

(DRAFT)

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT is entered into on August ____, 2012, by and between the CITY OF LAKE OSWEGO, a Municipal Corporation of the State of Oregon (“Seller”), and _____ (“Purchaser”).

RECITALS

A. Seller owns certain real property located at 706 and 716 McVey Avenue in Lake Oswego, Clackamas County, Oregon, as more particularly described in Section 1 below (the “Property”).

B. Purchaser desires to acquire all the Property from Seller, and Seller is willing to sell and convey all the Property to Purchaser, on and subject to the terms of this agreement (the “Agreement”).

AGREEMENT

1. Purchase and Sale of the Property. Seller agrees to sell the Property to Purchaser, and Purchaser agrees to purchase the Property from Seller, on the terms and conditions set forth in this Agreement. The Property consists of:

(a) The land described in Exhibit A attached hereto (the “Land”) and all easements, rights, strips, gores, rights-of-way, and any other rights or interests appurtenant thereto.

2. Purchase Price. The total purchase price for the property is _____ Dollars (\$_____).

3. Deposit. Seller acknowledges receipt of the sum of \$_____ paid by Purchaser as a deposit (the “Deposit”). The Deposit will be applied to the Purchase Price on the Closing Date, as that term is defined below. Following the date this Agreement is executed and delivered by both parties to the Agreement (the later of those dates of execution and delivery being herein referred to as the “Effective Date”), Seller will deliver the Deposit to First American Insurance Company (the “Escrow Agent”) in Lake Oswego, Oregon. The Deposit will be placed in an interest-bearing account, and all interest thereon will be added to and become part of the Deposit. The Deposit will be applied in accordance with the terms of this Agreement. Purchaser hereby acknowledges and agrees that the Deposit held by the Escrow Agent does not and will not constitute property of the estate of Purchaser within the meaning of Title 11 of the United States Code or substantially similar provisions of state law (the “Bankruptcy Code”), including §541 of the Bankruptcy Code, and Purchaser’s interest in the Deposit is limited to the right to have the Deposit returned if and when the conditions for the return of the Deposit to Purchaser are satisfied as set forth herein. Purchaser hereby acknowledges and agrees that (a) the proper giving of notice by Seller to release the Deposit as provided hereunder and/or (b) the proper release of the Deposit to Seller will not be a violation of any provision of the Bankruptcy Code, including, without limitation, §362 of the Bankruptcy Code, or require the approval of any court with jurisdiction over any case in which Purchaser or any affiliate of Purchaser is a debtor. Purchaser hereby waives any provision of the Bankruptcy Code necessary to invoke the foregoing, including, without limitation, §105 and §362 of the Bankruptcy Code, and waives any right to defend against any motion for relief from the automatic stay that may be filed by Seller.

4. Payment of Purchase Price. The purchase price must be paid by Purchaser in all cash on the Closing Date (as defined in Section 9.1), subject to application of the Deposit and the adjustments and credits as provided in this Agreement.

5. (Intentionally Left Blank.)

6. Title to the Property. Purchaser acknowledges that it has had the opportunity to investigate the status of title to the Property to Purchaser's satisfaction. Purchaser further acknowledges that it has had an opportunity to review the preliminary title report attached hereto as Exhibit B, and agrees to accept the property with all of the exceptions listed thereon.

7. No Representations with Respect to Validity and Extent of Lake Access Rights. Purchaser acknowledges that it has reviewed the license granted in the document described in Exhibit B recorded November 20, 1958 in Book 548, Page 305, Clackamas County Deed Records, to use a portion of the dam adjacent to the property for a platform between the property and Oswego Lake, and that Purchaser has ascertained to its own satisfaction the current validity, viability and extent of the license and any lake access rights, as well as the position of the Lake Oswego Corporation with respect to the license and any lake access rights, together with any fees, memberships, transfer of shares (including transfer fees), or other conditions to lake access that may be imposed by the Corporation. Seller makes no representations or warranties with respect to any such matters.

8. Conditions to Closing.

8.1 Purchaser's Conditions. Purchaser acknowledges that Seller does not guarantee the satisfaction of the conditions precedent listed in this Section 8.1 and that Seller's failure to satisfy the conditions (for any reason other than Seller's bad faith) will not be deemed to be a default hereunder but will merely be a failure of a condition to closing, in which event Purchaser's sole remedy will be to (1) waive the condition(s) and any claim against Seller with respect thereto, including, without limitation, as provided in Section 9.3, or (2) terminate this Agreement and receive a refund of the Deposit. Furthermore, at Seller's election, Seller will be permitted to extend the Closing Date for any period of time up to thirty (30) days to satisfy any of the conditions set forth in this section 8.1. Purchaser's obligation to close this transaction is subject to the satisfaction of each of the following conditions:

(a) Seller's Compliance. Seller's fulfillment of each of its obligations under this Agreement in all material respects.

