

183601



Recorded By  
First American Title Insurance Company of Oregon  
No. 1535757 TO

After recording return to:  
City of Portland  
Attn: Shannah Anderson, 1120 SW  
5th Avenue, Room #1000  
Portland, OR 97204

Until a change is requested all tax statements shall be sent to the following address:  
City of Portland  
Attn: Shannah Anderson, 1120 SW 5th Avenue, Room #1000  
Portland, OR 97204  
File No.: 7191-1535757 (CGF)  
Date: March 03, 2010

THIS SPACE RESERVED FOR RECORDER'S USE

Multnomah County Official Records  
C Swick, Deputy Clerk 2010-040562



00648038201000405620030035 \$46.00

1R-W DEED 03/31/2010 11:11:47 AM  
\$15.00 \$11.00 \$15.00 \$5.00 Cnt=1 Stn=38 ATMWB

### STATUTORY SPECIAL WARRANTY DEED


**LibertyBank**, Grantor, conveys and specially warrants to **City of Portland, a municipal corporation**, Grantee, the following described real property free of liens and encumbrances created or suffered by the Grantor, except as specifically set forth herein:

**This property is free from liens and encumbrances, EXCEPT:**

1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

The true consideration for this conveyance is **\$225,000.00**. (Here comply with requirements of ORS 93.030)

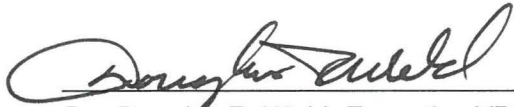
APPROVED AS TO FORM  
  
CITY ATTORNEY

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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, OF CHAPTER 424, OREGON LAWS 2009. 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, OF CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

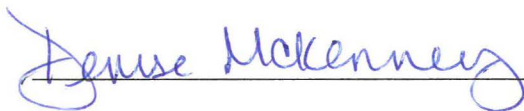
Dated this 3 day of March, 2010.

LibertyBank

  
By: Douglas R. Weld, Executive VP and  
Chief Lending Officer

STATE OF Oregon )  
 )ss.  
County of Lane )

This instrument was acknowledged before me on this 3 day of March, 2010 by Douglas R. Weld as Executive Vice President and Chief Lending Officer of LibertyBank, on behalf of the Bank.



Notary Public for Oregon  
My commission expires: 08/03/2013



**EXHIBIT A**

**LEGAL DESCRIPTION:** Real property in the County of Multnomah, State of Oregon, described as follows:

**A TRACT OF LAND LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, STATE OF OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGINNING AT A FOUND 1-3/4" X 1/2" IRON BAR MARKING THE MOST NORTHEASTERLY CORNER OF LOT 4 "ASPEN SUMMIT VILLAGE NO. 2", (BOOK 1245, PAGES 29 THROUGH 33); THENCE RUNNING ALONG THE NORTH LINE OF SAID LOT 4, NORTH 87° 37' 46" WEST A DISTANCE OF 344.87 FEET; THENCE LEAVING SAID NORTH LINE NORTH 00° 01' 45" EAST A DISTANCE OF 497.11 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF MT. SCOTT BLVD.; THENCE RUNNING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTH 70° 40' 54" EAST A DISTANCE OF 183.90 FEET; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY LINE SOUTH 16°33'57" EAST A DISTANCE OF 61.69 FEET; THENCE SOUTH 9°00'40" WEST A DISTANCE OF 45.16 FEET; THENCE SOUTH 70°40'54" EAST A DISTANCE OF 122.74 FEET; THENCE NORTH 19°19'06" EAST A DISTANCE OF 94.41 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID MT. SCOTT BLVD.; THENCE RUNNING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTH 70°40'54" EAST A DISTANCE OF 56.26 FEET TO A POINT OF CURVE ON SAID RIGHT-OF-WAY LINE; THENCE ALONG THE ARC OF A 1462.50 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 1°25'05" A DISTANCE OF 36.20 FEET TO A POINT (CHORD BEARS SOUTH 71°23'27" EAST A DISTANCE OF 36.20 FEET); THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTH 00°01'19" EAST A DISTANCE OF 413.29 FEET TO A FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP INSCRIBED "REPPETO LS 657" SAID POINT BEING ON THE NORTH LINE OF TRACT "G" OF THE PLAT OF "ASPEN SUMMIT VILLAGE" (BOOK 1242, PAGES 44-51); THENCE RUNNING ALONG SAID NORTH LINE AND THE NORTH LINE OF THE PLAT OF "ASPEN SUMMIT VILLAGE NO. 2" SOUTH 89°55'26" WEST A DISTANCE OF 74.82 FEET TO A FOUND 1 3/4 X 1/2" IRON BAR BEING AN ANGLE POINT IN SAID PLAT BOUNDARY; THENCE NORTH 00°33'20" EAST A DISTANCE OF 48.25 FEET TO THE POINT OF BEGINNING.**

**NOTE:** This legal description was created prior to January 01, 2008.

## AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (the "Agreement") is made and entered into as of the last date of signature indicated below (the "Effective Date"), by and between **Liberty Bank, an Oregon chartered bank** (the "Seller") and the City of Portland, a municipal corporation (the "City").

