

ORDINANCE NO. 1438

AN ORDINANCE AUTHORIZING THE CITY OF CANBY TO ENTER INTO A PURCHASE AND SALE AGREEMENT WITH PIONEER PROPERTY, LLC FOR THE PURCHASE OF REAL PROPERTY.

WHEREAS, the City of Canby offers transit services known as Canby Area Transit; and

WHEREAS, Canby Area Transit is currently located on Hazel Dell Way in Canby, Oregon, under leasing agreements for both office space and parking; and

WHEREAS, the City of Canby would like to have a more permanent location for Canby Area Transit and its fleet of buses; and

WHEREAS, the City of Canby would like to exercise a purchase option available to it from Pioneer Property, LLC for property it is currently leasing, improvements therein, and additional property to be able to locate office facilities and parking;

THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:

Section 1. The City Administrator is hereby authorized on behalf of the City to enter into a Purchase and Sale Agreement for the purchase of real property from Pioneer Property, LLC. A copy of the Purchase and Sale Agreement is attached hereto as Exhibit "A."

SUBMITTED to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, April 6, 2016, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, April 20, 2016, commencing at the hour of 7:30 pm at the Council Meeting Chambers located at 155 N.W. 2nd Avenue, Canby, Oregon.

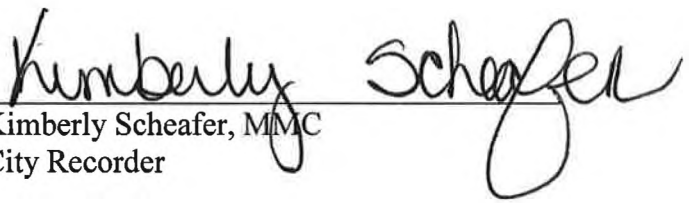

Kimberly Scheafer, MMC
City Recorder

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 20th day of April 2016, by the following vote:

YEAS 6 NAYS 0


Brian Hodson
Mayor

ATTEST:


Kimberly Scheafer, MMC
City Recorder

PURCHASE AND SALE AGREEMENT

Effective Date: December 1, 2016

SELLER: Pioneer Property, LLC
an Oregon limited liability company
1012 Island View
Kemah, TX 77565
ATTN: Manager
281-772-5249
281-957-9233 (fax)

BUYER: City of Canby
an incorporated Oregon municipality
PO Box 930
Canby, OR 97013
ATTN: City Administrator
503-266-0745
503-266-7961 (fax)

Recital

Seller desires to sell to Buyer and Buyer desires to purchase from Seller certain real property with all improvements located on Hazel Dell Way, Canby, Oregon, having the following legal description (the "Property"):

Lots 18,
Burden No. 4 (a replat of Lots 15 and 16 of "Burden No. 3"),
Partition Plat No. 4461, Recorded in Book 146 at Page 023,
City of Canby,
County of Clackamas,
State of Oregon.

Buyer is the tenant under that certain Lease Agreement between the Buyer and the Seller dated October 15, 2014. Said lease shall be terminated upon the closing under this Agreement.

Agreement

Now, therefore, for valuable consideration, the parties agree as follows:

1. Sale and Purchase. Buyer agrees to purchase the Property from Seller and Seller agrees to sell the Property to Buyer for the sum of \$217,915 (the "Purchase Price"). The Purchase Price was determined by multiplying \$5.00/per sq. ft. by the total size of the Property (43,583 sq. ft.).

2. Option Payment. Seller hereby acknowledges receipt of the certain Purchase Option Payment in the sum of \$6,296.85 as established in Lease Agreement between the Buyer and the Seller dated October 15, 2014. The Purchase Option Payment will be applied to the Purchase Price by Seller as designated in the Lease Agreement so long as all conditions specified in this Purchase Agreement are met on the Closing Date, as that term is defined below.

3. Payment of Purchase Price. The Purchase Price must be paid as follows:

3.1 At Closing, the Option Payment will be credited to the Purchase Price.

3.2 Pursuant to the existing Lease Agreement between the Buyer and Seller for the Property dated October, 15, 2014, Seller hereby acknowledges receipt of rental payments for the months of October, 2015 through and including December, 2016. Seller further acknowledges agreement made with the Buyer to credit those rental payments of \$1,500 each through April 2016 and \$1,545 from May through December 2016, for a total of \$22,860 (collectively the Rental Payments) to be applied to the Purchase Price. At Closing, the Rental Payments will be credited to the Purchase Price.

3.3 At Closing, Buyer must pay the balance of the Purchase Price in cash.

4. Closing. Time is of the essence. Closing must take place on a mutually agreed on date, but in no event later than December 15, 2016 (the "Closing Date"), at the offices of Reif & Hunsaker, P.C., 273 North Grant Street, Canby, OR 97013. The terms *closed*, *closing* or *closing date* mean when the deed or contract is recorded and funds are available to Seller. The Buyer must pay the escrow fee and any transfer taxes. The Escrow Agent shall close this transaction and act as escrow agent. .