(b) Title Insurance. The Title Company must be ready, willing, and able to issue a standard coverage American Land Title Association owner's policy of title insurance in the amount of the Purchase Price, insuring title in Purchaser to the Premises consistent with the terms of this Agreement and subject only to the title exceptions shown in Exhibit B.

8.2 Seller's Conditions. Seller's obligation to close this transaction is subject to the satisfaction of each of the following conditions:

(a) Purchaser's Compliance. Purchaser's fulfillment of each of its obligations under this Agreement.

(b) Purchaser's Representations. The continuing accuracy of all Purchaser's warranties and representations in this Agreement.

9. Closing.

9.1 Closing Date. This transaction will be closed on or before *[insert date 30 days following determination of winning bid]*, (the date that this transaction closes, as evidenced by the recordation of Seller's deed to Purchaser, being herein referred to as the "Closing Date"). Each party may extend the Closing Date one (1) time by up to five (5) days if the extension is required by illness, transportation delays, the unavailability of the Escrow Agent, or other causes beyond the party's reasonable control.

9.2 Manner and Place of Closing. This transaction will be closed by the Escrow Agent in Lake Oswego, Oregon, or at such other place as the parties may mutually agree to in writing. Closing will take place in the manner and in accordance with the provisions set forth in this Agreement.

9.3 Prorations, Adjustments.

(a) All ad valorem real property taxes, assessments, personal property taxes, and utility expenses, will be prorated and adjusted between the parties as of Closing Date.

(c) Purchaser will pay the recording fee for Seller's Deed.

(d) Seller will pay the premium for a standard owner's title insurance policy in favor of Purchaser in the amount of the purchase price. Any additional title insurance coverage or endorsements requested by Purchaser or its lender will be paid by Purchaser.

(e) Seller and Purchaser will each pay one-half of the escrow and closing fees charged by the Escrow Agent.

(f) Each party will pay its own attorney fees.

9.4 Events of Closing. If the Escrow Agent has received the sums and is in a position to cause the title insurance policy to be issued as described below, this transaction will be closed on the Closing Date as follows:

(a) Seller will convey the real property to Purchaser by Statutory Special Warranty Deed, subject to the exceptions listed in Exhibit B, and in the form attached as Exhibit C.

(b) Seller will provide Purchaser with (i) the Certificate of Nonforeign Status as provided in IRC §1445(b)(2) and (ii) a certificate or other documentary evidence complying with ORS 314.258 that is reasonably acceptable to Purchaser and the Escrow Agent and sufficient to assure Purchaser and the Escrow Agent that no withholding is required under ORS 314.258.

(c) The Escrow Agent will calculate the prorations agreed to herein, and the parties will be charged and credited accordingly.

(d) Purchaser will pay the entire purchase price to Seller in cash, minus the Deposit, as adjusted for the charges and credits set forth in this Agreement.

(e) The Escrow Agent will be committed to issuing the policy described in Section 9.5 upon recordation of the closing documents.

(f) Upon compliance with the parties' closing instructions, the Escrow Agent will record the deed to Purchaser at Purchaser's expense.

9.5 Title Insurance. As soon as possible after the Closing Date, the Escrow Agent will furnish Purchaser a standard American Land Title Association form of owner's policy of title insurance in the amount of the purchase price for the Property, subject only to the Escrow Agent's standard preprinted exceptions and exclusions for the form and except for the exceptions listed on Exhibit B. The costs of additional or extended title insurance beyond standard coverage will be paid by Purchaser, and the availability of any such coverage will not be a condition of closing.

9.6 Possession. Subject to the rights of tenants, Seller will deliver possession of the Property to Purchaser on the Closing Date.

9.7 Acceptance of Property. Purchaser acknowledges that Purchaser has assessed, or has had the opportunity to assess, the size, configuration, utility service, environmentally sensitive areas, means of access, permitted uses, status of title, existence of any lake access rights, viability of the license granted pursuant to the document recorded November 20, 1958 in Book 548, page 305, Clackamas County Deed Records, value, condition, and all other material aspects of the Property, and, except as specifically stated herein, Purchaser is not relying on, nor has Purchaser been influenced by, any statement or representation of Seller or any agent or representative of Seller regarding any of such items. Purchaser's acceptance of the Property and the satisfaction or waiver of all Purchaser's conditions to closing will be evidenced solely by the closing of this transaction and without any other act or confirmation by Purchaser. Purchaser does not have the option to close this transaction without accepting the Property in its then current condition, and Purchaser acknowledges that Purchaser is acquiring the Property "AS IS, WHERE IS" in its current condition existing as of the Closing Date, without any representation or warrant of any kind or nature by Seller.