### RECITALS

A. The Seller recently acquired title via a deed in lieu of foreclosure to **3.94** acres of real property, described as **Tax Lot 5500, Section 21DA 1S 2E**, Multnomah County, OR, together with the improvements thereon, if any, and all rights appurtenant thereto owned by Seller, including but not limited to access rights, timber rights, water rights, grazing rights, development and mineral rights (hereinafter referred to as the "Property", more particularly described in Exhibit A, attached hereto and incorporated herein.

B. The City desires to purchase from the Seller and the Seller desires to sell and convey to the City, all right, title and interest in the Property. The terms of this Agreement are as follows:

### TERMS

1. **Purchase and Sale.** The Seller agrees to sell and convey to the City and City agrees to purchase from the Seller, the Property upon the terms and conditions set forth in this Agreement.
2. **Purchase Price and Other Consideration.** The Purchase Price for the Property shall be TWO HUNDRED TWENTY THOUSAND DOLLARS (\$225,000.00)
3. **Payment of Purchase Price.** The Purchase Price shall be payable as follows:
  - a) Deposit. Within five (5) business days after execution of this Agreement, City shall deposit into escrow the sum of Ten Thousand Dollars (\$10,000.00) ("Escrow Deposit"), to **First American Title Company of Oregon** ("Escrow Holder" and "Title Company"), **600 Country Club Road, Eugene, Oregon.** At Closing, the Escrow Deposit, together with interest on it, if any, shall be credited toward payment of the Purchase Price.
  - b) Cash Balance. On or before the closing date, City shall deposit into escrow the cash, a wire transfer of funds, a certified check, or a cashier's check, in the amount of \$215,000.00, the balance of the Purchase Price.
4. **Closing Date.**

This transaction shall close on or before March 1, 2010, or as soon thereafter as reasonably possible, unless otherwise extended as set forth in Section 5 below.
5. **Conditions Precedent to Closing.**
  - a) Conditions Precedent to City's Obligations. In addition to any other conditions prior to City's obligation to acquire the Property. These conditions are intended solely for City's benefit and City shall have the sole right and discretion to waive, by written notice, any of the conditions. In the event any condition is not satisfied or waived on or before Closing, or other date as set forth herein, City shall have the right to terminate this Agreement.

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- i) City Council Approval. This Agreement is expressly conditioned upon the formal approval by the City Council, in the form of a resolution or ordinance, of the terms and conditions set forth in this Agreement. If the City Council has not authorized and approved the Agreement by the Closing Date, then the Closing Date may be extended by City for a 30-day period upon tender of a non-refundable Extension Fee by City to Seller in the sum of \$5,000.00 so that City Council approval may be pursued. The Extension Fee shall be applied to the Purchase Price, provided the Closing occurs on or prior to March 31, 2010. In the event the transaction fails to close on or prior to March 31, 2010 as a result of City and/or City Council's failure to authorize and approve this Agreement, the Extension Fee and Escrow Deposit shall become non-refundable, and shall be retained by Seller.
- ii) Title. At Closing, the Seller shall convey fee simple title to the Property by special warranty deed. Title shall be good and marketable and shall be insurable as such at ordinary rates pursuant to an ALTA standard owner's title insurance policy issued at Closing by the Title Company free and clear of all liens and encumbrances except for the Permitted Exceptions (defined below).
- iii) Title Report. Within fifteen (15) days following the Effective Date of this Agreement, City shall order a preliminary Title Report covering the Property, together with legible copies of all plats and exceptions to title referenced in the Title Report. Within fifteen (15) days of receiving the Title Report and the Exceptions documents, or within twenty (20) days of the Effective Date, whichever is later, City shall give written notice to seller of the exceptions to title that City shall require Seller to remove of record at or before Closing (the "Unacceptable Exceptions"). Exceptions to title not objected to are referred to as "Permitted Exceptions". Seller shall thereafter have fifteen (15) days to use its best efforts to remove such exceptions at Seller's sole cost or inform City in writing that it is unable to remove any such exception. All new exceptions to title appearing on subsequent title reports shall be considered unacceptable, unless accepted in writing by City. If for any reason Seller cannot remove any of the Unacceptable Exceptions before Closing, then City may elect to either:
- (a) accept title to the Property subject to such exceptions;
  - (b) waive its objection in writing to Seller and elect to have any monetary lien or encumbrance removed at Closing to the extent that it can be satisfied and removed by application of all or a portion of the Purchase Price payable to seller at Closing;
  - (c) refuse to accept the Property and terminate this Agreement, in which case the Escrow Deposit shall be refunded to City; or
  - (d) extend the Closing date for a 30-day period so that Seller may have additional time to remove the unwanted exceptions, and, if

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at the end of the 30-day period, the exceptions have not been removed, City may elect either (iii)(a), (b), or (c) above.