5. Preliminary Title Report. Seller has furnished to Buyer a preliminary title report showing the condition of title to the Property, together with copies of all exceptions listed therein (the "Title Report"). Buyer will have 10 days from the execution of this Agreement to review the Title Report and to notify Seller, in writing, of Buyer's disapproval of any special exceptions shown in the Title Report. Those exceptions the Buyer does not object to are referred to below as the "Permitted Exceptions." Mortgages, delinquent taxes or other financial obligations secured by the Property are automatically deemed Unacceptable Exceptions. If Buyer notifies Seller in writing of Unacceptable Exceptions, Seller will have 15 days after receiving the Unacceptable Exceptions notice to either remove the exceptions or provide Buyer 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 Unacceptable Exceptions or provide Buyer with such assurances, Buyer may terminate this Agreement by written notice to Seller given within 15 days after expiration of the Seller Assurance Period, and, when applicable, this Agreement will be of no further binding effect.

6. Seller's Delivery of Documents. Within 15 days after the Effective Date, Seller shall deliver to Buyer any and all material information and documentation in the Seller's possession or control pertaining to the Property (the Due Diligence Documents). If Seller is aware of the existence of any material information and documentation pertaining to the Property that are not within Seller's possession or control, the 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 such information.

7. Property and Environmental Inspections. Buyer and its agents including but not limited to consultants, surveyors, engineers, home inspectors, appraisers, and other professionals hired by the Buyer shall have the right to access the Property to conduct environmental studies (including but not limited to Phase I and II assessments), and any other inspections and testing Buyer deems necessary. Seller shall cooperate with Buyer making such inspections. Any area disturbed by Buyer's inspections shall be restored by Buyer at Buyer's sole cost and expense to its pre-inspection condition. To the extent allowed under state law, Buyer agrees to indemnify and hold Seller harmless from all loss, damage, or liability caused as a result of Buyer or Buyer's agents' access to the Property under this section. If Buyer is not satisfied, in its sole discretion, with the result of Buyer's inspections, Buyer may terminate this Agreement by written notice to Seller given at any time before the date set forth in Section 8.1.1 below.

8. Conditions

8.1 Buyer's obligation to purchase the Property is contingent on satisfaction of each of the following conditions:

8.1.1 Buyer's approval of its inspection of the Property under Section 7 above. Buyer will have until December 10, 2016, to complete its inspection of the Property.

8.1.2 Buyer's acceptance of the Declaration of Access Easement drafted by Seller relating to the access easement for the Property.

8.1.3 Recording of the Partition Plat creating the separate parcel that is the Property being sold by this Agreement.

8.1.4 Buyer must be satisfied in its sole and absolute discretion with its review of the Due Diligence Documents.

8.1.5 At Closing, the Seller shall remove all Unacceptable Exceptions from the Title Report as reflected in a Pro Forma Title Policy provided by the Escrow Agent.

9. Marketable Title; Deed. On the Closing Date, unless agreed otherwise herein, Seller will convey fee simple title to the Property by statutory special warranty deed, free and clear of all liens of record, except the Permitted Exceptions.

10. Title Insurance. Within 15 days after Closing, Seller must furnish Buyer with an American Land Title Association owner's policy of title insurance in the amount

of the purchase price, insuring Buyer as the owner of the Property subject only to the usual printed exceptions and the Permitted Exceptions.

11. Taxes; Prorates. Real property taxes for the current tax year and other usual items must be prorated as of the Closing Date. At Closing, Buyer shall pay or reimburse Seller for real property taxes attributable to the Leased Premises through Closing – 25% of the total amount due and up through Closing) and all broker commissions, transfer taxes, all recording and escrow fees and the costs associated with the partition lot line adjustment, survey, boundary mapping and all other Closing costs, including the Title policy as agreed in the Lease Agreement.

12. Possession. Buyer will be entitled to exclusive possession immediately on Closing.

13. Property Included. All improvements constructed by Buyers on the Property.

14. Personal Property. N/A

15. Seller's Representations. Seller hereby warrants and represents to Buyer the following:

15.1 Authority. The Seller has full power and authority to enter into this Agreement and to sell, transfer, and convey all right, title, and interest in and to the Property in accordance with this Agreement.

15.2 Seller warrants and represents to its knowledge without further investigation, Seller has not brought onto, stored, 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 as defined under ORS 456.200 in violation of any environmental laws of the state or federal government.

16. Risk of Loss. Seller bears the risk of all loss or damage to the Property from all causes through Closing except those caused by the Buyer through the Lease.

