conditions Precedent to Purchaser’s Obligation to Purchase.** Purchaser’s obligation to purchase the Property shall be subject to the satisfaction or waiver of all the conditions precedent set forth below within the applicable time periods specified.

3.1 **Inspection.** Within 30 thirty days after the Execution Date (“**Inspection Period**”), Purchaser shall have approved in Purchaser’s sole discretion the physical condition of the Property and other matters affecting the suitability of the Property for Purchaser’s intended use. Seller has already provided to Purchaser copies of all files, records, governmental permits, appraisals, plans, drawings, surveys and soil, engineering and environmental reports and all leases, maintenance contracts and other agreements relating to the Property that are in Seller’s possession. At reasonable times and upon reasonable prior notice to Seller, Purchaser and its representatives, agents, and contractors shall have the right to enter upon the Property, at Purchaser’s own cost and expense, with the right to conduct engineering studies, surveys, building inspections and other investigations, tests and studies in order to attempt to satisfy the condition set forth in this Section; provided, however, Purchaser shall not undertake any invasive testing of the building or soil without Seller’s prior written consent, which shall not be unreasonably withheld so long as Purchaser submits a written plan to Seller describing the testing to be done and provides adequate insurance covering the of personal injury or property damage in coverage amounts reasonably acceptable to Seller. In the event of any damage to the Property resulting from Purchaser’s entry and inspection, Purchaser shall promptly repair such damage and restore the Property.

Purchaser shall indemnify, defend and hold harmless Seller, its officers, directors, shareholders, employees, partners, members, successors and assigns from and against all claims, liens, liabilities, damages, losses, costs or expenses (including, without limitation, attorneys' fees) arising from or relating to the entry on or inspection of the Property by Purchaser, its representatives, agents, contractors or invitees. Purchaser's obligation to restore the Property and to indemnify, defend and hold harmless shall survive the termination of this Agreement and/or Closing. If, during the Inspection Period, Purchaser does not approve the condition of the Property and other matters affecting the suitability of the Property for Purchaser's intended use, Purchaser may terminate this Agreement by written notice to Seller given no later than the expiration of the Inspection Period, in which case the Deposit shall be refunded to Purchaser. In the event Purchaser does not provide such termination notice to Seller on or before the expiration of the Inspection Period, Purchaser shall have been deemed to have waived this condition.

**3.2 Preliminary Title Report.** Within 7 days after full execution of this Agreement, Purchaser will obtain a preliminary title report showing the condition of title to the Property, together with copies of all exceptions listed therein (the "Title Report"). Purchaser will have 5 days from receipt of the Title Report to review the Title Report and to notify Seller, in writing, of Purchaser's disapproval of any special exceptions shown in the Title Report. Those exceptions the Purchaser does not object to are referred to below as the "Permitted Exceptions." Zoning ordinances, building restrictions, taxes that are not yet paid for the current tax year, and reservations in federal patents and state deeds will be deemed Permitted Exceptions. If Purchaser notifies Seller in writing of disapproval of any exceptions, Seller will have 5 days after receiving the disapproval notice to either remove the exceptions or provide Purchaser with reasonable assurances of the manner in which the exceptions will be removed before the transaction closes (the "Seller Assurance Period"). If Seller does not remove the exceptions or provide Purchaser with such assurances, Purchaser may terminate this Agreement by written notice to Seller given within 5 days after expiration of the Seller Assurance Period, in which event the earnest money will be refunded to Purchaser and, when applicable, this Agreement will be of no further binding effect.

**4. Conditions Through the Closing Date.** From and after the Execution Date, through and including the Closing Date, Seller, at its sole cost and expense, shall (a) continue to manage and maintain the Property in such condition so that the Property shall be in substantially the same condition on the Closing Date as on the Execution Date, reasonable wear and tear excepted; (b) not voluntarily subject the Property to any additional liens, encumbrances, covenants, conditions, easements, rights of way or similar matters without the prior written consent of Purchaser; (c) not make any alterations to the Property except in the ordinary course of business; and (d) pay for all capital and other improvements (including labor and materials) which are performed or contracted for by Seller at or prior to the Closing Date.

**5. Closing and Possession.**

**5.1 Closing Date.** The consummation and closing (herein defined as the "Closing") of the purchase and sale contemplated by this Agreement shall be held at the

offices of the Title Company and shall occur on or before November 21, 2014 (the “**Closing Date**”).

**5.2 Closing Documents.** The following shall be delivered at or prior to the Closing:

(a) Seller shall deliver to the Title Company an executed and acknowledged quitclaim deed (the “**Deed**”), conveying title to the Property free of all encumbrances created by Seller except the covenants identified in Section 10 below.