- iv) Environmental Review. Before Closing, City may, at its expense, engage consultant, surveyors or engineers of City's choosing to conduct consultants, surveyors or engineers or City's choosing to conduct environmental studies, soil analyses survey and appraisals of the Property as City in its sole discretion deems necessary. Within ten (10) days after the Effective Date, Seller shall deliver to City a copy of all environmental studies or analyses relating to the Property within its possession or control. City or its agents shall have the right to enter the Property at reasonable times before Closing to make such tests, inspections, soil analyses studies, surveys, appraisals and other investigations as City may require, at City's sole discretion. Seller shall cooperate with City in making such tests and studies. Any area disturbed by such tests and studies shall be restored by City, at City's expense, to its pre-inspection condition. It shall be a condition to Closing that the results of such environmental studies, surveys or analyses be acceptable to City in its sole discretion. If City notifies Seller prior to Closing Date that City cannot accept the Property due to the results of its investigation under this section, the Closing Date may be extended by mutual written agreement of City and Seller for a 30-day period so that Seller and City may address the results of the investigation. If, at the end of the 30-day period, City and Seller have not reached an agreement regarding the items disclosed in the investigation, then City may, at its option and upon written notice to Seller, terminate this Agreement of Purchase and Sale, in which case the escrow money shall be refunded to City. It is expressly agreed that under no circumstances shall Seller assume any responsibility or obligation to undertake any remedial efforts requested by the City, and that City's sole remedy in the event it is unsatisfied with the results of any environmental study, survey or analysis shall be the termination of this Agreement.
- v) Representations, Warranties, and Covenants of Seller. The Seller shall have duly performed every act to be performed by the Seller hereunder and the Seller's representations, warranties, and covenants set forth in this Agreement shall be true and correct as of the Closing Date.
- vi) No Material Changes. At the Closing Date, there shall have been no material adverse changes related to or connected with the Property.
- vii) Seller's Deliveries. The Seller shall have timely delivered each item to be delivered by the Seller pursuant to this Agreement.
- viii) Title Insurance. As of the close of the escrow, the Escrow Holder shall have issued or committed to issue the title policy to City.
- ix) Taxes. Seller agrees that all taxes, assessments and encumbrances that will be a lien against the Property at Closing, whether or not those charges would constitute a lien against the Property at settlement, shall be satisfied of record by Seller. If Seller fails to do so, City may pay any

such tax, assessment, encumbrance or other charge and deduct an amount equal to any such payment from the Purchase price of the Property. Regular real property taxes payable during the year in which Closing occurs and any rents or income applicable to the Property shall be prorated as of Closing.

b) Conditions Precedent to Seller's Obligations. The close of escrow and the Seller's obligations with respect to the transactions contemplated by this Agreement are subject to City's delivery to the Escrow Holder on or before the Closing Date, for disbursement as provided herein, of the Purchase Price and the documents and materials described in Paragraph 6(b).

c) Failure of Conditions to Closing. Except as otherwise provided in Section 5(a)(i), in the event any of the conditions set forth in Section 5(a) or (b) are not timely satisfied or waived, for a reason other than the default of City or the Seller under this Agreement:

- i) This Agreement, the escrow, and the rights and obligations of City and the Seller shall terminate, except as otherwise provided herein; and
- ii) The Escrow Holder is hereby instructed to promptly return to the Seller and City all funds and documents deposited by them, respectively, in escrow that are held by the Escrow Holder on the date of the termination.

d) Cancellation Fees and Expenses. In the event the escrow terminates because of the non-satisfaction of any condition for a reason other than the default of the Seller under this Agreement, the cancellation charges required to be paid by and to the Escrow Holder shall be borne by City. In the event this escrow terminates because of the Seller's default, the cancellation charges required to be paid by and to the Escrow Holder shall be borne by the Seller.

## 6. Deliveries to Escrow Holder.

a) By Seller. On or before the Closing Date, the Seller shall deliver the following in escrow to the Escrow Holder:

- i) Deed. A special warranty deed duly executed and acknowledge in recordable form by the Seller, conveying the Property to City subject only to the special exceptions acceptable to City as established under Section 5 of this Agreement, and any other matters that may be approved in writing by City.
- ii) Nonforeign Certification. The Seller represents and warrants that it is not a "foreign person" as defined IRS § 1445.
- iii) Proof of Authority. Such proof of the seller's authority and authorization to enter into this Agreement and consummate the transaction contemplated by it and such proof of the power and

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authority of the persons executing and/or delivering any instruments, documents, or certificate son behalf of the Seller to act for and bind the Seller, as may be reasonably required by the Escrow Holder and/or City.

iv) Lien Affidavits. Any lien affidavits or mechanic's lien indemnifications as may be reasonably requested by the Escrow Holder in order to issue the title policy.

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

b) By City. On or before the Closing Date, City shall deliver the following in escrow to the Escrow Holder:

i) Purchase Price. The Purchase Price in accordance with Section 6 above.

ii) Proof of Authority. Such poof of City's authority and authorization to enter into this Agreement and consummate the transaction contemplated by it, and such proof of the power and authority of the persons executing and/or delivering any instruments, documents, or certificates on behalf of City to act for and bind City, as may be reasonably required by the Escrow Holder and/or the Seller.

**7. Deliveries to City at Closing.** The Seller shall deliver exclusive possession of the Property to City at close of escrow.

**8. Title Insurance.** At Closing the Seller shall provide at the City's expense. A standard owner's ALTA title insurance policy in the full amount of the Purchase Price specified above, insuring fee simple title vested in City or its nominees, subject only to the Permitted Exceptions as established under Section 5 of this Agreement.