17. Binding Effect/Assignment Restricted. This Agreement is binding on and will inure to the benefit of Seller, Buyer, and their respective heirs, legal representatives, successors, and assigns. Nevertheless, Buyer will not assign its rights under this Agreement without Seller's prior written consent, which may be withheld in Seller's sole discretion.

18. Remedies. TIME IS OF THE ESSENCE REGARDING THIS AGREEMENT. If the conditions described in Section 8 above are satisfied or waived by Buyer and the transaction does not thereafter close, through no fault of Seller, before the close of business on the Closing Date, Seller will have the right to retain all Option Payment as liquidated damages. If Seller fails to deliver the deed described in Section 9

above on the Closing Date or otherwise fails to consummate this transaction through no fault of Buyer, the Option Payment must be refunded to Buyer.

19. Attorney Fees. If an action is instituted to enforce or interpret any term of this Agreement, the prevailing party will recover from the losing party reasonable attorney fees incurred in the action as set by the trial court or arbitrators, as the case may be, and, in the event of appeal, as set by the appellate courts.

20. Notices. All notices and communications in connection with this Agreement must be given in writing and will be transmitted by certified or registered mail, return receipt requested, to the appropriate party at the address first set forth above. Any notice so transmitted will be deemed effective on the date it is placed in the United States mail, postage prepaid. Either party may, by written notice, designate a different address for purposes of this Agreement.

21. Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the purchase and sale of the Property. This Agreement supersedes any and all prior negotiations, discussions, agreements, and understandings between the parties. This Agreement may not be modified or amended except by a written agreement executed by both parties.

22. Survival of Representations. The covenants, agreements, representations and warranties made herein shall survive Closing and will not merge into the Deed upon recordation in the official real property records.

23. Applicable Law. This Agreement will be construed, applied, and enforced in accordance with the laws of the state of Oregon.

24. No Brokers. Each Party warrants to the other Party that no broker or agent was consulted or engaged in connection with this transaction, and each Party will indemnify, defend, and hold harmless the other from and against all claims, losses, and liabilities made or imposed for any commission or finder's fee to any broker or agent and arising out of the actions of such party.

25. 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.

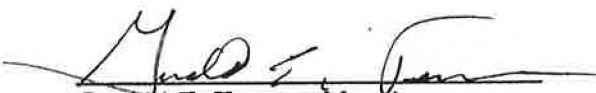
26. Governing Law. The parties acknowledge that this Agreement has been negotiated and entered into in the state of Oregon. The parties hereby expressly agree that this Agreement is governed by and should be interpreted in accordance with the laws of the state of Oregon.

27. Acceptance. This Agreement will be null and void unless accepted by Seller, by Seller's execution of it, on or before December __, 2016.

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

SELLER:
PIONEER PROPERTY, LLC
an Oregon limited liability company

BUYER:
CITY OF CANBY,
an incorporated Oregon municipality


Gerald E. Turner, Member
Dated: 12-14, 2016


Rick Robinson, City Administrator
Dated: _____, 2016

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

SELLER:
PIONEER PROPERTY, LLC
an Oregon limited liability company

BUYER:
CITY OF CANBY,
an incorporated Oregon municipality

Gerald E. Turner, Member
Dated: _____, 2016



Rick Robinson, City Administrator
Dated: 12/14, 2016

Amanda Zeiber,
Designee

After Recording Mail To:

Reif & Hunsaker, PC
Attn: James M. Hunsaker
273 North Grant Street
Canby, OR 97013

DECLARATION REGARDING ACCESS EASEMENT

THIS DECLARATION REGARDING ACCESS EASEMENT ("Declaration") is made and effective December 14, 2016, by PIONEER PROPERTY, LLC, an Oregon limited liability company ("Declarant") with regard to real property located on Hazel Dell Way, City of Canby, Clackamas County, Oregon and more particularly described as follows:

Lots 17, 18, and 19
Burden No. 4 (a replat of Lots 15 and 16 of "Burden No. 3")
City of Canby,
County of Clackamas,
State of Oregon.

(the "Property"), and shown on **Exhibit A**, which is attached hereto and incorporated herein. Each Lot within the Property may sometimes referred to individually as a "Lot" and collectively as the "Lots."

RECITALS

WHEREAS, the Declarant owns the Property;

WHEREAS, the Plat described above ("Plat") created a thirty (30) foot access easement ("Easement") benefiting all of the Lots within the Property;

WHEREAS, a roadway has been or will be constructed by the Declarant within the Easement (the "Roadway");

WHEREAS, the Declarant desires to clarify the use of the Easement, to create obligations on the Lots for the maintenance of the Roadway, and for the allocation of costs related thereto.

NOW, THEREFORE, Declarant declares that the Property will be held, transferred, sold, conveyed, and occupied subject to the following covenants, conditions, restrictions, easements, charges, and liens, which will run with the land, which will be binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof, and which will inure to the benefit of each owner thereof.