(b) Purchaser shall deliver to the Title Company (i) the sum set forth in Section 2.2 of this Agreement, subject to adjustment for prorations and other credits as provided herein; and (ii) the closing costs and prorations as provided herein, in cash or by wire transfer of funds or by cashier’s check.

(c) Seller and Purchaser shall each execute and deliver such other documents as may be required by the Title Company in connection with the Closing, including but not limited to escrow instructions consistent with the terms of this Agreement.

**5.3 Closing Costs and Prorations.**

(a) Purchaser shall pay the costs of any escrow fees, if any, incurred in connection with the Closing. Purchaser shall each pay the fees and expenses of their respective attorneys and consultants in connection with this transaction.

(b) All real property taxes, assessments, utilities and other expenses with respect to the Property shall be prorated and adjusted between the parties as of the Closing Date.

**5.4 Section 1031 Exchange.** Purchaser shall be entitled to structure the conveyance of the Property by means of a like kind exchange transaction designed to allow Seller to defer the recognition of taxable gain pursuant to Section 1031 of the Internal Revenue Code, provided that no additional expense shall be imposed on the other party as a result of such transaction.

**5.5 Possession.** Purchaser shall be entitled to possession of the Property on the Closing Date.

**6. Seller’s Representations and Warranties.** Seller represents, warrants and covenants to Purchaser as follows:

**6.1** Seller has all requisite power and authority to execute and deliver this Agreement and perform Seller’s obligations hereunder and upon execution this Agreement will constitute the valid and binding agreement of Seller enforceable in accordance with its terms.

**6.2** To Seller's actual knowledge, no attachment, execution, proceeding, assignment for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceeding is pending or threatened against Seller.

**6.3** Seller has not received any written notice of any violation of any law, ordinance, regulation or order or requirements applicable to the Property, including but not limited to land use approvals, permits and recorded covenants, conditions, restrictions or easements applicable to the Property.

**6.4** To Seller's actual knowledge, there is no claim, action, litigation, arbitration or other proceeding pending against Seller which relates to the Property or the transactions contemplated hereby and, to Seller's actual knowledge, there is currently no governmental investigation, threatened litigation or arbitration proceedings to which Seller is, or would be, a party which relates or would relate to the Property.

**7. Purchaser's Representations and Warranties.** Purchaser represents and warrants to Seller as follows:

**7.1** Purchaser has all requisite power and authority to execute and deliver this Agreement and the documents to be executed at Closing or otherwise in accordance with the terms of this Agreement and this Agreement is valid and binding on Purchaser in accordance with its terms.

**7.2** Neither the entering into of this Agreement nor the consummation of the transaction contemplated hereby will constitute or result in a violation or breach by Purchaser of any judgment, order, writ, injunction or decree issued against or imposed upon it, or will result in a violation of any applicable law, order, rule or regulation of any governmental authority.

**8. Survival of Representation and Warranties.** The representations and warranties set forth in Section 6 and Section 7 of this Agreement shall survive Closing and delivery of the Deed.

**9. Condition of Property.** Purchaser agrees that the Property is being sold and conveyed by Seller and accepted by Purchaser without any representation or warranty by Seller except as expressly set forth herein. Except as otherwise specified herein, Purchaser hereby acknowledges and agrees that Purchaser shall rely solely upon the inspection, examination and evaluation of the Property by Purchaser or its representative(s). In the event of the purchase and sale of the Property hereunder, Seller shall sell the Property to Purchaser, and Purchaser shall accept the Property from Seller "As Is", "Where Is" and "With All Faults." Further, Purchaser expressly acknowledges that, except as otherwise expressly set forth herein, Seller makes no warranty or representation with respect to the quality, physical condition or value of the Property; the Property's habitability, suitability, merchantability or fitness for a particular purpose; the presence or absence of conditions on the Property that could give rise to a claim for personal injury, property or natural resource damages, the presence of hazardous or toxic substances, materials or waste, substances, contaminants, or

pollutants on, under or about the Property; or the income or expenses from or of the Property. Purchaser shall promptly provide Seller with a copy of any and all reports or studies which Purchaser has performed on or about the Property under this paragraph in the event that Purchaser elects to terminate this Agreement and not close on its purchase of the Property

**10. Post-Closing Covenants.** Exhibit A to this Agreement is a Declaration of Covenant and Restriction that Purchaser agrees it will sign and record contemporaneously with closing. Seller's agreement to sell the Property is expressly contingent on Purchaser accepting the covenants in Exhibit A as part of the purchase of the Property. This Section 10 shall survive Closing and delivery of the Deed.