**9. Costs.** City shall pay closing costs, including escrow fee, recording fees, government service charges, title insurance policy and other customary expense incurred in escrow as a result of closing comparable real estate transactions. The City and Seller shall each pay its own legal and professional fees of other consultant(s) incurred by the City and Seller respectively.

**10. Seller's Representations and Warranties.** Seller hereby warrants and represents to City the following matters, and acknowledges that they are material inducements to City to enter into this Agreement. Seller agrees to indemnify, defend, and hold City harmless from all expense, loss, liability, damages and claims, including attorneys' fees, arising out of the breach or falsity of any of Seller's representations, warranties and covenants. These representations, warranties and covenants shall survive Closing. Seller warrants and represents to City that the following maters are true and correct, and shall remain true and correct through Closing.

a) Authority. Seller has full power and authority to enter into this Agreement (and the persons signing this Agreement for Seller, if Seller is not an





individual, have full power and authority to sign for seller and to bind it to this Agreement) and to sell, transfer and convey all right, title, and interest in and to the Property in accordance with this Agreement

- b) Legal Access. To the best of seller's knowledge, the Property has insurable vehicular access to a public road.
- c) Contracts, Lease, Rights Affecting Property. Seller has not entered into, and will not enter into, any other contracts for the sale of the Property, nor do there exist nor will there be any rights of first refusal, options to purchase the Property leases, mortgages, licenses, easements, prescriptive rights, permits, or other rights or agreement, written or oral, express or implied, which in any way affect or encumber the Property or any portion thereof aside from those items of record as reflected in the Preliminary Title Report. The Seller has not sold, transferred, conveyed or entered into any agreement regarding timber rights, mineral rights, water rights, "air rights," or any other development or other rights or restrictions, relating to the Property, and to seller's knowledge no such rights encumber the Property, and will not through Closing.
- d) No Legal Proceedings. There is no suit, action arbitration, judgment, legal, administrative, or other proceeding, claim, lien or inquiry pending or threatened against the Property, or any portion thereof, or pending or threatened against Seller which could affect Seller's right or title to the Property, or any portion thereof, affect the value of the Property or any portion thereof, or subject an owner of the Property, or any portion thereof, to liability.
- e) Mechanic's and Other Liens. No work on the Property has been done or will be done or materials provided, giving rise to actual or impending mechanic's liens, private liens, or any other liens, against the Property or any portion thereof.
- f) Public Improvements or Governmental Notices. To the best of seller's knowledge, there are no intended public improvements which will result in the creation of any liens upon the Property or any portion thereof, nor have any notices or other information been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the Property or any portion thereof.
- g) Breach of Agreements. The execution of this Agreement will not constitute a breach or default under any agreement to which Seller is bound or to which the Property is subject.
- h) Possession. Seller will be able to deliver immediate and exclusive possession of the entire Property to City at the close of escrow, and no one other than Seller will be in possession of any portion of the Property immediately prior to close of escrow.
- i) Bankruptcy Proceedings. No attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or, to the best of Seller's knowledge, threatened against the Seller, nor are any such proceedings contemplated by Seller.
- j) Recitals. The statements and information set forth in the Recitals are true and correct.

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k) Changed Conditions. If Seller discovers any information or facts that would materially change the foregoing warranties and representations, Seller shall immediately give notice to City of those facts and information. If any of the foregoing warranties and representations ceases to be true before the close of escrow, Seller shall be obligated to use its best efforts to remedy the problem, at its sole expense, before the close of escrow. If the problem is not remedied before close of escrow, City may elect to either: (a) terminate this Agreement in which case City shall have no obligation to purchase the Property and all escrow payments shall be refunded to City, or (b) defer the Closing Date for a period not to exceed thirty (30) days or until such problem has been remedied, whichever occurs first. If the problem is not remedied within that timeframe, City may elect to terminate this Agreement and receive a refund of its escrow deposit, which election shall be City's sole remedy.

**l) "AS-IS": EXCEPT FOR SELLER'S EXPRESS WRITTEN AGREEMENTS AND WRITTEN REPRESENTATIONS CONTAINED HEREIN, CITY IS PURCHASING THE PROPERTY "AS-IS", IN ITS PRESENT CONDITION, AND WITH ALL DEFECTS, APPARENT OR NOT APPARENT.**

**11. Seller's Representation, Warranties and Covenants Regarding the Property through the Close of Escrow.** The Seller further represents, warrants, and covenants that, until this transaction is closed or escrow is terminated, whichever occurs first, it shall:

- a) Maintain the Property in its present state, with no tree cutting, timber harvesting, or alteration of the Property in anyway;
- b) Keep all existing insurance policies affecting the Property in full force and effect;
- c) Comply with all government regulations; and
- d) Keep City timely advised of any repair or improvement required to keep the Property in substantially the same condition as when inspected by City.

**12. Deferred Taxes.** If the Property is subject to farm or forest deferred taxes, Seller shall have no obligation or responsibility for said deferred taxes, unless the Property becomes disqualified for or loses its deferred tax status as a result of Seller's actions prior to Closing in which case such taxes shall be Seller's responsibility.