Recorded by TICOR TITLE 30261600880

After Recording Mail To:

Reif & Hunsaker, PC
Attn: James M. Hunsaker
273 North Grant Street
Canby, OR 97013

DECLARATION REGARDING ACCESS EASEMENT

THIS DECLARATION REGARDING ACCESS EASEMENT ("Declaration") is made and effective December ¹⁴, 2016, by PIONEER PROPERTY, LLC, an Oregon limited liability company ("Declarant") with regard to real property located on Hazel Dell Way, City of Canby, Clackamas County, Oregon and more particularly described as follows:

Lots 17, 18, and 19
Burden No. 4 (a replat of Lots 15 and 16 of "Burden No. 3")
City of Canby,
County of Clackamas,
State of Oregon.

(the "Property"), and shown on **Exhibit A**, which is attached hereto and incorporated herein. Each Lot within the Property may sometimes referred to individually as a "Lot" and collectively as the "Lots."

RECITALS

WHEREAS, the Declarant owns the Property;

WHEREAS, the Plat described above ("Plat") created a thirty (30) foot access easement ("Easement") benefiting all of the Lots within the Property;

WHEREAS, a roadway has been or will be constructed by the Declarant within the Easement (the "Roadway");

WHEREAS, the Declarant desires to clarify the use of the Easement, to create obligations on the Lots for the maintenance of the Roadway, and for the allocation of costs related thereto.

NOW, THEREFORE, Declarant declares that the Property will be held, transferred, sold, conveyed, and occupied subject to the following covenants, conditions, restrictions, easements, charges, and liens, which will run with the land, which will be binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof, and which will inure to the benefit of each owner thereof.

Recorded by TICOR TITLE 30261606880

ARTICLE I ESTABLISHMENT OF COVENANTS

A. Declarant hereby declares that the Lots, and all of the Property, shall be held, sold, and conveyed subject to the following covenants and conditions which are for the purpose of protecting the value and desirability of the Lots, and which shall run with the title to the Lots and be a burden binding on all parties having any right, title or interest in the Lots or any of them, their heirs, personal representatives, successors and assigns (an "Owner" or "Lot Owner"), and shall inure to the benefit of each Lot Owner, their heirs, personal representatives, successors and assigns.

B. Each provision of this Declaration and each agreement, promise, covenant or undertaking to comply with or to be bound by the provisions of this Declaration shall:

a. be deemed incorporated in each deed or other instrument by which any right, title or interest in any Lot is granted, devised or conveyed, whether or not set forth or referred to in such deed or instrument; and

b. by virtue of acceptance of any right, title or interest in any Lot by an Owner, such Owner shall be deemed to have accepted, ratified, adopted and declared said agreements, promises, covenants and undertakings as personal covenants of such Lot Owner and such Lot Owner's heirs, personal representatives, successors and assigns to, with and for the benefit of the other Lot Owners.

C. As used herein, "Owner" or "Lot Owner" shall mean any record owner (including Declarant and including a contract seller, but excluding a contract purchaser), whether one or more persons, of a fee simple interest in or to any Lot, but excluding any such person having an interest therein merely as a mortgagee or beneficiary under a deed of trust, unless such mortgagee or beneficiary under deed of trust has acquired fee simple title thereto pursuant to foreclosure or any conveyance in lieu thereof. A person ceases to be an Owner upon conveyance of its Lot by deed. Such cessation of ownership shall not extinguish or otherwise void any unsatisfied obligation of such Owner existing or arising at or prior to the time of recording in the Records, of the instrument evidencing such conveyance.

ARTICLE II EASEMENT USE

A. The Easement was created to provide vehicular, pedestrian, and bicycle access to the Lots.

B. The Easement shall be for the non-exclusive use and benefit of the Lot Owners, their heirs, successors and assigns. Each Lot Owner shall have the right to use the Easement for the purposes set forth herein so long as such uses are not inconsistent with, and do not unreasonably interfere with, the use of the Easement by the other Lot Owners for the purposes set forth herein.

C. The Easement shall be appurtenant to fee simple title to each of the Lots and may not be conveyed, transferred or encumbered by any Lot Owner or any successor in interest separate from conveyance, transfer or encumbrance of fee simple title in and to the Lot Owner's Lot.

D. The right to use the Easement may be exercised only by Lot Owners and their guests, invitees, and licensees, ("Permitted Users"), and Lot Owners and their successors in interest shall not permit or suffer the use of the Easement by any person claiming by or through them, except for Permitted Users. The Lot Owners' use of the Easement shall be and hereby is limited to the following uses: vehicular, pedestrian, and bicycle ingress and egress to the Lots within the Property, maintenance, repair, and replacement of the Roadway, and for no other uses. Neither the Plat nor this Declaration shall be deemed to constitute a dedication for public use or to create rights in the general public in or to the Property, or any portion thereof.