9.8 Waiver of Certain Claims. As part of the consideration for this Agreement, Purchaser agrees that stated in this Agreement, Seller has no liability, and Purchaser hereby waives any claims and releases Seller for all liability, for any title, physical condition, or any other aspect of the Property, whether direct or indirect, absolute or contingent, foreseen or unforeseen, and known or unknown. The waiver and release extend to Seller and Seller's affiliates, successors, Council, officers, employees, and agents, and their respective heirs, successors, and assigns. Without limiting the generality of the foregoing, Purchaser waives all rights to contribution, offsets, and damages that in any manner relate to the compliance of the Property with any law or regulation applicable thereto, including, without limitation, the Americans with Disabilities Act, 42 USC §§12101-12213; the Fair Housing Act, 42 USC §§3601-3631; the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC §§9601-9675; the Resource Conservation and Recovery Act, 42 USC §§6901-6992k; the Clean Water Act, 33 USC §§1251-1387; the Safe Drinking Water Act, 42 USC §§300f-300j-26; the Hazardous Materials Transportation Act, 49 USC §§5101-5128; the Toxic Substances Control Act, 15 USC §§2601-2692; and any and all other federal, state, and local personal disabilities and environmental laws or regulations.

10. Defaults and Failure to Close.

10.1 Seller's Remedies. In the event that this transaction fails to close on account of a default by Purchaser under this Agreement, the Deposit will be forfeited by Purchaser and retained by Seller as liquidated damages as Seller's sole remedy for the default. SUCH AMOUNT HAS BEEN AGREED BY THE PARTIES TO BE REASONABLE COMPENSATION AND THE EXCLUSIVE REMEDY FOR PURCHASER'S DEFAULT, SINCE THE PRECISE AMOUNT OF SUCH COMPENSATION WOULD BE DIFFICULT TO DETERMINE.

10.2 Purchaser's Remedies. If this transaction fails to close on account of a default by Seller under this Agreement, Purchaser's sole and exclusive remedy will be either (but not both) (a) the return of the Deposit (with Purchaser thereby waiving any other remedy that Purchaser may have against Seller at law or in equity, including without limitation the right to specific performance), or (b) an action for specific performance of this Agreement for the conveyance of the Property to Purchaser (with Purchaser thereby waiving any other remedy that Purchaser may have against Seller at law or in equity).

10.3 Defaults. Except for (a) Purchaser's failure to pay any portion of the Deposit as and when due hereunder or (b) either party's wrongful failure to close or satisfy a condition to closing by the required Closing Date, neither party will be deemed in default under this Agreement unless the party is given written notice of its failure to comply with this Agreement and the failure continues for a period of ten (10) days after the date the notice is given. This section will not be construed as extending the time by which any notice or contingency waiver must be given.

10.4 Costs and Attorney Fees. If suit, action, arbitration, or mediation is instituted to interpret or enforce the terms of this Agreement or with respect to any dispute under this Agreement, the prevailing party is entitled to recover from the other party the sum that the court, arbitrator, or mediator may adjudge reasonable as costs and expert witness and attorney fees in any such proceeding, at trial, on any appeal or petition for review, and in any bankruptcy proceeding (including the adjudication of any issues peculiar to bankruptcy law), in addition to all other sums provided by law. In the event either party is represented by in-house legal counsel, reasonable attorney fees as described in this section shall include the reasonable value of any services provided by in-house counsel. The reasonable value of services by in-house counsel shall be calculated by applying an hourly rate commensurate with prevailing market rates charged by attorneys in private practice in the Portland, Oregon metropolitan areas for such services.

10.5 Waiver of Jury Trial. AS A PART OF THE CONSIDERATION FOR THIS AGREEMENT, EACH OF THE PARTIES HERETO WAIVES THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY DISPUTE OR ACTION UNDER THIS AGREEMENT.

11. Legal Relationships.

11.1 Relationship of Parties. This Agreement creates only the relationship of Seller and Purchaser, and no joint venture, partnership, or other joint undertaking is intended hereby. Neither party hereto will have any rights to make any representations or incur any obligations on behalf of the other. Neither party has authorized any agent to make any representations, admit any liability, or undertake any obligation on its behalf. Neither party is executing this Agreement on behalf of an undisclosed principal.