**13. City's Representations and Warranties.** In addition to any express agreements of City contained here, the following constitute representations and warranties of City to the Seller:

- a) Subject to City Council approval and the conditions stated herein, City has the legal power, rights, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transactions contemplated here;
- b) Subject to City Council approval and the conditions stated herein, all requisite action has been taken by City in connection with entering into this Agreement and the instruments referred to herein and the consummation of the transactions contemplated here; and

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c) Subject to City Council approval and the conditions state herein, the persons executing this Agreement and the instruments referred to herein on behalf of City have the legal power, rights, and actual authority to bind City to the terms and conditions of this Agreement.

14. **Risk of Loss, Condemnation.** Seller shall bear the risk of all loss or damage to the Property from all causes, through the Closing Date. If, before the Closing Date all or part of the Property is damaged by fire or by any other cause of any nature or if all or any portion of the Property is taken by condemnation, or if any such condemnation is threatened, Seller shall give City written notice of such event. City may terminate this Agreement by giving written notice to Seller within fifteen (15) days following receipt by City of written notice from seller of such casualty or condemnation and Escrow Holder will return to City the Escrow Deposit and accrued interest.

15. **Notices.** All notices required or permitted to be given shall be in writing and shall be deemed given and received upon personal service or deposit in the United States mail, certified or registered mail, postage repaid, return receipt requested, addressed as follows:

To Seller: Liberty Bank  
Attn: Robin Oberg  
355 Goodpasture Island Rd., Suite 200  
Eugene, OR 97408

With copy to:

Andrew P. Parks  
P.O. Box 1758  
Eugene, OR 97440-1758

To Buyer: City of Portland  
Bureau of Environmental Services  
Shannah Anderson  
1120 SW 5<sup>th</sup> Avenue, Room #1000  
Portland OR 97204

The foregoing addresses may be changed by written notice, given in the same manner. Notice given in any manner other than the manner set forth above shall be effective when received by the party for whom it is intended.

16. **Broker Relationship/Fee.** Both City and Seller acknowledge having received the Oregon Real Estate Agency Disclosure Pamphlet and the Final Agency Acknowledgement, attached as Exhibit C hereto. Seller shall be responsible for broker commission associated with this transaction and shall indemnify, hold harmless and defend City from and against any claim for broker commission based on any action, agreement, or representations made by Seller. City shall indemnify, hold harmless, and defend Seller from and against any such claim if based on any action, agreement, or representations made by City.

17. **Further Actions of City and Seller.** City and Seller agree to execute all such instruments and documents and to take all actions pursuant to the provisions of this Agreement in



order to consummate the purchase and sale contemplated and shall use their best efforts to accomplish the close of escrow in accordance with the provisions hereof.

19. **Legal and Equitable Enforcement of This Agreement.**

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

b) Default by City. In the event the close of escrow and the consummation of the transaction herein contemplated do not occur by reason of any default by City, City and the Seller agree that it would be impractical and extremely difficult to estimate the damages that the Seller may suffer. Therefore, City and the Seller agree that a reasonable total net detriment that the Seller would suffer in the event that City defaults and fails to complete the purchase of the Property is and shall be, and the Seller's sole and exclusive remedy (whether at law or in equity), an amount equal to the Escrow Deposit and Extension Fee, if any. This amount shall be the full, agreed, and liquidated damages for the breach of this Agreement by City, all other claims to damage or other remedies being herein expressly waived by the Seller, except for City's failure to return the Property to its pre-inspection condition as a result of any testing City elects to perform on the Property prior to closing, including but not limited to, any liens filed against the Property as a result thereof. The payment of this amount as liquidated damages is not intended as a forfeiture or penalty, but is intended to constitute liquidated damages to the Seller. Upon default by City, this Agreement shall be terminated and neither party shall have any further rights or obligations under it, each to the other, except for the right of the Seller to collect such liquidated damages from City and the Escrow Holder.

20. **Miscellaneous.**

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

b) Waivers. No waiver of any breach of any covenant or provision contained herein shall be deemed a waiver of any proceeding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

c) Survival of Representations. The covenants, agreements, representations, and warranties made herein shall survive the close of escrow and shall not merge into the deed and the recordation of it in the official records.

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- d) Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the successors and assigns of the parties to it. City may assign its interest in this Agreement to a park entity without the consent of Seller. In the event that an assignee assumes the obligations of City hereunder, then City shall have no further liability with respect to this Agreement.
- e) Entire Agreement. This Agreement (including any exhibits attached to it) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter of the Agreement and supersedes all prior understandings with respect to it. This Agreement may not be modified or terminated, nor may any obligations under it be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein.
- f) Time of Essence. The Seller and City hereby acknowledge and agree that time is strictly of the essence with respect to every term, condition, obligations, and provision.
- g) Governing Law. The parties acknowledge that this Agreement has been negotiated and entered into in the state of Oregon. The parties expressly agree that this Agreement shall be governed by and interpreted in accordance with the laws of the state of Oregon.
- h) Recording Memorandum. At the Effective Date the parties will execute a Memorandum of this Agreement, which City may cause to be recorded against the Property.

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. BEFORE SIGNING OR ACCTPING 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 ESTBALISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 214.010, 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.