E. The Lots Owners and the Permitted Users shall exercise the rights granted by the Plat and this Declaration in a safe and orderly manner and in compliance with all applicable laws, ordinances, governmental regulations, covenants, conditions, and restrictions, and without unreasonably interfering with the other Lot Owners' use of their Lots.

ARTICLE III EASEMENT MAINTENANCE

A. Should the Roadway be damaged or destroyed by the intentional act or the negligence of a Lot Owner (the "Responsible Lot Owner") or the Responsible Lot Owner's agent, contractor, employee, tenant, licensee, guest or invitee, such Responsible Lot Owner shall promptly repair or replace, as appropriate, the Roadway and shall compensate the Non-Responsible Lot Owner for any damages sustained to person or property as a result of such intentional or negligent act.

B. Should the Roadway be damaged or destroyed by causes other than the intentional act or negligence of a Lot Owner (or its agent, contractor, employee, tenant, licensee, guest or invitee), the damaged or destroyed Roadway shall be repaired or replaced at the joint expense of the Lot Owners as set forth below.

C. If any Lot Owner determines, using commercially reasonable judgment, that the Roadway is in need of maintenance, repair, or replacement, then the Lot Owners shall cooperate in good faith to perform such maintenance, repair, or replacement. In the event the Lot Owners cannot agree on the maintenance, repair, or replacement, the non-consenting Lot Owner(s) may exercise its rights to have the matter resolved by the Dispute Resolution procedure hereafter set forth in Article V.

D. The Lot Owners shall share all expenses incurred in connection with the maintenance, repair and replacement of the Roadway and any improvements associated therewith (collectively the "Costs"). The Costs shall be shared on the following basis:

Lot 17	46%
Lot 18	26%
Lot 19	28%

ARTICLE IV DURATION, AMENDMENT AND TERMINATION

The covenants, conditions and agreements contained in this Declaration shall run with the Property and be binding upon and inure to the benefit of all parties having any right, title, or interest in the Property, any Lot, or any portion thereof, their heirs, successors and assigns, forever. This Declaration may be amended or terminated upon the written consent of all Lot Owners and beneficiaries of first lien deeds of trust encumbering any of the Lots, in form acceptable for recordation in the Records, pursuant to law.

ARTICLE V DISPUTE RESOLUTION

A. Any dispute or controversy concerning the enforcement or interpretation of any of the provisions, covenants or restrictions of this Declaration shall first be submitted for resolution through mediation, arbitration or similar alternative dispute resolution technique before pursuing litigation, unless the action seeks relief for a problem which is reasonably considered to be of an emergency requiring immediate attention and resolution. The obligation first to pursue mediation or arbitration, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved within sixty (60) days from the date written notice first requesting mediation or arbitration is sent by one Lot Owner to the other Lot Owners, whether or not mediation or arbitration is actually held before a mediator or arbitrator. If any party in good faith believes the dispute or controversy is not suitable for such alternative dispute resolution techniques or such techniques do not provide results satisfactory to any of the parties thereto, any party may then proceed with litigation. In the event the opinion/ruling rendered by either a mediator, arbitrator or officiating party in the alternative dispute resolution process is not satisfactory to any of the parties thereto, said opinion shall not be final and binding upon the parties, and any of the parties shall have the option of instituting litigation in order to resolve the disputed issues; provided, however, that the dissatisfied party(s) must give the other party(s) written notice of its intent not to abide by the opinion/ruling resulting from such alternative dispute resolution proceeding on or before the expiration of thirty (30) days after the date of such opinion/ruling as a prerequisite to proceeding with litigation (the "Litigation Notice"). The failure to give the Litigation Notice shall be a bar to the commencement of litigation with respect thereto, in which case, the opinion/ruling rendered as a result of such alternative dispute resolution proceeding shall become binding and may thereafter be enforced through appropriate proceedings in the Circuit Court for Clackamas County, State of Oregon.

B. After making a good faith effort to resolve any dispute or controversy through alternative dispute resolution techniques as set forth in (A) above, and subject to the Litigation Notice requirement set forth above, either Lot Owner may maintain and prosecute any proceedings at law or in equity against any other Lot Owner or against any other persons violating or threatening to violate any of the provisions, covenants or restrictions contained in this Declaration, for injunctive relief, declaratory relief, specific performance, or for damages with respect thereto.

C. In the event of any litigation or arbitration concerning the enforcement or interpretation of any of the provisions, covenants or restrictions of this Declaration, including without limitation collection of monies owed, the prevailing party therein shall be entitled to recover its reasonable attorneys' fees, costs and expenses with respect thereto from the non-prevailing party, including reasonable attorneys' fees, costs and expenses with respect to the appeal and collection of any judgment as a result thereof.