11.2 No Third-Party Beneficiaries. No third party is intended to be benefitted or afforded any legal rights under or by virtue of this Agreement.

11.3 Joint and Several Liability. If either party comprises more than one person or entity, the obligations of each person or entity comprising such party under this Agreement will be joint and several.

11.4 Assignments and Successors. Purchaser may not assign or otherwise transfer this Agreement or any interest herein, voluntarily, involuntarily, or by operation of law, without the prior written consent of Seller in each instance. Purchaser will not be released from its obligations under this Agreement in the event of any assignment or transfer by Purchaser. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties hereto and their respective successors and assigns.

12. General Provisions.

12.1 Notices. Notices under this Agreement must be in writing and, if personally delivered or sent by facsimile, will be effective when received. If mailed, a notice will be deemed effective on the second day after deposited as registered or certified mail, postage prepaid, directed to the other party. Notices must be delivered, mailed, or sent by facsimile to the following addresses and telephone numbers:

SELLER: City of Lake Oswego, a Municipal Corporation
PO Box 369
Lake Oswego, Oregon 97034
503.635.0225
503.699.7453 (Facsimile)

PURCHASER: ****

Either party may change its address for notices by at least fifteen (15) days advance written notice to the other.

12.2 Time of Essence. Except as otherwise specifically provided in this Agreement, time is of the essence for each and every provision of this Agreement.

12.3 Invalidity of Provisions. If any provision of this Agreement, or any instrument to be delivered by Purchaser at closing under this Agreement, is declared invalid or is unenforceable for any reason, the provision will be deleted from the document and will not invalidate any other provision contained in the document.

12.4 Neutral Construction. This Agreement has been negotiated with each party having the opportunity to consult with legal counsel and will be construed without regard to which party drafted all or part of this Agreement.

12.5 Captions. The captions of the sections and paragraphs in this Agreement are used solely for convenience and are not intended to limit or otherwise modify the provisions of this Agreement.

12.6 Waiver. The failure of either party at any time to require performance of any provision of this Agreement will not limit the party's right to enforce the provision. Waiver of any breach of any provision will not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

12.7 Subsequent Modifications. This Agreement and any of its terms may be changed, waived, discharged, or terminated only by a written instrument signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought.

12.8 Saturdays, Sundays, and Legal Holidays. If the time for performance of any of the terms, conditions, and provisions hereof falls on a Saturday, Sunday, or legal holiday, then the time of the performance will be extended to the next business day thereafter.

12.9 Venue. In any action brought to interpret or enforce any of the provisions of this Agreement, the venue will be in Clackamas County, Oregon.

12.10 Applicable Law. This Agreement will be construed, applied, and enforced in accordance with the laws of the state of Oregon. All sums referred to in this Agreement will be calculated by and payable in the lawful currency of the United States.

12.11 Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the Property and supersedes and replaces all written and oral agreements previously made or existing between the parties.

12.12 No Offer. By providing an unexecuted copy of this Agreement to any person, neither party is deemed to have made an offer to sell or purchase or otherwise indicated its willingness to enter into any transaction with respect to the Property, and this Agreement will not be binding on any party unless and until it has been fully executed and delivered by Seller and Purchaser.

12.13 No Recording. Neither this Agreement nor any memorandum or short form thereof may be recorded.

12.14 Counterparts. This Agreement may be executed simultaneously or in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same contract.

12.15 Statutory Warning. (ORS 93.040(2)) “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 have caused this Agreement to be executed as of the day and year first above written.

PURCHASER: _____

SELLER: CITY OF LAKE OSWEGO,
a Municipal Corporation of the State of Oregon

By: _____
DAVID DONALDSON, City Manager

APPROVED AS TO FORM:

David Powell
City Attorney

EXHIBIT A
Description of Property

Real property in the County of Clackamas, State of Oregon, described as follows:

Parcel I:

A tract situated in Section 10, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, more, particularly described as follows:

Beginning at an iron rod which iron rod bears North 65° 48' East along the Northwesterly right-of-way line of McVey Avenue 48.40 feet from the Southeast corner of Lot 1, OSWEGO LAKE VILLAS, from said point of beginning; thence leaving said Northwesterly right-of-way line of McVey Avenue North 9° 32' East 113.60 feet; thence South 80° 05' East 19.84 feet; thence South 78° 05' East 28.35 feet; thence South 9° 22' West 79.70 feet to said Northwesterly right-of-way line of McVey Avenue; thence South 65° 48' West along said Northwesterly right-of-way line of McVey Avenue, 58.40 feet to the point of beginning.