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

**Buyer:**  
 City of Portland  
 an Oregon Municipal Corporation  
 By: Dean Mauk  
 Title: BES Director  
 Date: 3/19/10  
 MAS MK MW

**Seller:**  
 Liberty Bank, an Oregon chartered bank  
 By: [Signature]  
 Title: Vice-President  
 Date: 2/11/10

Approved as to Form:  
*Pete Costing*  
\_\_\_\_\_, Senior Deputy City Attorney

Attachments:

- Exhibit A – Property Description
- Exhibit B – Form of Memoranda
- Exhibit C – Final Agency Acknowledgement

**EXHIBIT A**  
**Property Description**

**A TRACT OF LAND LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, STATE OF OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGINNING AT A FOUND 1-3/4" X 1/2" IRON BAR MARKING THE MOST NORTHEASTERLY CORNER OF LOT 4 "ASPEN SUMMIT VILLAGE NO. 2", (BOOK 1245, PAGES 29 THROUGH 33); THENCE RUNNING ALONG THE NORTH LINE OF SAID LOT 4, NORTH 87° 37' 46" WEST A DISTANCE OF 344.87 FEET; THENCE LEAVING SAID NORTH LINE NORTH 00° 01' 45" EAST A DISTANCE OF 497.11 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF MT. SCOTT BLVD.; THENCE RUNNING ALONG SAID SOUTHERLY RIGHT-OF-WAY SOUTH 70° 40' 54" EAST A DISTANCE OF 183.90 FEET TO THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND BEING HEREIN DESCRIBED; THENCE CONTINUING SOUTH 70° 40' 54" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 166.98 FEET; THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTH 19° 19' 06" WEST A DISTANCE OF 94.41 FEET; THENCE NORTH 70° 40' 54" WEST A DISTANCE OF 122.74 FEET; THENCE NORTH 9° 00' 40" EAST A DISTANCE OF 45.16 FEET; THENCE NORTH 16° 33' 57" WEST A DISTANCE OF 61.69 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF MT. SCOTT BLVD. AND THE POINT OF BEGINNING.**

**When recorded, mail to:**

City of Portland  
Shannah Anderson  
1120 SW 5<sup>th</sup> Avenue, Room #1000  
Portland OR 97204

**EXHIBIT B  
MEMORANDUM OF PURCHASE AND SALE AGREEMENT**

This is a memorandum of a certain Agreement of Purchase and Sale ("Agreement") between Liberty Bank, an Oregon chartered bank ("Seller"), and the City of Portland, an Oregon municipal corporation ("City") signed by Seller on February 11, 2009. By said Agreement, Seller has agreed to sell to City Seller's interest in that certain real property in Multnomah County, described in Exhibit A attached hereto and incorporated herein by this reference. If not earlier paid, all amounts owed under the Agreement shall be due and payable 60 days after the Effective Date as set forth in the Agreement, if Closing is not otherwise extended as provided for therein. The actual and true consideration for the conveyance at Closing will be \$225,000.00.

IN WITNESS WHEREOF, the parties have caused this memorandum to be executed as of the day and year first above written.

**SELLER:**

[Handwritten Signature]

By: Robin Oberg Vice President

State of Oregon )

ss.

County of Lane )

On this 11<sup>th</sup> day of February, 2009, before me Denise McKenney  
The undersigned Notary Public, personally appeared Robin Oberg  
LibertyBank VP personally known to me (or  
proved to be on the basis of satisfactory evidence) to be the person(s) whose name(s) is (are)  
subscribed to this instrument, and acknowledged that he (she or they) executed it.

Denise McKenney  
My Commission Expires: 08/03/2013





EXHIBIT C

FINAL AGENCY ACKNOWLEDGMENT

Both Buyer and Seller acknowledge having received the Oregon Real Estate Agency Disclosure Pamphlet, and hereby acknowledge and consent to the following agency relationships in this transaction:

(1) Sue O'Halloran (Name of Selling Licensee) of Kohler Meyers O'Halloran, Inc. (Name of Real Estate Firm) is the agent of (check one):  Buyer exclusively ("Buyer Agency").  Seller exclusively ("Seller Agency").  Both Buyer and Seller ("Disclosed Limited Agency").

(2) Sharon Berger (Name of Listing Licensee) of The Hasson Company, Realtors (Name of Real Estate Firm) is the agent of (check one):  Seller exclusively ("Seller Agency").  Both Buyer and Seller ("Disclosed Limited Agency").

(3) If both parties are each represented by one or more Licensees in the same Real Estate Firm, and Licensees are supervised by the same principal broker in that Real Estate Firm, Buyer and Seller acknowledge that said principal broker shall become the disclosed limited agent for both Buyer and Seller as more fully explained in the Disclosed Limited Agency Agreements that have been reviewed and signed by Buyer, Seller and Licensee(s).

Buyer shall sign this acknowledgment at the time of signing this Agreement before submission to Seller. Seller shall sign this acknowledgment at the time this Agreement is first submitted to Seller, even if this Agreement will be rejected or a counter offer will be made. Seller's signature to this Final Agency Acknowledgment shall not constitute acceptance of this Agreement or any terms therein.