ARTICLE VI MISCELLANEOUS

A. The provisions of this Declaration shall be in addition and supplemental to all other applicable provisions of law.

B. Except as otherwise specifically set forth herein, and to the extent allowed under state law, each Lot Owner will indemnify and hold the other Lot Owners harmless from any and all claims, liability, damages, and costs, including, without limiting the generality of the foregoing, court costs and reasonable attorney's fees, caused by, resulting from, or in any way arising out of the use of the Roadway or the Easement by the Lot Owner or any of its agents, employees, or any other person claiming by, through, or under the Lot Owner or any of its lessees, invitees, licensees, directors, officers, employees or agents,

C. Each Lot Owner shall maintain comprehensive general public liability and property damage insurance with respect to the Easement and Roadway against claims for personal injury (including death) and property damage in amount of \$1,000,000 joint combined limit from an insurance company licensed to do business in the State of Oregon. Such policies shall name the other Lot Owners as additional insureds. Any Lot Owner will furnish a requesting Lot Owner within ten (10) days of receipt of a written request for the same, which request may not be made more than twice in any one (1) calendar year, written verification from the insurance carrier for the Lot Owner that such coverage is in full force and effect.

D. Unless an Owner shall notify the other Owners of a different address, any notice required or permitted to be given under this Declaration to any Lot Owner or any other written communication to any Lot Owner shall be mailed to such Lot Owner, first class U.S. Mail, certified, return receipt requested, or hand delivered, or sent by

recognized overnight delivery service, prepaid, to the address of the Lot in question. If more than one person or entity owns a Lot, any notice or other written communication may be addressed to any one of such Owner and may be mailed in one envelope in accordance with the foregoing. Any notice or other written communication given hereunder shall be effective upon the earlier of: (i) three (3) days after deposit in the U.S. Mail as aforesaid; or (ii) upon delivery to the intended recipient.

E. This Declaration shall be binding upon and inure to the benefit of the Declarant and each Lot Owner and their respective heirs, personal representatives, successors and assigns.

F. The invalidity or unenforceability of any provision of this Declaration shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.

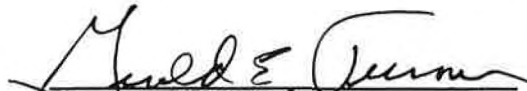
G. The captions and headings in this Declaration are for convenience only and shall not be considered in construing any provision of this Declaration.

H. Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision or waiver of any other provision in this Declaration.

I. Time is of the essence in the performance of the provisions, covenants and restrictions of this Declaration.

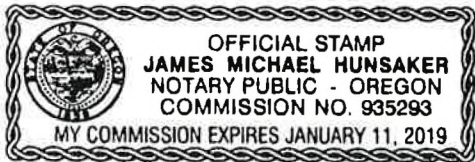
IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first above written.

DECLARANT:
PIONEER PROPERTY, LLC
An Oregon limited liability company


Gerald E. Turner, Member

STATE OF OREGON)
) ss.
COUNTY OF CLACKAMAS)

This instrument was acknowledged before me on 12/14, 2016, by Gerald E. Turner, as a member of Pioneer Property, LLC.