TOGETHER WITH the right to use, in common with others, an easement for right-of-way for ingress and egress over the following described property:

A tract of land situated in Section 10, Township 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at an iron rod on the Northwesterly right-of-way of McVey Avenue, that is North 65° 48' East 106.80 feet from the Southeast corner of Lot 1, OSWEGO LAKE VILLAS, from said point of beginning; running thence North 9° 22' East 18 feet to a point; thence Easterly to a point on the said Northwesterly right-of-way line to McVey Avenue that is North 65° 48' East 32 feet from the point of beginning; thence South 65° 48' West 32 feet to the point of beginning.

Parcel II:

A Tract of land situated in Section 10, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, more particularly described as follows , to-wit:

Beginning at an iron rod which iron rod bears North 65°48' East along the Northwesterly right of way line of McVey Avenue, 106.80 feet from the Southeast corner of Lot 1, OSWEGO LAKE VILLAS, from said place of beginning; thence continuing North 65°48' East along the Northwesterly right of way line of

McVey Avenue, 69.32 feet to an iron rod and angle point in said McVey Avenue; thence North 51°21' East along said Northwesterly right of way line 26.01 feet to an iron rod; thence leaving said Northwesterly right of way line North 34°14' West 44.48 feet; thence South 68°28' West 21.45 feet to an iron rod; thence North 78°05' West 26.05 feet to an iron rod; thence South 9°22' West 79.70 feet to the place of beginning.

NOTE: This legal description was created prior to January 1, 2008.

Tax Parcel Number: 00265484 and 00265493

EXHIBIT B
Preliminary Title Report



Exhibit B

Preliminary Title Report

First American

First American Title Company of Oregon

121 SW Morrison St, FL 3

Portland, OR 97204

Phn - (503)222-3651 (800)929-3651

Fax - (877)242-3513

Order No.: 7000-1919358

July 16, 2012

FOR QUESTIONS REGARDING YOUR CLOSING, PLEASE CONTACT:

WYN HENDRICKS, Escrow Officer/Closer

Phone: (503)350-5005 - Fax: (866)656-1602- Email:whendricks@firstam.com

First American Title Company of Oregon

5335 SW Meadows Rd #100, Lake Oswego, OR 97035

FOR ALL QUESTIONS REGARDING THIS PRELIMINARY REPORT, PLEASE CONTACT:

Michelle Laine Johnson, Title Officer

Toll Free: (800)929-3651 - Direct: (503)790-1822 - Fax: (877)242-2396 - Email: mjohnson@firstam.com

Amended Preliminary Title Report

County Tax Roll Situs Address: 706 and 716 McVey Avenue, Lake Oswego, OR 97034

Proposed Insured Lender: TBD

2006 ALTA Owners Standard Coverage	Liability \$	800,000.00	Premium \$	1,800.00
2006 ALTA Owners Extended Coverage	Liability \$		Premium \$	
2006 ALTA Lenders Standard Coverage	Liability \$		Premium \$	
2006 ALTA Lenders Extended Coverage	Liability \$		Premium \$	
Endorsement			Premium \$	
Govt Service Charge			Cost \$	50.00
City Lien/Service District Search			Cost \$	
Other			Cost \$	

We are prepared to issue Title Insurance Policy or Policies in the form and amount shown above, insuring title to the following described land:

The land referred to in this report is described in Exhibit A attached hereto.

and as of June 28, 2012 at 8:00 a.m., title to the fee simple estate is vested in:

City of Lake Oswego, a Municipal Corporation of the State of Oregon

Subject to the exceptions, exclusions, and stipulations which are ordinarily part of such Policy form and the following:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

This report is for the exclusive use of the parties herein shown and is preliminary to the issuance of a title insurance policy and shall become void unless a policy is issued, and the full premium paid.

2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien, or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

The exceptions to coverage 1-5 inclusive as set forth above will remain on any subsequently issued Standard Coverage Title Insurance Policy.

In order to remove these exceptions to coverage in the issuance of an Extended Coverage Policy the following items are required to be furnished to the Company; additional exceptions to coverage may be added upon review of such information:

- A. Survey or alternative acceptable to the company
 - B. Affidavit regarding possession
 - C. Proof that there is no new construction or remodeling of any improvement located on the premises. In the event of new construction or remodeling the following is required:
 - i. Satisfactory evidence that no construction liens will be filed; or
 - ii. Adequate security to protect against actual or potential construction liens;
 - iii. Payment of additional premiums as required by the Industry Rate Filing approved by the Insurance Division of the State of Oregon
6. Taxes for the fiscal year 2012-2013 a lien due, but not yet payable
 7. Taxes, including the current fiscal year, not assessed because of Cities and Towns Exemption. If the exempt status is terminated an additional tax may be levied. Account No. 00265484 and 00265493.
 8. City liens, if any, of the City of Lake Oswego.