Buyer: City of Portland, an Oregon municipal corporation

Seller: Liberty Bank, an Oregon chartered bank

By: *Don Mans* Date: 3/19/10  
*MCMAS ML*

By: *[Signature]* Date: 3/17/10



**AMENDMENT TO AGREEMENT OF PURCHASE AND SALE**

An Agreement of Purchase and Sale was made and entered into February 11, 2010, by and between **Liberty Bank**, an Oregon chartered bank, as Seller, and the **City of Portland**, a municipal corporation, as Buyer, for the purchase and sale of real property known as Tax Lot 5500, section 1S2E21DA, Multnomah County, OR.

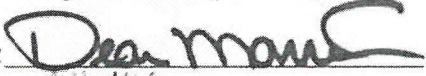
Seller and Buyer hereby agree to the following Amendments to the Agreement of Purchase and Sale:

**Property Description:** Property to be conveyed per the legal description in the Estoppel Deed issued to Liberty Bank July 20, 2009. See attached Estoppel Deed hereinafter known as Exhibit D.

**Closing Date:** This transaction shall close on or before March 31, 2010, or as soon thereafter as reasonably possible, unless otherwise extended as set forth in the aforementioned Agreement.

**Buyer:**

City of Portland  
An Oregon Municipal Corporation

By:   
MANK

Title: Director, BES

Date: 3/9/10

**Seller:**

Liberty Bank  
An Oregon Chartered Bank

By: 

Title: Executive Vice President

Date: 3/10/10

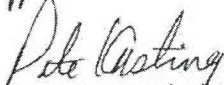
Approved as to Form:  
  
Pete Crating  
Deputy City Attorney

Exhibit D

20  
12  
20

After recording return to:  
Andrew P. Parks  
Arnold Gallagher Saydack et al  
800 Willamette Street, Suite 800  
Eugene, OR 97401

Multnomah County Official Records  
C Swick, Deputy Clerk

2009-107748



\$36.00

00535383200901077480040040

07/28/2009 03:59:23 PM

1R-ESTPCERT  
\$20.00 \$11.00 \$5.00

Cnt=1 Str=29 ATMCS

Until a change is requested, send tax  
statements to:

Robin Oberg, Vice President  
LibertyBank  
P.O. Box 10426  
Eugene, OR 97440

Tax Account #

**ESTOPPEL DEED**  
(Non-Merger)

THIS INDENTURE between Brandon L. Hotchkiss & Melanie L. Hotchkiss, as tenants by the entirety, as to a 50% interest, and George M. Crawford, as to a 50% interest, all as tenants in common, hereinafter collectively referred to as the Grantor, and LibertyBank, hereinafter called the Grantee;

WHEREAS, the title to the real property hereinafter described is vested in fee simple in the Grantor, subject to the lien of a trust deed recorded in the Official Microfilm Records of Multnomah County, Oregon, as Instrument No. 2007-059206, reference to said Official Records hereby being made, and the indebtedness secured by said trust deed as evidenced by a Promissory Note in favor of Grantee, on which indebtedness there is now due and owing and unpaid the principal sum of approximately \$325,000.00, plus accrued interest on the foregoing through June 29, 2009 in the amount of \$7,431.83, together with interest continuing to accrue on the principal sum at the rate of \$83.51/day until paid, the same being now in default;

WHEREAS, Grantor, being unable to pay the same, has requested the Grantee to accept a deed of conveyance of the property in consideration of the covenants and agreements of Grantee set forth herein;

NOW, THEREFORE, for the consideration hereinafter stated, Grantor does hereby grant, bargain, sell and convey unto Grantee and to Grantee's successors and assigns all of the following described real property, with the tenements, hereditaments and appurtenances thereunto belonging or in anyway appertaining, including, but not limited to, any and all timber lying, standing, growing or down thereon, situated in the County of Multnomah, State of Oregon, to-wit:

9908 SE Mt. Scott Boulevard, Portland, OR 97266,  
and as more particularly described within Exhibit "A" attached hereto.

The true consideration for this conveyance is that as stated in that certain Workout Agreement among Grantor and Grantee of substantially even date.

FATCO NO. 435427 - TD

Grantor covenants that:

- (i) This Deed is absolute in effect and conveys fee simple title of the premises described herein to Grantee and does not operate as a mortgage, trust conveyance, or security of any kind;
- (ii) Grantor is the owner of the premises free of all encumbrances except the aforesaid trust deed executed to Grantee and liens, encumbrances, conditions, restrictions of record as of the date hereof.

**THIS DEED DOES NOT EFFECT A MERGER OF THE FEE OWNERSHIP AND THE LIEN OF THE TRUST DEED DESCRIBED ABOVE. THE FEE OWNERSHIP AND LIEN SHALL HEREAFTER REMAIN SEPARATE AND DISTINCT.**


In consideration of Grantee's covenants herein and Grantor's benefit from remaining in possession of the premises described above until relinquished at the time of this conveyance, Grantee may retain all payments previously made on the secured debt referred to above with no duty to account therefor.