**11. Remedies.** In the event that Seller shall fail to close this Agreement due to a default by Seller, Purchaser may either (i) terminate this Agreement by written notice thereof delivered to Seller on or before the Closing Date (in which case the Deposit shall be returned to Purchaser), (ii) enforce specific performance of this Agreement, or (iii) pursue any other remedies at law or in equity. In the event that Purchaser shall fail to close this Agreement due to a default by Purchaser, Seller shall be entitled to receive the Deposit set forth in Section 2.1 as liquidated damages, as its sole and exclusive remedy (which amount Seller and Purchaser agree is a reasonable estimate of the loss that Seller would incur in such event).

**12. Damages or Destruction.** In the event all or a portion of the Property is damaged or destroyed prior to the Closing Date, Seller shall immediately give Purchaser notice of such event. Within ten (10) days of receipt of such notice, Purchaser shall elect, by written notice to Seller, to either (i) terminate this Agreement, or (ii) purchase the Property. In the event Purchaser elects to terminate, escrow shall terminate, and the Deposit, unless earlier deemed non-refundable and released to Seller, shall be promptly returned to Purchaser and this Agreement shall have no further force or effect, and all insurance proceeds attributable to such damage or destruction shall be paid to Seller free of any right, claim or interest of Purchaser. If Purchaser elects to purchase the Property, this Agreement shall remain in full force and effect and Purchaser shall be obligated to close the transaction as provided herein, and Purchaser shall be assigned all insurance proceeds payable to or for the account of Seller.

**13. Assignment.** This Agreement may not be assigned or transferred by Purchaser at any time without the prior written consent of Seller, which consent shall not be unreasonably withheld.

**14. Real Estate Commission.** Purchaser and Seller each represents and warrants to the other that they have not dealt with any broker or similar individual or entity in connection with this Property and have not agreed to pay a commission to any broker or similar individual or entity. Seller and Purchaser each agrees to reimburse and indemnify the other and hold the other harmless from and against any and all claims, liabilities, losses and expenses, including but not limited to attorneys' fees and costs, incurred in connection with all claims for commissions or other compensation that may be made by anyone claiming



through the indemnifying party in connection with this Agreement or the Property. The provisions of this Section shall survive Closing or termination of this Agreement.

**15. Notices.** Any notice, offer, acceptance, consent or other communication required or desired to be given or delivered under this Agreement shall be in writing and shall be given (a) by hand, (b) by United States, certified registered mail, postage prepaid, return receipt requested, or (c) by overnight delivery (e.g., by Federal Express). If notice is to be given to Purchaser, it shall be addressed as follows:

Dan Fowler  
Historic Properties, LLC  
1300 John Adams St., Suite 100  
Oregon City, OR

With a copy to: C. Jeffrey Abbott  
Abbott & Munns LLC  
4891 Willamette Falls Drive, Suite 1  
West Linn, Oregon 97068

If notice is to be given to Seller, it shall be given to Seller at:

City of Oregon City  
Attn: John Lewis, Director of Public Works  
Oregon City Hall  
625 Center Street  
P. O. Box 3040  
Oregon City, OR 97045

With a copy to: Bill Kabeiseman  
Garvey Schubert Barer  
121 SW Morrison Street, 11<sup>th</sup> Floor  
Portland, OR 97204

The addresses set forth above may be changed by notice given in accordance with the terms of this Section. If given by hand or made by overnight delivery, such notice or other communication shall be deemed sufficiently served or given for all purposes hereunder upon delivery, and if by mail, such notice or other communication shall be deemed sufficiently served or given for all purposes hereunder on the date set forth on the return receipt.

**16. Severability.** The invalidity or enforceability of a particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

**17. Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the sale and purchase of the Property, and this Agreement supersedes all prior and contemporaneous oral or written agreements, discussions and understandings of the parties hereto. There are no agreements, representations, warranties or other terms between the parties except as expressly stated in this Agreement. This Agreement may be amended only by an instrument in writing signed by the party against whom enforcement of any change is sought.

**18. Governing Law.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Oregon.

**19. Further Cooperation.** Purchaser and Seller further agree they will execute such other and further documents as may be necessary or desirable to complete the transfer of the Property and to satisfy the obligations described in this Agreement, all to the end that this Agreement and the transactions and undertakings contemplated by this Agreement may and will be carried out and consummated in the most expeditious and convenient manner.

**20. Effectiveness.** This Agreement shall not be effective or binding on either party unless and until a fully executed copy is received by both parties hereto.

**21. Miscellaneous.**

**21.1** The captions contained herein are for convenience only and shall be disregarded in the construction of this Agreement.

**21.2** This Agreement shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns (as permitted pursuant to the provisions of this Agreement) of the parties hereto. No third party benefit is intended by any provision of this Agreement nor may a third party act in reliance upon any provision hereof.