Note: There are no liens as of July 10, 2012. All outstanding utility and user fees are not liens and therefore are excluded from coverage.
 9. Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below the mean high water mark of Lake Oswego and the ownership of the State of Oregon in that portion lying below the high water mark of Lake Oswego .
 10. Subject to the rights of various property owners and occupants in and to any portion of the herein described property lying beneath the waters of Lake Oswego.

11. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.
12. Covenants, conditions, restrictions and/or easements; but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, family status, or national origin to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes:
Recording Information: June 28, 1922 in Book 167, Page 442
13. Easement, including terms and provisions contained therein:
Recording Information: May 12, 1937 in Book 237, Page 324
In Favor of: City of Oswego
For: sewer lines
14. Covenants, conditions, restrictions and/or easements; but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, family status, or national origin to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes:
Recording Information: November 20, 1958 in Book 548, Page 305
15. Easement Agreement, including terms and provisions thereof.
Affects: Appurtenant Easement
Recorded: December 22, 1960 in Book 581, Page 84
16. Permanent Easement, including terms and provisions contained therein:
Recording Information: September 01, 2009 as Fee No. 2009 062556
In Favor of: Lake Oswego Corporation, an Oregon Corporation
For: utilities
17. Temporary Easement, including terms and provisions contained therein:
Recording Information: September 01, 2009 as Fee No. 2009 062557
In Favor of: Lake Oswego Corporation, an Oregon Corporation
For: using a crane and associated equipment

- END OF EXCEPTIONS -

NOTE: If this property includes rights to the use of Lake Oswego itself, then the Lake Corporation should be contacted concerning transfer fees and any unpaid assessment charges concerning those rights.

NOTE: We find no matters of public record against To be determined that will take priority over any trust deed, mortgage or other security instrument given to purchase the subject real property as established by ORS 18.165.

NOTE: According to the public record, the following deed(s) affecting the property herein described have been recorded within 24 months of the effective date of this report: NONE

**THANK YOU FOR CHOOSING FIRST AMERICAN TITLE!
WE KNOW YOU HAVE A CHOICE!**

RECORDING INFORMATION

Filing Address: **Clackamas County**
 2051 Kaen Road
 Oregon City, OR 97045

Recording Fees: \$ **5.00** E-Recording per document
 \$ **5.00** per page
 \$ **5.00** per page (GIS Fee)
 \$ **10.00** per document (Public Land Corner Preservation Fund)
 \$ **11.00** per document (OLIS Assessment & Taxation Fee)
 \$ **17.00** per document (Oregon Housing Alliance Fee)
 \$ **5.00** for each additional document title
 \$ **20.00** non-standard fee



First American Title Insurance Company of Oregon

SCHEDULE OF EXCLUSIONS FROM COVERAGE

ALTA LOAN POLICY (06/17/06)

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

ALTA OWNER'S POLICY (06/17/06)

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risks 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

SCHEDULE OF STANDARD EXCEPTIONS

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

NOTE: A SPECIMEN COPY OF THE POLICY FORM (OR FORMS) WILL BE FURNISHED UPON REQUEST

TI 149 Rev. 7-22-08

Exhibit "A"

Real property in the County of Clackamas, State of Oregon, described as follows:

Parcel I:

A tract situated in Section 10, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, more, particularly described as follows:

Beginning at an iron rod which iron rod bears North 65° 48' East along the Northwestern right-of-way line of McVey Avenue 48.40 feet from the Southeast corner of Lot 1, OSWEGO LAKE VILLAS, from said point of beginning; thence leaving said Northwestern right-of-way line of McVey Avenue North 9° 32' East 113.60 feet; thence South 80° 05' East 19.84 feet; thence South 78° 05' East 28.35 feet; thence South 9° 22' West 79.70 feet to said Northwestern right-of-way line of McVey Avenue; thence South 65° 48' West along said Northwestern right-of-way line of McVey Avenue, 58.40 feet to the point of beginning.

TOGETHER WITH the right to use, in common with others, an easement for right-of-way for ingress and egress over the following described property:

A tract of land situated in Section 10, Township 2 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at an iron rod on the Northwestern right-of-way of McVey Avenue, that is North 65° 48' East 106.80 feet from the Southeast corner of Lot 1, OSWEGO LAKE VILLAS, from said point of beginning; running thence North 9° 22' East 18 feet to a point; thence Easterly to a point on the said Northwestern right-of-way line to McVey Avenue that is North 65° 48' East 32 feet from the point of beginning; thence South 65° 48' West 32 feet to the point of beginning.