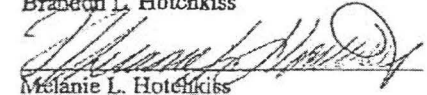
By acceptance of this Deed, Grantee is covenanting and agreeing that it shall forever forbear taking any action whatsoever to collect against Grantor on the Promissory Note given to secure the trust deed described above and is covenanting or agreeing that it shall not obtain, or permit a deficiency judgment against Grantor following any proceeding to foreclose the trust deed, provided Grantor and its Guarantors fully comply with the terms of that certain Workout Agreement of substantially even date.

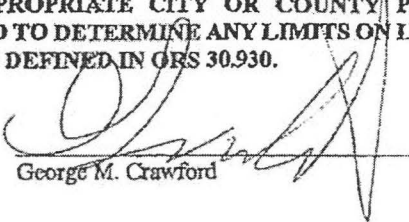
Grantor waives, surrenders, conveys, and relinquishes any equity of redemption and statutory rights of redemption concerning the real property and trust deed described above, and any notices it might otherwise be entitled to in the event Grantee's trust deed described above is foreclosed.

Grantor is not acting under any misapprehension as to the legal effect of this Deed, nor any duress undue influence, or misrepresentation of Grantee, Grantee's agent or attorney, or any other person.

**THIS INSTRUMENT WILL 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 APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.**

  
Brandon L. Hotchkiss

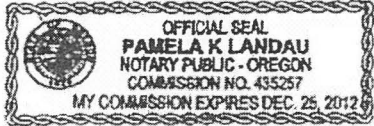
  
Melanie L. Hotchkiss

  
George M. Crawford

NOTARY PAGE TO FOLLOW

State of Oregon )  
 )ss.  
County of Multnomah

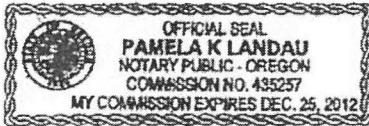
This instrument was acknowledged before me on July 20, 2009, by Brandon L. Hotchkiss.



Pamela K. Landau  
(Signature of notarial officer)  
My commission expires: 12-25-2012

State of Oregon )  
 )ss.  
County of Multnomah

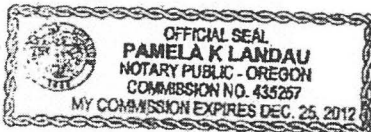
This instrument was acknowledged before me on July 20, 2009, by Melanie L. Hotchkiss.



Pamela K. Landau  
(Signature of notarial officer)  
My commission expires: 12-25-2012

State of Oregon )  
 )ss.  
County of Multnomah

This instrument was acknowledged before me on July 20, 2009, by George M. Crawford.



Pamela K. Landau  
(Signature of notarial officer)  
My commission expires: 12-25-2012



## Exhibit "A"

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

A TRACT OF LAND LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, STATE OF OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND 1-3/4" X 1/2" IRON BAR MARKING THE MOST NORTHEASTERLY CORNER OF LOT 4 "ASPEN SUMMIT VILLAGE NO. 2", (BOOK 1245, PAGES 29 THROUGH 33); THENCE RUNNING ALONG THE NORTH LINE OF SAID LOT 4, NORTH 87° 37' 46" WEST A DISTANCE OF 344.87 FEET; THENCE LEAVING SAID NORTH LINE NORTH 00° 01' 45" EAST A DISTANCE OF 497.11 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF MT. SCOTT BLVD.; THENCE RUNNING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTH 70° 40' 54" EAST A DISTANCE OF 183.90 FEET; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY LINE SOUTH 16°33'57" EAST A DISTANCE OF 61.69 FEET; THENCE SOUTH 9°00'40" WEST A DISTANCE OF 45.16 FEET; THENCE SOUTH 70°40'54" EAST A DISTANCE OF 122.74 FEET; THENCE NORTH 19°19'06" EAST A DISTANCE OF 94.41 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID MT. SCOTT BLVD.; THENCE RUNNING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTH 70°40'54" EAST A DISTANCE OF 56.26 FEET TO A POINT OF CURVE ON SAID RIGHT-OF-WAY LINE; THENCE ALONG THE ARC OF A 1462.50 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 1°25'05" A DISTANCE OF 36.20 FEET TO A POINT (CHORD BEARS SOUTH 71°23'27" EAST A DISTANCE OF 36.20 FEET); THENCE LEAVING SAID SOUTHERLY RIGHT-OF-WAY LINE SOUTH 00°01'19" EAST A DISTANCE OF 413.29 FEET TO A FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP INSCRIBED "REPPETO LS 657" SAID POINT BEING ON THE NORTH LINE OF TRACT "G" OF THE PLAT OF "ASPEN SUMMIT VILLAGE" (BOOK 1242, PAGES 44-51); THENCE RUNNING ALONG SAID NORTH LINE AND THE NORTH LINE OF THE PLAT OF "ASPEN SUMMIT VILLAGE NO. 2" SOUTH 89°55'26" WEST A DISTANCE OF 74.82 FEET TO A FOUND 1 3/4 X 1/2" IRON BAR BEING AN ANGLE POINT IN SAID PLAT BOUNDARY; THENCE NORTH 00°33'20" EAST A DISTANCE OF 48.25 FEET TO THE POINT OF BEGINNING.

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

Tax Parcel Number: R336597