**21.3** This Agreement may be executed in counterparts, each of which, once they are executed, shall be deemed to be an original, and such counterparts shall together constitute one and the same agreement binding on the parties hereto.

**21.4** In the event of any dispute arising out of or relating to this Agreement, whether suit or other proceeding is commenced or not, and whether in mediation, arbitration, at trial, on appeal, in administrative proceedings or in bankruptcy (including without limitation any adversary proceeding or contested matter in any bankruptcy case), the prevailing party shall be entitled to its costs and expenses incurred, including but not limited to reasonable attorney fees.

**22. Statutory Notice. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT**

**AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

**PURCHASER:**

**SELLER:**

HISTORIC PROPERTIES, LLC, an Oregon limited liability company

The CITY OF OREGON CITY, an Oregon Municipal Corporation

By: \_\_\_\_\_  
Daniel W. Fowler, Manager

By: \_\_\_\_\_  
David W. Frasher, City Manager

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

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

By: \_\_\_\_\_  
Patricia M. Jennings, Manager

By: \_\_\_\_\_  
John M. Lewis, Public Works Director

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

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

By: \_\_\_\_\_  
Mark E. Foley, Manager

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

**After recording return to:**

**Oregon City Recorder  
Oregon City Hall  
P. O. Box 3040  
Oregon City, OR 97045**

## **DECLARATION OF COVENANT AND RESTRICTION**

**THIS DECLARATION OF COVENANT AND RESTRICTION** (this “Declaration”) is made this \_\_\_ day of November, 2014, by **HISTORIC PROPERTIES, LLC**, an Oregon limited liability company (“Declarant”).

A. Declarant is the owner of that property legally described as follow (the “Property”):

Parcel 1 - A parcel of land lying in Section 4, Township 3 South, Range 2 East, W.M., Clackamas County, Oregon and being those properties designated as Parcel 2 and described in those Warranty Deeds to the State of Oregon, by and through its Department of Transportation, Highway Division, recorded December 30, 1981 as Recorder's Fee No. 81-44150 and recorded February 8, 1982 as Recorder's Fee No. 82-3617, Film Records of Clackamas County.

This parcel of land contains 1.85 acres, more or less.

Parcel 2 - A parcel of land lying in Section 4, Township 3 South, Range 2 East, W.M., Clackamas County, Oregon and being that property designated as Parcel 2 and described in that Warranty Deed to the State of Oregon, by and through its Department of Transportation, Highway Division, recorded December 17, 1982 as Recorder's Fee No. 82-34364, Film Records of Clackamas County.

This parcel of land contains 0.03 acre, more or less.

B. Declarant and the City desire that the Property be subject to certain covenants and restrictions hereafter described, which covenants and restrictions shall inure to the benefit of and bind the parcel for the benefit of the City of Oregon City (the “City”) and its successors and assigns.

**NOW, THEREFORE**, for and in consideration of the foregoing Recitals which are deemed a material and substantive part of this Declaration, as well as the terms and conditions of the Purchase and Sale Agreement between the declarant and the City and other good and valuable consideration, Declarant hereby declares, grants, covenants and agrees as follows:

1. **Covenant and Restriction.**

(a) Declarant hereby declares that the future development of the Property shall include a transportation system that is designed to support the build out capacity of the area and

resolves the transition problem associated with the proximity of Thayer Road to Beaver Creek Road consistent with City standards.

(b) Declarant hereby declares that it covenants to seek no additional compensation from the City for the dedication of roadway on the Property.

2. **Binding**. This Declaration and the covenants within this declaration are intended to be a restriction running with and binding upon the land and shall be binding upon and inure to the benefit of the City, and its respective personal or legal representatives, successors and assigns.

3. **Governing Law**. This Declaration shall be governed by the laws of the State of Oregon.

4. **Severability**. If any term or provision of this Declaration or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Declaration shall not be affected thereby, and each term and provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

5. **Mortgages**. Any mortgages, trust deeds or other liens encumbering all or any portion of the Parcels shall at all times be subordinate to the terms of this Declaration and any party foreclosing any such mortgage, or acquiring title by deed in lieu of foreclosure or trustee's sale, shall acquire title subject to all of the terms and provisions of this Declaration.

**IN WITNESS WHEREOF**, the undersigned has hereunto set its hand as of the date first written above.

**HISTORIC PROPERTIES, LLC,**  
An Oregon limited liability company

By: \_\_\_\_\_  
\_\_\_\_\_, Manager

State of Oregon )  
 ) ss.  
County of \_\_\_\_\_ )

This instrument was acknowledged before me \_\_\_\_\_, 2014, by  
\_\_\_\_\_, Manager of HISTORIC PROPERTIES, LLC, An Oregon limited liability  
company, on behalf of the company.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_