Parcel II:

A Tract of land situated in Section 10, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, more particularly described as follows , to-wit:

Beginning at an iron rod which iron rod bears North 65°48' East along the Northwestern right of way line of McVey Avenue, 106.80 feet from the Southeast corner of Lot 1, OSWEGO LAKE VILLAS, from said place of beginning; thence continuing North 65°48' East along the Northwestern right of way line of McVey Avenue, 69.32 feet to an iron rod and angle point in said McVey Avenue; thence North 51°21' East along said Northwestern right of way line 26.01 feet to an iron rod; thence leaving said Northwestern right of way line North 34°14' West 44.48 feet; thence South 68°28' West 21.45 feet to an iron rod; thence North 78°05' West 26.05 feet to an iron rod; thence South 9°22' West 79.70 feet to the place of beginning.

NOTE: This legal description was created prior to January 1, 2008.

Tax Parcel Number: 00265484 and 00265493



First American Title Insurance Company of Oregon

An assumed business name of TITLE INSURANCE COMPANY OF OREGON

This map is provided as a convenience in locating property
First American Title Insurance Company assumes no liability for any variations as may be disclosed by an actual survey

Reference Parcel Number 21E10DB00500 + 600

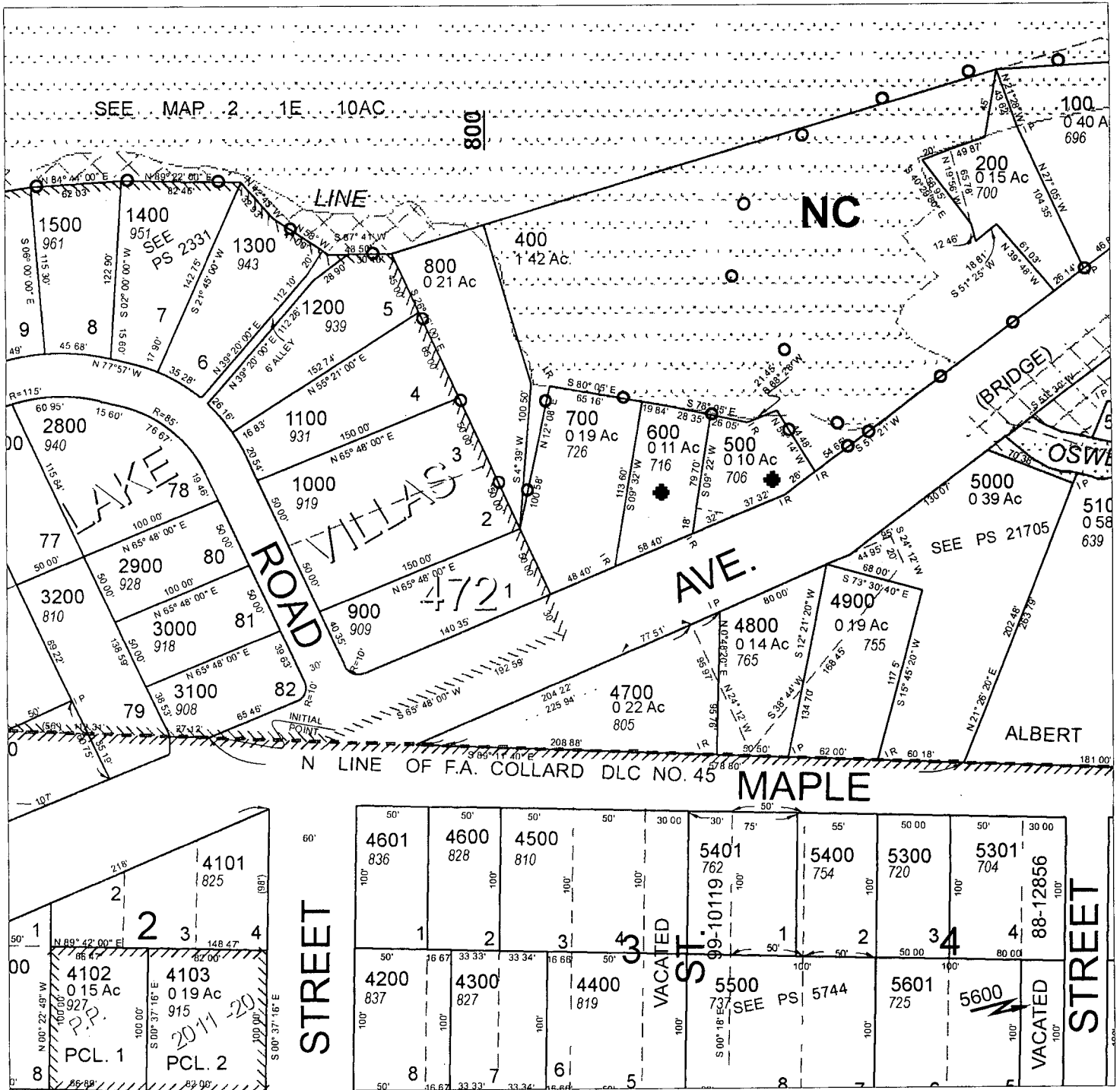


EXHIBIT C
Statutory Special Warranty Deed

SPECIAL WARRANTY DEED

Name of Document For Recording: Special Warranty Deed Grantor: City of Lake Oswego PO Box 369 Lake Oswego, Oregon 97034 Grantee: *** Consideration: \$**. Tax Statement to be mailed to: ** Statutory Recordation Authority: ORS 93.850. <u>After Recording, Return To:</u> **	(For County Recording Use Only)
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SPECIAL WARRANTY DEED

CITY OF LAKE OSWEGO, a Municipal Corporation of the State of Oregon, Grantor, conveys and specially warrants to **, Grantee, the real property in Clackamas County, Oregon, described on the attached Exhibit A, free of encumbrances created or suffered by the Grantor except as specifically set forth herein:

1. Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below the mean high water mark of Lake Oswego and the ownership of the State or Oregon in that portion lying below the high water mark of Lake Oswego.
2. Subject to the rights of various property owners and occupants in and to any portion of the herein described property lying beneath the waters of Lake Oswego.
3. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.
4. Covenants, conditions, restrictions and/or easements; but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, family status, or national origin to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes:
 Recording Information: June 28, 1922 in Book 167, Page 442
5. Easement, including terms and provisions contained therein:
 Recording Information: May 12, 1937 in Book 237, Page 324
 In Favor of: City of Oswego
 For: sewer lines

6. Covenants, conditions, restrictions and/or easements; but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, family status, or national origin to the extent such covenants, conditions or restrictions violate Title 42, Section 3604(c), of the United States Codes:

Recording Information: November 20, 1958 in Book 548, Page 305

7. Easement Agreement, including terms and provisions thereof.

Affects: Appurtenant Easement

Recorded: December 22, 1960 in Book 581, Page 84

8. Permanent Easement, including terms and provisions contained therein:

Recording Information: September 01, 2009 as Fee No. 2009 062556

In Favor of: Lake Oswego Corporation, an Oregon corporation

For: utilities

9. Temporary Easement, including terms and provisions contained therein:

Recording Information: September 01, 2009 as Fee No. 2009 062557

In Favor of: Lake Oswego Corporation, an Oregon corporation

For: using a crane and associated equipment

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.

The true consideration for this conveyance is \$**.

Dated this _____ day of September, 2012.

CITY OF LAKE OSWEGO,
a Municipal Corporation of the State of Oregon

By: _____
DAVID DONALDSON, City Manager

STATE OF OREGON)
) ss.
County of Clackamas)

On this _____ day of September, 2012, before me, the undersigned Notary Public, personally appeared DAVID DONALDSON, personally known to me to be the person who executed the within instrument as City Manager of the City of Lake Oswego, a Municipal Corporation of the State of Oregon, or on behalf of the entity therein named, pursuant to authority, and acknowledged to me the execution hereof.

WITNESS my hand and official seal Notary Signature	Notary Seal (Do not place seal over any portion of text or signature)
_____ Notary name: _____	

EXHIBIT A

Real property in the County of Clackamas, State of Oregon, described as follows:

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A Tract of land situated in Section 10, Township 2 South, Range 1 East of the Willamette Meridian, in the City of Lake Oswego, County of Clackamas and State of Oregon, more particularly described as follows , to-wit:

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McVey Avenue, 69.32 feet to an iron rod and angle point in said McVey Avenue; thence North 51°21' East along said Northwesterly right of way line 26.01 feet to an iron rod; thence leaving said Northwesterly right of way line North 34°14' West 44.48 feet; thence South 68°28' West 21.45 feet to an iron rod; thence North 78°05' West 26.05 feet to an iron rod; thence South 9°22' West 79.70 feet to the place of beginning.

NOTE: This legal description was created prior to January 1, 2008.

Tax Parcel Number: 00265484 and 00265493