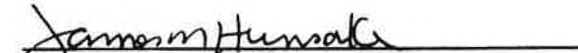
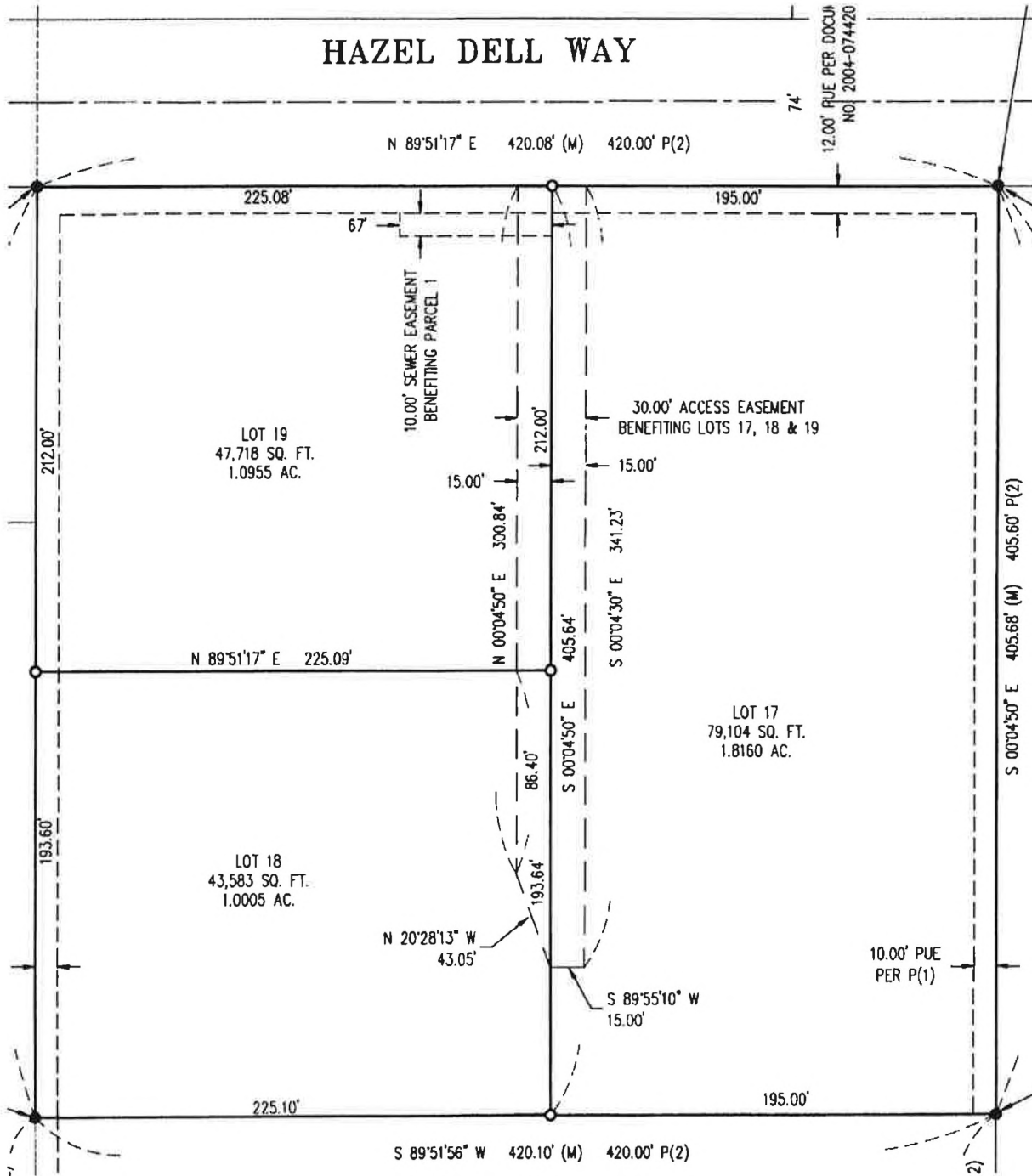

Notary Public - State of Oregon
My Commission Expires: 1/11/19

EXHIBIT A



GRANTOR'S NAME:
Pioneer Property, LLC, an Oregon limited liability company

GRANTEE'S NAME:
City of Canby, an Oregon municipal corporation

AFTER RECORDING RETURN TO:
City of Canby, an Oregon municipal corporation
PO Box 930, ATTN: City Administrator
Canby, OR 97013

SEND TAX STATEMENTS TO:
City of Canby, an incorporated Oregon municipality
PO Box 930, ATTN: City Administrator
Canby, OR 97013

05030907, 05030016, 31E34 04506 and 31E34 04506-E1
Lot 18, Burden No. 4 Partition Plat No. 4461 Book 146 Page 023,
Canby, OR 97013

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SPECIAL WARRANTY DEED - STATUTORY FORM
(INDIVIDUAL or CORPORATION)

Pioneer Property, LLC, an Oregon limited liability company, Grantor, conveys and specially warrants to City of Canby, an Oregon municipal corporation, Grantee, the following described real property free and clear of encumbrances created or suffered by the grantor except as specifically set forth below:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

The true consideration for this conveyance is Two Hundred Seventeen Thousand Nine Hundred Fifteen And No/100 Dollars (\$217,915.00).

Subject to:

1. Water Line Extension Agreement, including the terms and provisions thereof

Executed by: Canby Utility Board and Ray L. Burden
Recording Date: August 22, 2002
Recording No.: 2002-077467

Amendment(s)/Modification(s) of said agreement

Recording Date: November 30, 2005
Recording No: 2005-119531

2. Restrictions, but omitting restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said restriction is permitted by applicable law, as shown on that certain plat

Name of Plat: Burden No. 2

3. Restrictions, but omitting restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said restriction is permitted by applicable law, as shown on that certain plat

Name of Plat: Burden No. 3

4. Restrictions, but omitting restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said restriction is permitted by applicable law, as shown on that certain plat

Name of Plat: Burden No. 4

5. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat;

Purpose: Public utility
Affects: West 10 feet

Recorded by TICOR TITLE 30261600800

GRANTOR'S NAME:
Pioneer Property, LLC, an Oregon limited liability company

GRANTEE'S NAME:
City of Canby, an Oregon municipal corporation

AFTER RECORDING RETURN TO:
City of Canby, an Oregon municipal corporation
PO Box 930, ATTN: City Administrator
Canby, OR 97013

SEND TAX STATEMENTS TO:
City of Canby, an incorporated Oregon municipality
PO Box 930, ATTN: City Administrator
Canby, OR 97013

05030907, 05030016, 31E34 04506 and 31E34 04506-E1
Lot 18, Burden No. 4 Partition Plat No. 4461 Book 146 Page 023,
Canby, OR 97013

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SPECIAL WARRANTY DEED - STATUTORY FORM
(INDIVIDUAL or CORPORATION)

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The true consideration for this conveyance is Two Hundred Seventeen Thousand Nine Hundred Fifteen And No/100 Dollars (**\$217,915.00**).

Subject to:

1. Water Line Extension Agreement, including the terms and provisions thereof

Executed by: Canby Utility Board and Ray L. Burden
Recording Date: August 22, 2002
Recording No.: 2002-077467

Amendment(s)/Modification(s) of said agreement

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2. Restrictions, but omitting restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said restriction is permitted by applicable law, as shown on that certain plat

Name of Plat: Burden No. 2

3. Restrictions, but omitting restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said restriction is permitted by applicable law, as shown on that certain plat

Name of Plat: Burden No. 3

4. Restrictions, but omitting restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said restriction is permitted by applicable law, as shown on that certain plat

Name of Plat: Burden No. 4

5. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat;

Purpose: Public utility
Affects: West 10 feet

Recorded by TICOR TITLE 30261606880

6. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat;

Purpose: Access
Affects: 15 feet wide along portion of East lot line

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.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated 12-14-2016; if a corporate grantor, it has caused its name to be signed by order of its board of directors.

Pioneer Property, LLC, an Oregon limited liability company

BY: [Signature]
Gerald E. Turner, Member

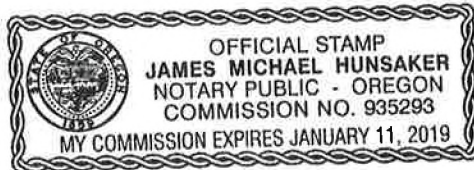
State of Oregon

County of CLATSOP

This instrument was acknowledged before me on DECEMBER 14, 2016

by Gerald E. Turner, Member of Pioneer Property, LLC, an Oregon limited liability company.

[Signature]
Notary Public - State of Oregon
My Commission Expires: 1/11/19



City of Canby, an Oregon municipal corporation, acting by and through its City Council, approves this conveyance and accepts the title conveyed.

Dated this 14 day of December, 2016.

City of Canby, an Oregon municipal corporation

Amanda Zeiber
Name: Amanda Zeiber

Title: Assistant City Administrator

STATE OF OREGON)
County of CLACKAMAS) ss.

This instrument was acknowledged before me on December 14, 2016, by
Amanda Zeiber as Representative of the City of Canby, on
its behalf.

Kimberly D. Scheaffer
Notary Public for Oregon
My commission expires: 12-3-2018

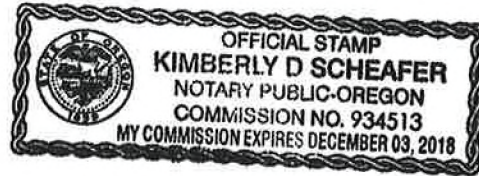


EXHIBIT "A"
Legal Description

Lot 18, BURDEN NO. 4, in the City of Canby, County of Clackamas and State of Oregon, said plat recorded August 18, 2016 as Fee No. 2016-055994 (Map Page 4461).

TOGETHER WITH an easement for access as delineated on said plat of BURDEN NO. 4.



Bob Vroman
County Assessor

DEPARTMENT OF ASSESSMENT AND TAXATION

Development Services Building
150 Beavercreek Road | Oregon City, OR 97045

CERTIFICATE OF TAXES PAID

RE: Property Tax Account #05030016
Assessor's Map #3 1E 34, Tax Lot 04506E1
Situs: 185 Hazel Dell Way - Canby, Oregon

As of this date, all taxes, fees, assessment or other charges as provided by Oregon Revised Statute 311.411 on the parcel referenced above have been paid in full.

Payer: n/a - This portion of Tax Lot 04506 has been exempt from property taxation pursuant to a claim filed by the City of Canby in 2015; no taxes have been levied.

Amount Paid: \$ _____

Date Paid: _____

Assessor/Deputy

December 14, 2016

Date



Bob Vroman
County Assessor

DEPARTMENT OF ASSESSMENT AND TAXATION

Development Services Building
150 Beavercreek Road | Oregon City, OR 97045

RE: Property Tax Account #05030907
Assessor's Map #3 1E 34. Tax Lot 04506
New subdivision account out of 3 1E 34, Tax Lots 04503 and 04504

As of this date, all taxes, fees, assessment or other charges as provided by Oregon Revised Statute 311.411 on the parcel referenced above have been paid in full.

Payer: Pioneer Property LLC
Amount Paid: \$8,247.65
Date Paid: August 18, 2016



Assessor/Deputy

December 14, 2016
Date